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Please stand by for realtime captions.

>> Good morning again. I am on now.

>> [Indiscernible - muffled]

>> Okay.

>> We may begin our official business meeting.

>> [Indiscernible - low volume]

>> Do we know if there are folks outside the meeting room waiting to get in? Or folks outside in terms of the public? Thank you. Good morning this is the business meeting for the dude -- Judicial Council for California for January 19, 2017. The meeting is now in session and as you know based on the agenda we tend to does intend to adjourn at approximately 3:30 PM and we welcomed councilmember joining us by phone. Our agenda, I turn this over now to Doug Miller for public comment.

>> Thank you chief. This is the portion of the agenda where we have comment on general matters of judicial administration and I will call you up one at a time. The second person I will call to ask to stand behind the podium there -- each of you has three minutes to make your public comment. Please remember this is about general matters of judicial administration. We are not ended you -- adjudicatory body we cannot make decisions on your individual case and we ask that you refrain from talking about facts or individuals involved in the case. The first individual here for public comment is Judge Tony Mallory and if I could have [name unknown] be ready. Judge Mallory, please remember you have three minutes and I will give you a warning with one minute and 30 seconds left.

>> Welcome. Thank you. Good morning, Chief Justice and esteemed members of the Council. Thank you for taking a moments -- a few moments to meet with me. I am Tony Mallory and have been the Judge for the last four years. I come today to ask with regards to mandatory yearly selection in our county which is mandatory pursuant to Government Code [Indiscernible] and rule of court 10-point 602. Since taking office in January 2002, Hon. Judge [name unknown] has not called for the yearly selection pursuant to stitched -- statute. It is not fair that she calls and

has received impunity over the past four years. Something has to be done. Many of you may already be aware it is a to Judge court. Between myself and her as I have reached out to the Judicial Council for the past 3 1/2 years for help to no avail. Furthermore the Hon. [name unknown] address the Council in June 2014 recommending intercession by the Judicial Council to no avail. The Judicial Council's decision not to actively step in and assist over the past three and half years has created an autocratic point with a tyrannical bully dictating her agenda with no regard to her colic which remains unchecked and continues to escalate two dates. Are not interesting the taxpayers of California to date has spent $200 million and I'm -- mitigation costs. The cost to the taxpayers are likely to increase as there's been no meaningful intercession by the Judicial Council to date something has to be done. Judge [name unknown] ignores her obligation and the law while flaunting it in my face. It is mandatory pursuant to both statute and rule court. In your packet I have a letter from assemblyman Bill Bagley who authored [Indiscernible] and in addition what it did is require yearly rotation in a to George -- Judge court . The Judicial Council not to demand the case out -- said to be follow, the autocratic report has been -- core has been created. One would expect they would enforce laws and especially a judicial officer. Something has to be done at a minimum the Council has the ability through the Chief Justice to act pursuant to article 6 of the California Constitution. I ask for your help in these proceedings. Please note there is a package for your review. Please review the package if you is -- if you wish to discuss this I can discuss this with you. Once again thank you for your time. Please have a good day.

>> Thank you and for the record, the packet will be delivered to each of you accept some of you who may be in a position that would cause a recusal on your local court. There will be some that won't receive it. Thank you. Welcome [name unknown] and if I can have [name unknown] prepare . Good morning and please begin.

>> Good morning. Good morning to Justice and Judicial Council. I am from [Indiscernible] county and I'm prepared to request that you please implement a task force that will improve the administration of Justice for victims of sexual violence. For victims of sexual violence their trauma doesn't end when the attack is over. The time it takes for a trial to begin and the length of a trial can put a victim in suspense for years as they wait for Justice that may never come. They have to realize -- relive their attack during trial and have their reality questioned which can be psychologically damaging. According to the anti-sexual violence [Indiscernible] the majority are never reported to police. Perpetrators of sexual violence are less likely to go to jail or prison and other criminals and the vast majority of those perpetrators will never go to jail or prison at all. Last year new sexual violence laws were introduced in California. Assembly Bill 2888 mandates a prison sentence as punishment for sexual assault of a person incapable of giving consent doing to be -- being intoxicated. Bill [Indiscernible] eliminates and Assembly Bill 701 expands the definition of rape to include all forms of noncontextual -- nonconsensual sexual assaults be considered rape. So I'm asking to please start a sexual violence practice and procedure task force. It could look into the statistics that I mentioned and try to understand what if any the judiciary's role is in them and goals for the sexual violence task force could be to implement ways to reduce trauma and psychological stress for sexual violence of victims when participating in the court. It could eliminate and identify any institutional harassment or secondary victimization. Identify

opportunities for training, and it could review new to legislation to implement appropriate changes in work with antisexual violence associations when appropriate to understand how to make the needs of sexual violence victims. I hope you will could -- seriously consider starting a task force that will improve the administrative of Justice for victims of sexual violence.

>> Thank you very much. And if [name unknown] could come forward please . And if Connie Valentine can be ready next. Good morning. Welcome and please begin.

>> Thank you . My name is Joanna Welty. I'm a private citizen. I represent only myself. This is my first occasion to address this body. I respectfully think the Judicial Council for allowing me this opportunity to bring to your attention an exigent courtroom administrative us -- necessity of statewide significance that not only could work to better ensure judicial impartiality, honesty and accountability for the California code of judicial ethics, but also would preserve legal rights of all California citizens particularly those who represent themselves. Perhaps in the eyes of the judicial system, citizens rights to represent themselves without attorney may be a bother some albeit inconvenient truth. Nevertheless, Lady Justice would become better served if before all court proceedings involving parties in proper, if judges were to be required to disclose either the presence or absence of court reporters. If no professional transcription of proceedings is to be completed by in-house courtroom staff, then parties should be advised of this before proceeding and testimony begins. In addition, the presence or absence of court supplied reporters should be disclosed even earlier through initial filing forms. If a court normally does not provide professional reporting staff, then this should be disclosed in writing when parties first complete and file court documents. Clear instructions should be provided on these same forms detailing steps that parties may take to request court permission to hire their own independent court reporters. When parties appear in Pro per and no judicial disclosure regarding presence or absence of court reporting is made before proceedings began, then parties legal right to appeal may become jeopardized. Without court transcripts any later appear -- appeal becomes burdensome if not entirely impossible. Absent appeal issues, court reported proceedings are of paramount statewide significance since written transcripts also conserve -- can serve as final checks and balances providing vital oversight that can ensure judicial impartiality, honesty and accountability. Fundamentals of Justice that all Californians should be able to expect from all 21st-century California courtrooms. Thank you for listening.

>> Thank you very much. Next Connie Valentine and then if we could have Catherine Campbell [Indiscernible] next. Good morning. Welcome.

>> Good morning. Unlike the previous speaker I've been here frequently. My name is Connie Valentine from California protective parents association. And am chair and members of the Judicial Council, we endorse the idea of a sexual abuse task force and we would hope that it would be also including children who are sexually abused and whose family are in Family Court. We are optimistic that 2017 will be in -- bring the needed reforms to Family Court because I'm sure you are tired of hearing me. Child safety, it be the highest in first priority of all judicial offices. Erring on the side of caution when a child is reported abused. If one person has an

attorney, the other person shall also have an attorney even if it has to come from the person who has attorney to pay the cost of the second persons attorney. That is pursuant to family code 2030. Court reporters or videotape recording would occur in every court. It is a due process violation. There's the ability to peel as the previous speaker spoke so eloquently is hindered and made a possible. That a simple form be created by Judicial Council which creates forms all the time to implement family code 3118 and all the other law and rules governing domestic violence and child abuse cases in Family Court. We have one that we have -- we have a template that we could certainly offer to you as the beginning. That recommendations are disallowed prior to hearings just as they would be in any trial to eliminate sham hearings in which staff essentially make judicial decision. That children are routinely heard directly as witnesses in Family Court if they wish to come to Family Court. And the judicial officers do not ever refer family to reunification camps pursuant to family code 3026. We hope these reforms will be implemented in the next year. Thank you so much.

>> Thank you. Next is Catherine Campbell [Indiscernible]. Good morning and welcome.

>> Thank you so much. Madam Chief Justice and councilmembers I'm Catherine Campbell [Indiscernible] from Santa Clara county. I read the agenda today and I thought to myself how did we get so off focus? It happens to many of us and I think it happened here in the court. I know the courts are focus on the family but we need to focus on the family and follow the law in Family Court. I've been seeing how this isn't happening at this time. I'm grateful to hear keeping kids in school and out-of-court steering committee and the connections between trauma, truancy and school discipline practices report [Indiscernible]. What I have learned in the Family Court is a catalyst though for continuing drama. Families come in with trauma situations to the court, but 85% of the time if they report abuse the children of abuse are forced to live with their of user. -- Of user. The a score skyrockets and not going to school is just the tip of the iceberg that these children have to deal with. I would recommend that you all go see the documentary paper tigers which is available on iTunes and [Indiscernible]. I would like you to read [name unknown] article on the families that are being re-abused by the court. None of this is anything new. But when we get off focus sometimes it's hard to get back on track. It's easy in many ways. The first thing we have to do is believe the child. We need to protect them immediately and what happening -- is happening right now is unfortunately when you go into court it just depends on who has more money. When Santa Clara came here to speak about the multimillion dollar new courthouse, they said they needed to serve the clientele. The courts were not built to impress the family members or drained them of their assets nor allow judges and lawyers to feel more deserving. They are there to serve Justice and follow the laws . The court's job is not to create more drama and trauma to have their court hearing increase to create more jobs. They are not there to employ or stoke egos of lawyers. When we have abuse situations of any kind going on at home and the protective parent knows that most likely they will loop -- lose custody if they go to court, we keep the children and trauma and we allow them to stay there and continue the cycle. We need to fix our Family Court so trauma can end. And I appreciate your time today and I hope we can fix our Family Court's. Thank you.

>> Thank you very much. That concludes public comment, chief.

>> Thank you. Before we begin our regular business after public comment, I'd like to invite Diane none who has been 28 years of dedicated innovative leadership to access to Justice. Many of you know director none as the director for the center of family and children's in the court and she's been a director for us since 2000. Welcome, Diane.

>> Thank you, Chief Justice. It's hard for me and I'll start crying but I am here today to announce that I will be retiring from the Judicial Council to take a job with the national cost association -- CASA association. For those of you that do not know what that is, citizen volunteer -- Court Appointed Special Advocate who was appointed by the court to assist and provide information to the courts about the children that are under their jurisdiction, primarily independent -- in dependency cases but sometimes delinquency. The association was formed in 1977 in Seattle. And it was by a Judge who worried at night about the lives of children and wanted more information. The national association received an award from then-President Ronald Reagan in 1985 hoping to spread the word about CASA. And in California , as I told the Chief Justice yesterday, one of the -- I think -- great things and many things that Chief Justice Lucas did was help facilitate the enactment of the Judicial Council CASA program. A bill had been introduced in 1987 to have a Council have a grant program to establish guidelines and to encourage the development of CASA programs throughout California. Then governor [name unknown] vetoed the bill on the basis that there was money and there was also -- although there was bipartisan support there was some personal animosity between the author and the governor. On the next year it passed through the legislature and as a staff attorney, Chief Justice Lucas invited me to talk to him about the value of CASA because I had used them when I was a juvenile court referee and LA. I got to sit in his chambers and he called his former law partner and said, please sign this bill. We will take the money out and go through the regular budget process but this is a good thing. And quietly we have our state CASA program. That enough of history. I've had an incredible opportunity here and I want to thank the Chief Justice and Martin and Millicent and Jodie and the councilmembers for the ability to work with you on issues relating to children, families and access to Justice in the courts . There are very few places in the nation that have institutionalized the way you have an office that does focus on those things and focus on domestic violence and abuse and I have had the opportunity not only to work with my incredible colleagues at CFTC who really are committed and passionate about these issues, but also the rest of this agency. There is no finer agency, I believe, in government service today and that is due to the leadership of the Council. And I thank you and I really hope our paths meet again. In different ways, but Chief Justice, thank you so much.

>> Diane, before you leave the podium there may be others I know who you worked with. I just want to say that it is an incredible loss to California and a tremendous game for national CASA. I know of your work even when I was a trial Judge and I ran the DV court for 2 1/2 years. I learned so much about the practice, procedures, sensitivities, information and material on how to run a court and how to work with such a sensitive and traumatized population. I learned it from you and your training materials and the wonderful people and staff who share your commitment

and carry on your excellence. Also your work with keeping kids in school -- across the board you are always ago -- go to person working with our many talented Justice and there are nods around this table. Your name is known beyond title and years here. I also know it's known nationally. I said to you yesterday I can't imagine how many times efforts to poach you have occurred and you stayed with us. I regret you going and I wish you the best in all good things in the new chapter but I also want you to know that California will always be your first home and we are here and though you may relocate and be under a different roof, I fully hope and expect that you will continue to advise us where you see fit. And that you come and advise us on national trends and how we can improve because you know us so well. You will be missed. You know we tried to keep you and of course we don't give up, so we wish you the best but always want you to know that you have a home here and I know there are others here who want to's beak. So I will call in this order, [name unknown], [name unknown], and others who may wish to speak to your help.

>> Thank you, Chief. I'm somewhat in a state of shock and depression here. I'm looking around the room and I think there's a lot of depression. I'm looking at Judge [name unknown] and I think we will have to share the Kleenex here. Diane, I've known you I think for 20 years that I've been on the bench and I had the honor and privilege of working with you in family and juvenile law for some 10 years. On the blue ribbon commission on children in foster care and the domestic violence task -- task force. It's been such an honor and privilege to work with you and know you and your leadership. Nationally you are known and highly regarded and you are just an incredible woman. And I just can't say enough about what you brought to children and families throughout this state and I had -- it has a ripple effect for generations. I'm positive your leadership has been immeasurable and again you have broken cycles of violence through educational programs and leadership. You brought to the bench in California and to the bar and -- it is CASA gain. My sister works for a CASA program and I know you will bring the same leadership and creativity and innovation that you brought to the center for children family and the courts. You are the one person I thought everybody else working here that can't retire, can't resign. You have always been on the forefront of best practices and all the best. Thank you so much.

>> Thank you, Chief. I will keep it brief. You've made us a better branch. You have brought things that have influenced and strengthened and highlighted and brought to light how we better serve all of our litigants but particularly the youth and families that come before our court. Both the Chief, Judge Stout have talked about your tremendous work and the many initiatives that I personally had an opportunity to work with you on. I just want to highlight that your professionalism, compassion, dedication and commitment has made California a stronger Judicial Branch. We are leaders as the Chief often talks about , but our leadership for families and use -- a lot of that is owed to you. Diane, thank you and I look forward to continuing to work with you in new ways.

>> I started working with you well before I was ever on the bench as a prosecutor and your name is not only known in the branch but throughout the prosecutor's office and the state defense, Justice and law enforcement and it's just as renowned there as it is here. Thank you.

>> Judge Bucky --

>> Diane, I want to thank you for the time you spent when I was on [Indiscernible] working on all the myriad of issues that we dealt with and it was so nice to see someone that not only knew the issues but was able to step in when things could get a little heated and be the voice of reason. You have the knowledge and the background to speak to anything that came before the committee and it was very clear to me and all the other members over the years that when you spoke, everyone else would shut up. And that is probably a testament to the fact that you were the one that put it all together and made it happen and made it happen along with your staff and I really want to tell you how great it was to work with you and I wish you the best of luck.

>> He stated it pretty well, so if you don't think -- I know Dean does this also. If you don't think we will continue -- continue to carry you with us -- whenever I go to meetings I always take this but I always turn it around like this because -- so somebody sitting next to me on the shuttle might say what is that? And I'll have the opportunity to explain what it is and inevitably your name comes up because you made it all work. I think you have one of these, don't you? Let's get more CASA.

>> I'll stay calm about this. I will throw another offer on your way out the door. [laughter] It's true, we tried to have some last-minute discussions with Diane to change her mind, but this is a new chapter and -- in her course. I wanted to say a couple of words because we've been pushing and changing a little bit of the program around here and we've been trying to re-principle and reorder ourselves and I know some things about Diane that she's been doing at least during my tenure here that you are all not aware of. I won't reveal them here, Diane, but because they are your items but what you need to know is standing before you is not just an incredible leader and an accomplished director for the things that she's done for California. But you couldn't find someone who epitomizes the public servant more than the person standing in front of you. This is an individual that on a regular and daily basis puts the interests of the public and in particular children's -- children and families, this organization -- your desires and your well an agenda before her own. She makes personal sacrifices on a regular basis. Many of these personal sacrifices are her family, friends, and financial. She takes money out of her own pocket on a regular basis in order to perform her duties as a public servant. She is exactly what the public deserves and needs and exactly why people come into public service and I hope that's why they stay. I hope she's not a dying breed because of the nobility that is required of public service day in and day out is something that can never go away. Every once in a while comes a person like Diane Nunn who steps up to do this kind of work for all of the right reasons and for all of the right moments to help and advance the cause and progress of the human condition. So Diane, we wish you nothing but the best. You have done everything that I believe this counsel, the public and myself is asked of you and good luck. And as the Chief said, I couldn't second it better. We

hope that we will see you again down the road and maybe we will just sharpen our efforts to see if we can't find a way to have you come back and do more for California. Thank you, Diane. [Applause]

>> I think some of the [Indiscernible] we find in knowing Diane is leaving is that she will continue to touch and influence future families and future children and break future cycles. Thank you, Diane. Before we continue with our regular business meeting agenda I wanted to say a few words about the Governor's 17-18 proposed budget. And I know Martin will cover more of this in his report. I want to state that given the uncertainties in the states budget in the coming fiscal year, financially and policy wise, I have stated before and I believe that Governor Brown's proposed budget for the branch is prudent and prudent is defined as careful. Good judgment. And his news conference Governor Brown relied upon to, not five, charts to illustrate the reality of the current budget process and the lessons learned from previous cycles. For those of us in the Judicial Branch we have watched those with absolute focus for the last six years if not more. We know that the tide of revenues and the cycles of balance and deficit budget charts graphically illustrate his call for prudence and our call for cautious and also advocacy. We all know there are many worthwhile programs that are funded through the California state budget and specifically for the Judicial Branch the Governor's proposals would provide funding to offset decline and other revenues. Assist with trial Court Case Management System's technology, and contribute to trial court employee health and retirement benefit costs. As the budget process continues as we know throughout the year -- ultimately June -- we will continue to press for additional trial court revenue and all necessary changes in order to address the violent need of all those come to the California courts seeking Justice. The administration has said it's committed to working with us to continue to improve access and to modernize our court operations through innovative approaches and we will continue our collaborative approach with ongoing information sharing and discussions on the issues facing the court system and the people we all serve through our system. I look forward to your participation and your contribution and your advocacy as we work towards the May revision and beyond. Not only on our budget but on any necessary statutory change that provides greater access to Justice for the public we start greater efficiency in our court system and toward that end. The next item of business would be the approval of minutes. They are from our December 2016 meeting approximately a month ago. After you have had a moment to look at those I would entertain a motion to move and a second, please.

>> Thank you Justice chin. Thank you Justice Gordon. All approved say I, any abstentions. And he knows? Minutes are approved. Next on my agenda is the regular report to Council summarize engagements and ongoing outgoing outreach activities on behalf of the branch since our last meeting a month ago. The shorter reporter period including meetings with our [Indiscernible] for the immediate press, academia, a new workgroup and the engine of the Judicial Council our advisory body chair and vice chairs. I met with representatives of the print and broadcast as I've done every year now for the past six years. We had that meeting earlier this month. All were invited to my chamber. We set about the table and we discussed questions and answering questions. Budget of course is a timely topic of conversation as it also -- almost always is. Core construct and funding, fines and fees, bail, amnesty, license suspensions are of particular interest

and also the potential impact of various ballot propositions that are now law as well as other law that was unfunded and the impact on the trial court and the Supreme Court was discussed. We also talked about some -- they asked a question -- questions about [Indiscernible]. Additional the media was interested in the reforms of the State Bar of California, it's funding process and perspective going forward and the results of the recent Bar examination. There were also a number of questions about the Supreme Court's internal policy and practices within our collegial Supreme Court even though now we have been our seven of the last few years we continue to get questions about how we get along with each other. The delivered a processes and counter majoritarian's is also a major topic most recently a 2017 Supreme Court of California conference, this is posted by Berkeley law and it partnered with the Hastings Law Journal and the Bar Association of San Francisco and the Institute of governmental affairs or studies. All of the local Bay Area law schools and law journals were represented with students in Dean's and we discussed that approximately 85% of the law takes place in state courts and that in California there were nearly 800 bills in this past legislative session to prove that the law keeps changing and developing as does our work. David [name unknown] is the center director and he moderated the conversation. I gave my perspective on how brief should be roadmaps for jurists and how a good oral argument always proposes a clear role for the court. I discussed our courts diversity and our collegial deliberative consensus building court processes and I also mentioned are famous, known to all, 90 day role. No opinion, no pay. And in speaking about her at -- administrative duties, I shared that through the approximate lately 170 notices of intent to apply for grant funding the courts continue to strive to provide new and greater access to Justice in California and the Judicial Council is supporting that drive to increase fairness and accuracy and to improve the administration of Justice. And following up on my state of the judiciary from last year, as to the call for pretrial detention reform, the focus on bail -- this week I attended the first planning meeting of the pretrial detention reform workgroup I appointed these folks and they will address some tough questions. We know exist. Does bail serve its purpose? Or does it penalize the poor? Does bail really ensure public safety? Does it assure people's appearance in court or what a Judge is discretionary decision informed by a robust validated risk assessment tool as other states in America have developed, be as effective? The workgroup has strong leadership and dedicated members. It is led by our Judicial Council number Judge Brian back from Ventura as well as powerful guiding principles and I look forward to following and receiving their deliberations and recommendations this structure and process of taking experts in the field and bringing them together to work on recommendations to either counselor to me leads me frankly to my final engagement and that was the closing remarks at the Judicial Council advisory body leadership orientation. Some of you were there. This is what I refer to as the engine of the Judicial Council and policy in California, approximately 25% to 30% of the Judicial Branch anticipate in our 136 advisory committees. As you know these Advisory Committee proposals after public competent and consideration the research percolate up to the Judicial Council for a vote. Jurists, lawyers, court professionals, Justice system partners, create annual agendas to adjust key issues and that discipline and the challenges relating to access and that discipline, fairness and the efficient administration of Justice in our state and as you well know as you are all volunteers. Through their expertise and dedication the Judicial Council is a more deliberative and informed body. We are more transparent in our processes. We are more

nimble and responsive with our strategies and actions and collectively with our 136 committees and our work here we deliver, I believe, on the promise of her oath to perfect the Constitution and preserve the rule of law and serve the people of California. I think all of you whose serve on those advisory committees including Arcturus, professionals, professional staff, and that includes my report and I turn this over to Martin N. Hoshino our administrative director for his report.

>> Thank you Chief and thank you to our members . My written report is in your materials but I wanted to ask contract at least some items and talk about them with you and make you aware of them as well as the Chief mentioned talk a little more in detail about the state budget given its recent release about nine days ago. First I want to advise the Council that had an opportunity to visit records shortly after the budget released. As some members know, I spent my time trying to immerse myself in understanding the court operations in the court world and its communities. Certainly candidly and frankly I slow down in the second year but now I'm attempting to get back out there and so I was hosted by the courts of Mendocino, Humboldt and Del Norte. Judge [name unknown] was unable guide for me and we went on that road trip together and came back still colleagues or peers or friends but it was a lot of time in the car and a lot of ground to cover. And if they are listening, because I now have a better appreciation of how difficult it is in some of the smaller courts is fine the fine -- time to be fully active in all the business of the branch and following the activities of the Council that actually affects their work in their lives. It's not always easy for them and so if they are on the phone or listening or watching the webcast and the things we try to extend ourselves to them, I want to thank them for their courtesy and for actually the real reason -- bringing to life for me and for Judge [name unknown] the real-world challenges they face their every day as well as the good things that they are getting done in their particular communities. The other thing I want to call your attention to is what I would call a year at a glance or a year in brief. In the report this year, or stapled to the back is a document that is really a copy of something that we produced initially for our staff last year. We set about counting up and quantifying the things that we do. So it's an informal first step towards us getting a better feel for how it is we are performing and quantitative matter in terms of the service we are providing to all levels of the branch. And I will highlight some of those in a minute. And bring it to your attention to promote awareness of what we do because the reality is we do quite a bit and I think you will be surprised by some of the things in their. They were certainly a case of first impression and new to me last year and I think they were a case of first impression even to the staff inside the Judicial Council -- Council staff operation not knowing that volume of work going on in the different sections around the program. And I bet it will be a case of first impression and things that you actually are not aware of and in fact some of our clients, customers and folks we serve out there in the Judicial Branch family. Maybe this is because we are trying to do a better job just like all government is and we are not very good at it, [Indiscernible-muffled] telling the good story and the achievements and the things we do. It's partly because we don't do a good job of it and a few cynical reasons. Sources of information are generally not rate porting -- reporting the good things going on in government and not everybody is so interested in the positive things that are going on. There's a tendency to focus on was not right in human nature. The report highlights all those contributions for the public as well as for the Council and I thought it would be good to share with you the scope of the activity that is they

are and let me give you some illustrations of the things that have gone on in last 12 months. This is just from the perspective of you, the Council itself, there are other things in there from a perspective of the court which is different in terms of the things we are doing. The staff assisted in that when your period of time in preparing 210 reports on judicial administration issues for the 11 public meetings that you had last year. They completed the work on 183 new or amended rules and about 207 forms that were acted on by this body during the course of last year. They also provided the daily regular support for the 30 standing committees taskforces and other committees and subcommittees that the Chief has mentioned and even beyond that work we began a live streaming for the Supreme Court oral arguments. There's also been implementation of the electronic document filing systems for the courts of appeal that continued. There are the 300 education programs or educational tools that were made available. The staff responded to almost 70,000 service work orders. That is an astonishing number and all of the corporate facilities related to maintenance and about 1800 facility but -- modification request that we made. There were 236,000 jury checks issued. 2.$3 billion of accounts payable checks were issued. This is what your operation is doing on an annual basis. There were 232 bank accounts that get reconciled on a monthly basis. There were 87 court deposits that were processed and there were over 700 electronic fund transfers. All of that totaling about $975 million. I'm not gonna go any further but that's just a sampling of the things in that dance two-page document that we have about the activities going on. So coming now back to today, with respect to the budget, your written report also has the branch wide memo that we disseminate on a regular and traditional basis on January 10 in the afternoon the release comes out on the proposal and we do that together with a statement from the Chief. After the distribution of this memo we then follow it up as we usually do with a series of phone calls in the early morning. The next day at the lunch hour and at the end of the day to accommodate the court schedules that are operating during the course of that day and so we went through those briefing what I want you to make you -- what I want to make you aware of there was at least 200 call in lines in total which is a remarkable number. Some of those call in lines it's not just one person. It can have two or three or four people in the room on those calls. I make that point because I think it demonstrates and underscores the high level of engagement in the branch. Not only the awareness of it but people actively trying to get as informed as they possibly can in real time about what is occurring with respect to the branch budget. A short recap on the proposal that came out of the Governor's press conference and in his budget document is everybody now knows his growth budget, much like all of the budgets in California, it's about three.$6 million again for the branch which is representing 2% of the state budget, 76% goes to the trial.-- court. Even though it's a flat budget the administration continues its policy of backfilling some of the revenues that fall off that are beyond the control of the court. That number this year's -- year is $55 million. There's about $35 million in new funding mostly associated with this general cost increases owing to retirement and benefits for employees of the Trial Courts. There's another small investment, all the way big deal for some of our smaller courts, of about $5 million in order to help them progress to the next state of their case management systems and move away from the platform they are on today. There are increases for owing to the compensation for judicial officers under the operation of Government Code 68 203. There are some additional increases for language access. There is $352,000 to continue to advance video remote interpreting programs and $490,000 to keep

expanding our recruitment and testing and certification for interpreters. There is a to be determined factor in the budget that we are watching and talking about what is not there to our disappointment is funding associated with some new laws. And several ballot measures that were passed, we are tracking those items and will go into greater detail with lower committees. There is a revision to appeal the -- drivers license suspension as a collection tool for our court system. There is the reallocation of work vacant judgeships and areas where the workload is highest and the need is more acute. With respect to the Judicial Branch construction program which we are all following for which the Council made a very difficult decision earlier last year, which is to complete the projects that were under construction at this point and allow them to complete and to allow 17 remaining projects to finish their current phase whether they are in preliminary drawings or working drawings and then hold those projects until we can either secure new funding or more importantly get some of the funding that is still not been returned to the construction program fund budget to see if we can't get that resolved and un-suspend the program. Essentially there is no money and no appropriation in this budget at this time for that to our disappointment. So it becomes again part of the advocacy that we are starting to put together to figure out how it is we can best make the most compelling argument in Sacramento to keep that program on its feet. I would expect over the coming -- certainly within the manner of the next month or so we will be working with the committees and a lot of what's in the budget and not in the budget really forms a basis for the agendas of those groups. Even before those committees assemble and have their meetings there is already a lot of groundwork that is going on and I should mention also with a few select courts to get information and data related to driver's license suspension. That's a collection tool and as well as collecting information and related to propositions and/or to the legislation that passed. Our top priority continues and remains to be the discretionary funding for base operations for the Trial Courts. Although some of that money has been restored, councilmembers should be aware that since the time of the cuts, over $600 million has come back into the branch and of that about $454 million is ongoing money and most if not all of that to the trial court operations but it leaves them short of where they were in terms of dollar for dollar. Not only that the value of those dollars between the time of the cuts and now as cost pressures continue to increase in the nature of the work of the courts changes in terms of its complexity and its resource requirements. We will be working to pull as much of that information together in order to keep explaining how it is that the branch budget continues to be constrained even though it looks like the funding is at the level that it was before when you account for additional things, that is certainly not the case. We all know the Governor's proposal just kicks off the second round as the legislature now convenes and there will be hearings associated with that and we will be working with all of our partners throughout the state. But also partnering and engaging the CJA as well as the Bench-Bar Coalition and County and other coalitions involved. We will work there is much as we can. We will work toward the revised -- I think everybody knows now there's a fair amount of uncertainty that the Chief is already deleted two and her remarks about what shapes the context of the overall state budget so I won't spend time on that. But that is the budget report where we are at least on January 19. So here we go working our way towards June 30. And with that Chief, that will conclude my remarks and my report for this meeting.

>> Thank you, Martin. Jake Chatters.

>> Thank you. If I could just start with saying I John in both Chief and [name unknown] to the Governor and the administration for backfilling and making sure we have funding for employee health and retirement cost increases. I did want to put a little bit of addition to his comment about the budget and propositions that have passed and the lack of funding support for those. Those along overseeing local revenue declines does result in some degradation of service by its nature at the local court level. And certainly we look forward to working with Martin on articulating that to both the Governor's office , administration and the legislature over the coming months. I want to extend our participation in that and looking forward to refining that argument in making sure it's clear we appreciate wisdom provided but there is a natural slow degradation that is occurring in providing access to Justice. Thank you.

>> Thank you. Let me also say informally, I know that as you know the branch begins immediately after the budget is signed for current fiscal year to begin providing the information and the needs of the Judicial Branch to the Department of Finance as they begin to craft the budget and including the Judicial Branch budget portion. We have been in meetings and discussions and talked about the additional burdens that have fallen upon the court particularly in the Trial Courts with the additional law and with the passage in the summertime -- the anticipated passage of the number of propositions on the California ballot. We continue to be in those discussions along with what is known to all in the elephant of the room that the branch has not been fully restored to the cuts that have occurred in the great recession. And I will say for me and all of those discussions, the first sigh of relief came -- maybe the first of two -- that we would not be cut. A strong case was made thanks to the Judicial Council staff led by Martin and other leaders that we would not be cut. If there were contemplations about rolling back anything it wouldn't be in the branch because we were not in a place where we would rise to the top of that list and be on the radar. That was a big discussion that we continue to have because of the uncertainty rolling out in the projections of the budget and revenue. So we again -- as I said before, rely on you and your expertise for your advocacy and for the data that furthers our argument that the trial court in the branch need additional revenue to operate and that these additional burdens places further back from fulfilling a requirement to provide access to Justice to the public who comes to the courts. Next on our agenda item we have two education matters for you to hear. You may be less familiar with these because I don't believe we've had a presentation on these. These are not action items and the first is the issue that has been of concern to me for some time early on and that is Keeping Kids in School and Out of Court Initiative . It's also connected in many ways to the civic learning initiative although it's probably a different target of do -- juvenile population. So providing kids with engagement and leadership opportunities within their schools and local communities increases their chances of contributing to society, advances are educational opportunities, engages them, makes them interested and gives them a chance to think about the American dream rather than getting into the criminal Justice system . So in 2013 there was a summit here in California where the court was able to act as a convener along with the California superintendent of public instruction, [name unknown]. With the leadership and support of the California blue ribbon and the department of education,

the Attorney General, the California child welfare Council and Judicial Council staff brought together court leaders and Justice system partners to consider the connection between trauma, truancy, school discipline practices for car involved use. One of our presenters here today was there from the beginning and she helped organize that summit and she was chair of the keeping kids in school and out-of-court working group which is a subgroup of the blue ribbon commission. She remained active in juvenile Justice . I'll other presenter is supervising Judge Donna Groman. She leads Los Angeles is juvenile Justice system which has to be the largest not only in the United States but the world. We are grateful to have you two experts here presenting on this educator I -- education item.

>> Thank you and good morning, Chief. Thank you to my fellow councilmembers for the opportunity to give you an update and for some to give you groundwork and background on a very critical initiative as the Chief is indicated it is my absolute honor and privilege and a lot of fun to do this work with my vice chair, Judge Johnna -- Donna Groman. As the Chief reference, back in 2013 we had a summit here in California focused on keeping kids at school and out-of-court and at that summit we had about 400 individuals participate. Who were those 400 people? You had 33 counties represented. You had 33 counties attended with a multidisciplinary team. That team was a juvenile court Judge , and educator, a mental health professional, probation, child welfare and other critical members of the larger body that we work with day in and day out in our juvenile courts. I think it's important to note and highlight that this work has been done under the Chief's leadership . It has been sustained under her leadership and we will highlight for you today, it is something that reflects a larger issue within our communities but also directly impacts those families coming before the juvenile court. We did this work alongside the Chief and her leadership with superintendent [name unknown] but we also had the direct partnership and support from the Secretary of Health and Human Services, in her role with the child welfare Council. We had Attorney General, [name unknown] , participate as well as other state legislators. The work of the summit and what we are going to explain to you that we did then and continue to do today expands across and beyond the Judicial Branch but obviously the Judicial Branch is a key leader and convener of it. The Keeping Kids in School and on track for graduation and having a healthy and stable life is sort of the underpinning of what this initiative is looking at. We know in the research -- and the research demonstrates that early experiences with law enforcement can powerfully affect a child's trajectory. We know that when kids are out of school for exclusionary practices, not only are they pushed out of the school setting but too often they are pushed onto our streets and in circumstances where they are not being supervised. And we know that that is fraught with peril particularly for our younger aged students in terms of where they are headed and who is guiding them on any given day. At the heart of the initiative is the leadership role that the juvenile court and court more broadly have to play at the community level. To impact and effect the changing -- or to change the poor outcome that some of our students are saying. The disproportionate impact that we see as a result of chronic absenteeism, truancy and exclusionary disciplinary practices. So really at the heart of it and at the heart of the Chiefs initiative is the role the juvenile court and court system can play to impact and influence and improve the lives, the educational life and stability of our youth coming in to the court system. As noted, again, we are looking at how we partner with our schools? How do we partner

with our mental health professionals? Social workers, probation officers, law enforcement to reduce these disciplinary practices? How do we reduce that disproportionate impact? The issue of chronic's -- chronic absenteeism is often under the radar but lends itself as a second block trajectory for these youth in terms of how it is that they are engaged in behavior for which they are pushed out of the school setting and away from those who were most committed to helping them and guide them in shaping and giving them the opportunity to thrive. We are also looking at the opportunity to increase high school graduation rate for foster youth and those use within the juvenile Justice system. He strategies for the initiative -- and I know you can all see the PowerPoint so I won't read it verbatim. Looking at the role that the court can and should play. The juvenile court is unique in its opportunity and the mandate under the standards of judicial administration to get off the bench and into the community to work with those stakeholders and those child serving agencies to look at what's being done with and for our youth and particularly the youth at risk and those that are not in the classroom tend to be at risk for a wide variety of behaviors and circumstances for which we want to try and change and to improve. It is about collaboration. Collaboration is the buzzword of the day but we aren't able to do our best work if we are not able to best serve our youth and families without the other partners at the table and the initiative really brings that home and makes sure we hear those voices directly at the table. You will see a couple of photos here. We have had use voice present and engaged from the outset of the initiative and throughout our work both at the state level and across our communities. We know that we do better when we listen to those who have walked in the pathways. We know that youth have a critical voice and although some time it can make professionals a little nervous and sometimes judges can get a little nervous because you are not quite sure what that youth is going to say or how it's going to come out, youth voice is critical and we have been very fortunate to have a very robust and engaged set of youth that have been involved in working with us side-by-side from the outset. So we are very fortunate in that way. Suspensions and expulsions making matters worse. One of the things that we were looking at in terms of data, back in 2010/2011 California's schools issued 700,000 suspensions. But that rest. Over -- almost 1 million of our students experience out of school expulsion. When kids serve out of school suspensions they are not only falling behind academically but we also know that they are again unsupervised and out of touch with those teachers, principles, coaches, counselors who are dedicated and work so hard to support them. We know that suspensions and expulsions lead to six times the opportunity or unfortunate opportunity to repeat a grade. So they are out of school and six times more likely to repeat a grade. We know they are five times more likely to drop out of high school and as a directly relates to the court system they are three times more likely to come into our juvenile Justice court rooms. There are some significant risks that are presented and that the data flushes out for those of you to experience exclusionary disciplinary practices. Disproportionality, I touched on that just briefly. Looking back at some of the data we have, particularly from the 2009/2010 school year. 7% of all California students were suspended compared to 18% of African-American youth who were suspended. So when we look at our communities and our use of color, both African-American, Latino as well as Native American -- they are experiencing these exclusionary practices at a higher rate which sort of lends to or feeds into greater representation in court system including juvenile and adult court systems.

>> Good morning, everyone. My experience in the juvenile court is -- and this is just anecdotally 90% of our kids that come into the court have issues with school whether they are not enrolled or they are experiencing expulsions and suspensions at school or they are behind so many credits and the ability to read and do math. So education has always been a priority for me. Education is the key to rehabilitation and if there's one thing we can do for kids it's to make sure that they are engaged in education. Also as a juvenile court Judge we want to put ourselves out of business. We want to keep kids out of the pipeline and along with the standards of judicial administration, it is our role as a juvenile court Judge to go into the community and make sure there are resources available to at risk children so that they don't come into our system and I think that's why this work is so important. Some of the programs -- I'm not an educator -- I didn't know very much about the education field when I was a juvenile court Judge. I realized how important it is. How important it is to keep up-to-date with the best practices in schools. In order for our kids to do well in school they have to be engaged and in order for them to be engaged in the school they have to feel safe. And appreciated -- so some of the effect of programs that have been shown to work best in education are restorative Justice and restorative practices, positive behavior intervention and supports, because the best predictor of safety is the quality of relationships. School climate depends on close relationships between peers and between peers and educators. So I'm sure everybody is familiar with restorative Justice approaches , but as restorative Justice applies to school it involves inclusion, accountability, safety and transformation. So not only does the focus on the use who has harmed somebody but also the participation of the person who was harmed. And that is where the inclusion and accountability come in. Often times when we meet out punishment to -- for consequences in proceedings, we are doing so routinely and broadly without regard to what the victim would like to see happen. So as it plays out in school, if there is an incident at school, it doesn't need to come to court but it does need to be resolved and the best way the schools can resolve these situations are to bring the student who harmed somebody else with the victim and figure out how that young person can be accountable. What that victim needs to feel healed from whatever the conflict is. So our juvenile Justice system doesn't have these components. And I think it's really important for young people to learn how to deal with conflicts without coming to court. PBIS, positive behavior intervention support is a buzzword in education and I'm happy to say that a lot of schools have taken it on -- taken on this theory of dealing with behavioral issues. Just like the teach English, math and social studies under the PBIS principles, educators need to teach behavior. Not all kids come into school understanding the rules that are placed on young people in school. So teachers who teach academics also have to teach behaviors and that's the key behind PBIS is that young people need to know what the rules are and these need to be communicated by teachers and also all the staff in the school have to model these behaviors. What is important is that young people be rewarded for positive behavior and not only being criticized and punished for poor behavior. So one example, I will just throw it out there, one school gives out these gotcha cards meaning I caught you when you are doing something good. Kids win prizes with that. As opposed to focusing solely on negative behavior through suspensions and expulsions. We talked a little bit about adverse childhood experiences but it was proven through the study from the CDC and Kaiser Permanente that the more adverse childhood experiences that a young person has or an adult has, the more impact it has on health and behavior. So I know because I work in a court in Compton

that a lot of our kids have adverse childhood experiences whether it is experiencing somebody in their own family being hurt or themselves or domestic violence in the home. But all these factors impact the way children behave in school. They take what his home in the community and they bring to school with them. It interferes physiologically on their brains and their ability to manage their behavior in school. Another example is hunger. Hunger may cause irritability in a child and so we need to focus on the root causes of behavior as opposed to pushing children out through suspension and expulsion. The cradle to prison pipeline is fed by unaddressed trauma needs. We hear a lot about trauma informed practices these days but it hasn't filtered into practice and a lot of places. When you have unaddressed trauma you have higher dropout rates. When you have higher dropout rates, unfortunately, we have disproportionate dropout rates where African-American students drop out 2.to four times that of the district average. -- $2.24 Times that of the district average. School dropouts are filling our prisons and this most crucial statistic that calls attention to everybody is that an African-American boy born in 2001 as a one in three chance of being imprisoned in his lifetime and a Latino boy has one in six. So as judges we really need to take hold of what it is we can do to mitigate this phenomenon of imprisonment of our young people. So not only do we need to focus on suspensions and expulsions but we need to focus on attendance. Not only on truancy where kids are not going to school. We have to focus on the participation of parents and kids not going to school. Chronic absenteeism is a phenomenon. Missing 10% or more of school days for any reason, whether they are homesick or they are home because they have to watch their siblings or for married of reasons. Attendance matters because this is where young people learn. They have to be on track for success, ready for college and engage with their peers. Statistics show 83% of students chronically absent in kindergarten and first grade are unable to read on level by third grade and what happens in third grade is that students who cannot read on level are more likely to drop out. This occurs in third grade and even preschool, attendance is critical to getting kids the opportunity to read on grade level. Many reasons for young people being chronically absent. Transportation, homelessness safety issues, chronic illness, having to take siblings to school, and largely parental misunderstandings about the importance of getting kids to school every single day. Some parents might believe it's not important for kids to go to school when they are in kindergarten. That only consecutive absences -- one day at a time might not be as damaging as missing a full week of school. As long as parent signoff that it's okay for their kids not to go to school. All of these parental misunderstandings reinforce chronic absenteeism that plagues our communities.

>> The graph you see here is another [Indiscernible] as it relates to attendance. The disproportionality we are seeing across our state -- this map with all of the pushpins is a visual representation of how the Chief justices leadership -- our juvenile court and just -- judges across the state are and continue to be energized about how we better collaborate and work with our child serving entities. This map again reflects the numerous counties that have continue to engage in this conversation, participate in keeping kids in school and out-of-court, initiative efforts holding their own summit, some of the work that's being done that we can highlight we know that [Indiscernible] County , their local team -- again a multiple and it's very team -- they hosted their own summit. Sacramento and to hema County were able to utilize technical assistance from the National Council of Juvenile and Family Court Judges to analyze the data

that they have about school-based referrals to the juvenile Justice system to work with educators to figure out how many of our youths are hitting the court because of behavior in the classroom and how might we have a conversation to impact and improve those numbers. We know that in your County has brought restorative Justice practices to some of their schools and for Sonoma County they crop -- focus on chronic S&T is him and truancy and with a grant of just over $700,000 from the FCC they have launched new pre-court intervention programs for students with attendance issues. We know just this March coming up, in pre-or County is going to have its own summit and we are hoping that many will be able to attend and even some from our own Supreme Court. We know that Los Angeles -- a large part shepherded by [name unknown] has had some of the lost wide ranging across many school districts. The work being done is not just an initiative put on the shelf. The Chief gave us a direction and authorized a five-year plan starting in 2014 to engage our communities and as the math reflects we have -- [Captioners transitioning]

>> We have the opportunity to present to them this past summer and had an idea of the multifaceted aspects of not only the truancy, chronic absenteeism but also the trauma that is under so much of the behavior that we see and is acted out in the classroom. The partnerships run beyond the branch. The partnerships and work is run beyond the branch and also sustained beyond the branch. We are working to continue to work with all of these counties, not only to provide technical assistance but also how they can multidisciplinary teams to get to the table and stay at the table. How do we support them in their work and also how do we work with them on public education and communication plans? How do they have broader conversations? Maybe sometimes with smaller school districts who might not have these issues on their radar to engage them and look at ways to work together. We have had regional convening both in Northern and Southern California since our larger summit. Looking at everything from how do these restorative justice practices and PBIS working youth detention facilities? The notion of education is not just your normal high school on the corner. You have significant levels of education being provided to use into tension. How do some of these practices impact how those youth are doing? Are they actually being suspended from a classroom? Within a juvenile hall? So, the work runs across the gamut and that we have been receiving positive feedback about how and why this work is so important to juvenile courts across the state. We have provided various resources to all of our partners including our juvenile court judges, with various tools that we have posted in individuals that have been partners with us, including attendance work, including the Attorney General's office. We have our own media presence, you may not have known, but there is an I Belong in School Twitter focused on keeping kids in schools initiatives. One of the things that we do, listed on this slide, Chris and Tracy under the direct leadership and guidance of Diane Nunn have helped keep this move -- work moving. It is an honor to do this work under your leadership, chief. It makes a difference as noted. Not everybody knows about this. It is sort of under the radar, for many who don'ts are particularly in juvenile court. But for those juvenile courts around the state, I'm confident that in particular, your presiding court judges are continuing to ask for more information and support to keep the conversation going.

>> Thank you. I just wanted to make a comment or two, I wanted to thank you for your efforts, and the efforts of the people that you work with on a project like this. I can speak for myself, I'm sure that we would all agree, all of us who are judicial officers, whether it be the trial courts or courts to review see almost on a daily basis, see with dismay and concern almost on a daily basis, the effect on our young people growing up without adequate and effective supervision without good adult guidance and motivation. And sometimes hopefully even inspiration, any efforts that we can make through the chief's efforts, through the Council's efforts, through your efforts, to get some at least partial resolution of that problem. I can't think of too many more important things that we can do for the branch and state of California. Thank you very much.

>> Thank you, Justice Hull. One of the things I want to highlight that Judge Groman is very good at it whenever we have new people to juvenile justice is is reminding them that our own Rules of Court require that judges ask and inquire at every hearing about the educational status of our youth appearing before us. This is not a side initiative. This is part of what we are charged to do. Guidance of the Council through our Rules of Court make this a reality and we are trying to give a little bit more support to our colleagues who are doing this work.

>> Thank you. Judge Stout and then Commissioner Gunn.

>> I had a comment and question. Your work is fascinating and amazing and I totally support you and hope that you do put yourselves out of this mess on the juvenile court. Something that interests me is your work to find alternatives to exclusionary discipline. And, my question is, whether there is any effort to engage the parenting communities, because I think that if everybody is on board, the justice system, you know, the law enforcement and the educators, you are still going to have pushback from all of the parents who are, like, wait a minute, this kid is a bully and there is violence in my school. I just want him out. How are you doing that or will you be doing that?

>> Sure. You hit that on the head, a very, very important factor which is parental involvement. You can't do anything for or with our kids without their parents becoming involved. Part of the philosophy of the positive behavior intervention support is parental involvement, and making sure that the parents understand how the schools are working with their children. So that they can continue this work at home. And so, kids are learning a new way of how to behave and how to be respectful to others. And, we are hoping that this comes home to the parents, by their involvement, with the school, as being a partner to the family.

>> One other thing I would add in response to your question is the Chief Justice has a steering committee that helps Judge Groman and I continue the work. One of our most active and global members is Macie Ching from CADRE. Engaging parents is something that is part of our foundation and framework for each of our convening, whether north, south, large or small, she and others, Jackie Byers, really helped sort of guide and be mindful that we need to help communities engage parents. Because sometimes there can be that tension, and particularly for some particular communities, those parents come to the table with the sense that they are not

welcome, and that their voice is tokenized. So, the issue of parent engagement is something that again is at the heart of what we do as part of all of our discussions and our strategies. So we are very mindful of that.

>> And we do encourage for the multidisciplinary teams for each county, that they include youth and parent voice.

>> Thank you for justice Hull's comments. I thank you, chief, for your outstanding leadership. It was mentioned that this would be under the radar screen and I think in one sense, that is true. On the other hand, I think it has resonated very well with our schools. I have a little insight. My wife and one of my daughters, they are both school counselors. And, this is well known and gaining in momentum throughout the state and our various schools and school districts. I want to highlight I think some of the outstanding focus and efforts of the two of you in terms of suspensions, as the real focus on discretionary suspensions, largely for willful defiance. This is a huge area of concern for schools. I think that the parental participation and that discussion is critical. But I think the answer is shown to be and the restorative justice practices, that really helps schools appropriately deal with those cases of willful defiance and finding alternatives to out of school suspensions, and again, I just think you are doing great work. Thank you very much.

>> Thank you. Commissioner Gunn?

>> There's a lot of statistics that I just saw on this PowerPoint. We don't have that. Is there a way to get those statistics or any other statistics? Because I love to use it in my truancy court.

>> We do have a fair amount of statistics. One of our robust partners is the state Department of Education. There have been some conversation about longitudinal studies that have been done outside of the state and what we are capable of collecting in California, based upon the way schools report their data, and what that means and whether or not it is consistent. But again, I will get in touch with you and one of our data gurus for this effort, Tracy Kenny, will work with you, for all of our counties, when we have a convening part of the material that we provide for them, is the snapshots from the Department of Education about the suspension and expulsion rate in the county. So, they have the hard data about what does it look like? What does it look like for the larger school districts? For some of their smaller schools? Does it happen to be willful defiance? Are there other things going on? Happy to work with you to get the data for you.

>> Can we get a copy? Thank you.

>> No greater flattery.

>> Just briefly, I want to thank you for facilitating and the chief certainly for the leadership on this for helping counties like ours, you mentioned Tahama, two hours north of Sacramento, I think judge Stout and Commissioner Gunn can speak to the issues on how we don't have resources regarding experts and whatnot available. So, programs such as this really give us an

opportunity to have outside expertise come in and show us where we need to go with regard to these issues, so I do thank you both.

>> I also want to thank you and say as you recall, this started I think in 2012 when we traveled out of state to a conference and left in that state speechless with the statistics nationally, and recent reports out of other states. We came back to California. And I will say that you, judge Boulware Eurie, were volunteered, so to speak, to lead this with justice Huffman. The program succeed because of the wonderful leadership of Judge Groman and yourselves and our dedicated staff. Staff asks to come to this assignment. They want this to work. I remember at the summit how many districts that came together, counties, had never sat at a table with each other and had a conversation. And all we did as a branch was invite them, and provide a venue and a stipend and a program. And, from that, grew these relationships and partnerships and this discussion and goals. Because we realize as a branch that we have a limited role. And, we depend on so many other entities to successfully execute that role. And, this is the future of the branch. And, even the United States Supreme Court has recognized that juveniles are different. The phrase, transitional immaturity, and so, we are well to wake up and realize we have an opportunity here, and it is an opportunity that benefits not only California but these individuals. I can't thank you enough for your work and how inspired I am by it. Thank you very much.

>> Let me say in the interest of time if you are waiting for that one hour recess at noon, let me dash your hopes now. So, here's what I propose for the next few moments. To take up the consent agenda, to take a 25 minute lunch recess, combat, address the education items first, the action items, rather, and take the education items remaining on the calendar last. We are going to stand in recess until about 12:30, reassume and start with our action items to enable all folks to remain to boat. Let me take the consent agenda. Thank you. Judge Sos moved the second agenda, -- moves the consent agenda, second by Ibarra. All in favor, please say aye. Any no? Consent agenda item 7 passes. We stand in recess until 12:30. Thank you.

>> [The meeting is in recess and will resume at 12:30pm PT. Captioner standing by]

>> So, I invite everyone to please take their seats. In a few moments we will reconvene. So I am going to ask the presenters to have a seat. Just so that you know what we are first addressing, we are going to first take the second action item, policy 17-002. This is titled in your agenda, trial court budget minimum operating and emergency fund balance policy. This is an action item and we welcome judge Jonathan Conklin, the chair of the judicial Council trial court budget advisory committee and also Mr. Zlatko Theodorovic, judicial Council budget services. Thank you.

>> Good afternoon, and thank you very much. The item before you, the materials have been prepared, I believe, thoroughly explain it. Not that this is anything other than routine. But it simply is a request that this council approved beyond going decision, previously made about suspending a policy related to these funds. I believe it is thoroughly explained, thank you. In the materials. And, while not trying to sidestep any issue, if there are questions we are happy to answer those. Otherwise I would ask that the unanimous decision of the trial court budget

advisory committee recommending that this Council continue to suspend the policy related to these issue which again interplay between the 1% and old 2% and now 10 million be approved.

>> Thank you, thank you, judge Conklin. This is a matter that we have previously acted upon, this is a move now to continue to do so. And if there are no questions of the presenters, then I would entertain --

>> I will make a motion.

>> Thank you. Judge Lyons moves, judge Nadler second. Any questions or remarks before I call for the vote?

>> Brief question. In light of the fact that the budgeting rules have changed, it appears in the fundamental and ongoing way, my question would be instead of continuing to suspend it, if there has been some thought about just redrafting this requirement, or, you know, on a more permanent basis, rather than it coming up for sort of renewal of the suspension?

>> There has been. It was originally proposed to be a year, and now it is two and perhaps I think as long as we continue to advocate for the repeal of the limitation on the 1%, this issue as far as proper physical guidance to the trial courts should remain as a question before the Council. At some point, if we decide that we would no longer pursue that 1% repeal, then we would want to revisit the overall fiscal management. Thank you.

>> Thank you. All in favor, please say "aye."

>> Aye.

>> Any no?

>> [Silence]

>> any abstentions? Thank you. The recommendation in this item ending 002 passes.

>>> Next on our agenda item is 17-004. Also an action item. Same presenters. Thank you.

>> Thank you, chief. This is regarding a budget change proposal for the trial courts regarding statewide electric filing limitation and operational support, the advisory committee on financial accountability and efficiency, as well as the judicial Council technology committee. We are recommending that this be approved and submitted to the Department of finance. This issue was present into the Council but was not yet complete and we recommended coming back to the Council once the final financial and fiscal applications were determined. And so we ask that you support the recommendation to submit this to the Department of finance for budget consideration.

>> Thank you. Like all of our action items, the materials including the recommendation, the rationale for the recommendation, the history of the recommendation is in the binders that you have reviewed. And so, I opened the floor for questions or observations, or also a motion.

>> I'm going to move this.

>> Thank you.

>> Thank you, Mr. Kelly. Seconded by Justice Chin. Any comments, questions, remarks, concerns? Seeing no hands raised, all in favor of this for the trial courts as revised, please say "aye."

>> Aye.

>> Any no? Any abstentions? The motion carries. Thank you. The third item of our action, 17-015 is for the trial courts concerning state trial court improvement and modernization fund allocations.

>> Thank you, all. Once again, you have the materials related to this. I'm happy to take questions by a brief summary. As you all are aware, trial courts are required to make every effort to come off and maintain their case management. This will assist both Humboldt and Madera in this regard. This request has not only been considered by the trial court budget advisory committee but by Justice Slough and Buckley's committee regarding CTJC, and is by request that these funds be approved. I will note as it is in your material that they added the limitation, so to speak, that both of these courts, as noted at the bottom of the first page, review, perform a review, and year review of their finances to offset migration costs in case the unforeseen, if not totally unexpected were to happen and they were to come into additional funds that would allow them to offset these funds, they would be responsible for using their own funds for that purpose, prior to the IMF being impacted. I'm happy to entertain questions of these requests, otherwise, would request that it be approved.

>> Thank you, judge Conklin. I'm not sure, based on the nature, the timing of our agenda whether we still have on the phone and it's from Humboldt County or representatives from Madera. Anyone present on the line who cares to speak to this matter from those counties?

>> Madera is here.

>> I am hearing that. Again, this matter is contained in your binder with previous counsel action and the accommodation, policy implications. The floor is open, yes, judge Buckley.

>> I'm confident that if Justice Slough would be here today, she would give very strong comments in favor of this proposal. First and foremost, yes, it helps individual trial courts that

are in need of this, trial courts that are trying to advance with their technology. Also, we have, knock on wood, a successful approach to how we are going to advance the technology throughout all trial courts. Bring in new case management systems, new ways of technology across the board. And, starting back, as you may well remember, with the courts, the success of one year leads to the success of the next year and definitely then to the future success. I think for a number of reasons, but first and foremost, this is the best interest of these two courts, JCTC also unanimously supported this.

>> Very helpful. Thank you, judge Buckley. Not seeing anymore hands raised.

>> I will move.

>> Second.

>> Who was the second? I'm sorry. Justice Chin moves, Judge Brodie seconds. All in favor , please say aye.

>> Aye

>> any opposition? Any abstentions? The matter carries.

>> Thank you. This will allow me to return to Fresno by Friday at 8 p.m. and so my wife asked me to thank the Council for the change in agenda. Thank you very much.

>> As you know we have another action item on our agenda. We were waiting however because we learned that there would be public speakers. On this issue. And, given the nature of how our agenda has moved today, I don't believe they are here.

>> [Pause]

>> very good. So, I understand we have at least two folks here who care to comment on this agenda item, and we are also prepared to hear it. What I would do at this time is in the interest of time, invite the presenters to the panel to sit at the table. And hear the two public comments on it and begin. Thereafter, when the additional speakers will arrive, we will suspend the presentations to permit those speakers to speak to the issue, so that if there are issues that can be addressed by Justice Tangeman regarding the process or substance of this instruction for Council's benefit, we will hear it then. But at this time, let me say, justice Chin and I are recusing ourselves from hearing this matter in the matter that it becomes a subject of litigation. I turned as part of the preceding over to Justice Miller in the preceding.

>> We have two public speakers that are here. And, first is Kevin Callaghan he. If you would come forward, please. And, since we are going to allow the others to speak when we get here, then your time went back to two minutes. So I apologize.

>> I will try and be quick then.

>> Thank you. You may proceed. I will give you a warning at 30 seconds.

>> Good afternoon. I am an attorney with the law firm of Robinson and Calcagno. We respectfully ask that CACI 3103 remain unchanged. We believe the proposed changes to the instruction are an inaccurate statement of the law, which will result injure her confusion and will place undue burdens upon elders independent adults who have been victims of neglect as defined under the protections of the elder abuse and dependent adults protections act. First proposed changes would expand a narrow judicial finding to apply to all cases involving the neglect of an elder or dependent adult. One case was decided on specific facts regarding the outpatient care of an elder who was able-bodied. Ultimately, nothing about that changed elder abuse or dependent law in California. Despite this, the proposed instruction presumes that when simultaneously opposed rigid requirements on person seeking relief while narrowing the reach of the statute, proposed instruction reached too much into the opinion and arbitrarily selects adjectives applicable to those specifics facts as universal one-size-fits-all universal proof. For example proposed instruction would use the word substantial to provide the necessary relationship, but the court also used the words robust and distinctive. Moreover, the word substantial is nowhere to be found in a court up close --'s conclusion which limited that in three statements and instead use the unqualified phrase, a caretaking or custodial relationship, where care or custody -- or care or custody relationship. These are sweeping changes including addition of the word substantial, caretaking, custodial, ongoing, responsibility, basic needs. The delineation of so many new terms and these are legal terms, and the proposed instruction, runs counter to the stated goals of achieving a plain English explanation of the law and ease of understanding by jurors. More importantly --

>> Recommended changes would require adults not required by the statute. This is not the time to be putting up more barriers from the elderly and weakening laws designed to protect them. As changes go to par and only undermine the protections of the act, this law is too important to water down and therefore we respectfully request the proposed change to 31 03B rejected and it continued to mirror the language of the elder care act, 15.6 .107.

>> Thank you. Next, we will hear from Kimberly Valentine.

>> Good afternoon and welcome.

>> Thank you. Good afternoon, my name is Kim Valentine. I'm from Valentine Law group and I'm a child litigator who prosecutes elder abuse litigation. I am going to limit my topic to only two words that are in the proposed changes. And those are the words substantial and ongoing. And I am here to talk about some unintended results that I think might occur, if in fact those words are included in the jury instructions. When you go into a nursing home, if that facility is a bad operator, and that facility is understaffed, often times, it takes only a matter of a few hours

before there is a bad outcome. A bedsore occurs in a matter of hours when you take a person who is immobile and cannot move themselves. There is lack of blood flow that goes to certain areas of their bodies, and that turns into necrotic tissue, which can lead, ultimately, to an infection and death. If you have a resident to is particularly susceptible when they first get to the facility because they are unfamiliar with their surroundings, and they are a fall risk, they are more likely to fall within the first few days of their admission. There are cases where individuals for three or four times in the first couple of days of should -- of their admission. If those facilities are understaffed, this type of conduct is extraordinary likely to occur early on in the admission. I tried a case where an individual was immobile for 15 hours. In that 15 hours she was overdosed with morphine, 10 times the normal dosage. She was then left by the nurse who said and testified that he thought he was overdosing her at the time. He then left her, did not write in the records what medication he had prescribed or given to her.

>> 30 seconds.

>> She then suffered respiratory depression and a brain injury. It all happened in a matter of 15 hours. If these words are included in the jury instructions, defense attorneys are going to stand up and they're going to say that a 15 hour residency period or a two day residency period is not substantial and not ongoing. We would ask that if in fact you are going to include those words in the jury instruction, please at least add the definitional words that are also included in the Wen case which are more than intermittent, more than episodic, or more than casual or limited interaction. Because a jury absolutely need some direction so that that cannot be misconstrued. Thank you.

>> Thank you. Next, we have one other public speaker here, Richard Hechler. You can come forward, two minutes. I will give you a warning at 30 seconds.

>> Good afternoon. I come here with a background in criminal law. I have tried 90 plus jury trials and I can speak to that. I'm also on the board of the California advocates nursing home board. I am here to give you less than a few minutes of input of someone who has been in the trenches and tried cases and had juries invariably come in with questions. What does this mean? What does that mean? And, it is essential I believe to follow the law and let the juries actually have the definition, if you even agree to the substantial and ongoing. I also quote the Supreme Court, a couple of days ago, there was an opinion talking about De'Myra where they talk about a substantial risk of force against the person. They talk about this in terms of moral turpitude and whether immigration laws are going to happen. However, to quote the Supreme Court justice, both laws, the government said, require the courts to identify features of a hypothetical event and judge the risk of violence rising from them. And even though this is the judges who obviously have a higher level of expertise and higher level of experience, the quote was, how our judges to decide the features of a typical offense? Should they use, she asked, statistical analysis? A survey? Expert evidence? Google? Gut instinct? Again, from someone who has been in the trenches and had juries come and ask me -- not ask me, they ask the court and we come up with an answer for them to I'm pleased to recommend that you keep them simple according to what

the law says and don't add and make it more difficult. Because this is an area that the court and legislature determines specifically that you need to look out for the rights of elders because they are vulnerable groups. And I would just ask you to use those criteria. Thank you very much for your time.

>> Thank you very much. I was just going to check to make sure that Edward is not here? Or, Jay plummet? If not we will proceed with the discussion and Justice Tangeman.

>> Good afternoon, Justice Miller, and all the members of the Council. It is my honor to be seated here. For the first time, and addressing all of you in this capacity. Let me just explain a little bit of background about my committee and what we do. Because I think that will help us set the table for the discussion. The committee for California civil jury instructions has been around since it was created in the form of a task force in the late 1990s. So, a task with a mission, preparing plain English, jury instructions, in a civil context. Our counterpart in the criminal is the committee, another advisory body that you oversee. I have been on the KC committee, well, the first instructions came out as a result of the task force. I have been on the committee since 2006, I have been on its chair since 2014. What we do, at least since I had been on in 2006, after the initial instructions were adopted, is survey the law, receive requests and comments from judges, from lawyers, from anyone who wishes to suggest input on what new jury instructions should be added. How jury instructions should be modified or changed, reflect changes in the law, and of course, we respond, perhaps, our most common source of material is responding to appellate court decisions, which further refine, define, and clarify the law and the instructions that we write as a result. The elder abuse series became a series, I believe, in 2008. There were some prior elder abuse instructions. As a result of the adoption of a rather comprehensive scheme by the legislature, in 2008, this series was flashed out, refined, further, and, at that point in time, the current instruction of what is now on the table, 31-03, was written in its current form. 31-03 is one of silver -- several elder abuse instructions that start with 3100. 3103 is the instruction on elder abuse or neglect. As you might imagine, it is an instruction that is commonly used because in any action in which someone is injured by neglect, and that person happens to qualify as an elder or a dependent adults, that is being over a certain age, this cause of action can be added. It has been the source of much litigation and many claimants. Our instruction, as is currently written, without this amendment, incorporates these statutory language requiring as a prerequisite to the imposition of duty that the defendant have care or custody of the plaintiff. In May 2016, the Calaveras Supreme Court decided the case of the Pioneer medical group. That was the case in which a plaintiff had sued a healthcare provider, providing healthcare in an outpatient setting, with the care that the plaintiff thought met the definition of neglect, that is negligently provided care, and brought an action not only for negligence, but also elder abuse, under the statute. The California Supreme Court granted review on the case, and, made certain holdings in that case. The committee, which consists of, or consistent at that time of 25 members, including members drawn from about one third appellate court justices, about one third trial court judges, and about one third attorneys, attorneys from a variety of fields. We have plaintiff's lawyers, we have defense lawyers, and then we have those lawyers that I do find some more in the middle, commercial litigators or government lawyers, so forth. So, we try to have some

experts from a wide variety of fields, to address these proposals when they come up. The Winn case held through the Supreme Court that in order to find liability under the act, that certain prerequisites had to be satisfied. Those prerequisites required not only the giving of care or custody, but a substantial caregiving or custodial relationship. They also found that they needed more than a one-time touching of the plaintiff. There must be ongoing responsibility for the adults, the elders, basic needs.

>> Justice Cuellar defined no less than six times, but those basic needs must be basic needs which and able-bodied and fully competent adults which would normally be capable of managing without assistance. The objectors -- well, first of all, these proposed changes go through the following process, through the CAYC committee. First, proposed changes are prepared and in draft form and are submitted to a working group. We divide CAYC into three groups, so that we can manage the workload. We get twice per year somewhere between 20 and 30 instructions to deal with. For today's meeting, we are meeting in the Redwood room right now as we speak. About 13 revised instructions, that is 13 existing instructions that are being modified to come part with changes in the law and are adopting another -- or addressing the possible adoption of another eight or nine new instructions. So with that workload, we assign cases to one of three working groups. That working group consists of seven or eight members of the committee. They extensively vet the proposals, someone is charged with leading the discussion, after that proposal is fully vetted, the working group makes a recommendation. It has been submitted to a committee as a whole. The committee then meets, goes over every instruction. Here is the working group's recommendation, there is the majority and minority reports if applicable, the differing views. We massage the language, modify it, apply it commonly, and come up with a final result. That final result is actually a tenant of results because it goes out for public comment. Once it is out for public comment for a period of time, people are allowed to come in and register objections, concerns, requests for action or inaction, based upon the language that has been used. Then, the item, if it receives public comment, returns. Back to the working group, back through the chair, and in this case, back through the full committee. The objections that you have just heard were also expressed during the public comment period. After we had gone through the process. At the working group level and at the first full committee level, these concerns were addressed. Including, as we always address, the concern of whether this is a holding, which stands for a broader principle of law, or should be narrowly confined to inspect. We carefully review every single word that goes into these instructions, words like substantial, and ongoing, whether those provide sufficient guidance to a jury, whether different words should be used.

>> For obvious committee, the CAYC is reluctant to change the words that are used by the Supreme Court or by a court of appeal. So, we try to default to using the same language, particularly if there is any controversy, all of those processes were conducted in this case. In any event, now that is before public comment. Public comment, these same objections were raised. At that point in time, we returned the public comments with the proposed responses to those public comments, back to the working group, back through the chair, and, then ultimately, back through the full committee, for further approval. The full committee vote on this issue, in view of

the objections that have been expressed, were 22 in favor of 3103 as it is included in your packet. One opposed to the language contained in 3103, as contained in your packet, and two abstentions. So, the vote was nearly unanimous in favor of what you see here. The proposed instructions included in your packet, in addition to the instruction, we provide instructions for use and language from the cases on sources and authority. If, for example, you go to the sources and authority, you will see the basis for the committee's decision that this is not a narrow holding. The California Supreme Court and expressing why they granted review of this case said we granted review to consider whether a claim of neglect under the elder abuse act requires a caretaking or custodial relationship, where a person has assumed significant responsibility for attending to one or more of those basic needs of the elder or dependent adults, that and able-bodied and fully competent adult would ordinarily be capable of managing without assistance. No mention of the narrow accounts. It goes on to take effect the legislative history of the elder abuse act, we conclude that it does. They go on in other language to indicate the act seems premised on the idea that certain situations place elders and independent adults at heightened risk of harm. During the distinction between neglect under the act, and conduct actionable under normal remedies, even in the absence of a care or custody relationship, risks undermining the act's central premises.

>> We reviewed that and much more language in the case, as articulating the statutory or clarification of the statutory language, which would be applicable to all cases. And, we reach that conclusion after lengthy debate and discussion, both before and after public comment, by vote of at least 22-1, with two abstentions. As I recall, after the first round of public comment, this was unanimous. There was no really controversy on this before public comment raised. Public comment swayed us very little. We, likewise, believe that the language that has been used, which has been taken from the California Supreme Court language in the use of the word substantial and ongoing languages is sufficiently clear to provide guidance to a jury. Substantial is a term that you will find, by the way, and many, many CAYC instructions. By highlight, there was in 2013, a very significant Supreme Court case that found that one of our jury instructions on liability had to be a motivating factor, that is the way we had written it in instruction. The Supreme Court said that we should add one more work before motivating reason. Substantial. Had had to be a substantial motivating reason. That instruction has passed muster without any question as to whether or not that is too vague to be understood by juries. There are probably a dozen or two dozen instructions which include the word substantial. Ongoing is a word that we adopted from the language in the case, to distinguish this type of liability from the one touch type of case. The arguments that you have heard I think are arguments that might very well be addressed to a jury. Might very well be addressed to my appellate court or Supreme Court and for the request to further clarify and define. The committee takes no pride in representing one side or another side, expanding, or contracting liability. Our mission is one. And that is to get the law right and placed in a manner that is easily understood by jurors using plain English. In this case, the language is language lifted directly from the California Supreme Court. That is the basis before the instruction. As written in our response to the objections that have been raised, we continue with our request that this join the other instructions that have been approved by the judicial Council, to be placed in CAYC.

>> Justice Tangeman, let me say this on a procedural point. The chief and justice Chin obvious he recuse themselves in case this was back in court. Justice Miller has had to leave on a personal matter, and under our rules of succession, it now falls to me to run the rest of this agenda item, which I am pleased to do. Before we take questions or comments, I'd like to ask Judge Anderson, could you see if we have our other public speakers here who want to speak?

>> Yes. Let's see if we have the two remaining speakers, Mr. Edward [Indiscerinible] who was asked to return after 1:30. And, the other was Mr. Jay [Indiscerinible]. A told to proceed after 1:30. I will succeed to the gavel that we will call for the vote at 1:30. However since you have the gavel you can change that.

>> Thank you. Why don't we go ahead with comments or questions at this point and having the gavel as Judge Anderson notes, first I will call upon me.

>> [Laughter] I wanted to add something to Justice Tangeman's process. I had the pleasure of serving on the civil justice committee since 1998 which continued when the civil jury instructions were adopted by the Council in 2003, I believe, until I went off the committee in about 2008. It sounds very much to me like the committee operates still the way it did during the time that I was on that committee, and, that needs no further explanation. But I will have to say that sitting down with 24 other lawyers and judges around the table and putting these instructions up one at a time with Mr. Greenlee, and before him, Miss Hein Gardner, sitting at the computer, drafting and redrafting on the fly, brought about thorough and robust discussion. And, when people got to the point where they were satisfied, at least a majority of them, and usually it was all of them, if not almost all of them, if not all of them, then the process would go forward. I was always impressed that in my experience, there was never a time that I could recall where attorney members representing the plaintiff's bar or attorneys representing the defense bar, attorney members who had other areas of practice where judges or justices who themselves had their area of practice, gave any indication of writing the instructions or amending the instructions according to their own self interest. And so, it is significant to me, that I believe I have had to arrange a couple of things here, but I don't know, Justice Tangeman, did you mention the final vote?

>> The final vote was 22 in favor, one opposed, that one opposed was not a plaintiff's lawyer, in fact it was not even a lawyer, it was a trial judge on an issue that I believe is different than the issues raised here today. We sometimes don't want to agree to a certain word or phrase. It was not one of these words or phrases as I recall. And, two abstentions. And if I could just validate what you have just indicated, I have been on CAYC since 2006. I do not recall a vote ever coming down on partisan lines, where plaintiff's lawyers were on one side and defense lawyers were on another side, on any issue, including this one, at any time.

>> Thank you. I will just add and then open it up to the rest of the Council, it does seem to me and we appreciate the public comments and thoughtfulness behind them, there was always an

effort in writing plain language jury instructions to use words that people not trained in the law could reasonably be expected to understand. And, on many occasions as I recall, I have not seen on a survey the word substantial appears. Thinking at the time not that it should affect the Council's decision on this particular dispute, but the word substantial, if there was adding to that, was thought to be one of those that lay jurors could be expected from their daily activities to have a clear understanding of, and was part of the so-called grist for the mill, and the attorneys decide whether a particular matter was or was not substantial. And so, that just informs my thinking on this. But let me open it up now to the rest of the Council if there are questions. Judge Stout?

>> Justice, where I may need some clarification here is the thought behind extending when to inpatient cases. Any thought of different instruction for inpatient, outpatient?

>> No. That issue was discussed, and frankly, there are many members of the committee who are a bit uncertain, as to really what this dispute is all about. The typical defendant in a case like this would be a healthcare provider, whether inpatient or outpatient. Those people are always going to have an ongoing substantial caregiving, or caretaking relationship. So, to answer your question, judge Stout, I don't know if you would need different instructions. This instruction would almost direct toward liability for inpatient cases because in those cases you are always going to have substantial ongoing relationships. The real question I think that the Supreme Court was grappling with was the question as to how far the liability should go, because once you attach an age limitation, or, and age definition to a tort, then you are going to see a lot of claims for everyone who has achieved that age. Because, the elder abuse act has heightened remedies. You get remedies under the elder abuse act that are not available under traditional remedies, in terms of multiplier damages or attorney fees, or other remedies. And so, I think the whole point of Winn, and I think this was the committee's sense, is you have to meet some additional criteria under that statute that you don't have for the simple negligence action. Hence, the inclusion of these modifiers. The closer you get to inpatient, of course, the more likely those are going to occur. But the same definitions would apply.

>> Thank you. Justice Humes?

>> I have one request, really a confirmation. That is, one of the speakers today talked about some proposed language to further define the term substantial. And I just wanted to clarify or confirm that the language that was being discussed was not language that was contained within the Winn decision itself.

>> Oh, I wouldn't say that. It may have very well been contained within the Winn case itself. We always have to make a decision as to how bulky, how lengthy these instructions are going to be. That is contained in every instruction. How far should we go? Should we add this other quote? Should we add these elements? There's always attention when drafting jury instructions. As any trial judge will tell you. In terms of, well, are we going to include all of this? Are we going to have the so-called pinpoint instructions? Are we going to have a general articulation of the law?

The decision were made that these words would properly capture the law. And, that adding additional language would not be of assistance to the jury.

>> Yes. Mrs. Ibarra?

>> Hello, Judge. Thank you for your presentation. I actually had just one question about the language in the instruction for element one. Specifically, it talks about caretaking and custodial relationship involving ongoing responsibilities for basic needs, plural. Was there any discussion in the community about a basic need? I know the opinion itself says one or more basic needs.

>> As I recall there was discussion about setting forth some examples of basic needs. And again, then we return to the issue raised by Justice Humes as to how far you go into this. Justice Cuellar who wrote the opinion use this language in defining basic needs. And, this is language from the case, which and able-bodied and fully competent adult would nor nearly -- would ordinarily be capable of managing without assistance. There's always a question when you start putting examples in the jury instruction as to whether the jury is going to mean that as anything that is not an example is not something that qualifies. And so sometimes examples are helpful, sometimes they are not. The decision was made in this case through committee action, that this language would capture what the Supreme Court was telling us all. The basic needs are these basic needs. Because they could be many.

>> Before I recognize others who want to speak or ask questions, I should say that Mrs. Ibarra's question perfectly captured the sometimes literary agony that the committee would go through as to whether or not we need to say basic needs as this example, or basic need. And if so, thank you for that question, Ms. Ibarra, that's very helpful.

>> And if I could follow up, there was language actually about having that definition in their. And ultimately, the sentiment that carried today was, justice Cuellar use that phrase six times in this opinion. I think he thinks that is important and the Supreme Court as a whole, not just the author. I think this was a 7-0 decision.

>> Okay, judge Brodie?

>> Briefly, will we try to tie these comp located principles into plain language? It is a difficult endeavor at best. But my question is, there has been some criticism of inserting the word substantial. But, the instruction already included the word substantial. Under the fifth element, namely, that the conduct was a substantial factor in causing harm. So, did the committee have any engagement with that fact, that the word is in the instruction? Was there any comment toward clarifying direct as part of that instruction?

>> Substantial factor is an issue that will cause a great deal of debate. For those of you who have participated in jury instructions going back for some time, there has always been a question of but for causation, substantial factor causation, and, that debate reared its ugly head again this

morning on yet another instruction, not this context, not this context. It was in the context of a contract instruction. But, in any event, substantial factor is an entirely different test than substantial caregiving. Those address two very different things. So, substantial factor yes, you will see that in every toward instruction. Every toward instruction has to have a causation element. And, substantial factor is the causation instruction language that has been chosen in the debate between but for and substantial factor, was waged during Harry's tenure on the CAYC committee before 2006 I think, just barely before. So, substantial caretaking in relationships is an entirely different issue. But, your point raises another point that has been discussed. And I think that deals with the public comments, which feel that maybe the use of the word substantial is too vague or uncertain. That is really I think the first time we have heard that argument after having used substantial in context far and wide for many, many years. That is what made me think right away the Harris versus Santa Monica case, whether motivating reason is enough or whether you need a substantial motivating reason.

>> Our change was made in response to Harris and has been cited by many appellate court since then, as an appropriate correction. We haven't received, or I'm not aware of, any court criticism of the use of that term in any jury instruction.

>> Thank you.

>> Much of what I tend to say has already been said, but perhaps, a general comment. And, in rereading Winn for today's purposes, and having read and relied on Winn, and my past decisions, my regular day job, the court seemed to be distinguishing the one time, or one off type of conduct that might constitute, for example, medical negligence, from the remedies that are provided by the elder abuse and dependent adult civil protection act. And, the decision really focused on conduct that was over and above that. That is where the substantial caretaking language comes in. And I do think it was a critical aspect of the decision that was written by Justice Cuellar. And I would actually be very supportive of this proposed jury instruction. It might be premature to move at this juncture because of the public comment. On that point, I think that Judge Anderson was giving incorrect information that the remaining speakers were to be back here at 1:30. That was not the case. The speakers were to be here this morning. And so who knows where this conversation was going to go? Let me ask first of all, and I will consider that, judge Nadler, as a motion without asking for a second. Are there any questions or comments among the Council numbers?

>> I will call the names one last time because were relatively close. This will be their last opportunity to provide public comment. If they do not answer, their time for public comment has passed and elapsed. Again, Mr. Edward [Indiscernible]? There is no answer or no response. And, Mr. Dick 10 [Indiscernible]? Okay, their time has elapsed for public comment.

>> At this point, we have a motion made by Judge Nadler to approve the motion as set forth in item number 17-014. Is there a second?

>> Okay, judge Brodie seconds. Is there further discussion? All in favor, please say aye.

>> Aye .

>> Would you know that I abstain?

>> Judge Kelly abstains. Judge Stout abstains. In any event, the motion is carried. I don't know if we have -- there is the lady I needed. Is chief and justice Chin available? As soon as they join us we will go to the next and last item. Mr. Tangeman and Greenlee, thank you very much for being here today.

>> Thank you for your consideration.

>> [Captioner standing by]

>> The next item on our agenda is getting back to the education portion. This is evidence-based practices and pretrial risk assessments. And, I will turn it over to you.

>> Okay, hello, everybody. When my father-in-law used to wake up my wife and her siblings, he would say, this is another day to excel. And my mother-in-law would sing, "Oh, What a Beatuful Day" to them. This is our chance to excel. I like to comment on what she commented on earlier which is the pretrial detention reform workgroup. And I am totally stoked to be the cochair of that group, along with judge Lisa Rodriguez out of San Diego. This is a snippet from the letter I received from the chief. Quote, in recent months, significant attention is focused on pretrial attention throughout the country. If you listen to the news, it is coming at us all the time. I am establishing the pretrial detention reform workgroup to provide analysis and recommendations for areas in which courts may identify better ways to make release decisions that will treat people fairly, protect the public, and ensure court appearances. So that workgroup has been created, the chief created it. And on Tuesday and Wednesday of this week, we had our first face-to-face meetings. It consists of a number of folks that we all know including judge Gordon. Others that have been on this judicial counsel, just McCabe, Judge Jackson from San Francisco and many others that you know. Is staffed by great staff, and, when I refer to judicial counsel staff, you always know that is a redundant statement because Judicial Council staff , they are great. Include Deidre Benedict, Shelley Currin, and Eve [Indiscernible] and Millicent Tidwell. In the two days of meetings among other things, and what we started this meetings with, was an agreement that we were a blank slate. Because different people brought in different information already on pretrial detention and release reforms, such as judge Coshon from Santa Clara who has a really robust program going. But we want to be educated. In the last two days I heard, when I say heard, I mean presentations or maybe more, from the center on the go base practices, from the American Bayle Association, from the pretrial justice Institute, and someone from the school of criminal Justice of the University of Cincinnati. And that is Dr. Edward Latessa. And I'm happy to introduce him to you. He is a professor at the criminal justice school in the University of Cincinnati. He has printed over 100 works and is the author of eight books including what works

and doesn't in reducing recidivism, as well as other books. He has directed approximately 1900 funded research projects, including studies of daily reporting centers, juvenile justice programs, drug courts, prison programs, intensive supervision programs, halfway houses and drug programs. He and his staff has also assessed over 1000 correctional programs throughout the United States. And, he has provided assistance in workshops in 49 states. And I figure now that he is in California he's got 50 states under his belt. He is going to talk to us about something that the chief reference, the risk assessment instrument. The RAI. And probably a lot of you are familiar with it and some of you may not be. It is an instrument used at various stages of either juvenile delinquency or criminal system, to assess risk.

>> He is a swab, he is debonair. If you have not heard him before, I recommend you put your tray tables up and put your seats to the upright position, put on your seatbelt. Gives me great pleasure to introduce Dr. Latessa.

>> I need you to go around with me and introduce me from now on, Judge. First of all, thank you for inviting me. It is a pleasure to speak to the Council on this very important topic. As he mentioned, I have done this work for a very long time all over the country. And it is not California. I think it is Rhode Island that I have not done work in. My work primarily focuses on risk assessment and correctional rehabilitation. And, the discussion that I want to have here this afternoon with you is really to give you a background around some of the issues around risk assessment, specifically as they apply to pretrial, to get there, I think it is important that we understand how it fits into the broader context of corrections and correctional treatment. Yesterday I had the pleasure of speaking to the committee and we had a very good discussion about some of these issues. So, I have a somewhat abbreviated version here this afternoon. But, I cover all of the major topics. If you have done any work at all in this field in the last probably 10 years or so, you know that everybody is striving to be evidence-based. That is the catchword today. When I started doing this work, we simply called it what works. We were interested primarily in how do you reduce recidivism rates? How do you bring more fairness into the system? We spent a lot of time going around the country, trying to convince people that we actually knew something about offender behavior, and about assessing things like risk. There is no consensus in the academic community as to what constitutes an evidence-based program, or an evidence-based practice. As I say here, there are different forms of evidence. In my world as a social scientist, we are trained to look at data. But, we know that there is also anecdotal evidence. And these of course are stories and testimonials and case studies. Often makes us feel gold, often makes us get week. Sometimes, that anecdotal evidence is empirical but sometimes it isn't. Highs form in my world is studies from control studies. In which there are comparison groups, the gold standard, the courses, random assignment. But, we have other ways to look at data and look at studies. I think in the context, especially from a judicial perspective, it is really about evidence-based decision-making. Most of you aren't operating programs, you are not running probation departments, for example, or halfway houses. You are interested in making decisions that are based on sound evidence. And, evidence-based decision-making involves some steps, it encourages the use of tools, one of those tools is risk assessment. As well as certain interventions. But, it is not just the tools that are available. It is how they are used. And if so, I

would like to talk a little bit about all of these issues. Evidence-based decision-making has five distinct steps. It starts with assessment. Assessment is the first step in almost any process in which one wants to evaluate or remediate a situation. Whether it be your health, or your car. We want to have an assessment done. Second, of course, is to look at the research. What does it tell us? In the case of pretrial. Can we make decisions? Will people return to court? Will they pose a risk if they are let out prior to the trial? What does the research tell us about, for example, making contact to make sure that they know that they have a court hearing? Third of course is the programming. Do we have the programming to deal with certain populations? For example, mentally ill. If we are going to discharge mentally ill, do we have programs available that will help ensure that they understand the process? Evaluation. Evaluating whether or not it works but also evaluating making sure that there is quality insurance in the process. And finally, professionalism and knowledge from the staff. And I think as California tries to move forward and take on this very important topic which is now a national issue that they consider these steps as they deliberate and make their decisions.

>> The question is, what does research tell us? This is a challenge. A challenge to people like me who spend a great deal of time reviewing research. The different ways that academics summarize research. One you are most familiar with. That is a literature review. You do case law review. We read all of the prior studies, and we draw some conclusions. There are a lot of flaws to that process. But it is a common one. Another way we do it is to simply count studies. If I have 30 studies that show in effect and 10 studies that show it doesn't, I might side on the effect. The favored way today is what we call meta-analysis. In which we take a number of studies, we code them, we screen for quality and other moderating factors, and, we look at what we call effect size. It could have a positive effect size, negative effect size, or no effect size. The problem is, it is a challenge when you start looking at one study. As I say here, if you believed every study you would not need anything, you would just drink a lot of red wine because that is the only thing good for you. I did hear the other day that coffee is good for you if it's fresh. I'm not sure where that came from. But, I was always taught that it was not that good for me.

>> Looking at one study can be a mistake. I like to use the analogy of smoking. Most of us believe that smoking is bad for our health. Why? We have a substantial body of analysis that have been conducted over the last 50 years that have concluded that if you smoke a lot, it can lead to cancer, emphysema, and heart disease. Not one study, but many studies. We did not always have that body of knowledge. It was not until 1964 that the Surgeon General ruled that smoking was bad for our health. In the 30s, they promoted it as helpful. What has changed? That research. Same applies in the area of corrections, mental justice, and pretrial detention. -- Criminal justice and pretrial detention. This dates back well over 150 years. We have thousands of criminologist in the study who do nothing but study correctional and criminal justice and policing systems. The question is, what does that research tell us? We have a large body of research that has been summarized in numerous publications that have basically told us that correctional interventions, services, treatment, can in fact reduce recidivism. However not all programs are equally effective. The most effective programs are based on some principles. It is called the RNR model, risk, need, responsibility, what I like to call risk, treatment, and fidelity.

What should we target, how should we target and how well we do it. The two most applicable principles in pretrial are the risk principle and the need principal. But I do want to emphasize that quality program integrity is important. For pretrial programs, they have to be done well. If you're going to use an assessment tool, you have to have confidence that that tool is in fact valid and reliable. Quality plays a big role. I'm going to talk primarily about risk and about need. In context, this refers to the person you are defending, not the seriousness of the crime. That is an important distinction. We have statutes, punishment, sanctions, based on seriousness. In this context we are looking at risk of reoffending. It could be a low risk seven, it could be a high risk felon. It could be a low risk misdemeanor, it could be a high risk misdemeanor. And has more to do with the attributes of the individual than it does with the crime itself. And so, example, you would all be considered low risk, even if you committed a serious crime. If you were assessed with any risk assessment tool, you would score low risk. Why? You have no criminal history. You are employee. You are educated. You have family, I hope, that care about you. You are not substance abusers, you don't hang around with criminals. Well, a few of you might still because you are judges. But for the most part, it is only professionals, not a social. In other words, you don't have a lot of risk factors. You are not capable of breaking the law, does not mean you want to be punished. I won't have to do a lot of intervention to reduce your risk. Your low risk for those reasons. It is important to understand that seriousness usually trumps risk. So, we make decisions because sometimes because of what someone did, not because of their risk to reoffend. And that is important and certainly important in pretrial. Someone can be low risk but because of the nature and seriousness of the crime, we are not going to consider a release.

>> As a general rule, treatment affects are stronger when we target high-risk offenders and lower can be done in regard to low risk offenders. This is usually discussed in its application to low risk treatment but as you can see, it has some application to pretrial as well. This figure shows the recidivism rates by risk level for a group of, in this case, convicted offenders that are being supervised in a community. And so, you see this particular tool distinguishes for -- four separate categories. Low risk, moderate risk, high risk, and very high risk. Low risk. Offenders that fall into this category. Recidivate during a given period of time. Moderate risk, about a third will recidivate. High risk, now we are losing the bet at this point. That that is 50-50. You make it or you don't. In this case we have a 50% failure rate and in this instrument we can get up to very high risk which is about 70%. Not all high risk people fail. It is based on probability. It is based on aggregate data. We cannot predict what an individual will do. What we can do is put them in a group that has the probability associated with it. So, from a treatment perspective, for example, what this would mean if you wanted to provide treatment for the low risk group is that he would have to put 10 of them in a program to get one. Because you don't know which one is going to fail. The high risk group, you put 10 in a program to get six or seven. And so simply, from a statistical perspective, you can see why we get a reduction with high risk and are unlikely to get a reduction with low risk.

>> Intensive interventions for low risk often increase their failure rates. Three reasons for this. First, low risk offenders often learn antisocial behavior from high-risk offenders. Most of us recognize this, you have children that recognize it, teenagers, don't want their teenagers hang

around with kids who go to school, use drugs or get into trouble. He wanted our children to hang around. So, the antisocial behavior is often, we will call it, contagious. Second, when we target low risk people with intensive interventions, we often disrupt what makes them low risk. We disrupt their prosocial action. So again, I took you right now and put you in a correctional treatment facility here in California. We will try to find a good one. Most of you would be there usually about six months. My guess is he would use -- lose your position, my family might have challenges without you and I would doubt if your neighbors would have a welcome home from the correctional treatment facility reception for you. There might be signs on the street but they would not be welcoming you back.

>> Third, increasing, reporting, and surveillance often leads to more violations. And so, when I looked at the data on the risk principle, and it is, by the way, probably the strongest principle of all four in terms of the data, that we see the harmful effects. We can think about pretrial, if we take low risk people, keep them in jail, they are not only associating with higher risk people, but they are also now, their lives are very disrupted. So, we have some examples of how that might affect pretrial. These are some different studies. This is a meta-analysis looking at a number of studies. And what we see here is that when we target high-risk, we get a treatment effect, about 20% reductions in recidivism. When we target low risk, we get a slight increase in recidivism. Of, in this case, about 4%. This is a study done in Canada, looking at supervision programs. They call it intensive rehabilitation supervision. And, you can see the blue, the first blue is the recidivism rate, 2 years later, of those individuals placed in this program. The higher blue bar are high-risk offenders that were not placed in the program. So, you can see there was a substantial reduction in recidivism. With high-risk offenders., You can also see that there was a substantial increase. The red bars represent low risk. And you can see there is a substantial increase for low risk. Several years ago, I was asked in my state to conduct a study of community-based correctional facilities. It was a large study, at the time, the largest study ever done of these types of facilities. We looked at about 13,000 offenders. About half of whom had come out of prison. And, the other half were on probation. The state basically wanted to know if they were getting their money's worth from all of these residential programs that we were funding. At the tune of about $150 million. And so, I was asked to conduct a study to look not only over all, but also individually at the programs. You are seeing here the treatment affects by program, so, the bottom of the programs, but, the red bars represent the increased rates of recidivism for those offenders placed in those programs. So these are what we call negative treatment affects. Recidivism was increased for about three quarters of the program. Only a small handful of programs showed an effect on recidivism reducing it. These are the same programs with a treatment effect for high-risk offenders. And now you see the same programs, you can see the chart is flipped. Most of the program is that Ohio was operating or reducing recidivism, they were reducing recidivism, however, with high-risk offenders, not with low risk offenders. Those programs that failed, often failed at every level. We did a follow-up study in 2010, that was a bigger study, about 20,000 offenders, we found the same thing. As a result of that, those studies, Ohio now requires a risk assessment of all offenders that can be sentenced to prison and low risk offenders are no longer sent to these types of programs by statute. Why does this matter to pretrial? Van Nostrand and Keebler Found that when lower risk defendants were released to

conditions that included alternatives to detention, they were more likely to experience pretrial failure. So, when a decision is made to grant someone that is low risk, the data would indicate is it is best to do that with minimal supervision and requirements. Where you will likely increase their failure rates. The second principle, one that is essential to understanding not only how you design an effective program, but, how do you assess risk, is the need principle. This is the research related to risk factors. What are the risk factors correlated with criminal conduct? And, I think there are a couple of reasons people go wrong here. This is one of the more important areas. Sometimes our training gives us a very narrow perspective of criminal behavior. For example, people that are trained in substance abuse. What are they focusing on? Substance abuse. And when they find it, that's it. They think they have found the holy Grail. Mental health. Read the psychiatric reports that are often attached to assessments of offenders. They talk about depression. Anxiety, schizophrenia. And as you will see, things that have very little to do with criminal conduct. And so, those are very narrow perspectives of criminal behavior. The other reason I think quite honestly is everyone thinks they are an expert about crime and criminal behavior. Not you, you are experts. But, everyone has an opinion about why people commit crime. This is an area of research that goes back to the earlier days of criminology. The first person to do this work was a man named Caesar Lombrosa, a psychiatrist who devoted his life to studying criminals. He personally studied 5000 Italian conflict. -- Italian convicts. In the late 1800s, he wrote a book of the criminal man. And in the book, he wrote how one day, they brought a dead Robert to the prison. And, he was asked to examine him. And, he wrote in the book that as he looked at this dead body, it was like a revelation. After all of these years of research, it suddenly occurred to him, that he could identify the characteristics of the criminal, what did he say those were? Large four head. Large line on the palm of the hand. They had tattoos. They were excessively hairy. Ever seen an Italian that was on excessively hairy?

>> [Laughter]

>> Had acute eyesight, lack of foresight, a certain lifestyle and a love of orgies. Another Italian characteristic. He went on to say that about a third of all criminals are what he called born criminals, throwbacks, Neanderthal men. It was very popular at the turn-of-the-century. Some research. Body types, head sizes, he was wrong. His work was flawed. No one believes that anymore. But, here is why he is important. He is important to us because he was the first person to try and study criminals scientifically. Since him, there have been hundreds and hundreds and hundreds of studies. That is part of the problem. If you read that literature, it would take you years. When you got done, you would be just as confused as when you started. Because for every study that said something is a risk factor, there is one that says it isn't. So what do we believe? Well, to meta-analysis, we have been able to identify what we call the major set, the major domains of criminal conduct.

>> Number one. Antisocial, pro-criminal, attitudes, values, beliefs, and cognitive emotional states. It starts here. How we see the world. How we see our behavior. How we minimize it, how we justify it. How good of behavioral states, things like rage, anger and identity. Is not only drives criminal behavior, it drives most of our behavior, how we see the world and how we

justify it. We often are driving on the freeway and we go over the speed limit. Why do we do it? Everybody is doing it. I won't get caught. I'm a good driver. I'm only going 10 miles over the limit. What is allowing us to do that? Some thoughts. Our attitudes.

>> Second, of course, and one that most of us are familiar with, our mothers are familiar with it and if you are a parent, you are familiar with it. Who you hang around with. It is not just knowing criminals. Not having prosocial people in their life. So, from an assessment perspective, it is not just identifying those antisocial folks, but, who in their network does not get into trouble. Who can we ask to be involved in their life in a more meaningful way? Social patterns conducive to criminal activity include week socialization, acting impulsively, adventure. Aggressiveness. Egocentrism. Risk-taking behavior. Week problem-solving, and, lack of coping skills. They often get into situations and they don't know how to get out of them, so they do what they always do. Which often gets them into trouble. Fourth of course, when that you are most familiar with, history of antisocial behavior, it is often the first things that we look at. How many times have they been here before? Do you have a record? When did it start? Did they get thrown out of school? So on and so forth. Family factors including criminality. The father, the mother, brothers, have all been in trouble. It is a strong predictor. But also, psychological problems in the family, such as caring and cohesiveness. For kids, it includes discipline, supervision, and outright neglect and abuse. Low levels -- low levels of personal, educational, vocational or financial achievement. -- I'm sorry, low levels of involvement in prosocial leisure activities, and finally, substance abuse. I want to be clear that most of these things that we study believe that these four here run into these four. These are the big four. Correlates for these domains are stronger. If we can change how someone thinks, if we can hook them up with prosocial networks, if we can make them less impulsive, give them risk-taking skills, teach them how to get out of risky behavior, teach them how to handle those situations, we can have an effect on these. Unfortunately, we often start here, get them a job and get them into substance abuse programs and effects that are often much smaller than they should be because we don't tackle the right factors.

>> I want to take a minute and talk about mentally disordered offenders. That's always a concern, especially today. We have many, many people incarcerated in our jails and prisons that have mental health disorders. And if you are observant, you will find it was not on the list of major risk factors. This is conventional clinical wisdom. Criminal activities of mentally disordered are best explained by psychopathological models. Assessments typically focus on psychiatric diagnosis, psychiatric symptomology, and personal distress. Such as anxiety and depression. Assessments are often time-consuming and costly. That is the conventional wisdom. This is the empirical research that has been done. The psychological, pathological model has little regard to offenders in criminal behavior. One of the first meta-analysis in 1996, filed it correlation zero. Bonta's meta-analysis found correlation between having a diagnosed mental disorder, mood disorder, or psychosis in both general or violent recidivism -- recidivism range from .01 to 17. Criminal genic risk factors were the strongest predictors. Major correlates of criminal behavior appear to be the same regardless of presence or absence of a mental disorder. This is a very recent meta-analysis published in 2014. And what you see is that for virtually all

of the areas examined, schizophrenia, mood disorder, psychosis, prior hospitalizations, length of hospitalizations, we see either very, very small correlations or negative correlations. The only area that was significant, and by the way, it was extremely strong, is what we call antisocial personality disorder. It was a strong predictor of both general recidivism, as well as violent recidivism. Okay? This is a study recently conducted in which Morgan and his colleagues studied 414 adult offenders with mental illness, both males and females. They found that 66% had belief systems supporting a criminal lifestyle. Based on the assessment tool for criminal thinking, PICTS. When compared to other offender samples, male offenders with mental illness scored similar or higher than on mentally disordered offenders. On a criminal scale, 85% of men and 72% of women with mental illness had antisocial attitudes, values and beliefs, which was higher than the incarcerated sample without mental illness. I recently replicated this study, we have not published it yet with juveniles incarcerated in Ohio. And, we found that they scored similar to non-mentally disordered juveniles incarcerated. There is more work to be done in this area. We don't know if they bring those attitudes with them, or they develop them while they are incarcerated. But, this is further evidence that often times individuals that get involved in the criminal justice system have multiple risk factors. You're not high risk because you have a risk factor. You are high risk because you have multiple risk factors. And this is an example.

>> By the way, one of the researchers that has done a great deal of work in this area, I would consider her one of those leading in this is Dr. Jennifer Schene, at California Berkeley. If this is a topic you get into, she would be one person I recommend that you have brought in to discuss this. All of this gets us to assessment. That is really just background information so that you understand the importance of risk and you understand what factors go into assessment. Assessment tends to be the engine that drives effective correctional programs. We need it to meet the risk and need principal. That is not only to identify who is high risk. But, also, what should we be targeting? Someone who has an extensive criminal record is high risk. We almost automatically know it. They engage in the risky behavior over a period of time. Some people would say we don't need an assessment to determine that they are high risk. Fair enough. The problem is, we don't necessarily know what factors to target, and I will also point out that they have to accumulate that criminal history. And, that takes time. It is much better if we are able to assess them early on to see if they in fact have areas that need attention so we can prevent them from the second, third, fourth, and fifth sentence. I think that assessment can help reduce bias. This has been an issue recently. Controversy around the topic, whether or not instruments, risk assessment instruments are bias, I will tell you that the empirical research, and there have been some recent studies in some of the top journals that indicate there is very little bias. One of the advantages of using a risk assessment, whether it is having pretrial, or disposition, or reentry, it is that you have data. And you can study that tool. And, you can see if there is in fact bias. And you can eliminate that bias. It is much more difficult when you go on judgment and discretion and opinion. It can help in decision-making, and, the best assessment approach, we have known since 1954 it is actuarial. Two basic types of assessment. Clinical and statistical. Statistical wins out every time. We look at the data, we see much stronger prediction from a statistical assessment and we do clinical assessment.

>> Here is an example with sex offenders. Using an assessment to predict failure, to predict violent sexual behavior, and general sexual behavior. And, you can easily see it is not even close. Statistical prediction does a much better job.

>> You are talking person to person, right? You are talking in the interview?

>> I'm talking a psychiatrist. So, if you took a psychiatrist and had them interviewed and use this professional judgment who predict who is going to do something, he would allow me to use any number of assessment tools, I would beat them every time, not because I am particularly good at it, but because it will was designed to cover a range or risk factors statistically proven to be related to risk. There is much less judgment involved with those tools.

>> [Captioners transitioning]

>>> If your father was in prison that's a predictor. That helps tell us why you are sitting in front of front of under the circumstances. If you've been if prison before? It can go up but they can't go away. They are factors. They are strong, some of the strongest be you they are limited in their application beyond predicting risk. Dynamic risk factors request change. Whether you're employed, whether you're using drugs or not, whether you're hanging around with people to get in trouble, whether you're in a gang those are dynamic risk factors. I'd like to use this chart. I cut it out of the newspaper once. It's the risk factors associated with having a first heart attack. I'm in training for one so I'm brushing up on it. You can see from the risk factors I marked the first three in red. They are all good predictors, family history, gender, age, but they are static. My family has a history of heart problems. I can't change that. I can take of myself but I can't change that. Inactive lifestyle, over weight, smoking, high cholesterol. They are all related to heart disease. If you had them all your risk would be high. If you went to your physician they would have your work on the dynamic ones, exercise, get your cholesterol down, quit smoking by all means. You might still have a heart attack. That's prediction. We can't predict what is going to happen in the individual but if a thousand of us had those attributes and we all lowered them we would lower our rates of heart attack by 20, 30% or more. That's statistical prediction. The point I'm trying to make with this chart is to get you to see that just because those areas that we are going to work on, we cannot ignore the static ones. They are essential to good prediction. After all, we are not worried about having a heart attack when we are 20. It's not until 50 when we start to worry about it. In my opinion -- and there's a debate in literature around assessment. They include dynamic and static predictors. Static predictors are easier to measure. If I can count how many times you've been arrested, that's easy. If I know your father has been in prison I can check the box. It's more difficult to assess criminal attitudes and peer associations and impulsivity. Those things take more work and therefore there's more variation in the assessment. While there are two types of risk factors, there's two types of dynamic risk factors. There's Acute risk factors. Those thing can change quickly. One is something like employment. Get a job, like that. Interview on Friday, start on Monday, you went from unemployed to employed. But most static risk factors are stable. They take longer to change. I'm not going to change your attitude over night. I'm not going to make you less impulsive over night. That's going to take time. We have to

work around it. There's a growing body research around dosage and how much it takes to reduce risk. These are some examples of risk assessment tools. All three are used in various jurisdictions in California. The LSI, the level of service inventory, which has been around for 30 years, there's a new version it's the most widely studied assessment tool, it's a tool. The COMPAS that the Texas of rehabilitation uses. Another tool that's a machine scored tool that's quite different in its function and the Ohio risk assessment system that we developed in Ohio and is being used in some jurisdictions in California as well as a dozen other states. It's a nonPRIEPT system. This is the LSI. So if your court jury trial jurisdiction uses the LSI, this is what probation would produce. It has 10 domains. This you can see the individual here is high risk, this person has high in criminal history, happens to be a woman. She's off the chart in associates. That means everybody she knows gets into trouble. She's high in substance abuse, personal emotional and attitudes. I like to use this as an example also to show you how interrelated risk factors are. If you put her in a substance program you reduced her risk in that area. Is is know low risk? No. Who is going to pick her up from the program? Her friends and they all get in trouble. You can see from a treatment perspective why we have to be bimotal. This is a COMPAS. This is the out put you get from that particular instrument. It covers a number of areas. It gives you a number of not really probability but rather percentiles around a number of different areas. In Ohio we developed the -- the -- the ORAS. We were like California. We had jurisdictions that used the LSI, the Wisconsin and nothing and the state decided that they wanted to get everybody on the same page so that when we talked about risks in Cleveland or in Cincinnati or in Columbus we knew what we were talking about, we had data. So the state made a decision to invest in the development of the tool. We are a home rule state. Counties don't have to use the instrument, but it's provided free of charge, training is free and so I think 72 of the 88 counties use the ORAS. The ORAS actually consists of multiple tools including a pretrial assessment tool. That is really what I'm going to talk to you about. It includes a misdemeanor tool, felony probation, prison intake and a reentry tool. This is what judges in Ohio see when they get a copy of the ORAS if they're making a decision around probation. So they get a speedometer and risk factors and a lot of other material that goes along with it. Those are what we call general comprehensive risk need assessment tools. They cover all the major domains. They are either third or fourth generation tools because they include static, dynamic as well as case planning capability, as well as what we call responsive factors. These are not risk factors but they are areas that should be assessed. For example, intelligence. If I'm dealing with a low functioning individual I need to know that. It's not high lyly corelated for criminal behavior. It may include mental illness and so forth. So those tools are all comprehensive tools. These are the challenges of developing a pretrial assessment tool. First of all, as I say, we have hundreds of studies, we know what the major risk factors are. It's not that we know everything. We are always learning things. There's debates around gender and other issues with regard to risk but those basic domains that I went through, attitudes and values and believes, associates, personally, criminality, criminal history, it would take a lot of -- a lot of evidence to counter act those major domains. The challenges with pretrial though are unique and it's probably the reason that there's so much consistency between pretrial assessment tools. First of all, there are a number of tools out there. The Ohio tool, Virginia tool, Arnold foundation just put out an assessment tool and there's a number of them around the country. Several years ago I participated in a group that the justice department brought together. They

produced a number of papers around pretrial assessment and, again, when you read it what your you're struck with -- you're struck with is the consistency not only in the tools but the temperature -- items they assess. Most of the items are static. We'll talk about why that is. These are the most items, failure to appear, priors, have you not shown up before, have you been in trouble before, convictions. Some measure arrests, other things, but criminal history. Present charge or felony. That's a common one. Not all instruments have that. We didn't find it. Some do. Being especiallymployed. History of drug use. Having a pending case. These are the most common items. They are not the only items. They are the ones that show up on many of the tools. Why? Why do you have this despairty between the general risk factors and pretrial tools? First -- and these are some of the problems that we see with pretrial. Some are common to all development of all risk assessment tools. All right. Just as kind of a primer, how we develop them, you know, how we develop the ORAS was we -- we went a cross the state and assessed several thousand people at every level of the system, pretrial, presentence, entering prison, leaving prison. We collected everything we could think of and then we followed them for several years and then we developed the predictors. So it's basically how we do it. First, the quality and availability of data. AUCH time AUFB times you are dealing -- AUCH times -- often time you are dealing with people coming into jail. Getting that data and information can be a real challenge. Bigger problem, you're deal being a skewed sample. When we track people coming out of prison we track everybody that comes out of prison. With pretrial we are looking at those people that the court has released. And who doesn't the court release? The very high risk and the very serious. So you automatically have a skewed distribution when you start following people that are not -- because some people aren't granted pretrial. All right. Generally we are concerned about out comes during the pretrial release period only. Result is what we call in the business a very short follow up period and low base rates of failure. When I follow someone coming out of prison or getting on probation I follow them for a year, 2 years, 3 years, sometimes 5 years. Pretrial, we are only interested in the day they came out of jail to the day you decide they have to come back for their hearing or their trial. That can often be a short time. So failure rates tend to be low. When failure rates are low, not much to predict on. It becomes a challenge. So you have low base rates of failure. So if you asked me, well, what's the rate of violent for this group we couldn't answer that because that's a smaller sub sample of that group. Legal status. Limits the type of limit that could be gathered. I'm going to ask you about your substance abuse and what drugs you use and how often you use them and if you're in a gang or not and if you've done this and that and the other. Well, I don't think your attorney is going to allow me to ask you all those questions so I can conduct an assessment. So we are limited to the information that we can gather. That limits what you end up with on a pre-trial assessment tool. And time constraints. An LSI, an ORAS, a COMPAS might take an hour. With pretrial we are talking at hundreds of people grinding through on a weekend or a week. They don't have the staff or the time even if they could ask all those questions. So you've got some practical issues with pretrial. And we are looking at two out comes. This is not true with most assessment tools. We want to know if you're going to show up, an FTA and if you're going to get in trouble. The predictors are not the same. You lived in the community all your life, you own property, that's a pretty good predictor of failure to appear. Not a great predictor of criminal behavior. So these are some of the challenges. It's my opinion -- recently it's been a few years but a number of folks from different

organizations Arnold the country approached me about, you know, wanting to develop a better pretrial assessment and I told them to save your money because I don't think that we are going to find anything differently. If you read the Arnold study that one of my students did because they liked the money they found what everybody else found. They just did it for probably several hundred thousand dollars. The ORAS, pretrial assessment like most is short. It's nonproprietary. Some are and some aren't. It requires minimal training. If you losed the OSI you had to get trained, if you used the ORAS you have to get trained. This is the tool, it's seven or eight items, you score it. It can be done in probably 5 to 10 minutes. And these is what we found in our initial development study. So you can see we were able to look at failure to appear, new arrests when we put them together this is the distribution of out comes. Low risk, this means that you have -- if you have 100 low risk individuals that you grant OR, less than 5% will not show up or get rearrested. Moderate risk, a little less and high risk at 28, 29%. The point I like to make is if we compare this data to the first bar graph they showed you, 28% would put you in the moderate risk category. No one would believe 28% is high risk. The difference though, remember is I have a short follow up here. If I followed all these individuals for another year, those rates would start to look just like my other rates. I have done it and they do. I also before I came I looked at the -- where the scores fell just to give you an idea. Remember it's a skewed distribution. We don't follow the really high risk because they're not getting out. Despite that, about 28% or so of our sample scored low risk. So it's fairly normal distribution. Moderate risk is over half. I will tell you that's -- that is what we typically see in a probation sample and in a pretrial sample. Most people fall into the moderate risk category. The only time that you see a really high percentage of high risk people is when you're looking at a prison sample because there's a selection process and most people end up in prison tend to be higher risk. That's a little high for low risk. Low risk we might usually see maybe 15%, but, again, it's pretrial. Many of these people are -- you know, they are going to end up not getting convicted or charges being dismissed so that will go away. Some observations for traditional pretrial most tools are similar, most tools are short and sweet and most tools sort fairly well . This is an easy way to say it probably doesn't matter which tool that you use. If you asked me for a recommendation I would say I would try to get California on the same tool because in some cases with some tools there may be variations around jurisdictions but that's not going to be true with pretrial because nobody is finding anything different and these tools have been developed on different samples across the country. For pretrial programs that want to serve one with a service like a pretrial drug court you want to consider one of the general assessment tools. Why? Because you want to know more about all those dynamic risk factors. This is exactly what happened in my community. We have a very old well established pretrial department that's been around for many years. In its early days they were a very traditional pretrial department. That is that they -- they collected information, they gave it to the court and they did not ask any questions that were extralegal or any questions that the defendant shouldn't be asked and the court made a decision. 20 years ago we started a drug court and that drug court decided it was going to be preconviction. So in order to be eligibility for the drug court one had to agree to go through a formal assessment process. And so they have to sign a waiver and they conduct it to go to the drug court. That's kind of the exception for pretrial. Some of the research on the effects of supervised pretrial intervention, again, this research is still evolving. Partly because there was a lot of interest in pretrial back in the 70S. There was abuses

in wrecker's island, people being held in jail for years without ever having a trial and so VERA came in and did the first study, developed the first assessment tool. There was a flurry of academic research and then virtually nothing for 20 or 30 years. You couldn't find a study. There are a few articles written but no one was really looking at it. It started to get some new attention, again, in the last few years. We are now starting to see some publications and some research. These are kind of general findings. The use of quantitative or risk qualitative quantitative risk assessments lower a defendant's likelihood of pretrial misconduct. In other words, using an instrument with qualitative and quantitative data, some interviews as long as record checks, you tend to have better predictive power than if you don't. The ability to impose sanctions and reports to the court is associated with less pretrial misconduct. So if you have a pretrial office and they are able to give the court feedback, tell them how it's working, how it's doing you tend to be more effective. The follow up on a failure to appear the lower the likelihood of pretrial misconduct. I was asked that question yesterday and, again, the evidence is -- it was mixed for a while around things like making phone calls to get them to court. We are starting to see more research in that area. I'm going to go back and dig some things up. But my sense is there's more data leaning towards making phone calls and reminding people or sending them texts or however we do that today will reduce your FTEs even lower. They are already low to begin with. They are not high. Interesting in that old research misdemeanors were higher than felonies. Felonies showed up, it was the misdemeanors that didn't. Felonies figured if you didn't show up you would go and get them. Misdemeanor thought you would wait until you picked them up. Use of targeted mental health screening lowers a defendant's likelihood of pretrial misconduct. In other words, knowing that the individual has a mental health issue will reduce that misconduct. There are some assessment tools to screen for mental health with departments. They are used the jails. I'm going to provide the committee with some of those instruments as well so they can take a look at them. And supervising the mentally ill defendants lowers the likelihood of a defendant's rearrest. So this is a group that if you do grant OR and you give them some services you will get a better out come. Conversely with the lower risk you probably in general did not get a better outcome, you got a worse outcome. This is a study recently done that looked at offenders on intensive supervision and looked at the effectiveness of jail time verses community based sanctions. You know, we have this belief for people that are not following the rules that if we look them up for a few days that that will get their attention and have an effect. A study looking at a list of sanctions including verbal, written assignment, curfew, community service and so forth and they compared those sanctions with jail time. And what they found was jail time was not related to the number of days until the next violation. It did not increase or decrease the number of subsequent violations and receiving jail time as a sanction opposed to a community-base edd sanction did not influence the successful supervision. What do we do when someone failed the appear? What are the options? This gives a broader menu. By the way, usually when we develop sanction grids it's also based on risk. So a high risk they might in fact be brought back to jail where as a low risk might simply be given another sanction. So I just throw that out there. Some challenges, time constraints and practicality of the assessment. They are short because they don't want to spend a lot of time. Money bail schedules, a lot of courts follow these scheduling. Do you have the local capacity for programs. If you're going to release the mentally ill do you have someone that can help with the validation of the tools. This is a big state. Some of

the communities are rural and small. Do you have the resources if they want to look at their data? Again, subjective assessment. I think that the biggest challenge is court culture and judicial behavior. There's always risk and no one wants to wake up and see their name in the paper about someone who did something. It's one of the reasons that I happen to believe that if we really -- I think it can introduce good risk assessment system at pretrial. I think it can put in place good procedures about contacts and supervision and so forth but I think if you -- if we really want to have a big effect on the pretrial population we have to start backing it up at the police level. Police have to be given other alternatives, citations and other kinds of options than just bringing someone to jail. Once they are brought to jail the sheriff's job is the process them and they will not let them out until somebody has a hearing. You know, that's -- you know, something that's being talked about in Washington. Issues we talked about yesterday that I think will be thought about is what do you what about to use it for, the length of time you need to complete it, how much training, how much cost is involved, how complex it is, when will it be done, who will do it. Is it reliable and is it valid? Those are two kind of related issues here. We will wrap it up. Validity means that you're measuring what you think it's measuring. Accuracy. I want to measure failure to appear, I want to measure new criminal behavior, is the tool accurately measuring that. Reliability. Is it being consistently done. We can be reliable and all be wrong. That's validity. And the one advantage of pretrial assessment tools that I've always found is because especially in almost any big jurisdiction you're going to have thousands of cases in a very short period of time. Because you're not following them long, a couple of months at most usually, you have a lot of data, you can validate your tools. Reliability is less of a problem with pretrial tools because they are short and sweet. There's not as much discretion in the scoring. You have to make sure that they are done well. A couple things to remember, there's no one size fits all assessment. Pretrial is a very narrow assessment process. But if a court is concerned about other types, sex offenders, for example, domestic violent offenders or your want to screen for mentally disorder offenders you have to bring other tools into the portfolio. No process is perfect. A good tool, valid, reliable, well done, 70, 75% accurate. There's always going to be false positives and false negative effects behavior. It's part of good assessment. What with doe do with the ORAS is ask why someone is not following the assessment. E with want to collect data on them. We want the find out is it because the judge didn't trust the tool, is it because there's information missing and you can think of pretrial where they threaten the witnesses, that's not going to be necessarily included in this pretrial instrument. It may be a reason that professional discretion use. There's new versions and new instruments that come out. Reliability again, a little harder with dynamic instruments, less of a problem when you have static items. There are a couple of items on pretrial where you have to be careful but for the most part they are not. And these are just some of the common problems, you don't assess offenders at all, you ignore factors, assessing a offender but don't distinguish levels. We eye ball them or ask for some information. I like to call it watermelon thumping . I grew up in a town in youngstown, Ohio, northeastern Ohio. My mother used to send my father and I to the market to get a watermelon. He would thump them. He always picked out a wipe watermelon. He had the touch. I would take my kids down to the market, Kroger, my wife would tell me to get a watermelon and I would thump on every one there as well. My kids would say, dad, why are you doing that? I wanted to be a good father and pass that on and I would tell them to pick out a ripe watermelon. I didn't have a clue. I didn't pick out a good one. Some of your

good watermelon thumpers you have been doing it a good time but I can assure that the new people to the bench or the new staff or PO is not a good watermelon thumper. Use an instrument. I have no vest eded interest in what you use but I think that's where the evidence is. If you want to have evidence based practices you have to have data. You're not going to have data until you use instruments like that so you're able to look at it. How did I do? All right.

>> Very well.

>> All right.

>> Very well.

>> All right.

>> Last chance.

>> Doctor, if your studies in Ohio, for example, what were the factors that helped shift judicial thinking to move from a money bail schedule? If you can speak to that encouraged them to use the risk assessment tools.

>> Well, again, in Ohio I think all the major counties had well established pretrial kind of offices, Cleveland, Cincinnati, Dayton, Columbus. So giving them a tool was just another art piece -- just another piece of their arsenal. The rural and small counties had nothing. So giving them a tool gave the judges something to base it on. They are nowhere near having big operations. I think that the model jurisdiction for pretrial is actually Kentucky. Kentucky has had legislature for many years that requires -- that puts pretrial in every judicial district in the state. It's funded by the state. They have had it for many, many years. That would be considered kind of the model state for pretrial. But in terms of, you know, departments and offices that do pretrial, there are some very good ones around the country. You know, I wouldn't -- you know, in Ohio it was more a prodding by the state -- we can't through justice reinvestment initiative. When you sign on the supreme court, the executive branch and the legislature all have to agree to work together to try to find common solutions. So there was an investment by the court and that really helped I think sell judicial attitudes around selling tools and evidence. E -- we did a lot of work with judges to understand risk and the harm that was done when they put adults and juveniles in certain settings. It made them worse. I took a while. I think that it's a process. By the way, I work with a lot of counties here in the state. There are some jurisdictions that do a marvelous job in probation and in terms of assessment that I don't think that you have to look that far to see some very good models.

>> Thank you. Thank you.

>> Just a couple of comments. You get a feel for the magnitude of the information we've just received in one hour. I think you would get backed up. We had four presenters over the last two

days and a massive amount of information. Now this is one of the most critical components to this whole pretrial retention, release, et cetera because of the risk assessment and the short period of time which maybe we can make better use if that's a correct description of that that instrument. From the first time in jail to a disposition of court about 3 months. So woke work within that time period. So it was -- to put this all together and what the chief has done to us on this work group, I mean, we already expanded the days that we have to meet. There's so much information that has to be considered to make sure that we come up with something good if you will. And just these state your namements STIN you arement -- the instruments work so well. We use the ORAS. I don't know if other courts have this. It's OYAS?

>> The Ohio youth assessment system.

>> I have that report and the results to help inform me for what I should do for disposition. They are practical in what we do daily on the bench.

>> You can call it the Ventura youth assessment system. Some call it the Texas system.

>> Yeah, Utah is not allowed to use it. It would be URAS if they did do so. I just got an e-mail today that Kentucky is going the start using it.

>> That's great.

>> I only go to Kentucky to go to the airport just so you know.

>> Anymore questions?

>> The Cincinnati airport is in Kentucky?

>> That's right. There's a reason for that.

>> Cross the yellow bridge.

>> They need eded entertainment so we put an airport there.

>> You stole one of our football coaches I don't want to talk to you.

>> Which one is that?

>> Luke fickle.

>> I'm a buck eye.

>> All right. Stop. No more.

>> Okay now. It's a whole different language.

>> Yeah.

>> I know that you have given us a great deal of information and piqued all of our interest. It will inform us and change us and give us the information that we need to work with our other two branches of government who is interested. We want to be at the table to ensure the public state of the aspect of that as well as much as they are interested also. Thank you and thank you for your York. work. I don't know if there's other comments or remarks. Yes. Go Ahead.

>> A question. One question that I have we have in our county is there's just no room at the inn.

>> Uh-huh.

>> The jail. When we were listing some of your factors that were being considered in the percentages of failure to appear I didn't see that in one of the factors.

>> What?

>> They are released and site them because if they take them to jail they are released on the street.

>> We have a number of jurisdictions because there's in room at the inn. I think what any assessment process helps you do if nothing else sort out people so you're putting the people that need to be incarcerated for that period in rather than filling it up with people that may be -- that you may be able to handle other ways.

>> Well, on our bail the appear calendar we don't get that chance. The decision is made out on the street.

>> Yeah.

>> We got to a really high percentage of FTAs on that calendar.

>> They're making it based on room at the inn.

>> Right. Right. Which is none of these factors.

>> No, none of these factors. No. We developed -- it's a little different different at the juvenile level. At the Ohio youth system you don't have pretrial, you have detention. We develop a detention screener so when the youth is picked up and brought to detention there's a fairly short screening that can be done that tells them let's take them home or call the parents verses we need

to keep this youth. So anything that you can put into that process is going to help make better decisions.

>> Does that not skew the results of some of your studies if that's not taken into consideration?

>> If I were studying your jail it would. Oh, yes, absolutely. Yeah.

>> Thank you, doctor.

>> Thank you.

>> Thank you .

>> [Applause]

>> Can I say one thing?

>> I'm sorry. Before you leave, having gone to school in Ohio and worked for voinivich I'm concerned of how conservative that Ohio is. Not Cincinnati, Cleveland, but the rest of Ohio. On that state for a wholesale basis to adopt this type of paradigm is incredible.

>> Yeah.

>> Because we are not talking about the three big cities, we are talking about the rest of Ohio which is to say it's conservative is a gross understatement. That's where you would run into issues with the conservative judges and the D.A.'s office and using these tool. What you've done there with that wide scale adoption is impressive.

>> It's interesting and a good point. In Ohio the last governor what was a Strickland, a democrat he was not able to push it through. When Kasich came in he was saying we are not building more prisons and tired of spending money. The only organized opposition was the prosecutors. They were very polite. I know some of the Senators. They were very polite and moved on anyway. It was Nixon going to China. They were able to do it because no one accused them of being soft on crime so they were able to push it through.

>> Nice job.

>> Thank you.

>> Good luck.

>> Thank you some.

>> Finally we conclude today's meeting as we unfortunately as we do with a brief remembrance of our colleagues who are decently deceased. Judge Bryan Saunders was on the bench at the time. Judge nor board arenfrid. Judge Donald Kennedy, supreme superior court of shasta county. Judge John lane Judge Claude Owens in orange county. Judge Frank Pierson of stanilsaw county. Judge George tramell, III and judge clearance westra, junior in kern county. We honor them all for their service to the courts and of course to their cause of justice and to the people of California.

>> We conclude today's meeting. Safe travels. Thank you all for being here. Thank you.

>> [Event concluded]