

The Judicial Council of California is the constitutionally created policymaking body of the California courts. The council meets at least six times a year for business meetings that are open to the public and audiocast live via the California Courts website. What follows is a formatted and unedited transcript of the last meeting. The official record of each meeting, the meeting minutes, are usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts website at www.courts.ca.gov.

Please stand by for realtime captions.

>> [Captioner standing by]

>> Good morning. I invite you all to please take your seats and we will begin our business meeting.

>> This is the business meeting of the Judicial Council of California for Thursday, May 24. The meeting is now in session. We will adjourn our business meeting later today at approximately one o'clock p.m. Before we start, before we start talking about our agenda, I want to comment on what has been a positive process for the judicial branch. As you know, I know Martin will have more to add on this matter in his administrative directors report. But in January I thanked the Governor for his very strong budget proposal that supported, among other things, court operations and self-help programs and our initiatives from the Futures Commission. Earlier this month after the May revise I welcomed the revised budget and it enhanced an already positive budget because it restored and provided more in person and online services for court users and increased language access more and in local courthouse infrastructure repairs. So the cumulative effect of budget proposal to date has been overall to greatly improve access to justice for all of California. And this current budget marked certainly the sixth consecutive year of new investment for the branch, although this year I think we can all agree is the most significant. Four years ago, when I proposed the blueprint for our fully functioning judicial branch at a time when we weren't fully functioning, we also turned to budget advocacy to multiple year budget advocacy. Many of the issues we faced back then and the proposals we made going forward have come to fruition and subsequent years and it took a few years to get some of those accomplished but acting as a convener and connector, our branch sought to be a good partner with our sister branches of government. And, as you know, through civil discourse, probably a lot more of it than we have been used to, we provided fact based needs coming from the courts and courts of the Courts of Appeal and Supreme Court an irregular detailed accounting of the funding statewide, and we shared with the legislature and the Governor's office our use of certain models that help us make our decisions, like the resource assessment study model, which we call RAS, and sharing and educating our two sister branches on the workload allocation and funding methodology. And as you can imagine many Judicial Council groups and hundreds of Judicial Council members and judicial officers and attorneys from around the state advocated valiantly for funding, and today because of that collective effort, we are in a stronger spending situation than in early years of my tenure. So I really want to say, on what is the brink of a positive budget for the branch, to thank all of you for your effort and years of dedication and method and work to get us to a place where I think the legislature and the Governor's office recognize our changes in efficiencies and trust our reports as to our budget.

>> As always, we have more work to do in looking at our agenda. Before we start, as a result of Governor Brown's appointment earlier this year, of Commissioner Mesiwala to Judge Mesiwala, you provided us an opportunity to go to the ranks of our commissioners statewide and select another excellent candidate as we have today, who has the unique insight and perspective, and we have an oath to administer this open so I welcome our newest member, Rebecca Wightman from the San Francisco Superior Court.

>>Secretary, I, Rebecca Wightman, do solemnly swear I will support and defend the Constitution of the United States and the Constitution of the state of California against all enemies foreign and domestic, that I will bear true faith and allegiance, to the Constitution of the United States, and the Constitution of the state of California, that I take this obligation freely, and without any mental reservation or purpose of evasion and that I will well and faithfully discharge the duties upon which I am about to enter.

>> Welcome. And congratulations. [Applause]

>> Our next order of business is a regular opportunity for public comment and for this I turn it over to Judge Anderson.

>> Thank you and good morning. This is the time and agenda for opportunities of the public to provide general comments on aspects of judicial administration and the Judicial Council welcomes public comment and the process enables members of the public to express their ideas and state their concerns and policy matters and this can enhance the council's understanding of the issues coming before it. There are two opportunities for public comment today and the first involves general comments on general matters related to judicial administration. These are comments about matters not specifically on today's council agenda but are of general policy concern. The second opportunity involves comments on a particular item on today's agenda, which will be heard at the time we get to that particular agenda item. Before we begin hearing from members of the public, I want to take a moment to highlight a few important features of the public comment process and for those unfamiliar with the Judicial Council. The council is the policymaking body for the judicial branch of California and the council addresses statewide issues with statewide importance. From the agenda you can see the types of things the council will consider today. The council is not an adjudicatory body. The council, unlike the court, doesn't make decisions on individual cases, and it doesn't become involved with nor does it ever intervene with these cases and that is outside the scope of the council's authority and responsibility. Therefore, in the public comment process, Judicial Council doesn't receive comments and suggestions about individual cases nor is staff authorized to distribute materials related to individual cases, and keep this in mind if you are presenting comment today. The time allotted for each speaker this morning is three minutes and I will go ahead and call a name and I will have you come to the microphone, and the second name that I call, go ahead and stand in the ready position right there at the barrier. And you will note that on the area for speaking there is a timer so that you will understand and know that you have three minutes and can monitor how much time you have for your comments. Mr. Eric Kristin is our first speaker and in the ready position we will have a Mr. Edward Noble, who will be up next, and we will go ahead and welcome Mr. Kristin, and you do have three minutes.

>> Good morning. My name is Eric Kristin and I am the executive director for fair employment in construction estate what organization formed 20 years ago by both union and nonunion and construction firms to oppose what is known as project labor agreements. I forwarded all of you

information pertaining to the last PLA that you used which was on the San Diego courthouse project. This didn't fare well, and that was the first project that was actually managed by the AOC in which you employed as project labor agreement and it didn't open on time and it opened over budget and this is the problem with project labor agreements. They cost you money by reducing the number of bidders who bid your project. At that time and the information I forwarded in your own press release five years ago about the San Diego courthouse you indicated this very specifically was a test case at the end of which, and this is explicitly stated, you would hold a discussion, a meeting, on how that went. This is so it could be evaluated as to whether or not it is something used in future construction projects. That has not happened. And now we have the Sacramento courthouse project going out without any public discussion and we have submitted a public records testifying where the project agreement came from and that has been placed in the project. Really in violation of your own explicit promise that this was something that would be evaluated. These agreements are divisive and they make it difficult for some of the finest construction firms in the world, some of whom you hear from today, bid your projects because they lose control of the workplace and pay and union and plans they will benefit from. They are implicitly and explicitly discriminatory set makes it hard for you to get the bid you would normally have in your projects and that you have all the time on all of your projects except for the ones such as San Diego and now Sacramento, in which PLAs are placed on them. So this is a very serious issue in the sense that not only philosophically are these problematic because of what they require of workers in construction companies that happen to be part of the 87% of the construction workforce in California that is union free. It is what people choose to do and wake up on a daily basis and work in a union free environment and that is their choice and right and it represents union contractors that don't approve of PLAs because it upsets the subcontractors are if they will choose to work with them on construction projects. They want to work with some of these nonunion and PLAs. So this is something that is very serious, and I would compel you to ask staff why this meeting has not been held in which we could evaluate how the PLA went on the San Diego project, which did not go well. I think you probably all know that now and it did have a PLA on it. So I appreciate your time and this is a serious matter and I please hope you give this consideration because at the end of the day it costs you money by reducing your bidders and thus increasing your cost. Thank you very much.

>> Next is Mr. Edward Noble. In the ready position is Mr. Stacy King.

>> Good morning and thank you for letting me have a few moments to address you. I was incited to take a train down here from Sacramento to talk to because it was just a few weeks ago that I discovered that the Sacramento courthouse was in fact going to be requiring a PLA. And this was a profound disappointment to me because I work for a company called Helix Electric as the director of project development for these people, and we have been a champion of the state construction program and we have actually built five of your court projects around the state, including the recently finished Stockton courthouse, which didn't have a project labor agreement and which finished on time and without incident. Five projects that we have completed for you have all been open on time as far as I know and they have all been within budget electrically. The thing that I really want to talk to you about regarding all of that is that there is a lot of methodology pushed by union advocates around the performance of companies like Helix Electric and last year it had an income of \$700 million and they currently have a backlog of \$1.2 billion in electrical construction work. We are not, nor are our competitors in this market, just fly by night, sloppy contractors. I can read from you a letter I brought with me

of accommodation from one of the inspectors on your court project going on and on about how wonderful the project was completed by Helix Electric in the field. The point is that these assertions by the unions are simply false by evidence of construction performed by firms like our own. Another charge that is often made about the safety of our crews, and as an example I would point out the project that we completed for the state of California called the California Healthcare Facility, where we hired 120 local electricians in the Central Valley and put them through our safety training and completed 430,000 hours of labor on that project without a single reportable incident from injury or a safety violation and not a single incident. The thing about that are said about her companies are wrong. The last thing I want to tell you is the team I tilt the Stockton project with is ready and waiting to build Sacramento and bring the lessons learned forward to the courts and to the state to the benefit of all of you, and it won't happen because we are prevented from bidding. Thank you.

>> Our next speaker is Mr. Stacy King. In the ready position is Ms. Allison Madden.

>> I am Stacy King, the operations manager of Berg Electric and I take care of our northern California major project division. I would like to speak to you about the upcoming Sacramento courthouse and the proposed PLA on that particular project and a little bit about us. We came into existence in 1946 and we have approximately 2500 employees. We do an annual backlog of about \$600 million. Berg Electric has completed 11 courthouses to date. The most recent, that I was personally involved with, with the Santa Clara Family Justice Center, and I believe that project opened on time and was also on budget and did not have a PLA on it. I would urge you all to look into the San Diego courthouse, and Berg Electric was also involved in that project as Mr. Kristin alluded to earlier, and that budget did not go well. Again, I would urge you all to do your own homework and reach out to the people involved in that job and get the information for yourselves before heading down this road because we definitely would like to oppose the project labor agreement on the Sacramento courthouse and we don't believe that is in the courts' best interest and it is definitely not in our employees' best interest. Thank you.

>> Ms. Allison Madden, and in the ready position is Ms. Catherine Campbell.

>> I am here to speak about access to justice for applicants for emergency relief. This is something that I think needs a policy approach statewide and I came in September and I made a written submission and I asked this council to use an ad hoc committee or advisory committee or a new resource. You have to canvass the superior court at least for the last decade at least and look at the policies and practices by which the county superior courts are handling applications for emergency relief and whether that is a TRO or an OSC for preliminary injunction, and with regard to making a comparison among counties, to see if the citizens of the county are having access to substantial justice. So what I would like the court to look at is this originates from San Mateo County. On that county website it says that the presiding judge hears the emergency relief and in reality there is a single judge, and it is a written receivers judge. You can't tell by looking at the website, and so you read the local rules and they say the presiding judge will hear emergency applications. So you call and can speak to the department clerk and the main calendar clerk, and everybody is scheduled, the OSC in front of the presiding judge in her department, when in reality it has been referred to a written receivers judge. I am not a fan of identity politics, I am a fan of diversity. This is a single judicial temperament, a single person, a single man who is hearing all of the emergency relief. It denies substantial justice because it supplies with regard to the identity of the judge who is going to hear the matter, and in my opinion it violates the [Indiscernible] versus superior court in the [Indiscernible] where litigants

are entitled to know the identity of the judge who is going to hear the matter. If you don't know that, you can't ask her out this exercise your peremptory. The practice of San Mateo County, I believe, is far from best practice and I think there should be guidelines and I think it should be clear on the website and it looks like my three minutes is up, but I will put the remainder of what I have to say as well as the full context into a writing and I ask that you really do canvass all of the courts to see, for instance, if Los Angeles County and Shasta and San Mateo are having the same results for applicants. Thank you.

>> Our final speaker is Ms. Kathleen Campbell.

>> Chief Justice, and councilmembers, thank you for having us here today for public comment and I am here to think the talk about the family court crisis and something I have done for years coming to speak to all about except for, I guess, one of you. Welcome. Basically, we are talking about a culture problem, a culture to dismiss abuse and allow children to live with their abusers, sexual abusers and physical and emotional abusers, and that we have had I believe eight deaths in California of children in custody adjudication situations this past year, and we have had one quite recently and most of you have probably heard of Kelly Anderson, who was five years old and possibly could have been changed with a dog kennel found in the bathroom of her father's home with handcuffs. This girl died in the care of her father after she was taken away from her mother by a judge in this girl died and they put her in a bag for a week and then rented a U-Haul and drove her to a storage unit where most people keep their children, right? This is appalling, and it is happening over and over again and not just an issue in California. We realize that there is a no accountability for when the laws aren't followed in family court and two years ago we did ask for there to be an audit for the Commission on Judicial Performance. As you are all aware, that is in legal battle now in appeals, and that is taking taxpayer money to do something where you, very easily, and I thank you for changing roles, to make more transparent some things and make more things accountable for our judges and judicial branch. But right now we have no transparency if we are not willing to let the complaints that come into the commission be seen. Children are dying. This is a policy matter of I guess not allowing this to be an issue. We have gone through the Catholic Church, the Boy Scouts, Penn State, and we have gone through quite a bit. We have even gone through the appeals court in Santa Clara. And we need to realize that when we allow this to happen and when we allow judges to dismiss abuse, we are hurting our children. We don't have to wait for children to age out as they have recently in Santa Clara to live in abuse, sexual abuse, for 13 years, because the court does not want to look at it. We owe our children more. Thank you.

>> Thank you. That concludes public comment.

>> Thank you, Judge Anderson. Our next agenda item is the approval of our minutes from our March 2 meeting. I will entertain a motion to approve and adopt at any time.

>> So moved.

>> It is moved. Expect a second by Judge Brodie and Justice Chin. All in favor please say aye.

>> Next is my regular report summarizing my engagements and outreach activities on behalf of the branch since March 2, and the leadership of the Senate and the Assembly as you know invited me to deliver a State of the Judiciary to a joint legislative session in March. It was an opportunity to talk about the budgets and what we have accomplished, and also my civil justice reform initiative and to highlight opportunities for the three branches of government to work

together on issues of shared interest. I also greatly appreciated seeing all of the friendly faces here from the Judicial Council and the judiciary and the Bench-Bar Coalition and not only for the State of the Judiciary but also for the many legislative visits that occurred that day on behalf of branch initiatives and justice initiatives and, as you know, it is always welcome to have an full force adjusting legislature on such a memorable day when we are all there together. New Senate President pro Tem Tony Atkins, the first woman, an openly gay Californian, to hold that position, invited me to swear her in the office and I was pleased to do so and I saw some of you at that event as well. Budget season in Sacramento involves various meetings and calls, as you know, and I met with Governor Brown and Pro Tem Atkins and Speaker Rendon and others, and Gonzales Fletcher and Lois Stone cannot only about the work we are doing but also trying to convene and fielding questions on our budget. I know that Martin and our Judicial Council Budget Services staff had even more meetings and more calls with the administration and Department of Finance and legislative staff. More than 70 public schools statewide were honored by this year's Civic Learning Awards through our partnership with the Superintendent of Public Instruction, Tom Torlakson, and I had the pleasure of visiting three top schools receiving the Awards of Excellence, and the first was the El Camino Creek Elementary School and yes, it is an elementary school in San Diego that won the award, and it is actually built a mock courtroom on their campus and they hold mock trials, and so many of the students there now want to be involved in justice or the administration of justice instead of other things like rock stars and sports stars. Oak Grove Middle School also in San Diego won an award and they are the students, interestingly, that stimulate congressional hearings and the students prepare questions and they also have a series of questions from adult judges to students and they cite Supreme Court cases and they are involved. I had the opportunity to visit the third school, John Marshall Fundamental Secondary School in Los Angeles County, and there the students propose legislation and interestingly funding to enact that legislation and they tackle the specific problems, so we do have young people addressing some of the very same questions we have here at the council. It is inspiring to see so many students who know what we do have an active interest and we are preparing our leaders for the future. As an honorary member of the board of directors for the Institute for Justice and Democracy, I attended their annual reception on civics education on that foundation, as you may or may not know, had a strong and unique focus educating the public on the three branches of government but with an emphasis on the need for an independent and stably adequately funded judiciary, and that is the first institute I know that focuses on the judiciary. Standing in, or not quite, for United States Supreme Court Associate Justice Sonia Sotomayor, who was supposed to deliver the law commencement address, and I stepped in because I was in the audience and my niece was graduating from UC Davis Law and two of my externs so I was able to give that speech over the weekend. I was also honored to receive the Woman of the Year Award from the Women of Stanford Law and I participated and an event, the event there that celebrates women's accomplishments in law. And finally in Sacramento I joined Governor Brown and Attorney General and Senator Kathleen Galgiani in the California Peace Officers' Memorial Foundation, and Wayne Quint, Jr, in the annual and solemn peace officers' memorial service honoring those who died in the line of duty in 2017. That concludes my report to the council and I turn it over to Martin for his report.

>> Thank you. My full report is contained in your meeting materials and I will truncate my remarks and focus on a subject that will surprise you and it will be our state budget. The last time we met it was March 2. In the interim time between then and now the Governor has proposed what we all know to be the May Revise, which is a revision of the proposal that he

makes in January. So to quickly highlight the changes in that proposal for you all, the first thing to note is that there were no changes, either monetarily or language wise in terms of the January 10 proposal. There were, however, some additional adjustments or increases, and there were three I think that were noteworthy for you today. The first one is that another \$4 million in ongoing money to implement the Language Access Plan that our prior council approved in prior years was included in that budget and, secondarily, there was another \$100 million in one-time money to deal with deferred maintenance issues in our facilities. This was a welcome proposal because we had just finished expanding the \$65 million in one-time money that arrived a few years ago, and so it continues to support our effort to maintain our facilities. The third piece that provided an additional \$972 million is what is called lease revenue bond authority for the balance of the projects that are in our next phase of construction, so what happened after that was a continuation of legislative hearings, and I wanted to catalog at least with some of you some of the legislative actions on the Governor's proposals both related to January as well as the May Revise to date. I would note that the state assembly is meeting today, in fact, I think probably right now, to deal with some lingering issues on the proposal, some of which I will tell you may be dated by the time you adjourn your meeting. But generally, it has been going quite well for the proposals. The Senate has approved all of the items as proposed but it added some minor language associated with those things. The Assembly has approved most of what was proposed but there are some differences. The differences that remain in what refer to as open items between the two houses are, one, the construction bond authority related to assessing whether or not we should assess the next round of projects and the like, and that is a very lithe and open issue now, and the other open item is the \$47.8 million in Trial Court Operations that is tagged to be allocated according to the WAFM formula, and the other open item is a \$75 million in Trial Court Operations and the Senate has taken action to approve that and to allocate it according to a WAFM methodology and the Assembly however is poised going into this morning of having that \$75 million distributed or allocated in a different way, and this will result in perhaps two separate actions related to these items and they would go into the next phase of what we call the budget conference committee resolution, and I will describe that in a moment. In addition to all those things and legislative actions related to the Governor's proposal, legislator itself independently took certain actions on or related to our budget and noteworthy here is that the Senate has added or converted a \$10 million one-time expenditure for the Equal Access Fund and made it ongoing and the Assembly is poised to take a similar action that actually increases or puts more money on top of that, so again we will have an open item if that is in fact what happened.

>> There has also been actions related to judicial officers in Riverside County. This is on the Senate side and possibly again on the Assembly side. There has an irrelevant action to provide \$16.5 million for county law libraries. There is one more action related to adding or increasing funding and funding that would actually grow over the course of three years to provide court reporters in family law on a schedule that would be \$10 million this year and \$10 million each subsequent year for three years, and this is a Senate action and again the Assembly is poised to take some kind of action related to that. It may, as the agenda shows, be a little bit different. All told, if you're keeping a tally or score on this, the legislature has acted upon and closed out about \$185 million for us in other items and activities. These are all items that are backfill costs and rising healthcare costs because courts cannot control them. It is an important number because it means for the other kinds of things that we are looking for that our new investments, they are true dollars without either holes or net losses related to them, and also noteworthy in

the \$185 million is the \$19.1 million for the self-help proposals that were advanced early on, so we are gratified to see that that item goes into the conference closed, and then on top of that, again, about having dollars, both houses have expanded the sunset for filing fees that were due to expire this year and the expiration of that particular item authority would have resulted in anywhere between \$30 million and \$40 million deficit for us, so glad to see at least that statutory authority would be extended and continue.

>> What remains open again are some of those big ticket items, \$48 million in the discretionary spending for WAFM for the trial courts and what will happen with the \$1.3 billion in construction authority. So no surprise that some of the larger items go deeper into the process and into what is the next phase, which is after the Assembly subcommittee closes down they will go into full budget conference committees and teams will be selected from the members from each house. They will begin the process of budget reconciliation for the things we described as open items, and so that is when the window opens for us -- a window of other issues that I would call vigilance occurs where in the dash between now and the time the budget concludes, which we expect to be on June 15, and this will be a super fun year because there is a General Election primary sitting in the middle of the distance between where we are today and closure. We will be setting up our tents and radars and whatever we can in and around the capital. At the same time, if that weren't enough to be paying attention to in terms of the dollars for this budget, we are closing out this fiscal year because this is the window in time where we are shutting down this year, trying to get the budget for next year, and if that weren't enough, we begin the planning work associated with fiscal year 2019-20, which you will hear about more today in the reports from others. With that, Chief, I will conclude my report and gather our team and make sure they are in a position and hanging in and around and above and below the state capital.

>> [Laughter]. Thank you, and I know you will keep us all informed. Stewart X

>> Recognizing the pitfalls articulated by Martin and by the Chief Justice, I wanted to share that this week was the annual trip to the capital as well, and Martin spoke with us and we met with Cory and I have done this now several years. The mood and the reception was completely different from the past years and it was welcoming and it was positive and everybody seemed pleased to be able to provide additional funding to the judicial branch so we could provide access to justice with our constituents and our meetings were brief and we did not get into some of these issues that, Martin, you still have to watch over the next few weeks. I left the legislature that day feeling so gratified and positive, which was a good feeling as compared to past years.

>> Thank you. That is very good to know.

>> Next we will hear from our internal chairs and vice chair on our committee presentations and I will start with Judge Anderson.

>> Thank you and on behalf of Justice Miller I will provide a brief highlight on the committee's activities since the March business meeting since we last met. The Executive and Planning Committee has been reviewing hundreds of nominations for our advisory board. As many of you know, one of the tasks of Executive and Planning Committee under our rules of court is to recommend candidates to the Chief Justice for appointment to the Judicial Council and its advisory bodies. The council is a very grassroots organization, and the council relies on the knowledge and service of approximately 600 justices and judges and commissioners and

referees and court professionals and attorneys and justice system partners and volunteers to serve on the council and its advisory committees and task forces and working groups, all with the support and resources of council staff. And these advisory bodies keep the council aware of the issues and concerns confronting the judicial branch as well as providing appropriate solutions and responses. This year we have been recruiting for 140 pending vacancies in both the Judicial Council and 21 advisory bodies. We have reviewed almost 400 applications, keeping in mind the emphasis on ensuring that there is diversity in experience and gender and ethnic background and geography. We will forward our recommendations to the Chief Justice and candidates will be notified later on this summer. The written report of the Executive and Planning will be posted online and that concludes my report. Thank you.

>> Thanks you. We will hear from Judge So.

>> The policy committee met four times since our last report to the council in March, and we met twice in March and once in April, and in May and we have taken positions on 14 pieces of legislation at those meetings, and in addition one proposal was approved for council sponsorship and one invitation to comment was approved for circulation. At the March 15 meeting, the committee took a support position on SB 1011 dealing with conservatorships. At the March 29 meeting we approved one circulation for public comment and one legislative proposal from the Civil and Small Claims Advisory Committee dealing with limited civil cases and unlawful detainers. The committee also supported AB 2240, which relates to the Trial Jury Selection and Management Act, and took an opposed position on AB 2438, which deals with the automatic withdrawal of police. On April 26, committee approved sponsorship of the legislative proposal on the disposition of the Los Angeles County Mental Health Courthouse facility. At this meeting PCLC acted to support three bills, which are on the upcoming agenda, and those include AB 2373 dealing with the dissolution of marriage, AB 3076, related to Child Welfare Act, and AB 3248, which deals with mandatory expedited jury trials and limited civil cases. We also took a No position on AB 2274, which deals with the sole or joint ownership of pet animals in dissolution or legal separation proceedings. So we have a whole breadth of subject matters that we take positions on. After the Chief's address to the joint session of the legislature was a meeting with legislators and guests and, in addition, the Bench-Bar Coalition met in Sacramento on the same day when bar leaders and legislators on issues of critical importance to the judicial branch. I will keep you informed of the progress of this legislation and other bills of interest to the branch.

>> Justice Hull on rules and projects.

>> Thank you. The Rules and Projects Committee has met four times since the March 2 Judicial Council meeting and on April and on April 5 we met by telephone to consider 35 rules and forms proposals to circulate for public comment. The committee approved circulation of the proposals which are posted for public comment to June 8. Following public circulation and review by the committees the proposals are expected to come before the council at the September 21 business meeting. We met by telephone on April 26 to consider four additional proposals to circulate for comment through June 8 and one proposal to circulate on a special cycle, and that would be the proposal to amend rule 10.500, which we will be discussing later today during our discussion section. That is entitled 10.500 amendment and this is Public Disclosure of Settlement Agreement. Senate approved circulation of all proposals. On May 1, met by telephone to consider nine proposals, five of which circulated during the winter public comment cycle. The remaining four proposals include three that recommend technical changes

to rules and forms and one that makes minor revisions to civil jury instructions for proposal for which the council has delegated authority to the Rules and Project Committee to approve. It recommends approval of all proposals, which is 18-075 through 18-078 and 18-088 through 18-090 and 18-097 on today's agenda. We met by phone on the 16th to consider the proposal to amend rule 10.500 on public disclosure settlement agreements, which circulated on a special cycle and it recommends disapproval, which is 18-018 through 18-082 on the discussion agenda. That is the report and I will be glad to answer any questions.

>> Thank you. Next we will hear from Justice Slough.

>> Thank you. Morning. Judicial Council Technology Committee has been very active since the last time we were all together and this includes holding three open meetings by teleconference and one in person. This is along with conducting one action by e-mail. Before I go into the depths of my report I want to thank you for signing Commissioner Wightman to our committee and she joined us yesterday in our meeting and actually was not shy and spoke up and offered great insight and suggestions and we do welcome her to our committee. Thank you for joining us, and Chief Justice, thank you for putting her on our team. So for those counting, we met five times in under three months, and while those numbers are high, they are not just numbers and accounts. They actually represent great progress for which I am grateful to report on today. I am pleased to report that at our meeting on March 12 we did have an update from the Court Hosting Consortium and we all heard about that over its progression. Jake provided the final report informing us of the successful go-live of six courts who migrated there as JE case management systems hosting along with managed court services from the CCTC to the other hosting court center. I want to congratulate Jake as well as the Placer Court, along with the courts who migrated to him for hosting and those include Sierra and Plumas and Trinity and Lake and Modoc and San Benito, and I also wish to congratulate Judicial Council IT staff for everybody's tremendous collaboration and transition over this project which took a few years. Great vision and great completion. Thank you. In addition to that program we continue to get updates regarding the remaining case management system replacement efforts, and those continue to move forward as expected and designed. Also, at our March 12 meeting, we approved allocations to 21 courts for 26 different projects through the jury management system grant program for fiscal year 2017-18, and funding for the jury management system program is provided from the royalties that are generated by the published Judicial Council developed jury instructions. We are pleased to continue to oversee that distribution of that grant money and to observe the modernization of our courts' jury systems throughout our state. Since my last report to you, we have been intimately involved in the development of and prioritization of technology related budget change proposal concepts that are being considered for fiscal year 2019-20. Earlier in the year we began with a list of 10 topics for development and what is called initial funding requests and these topics were gathered from various sources, including brainstorming sessions that were held with the appellate courts and the trial court presiding judges and court executives to the court information officer community, and with ITAC and also with our committee as well. The list of 10 topics represented a collection of the most important technology efforts which need funding. What I appreciated about that process was indeed it was inclusive, and it reflected input from our various court communities and partners. After a presentation of those initial funding requests to the Judicial Branch Budget Committee and receiving feedback from that committee, we pared down the list of technology funding requests and had an opportunity to rank those in priority. The process of reducing the number of proposals well necessary, it was frankly challenging. But it was done based on an evaluation of

program readiness, previous request for funding, as well as the strategic importance of each project. The judicial budget committee met yesterday to finalize their ranking of all funding requests and our technology items remain amongst them and I just want to thank Judge Rubin and his committee for your leadership in the process for being inclusive and for inviting us to the table to share our thoughts and needs and taking our positions into consideration. Thank you very much. It is nice to work together. Switching gears a bit, in addition to what I mentioned so far, JCTC also receives regular reports on the work being completed by the information technology advisory committee, which is ITAC, and many workstreams they are following, and they make great progress on sponsoring these projects through the workstream model while also maintaining its core charge of modernizing our rules to address changes in technology. To that end, just yesterday at our meeting we heard the final recommendations of the intelligent forms workstream. That workstream was charged with investigating options for modernizing the delivery of our Judicial Council forms to the public who use them. It was clear that the workstream, which was comprised of participants, again, from the Courts of Appeal from the trial courts to the IT community, was very engaged and they were very thoughtful in the recommendations. They proposed an approach for potential IT knowledge solutions that are responsive to the current problems faced by the courts and faced by Judicial Council, including issues of integrating the forms into new case management systems as well as the general accessibility of the forms and their responsiveness on mobile devices. Right, Justice Chin? [Laughter] on his watch. Of course, also took into consideration the integrity or security of the forms in ensuring that they can't be altered or misrepresented when submitted to the courts. The team came forward with a thoughtful recommendation, which the Judicial Council technology committee approved. The next step will be to turn that over to Rob Oyung in the IT office to have them come up and report back to us with some suggestions for next steps. In addition, yesterday we received meaningful project updates on the video remote interpreting pilot project, which is a collaborative effort with the Language Access Plan Implementation Task Force shared by Justice Cuellar, and we received an update on the grant-funded ability-to-pay online tool which is being currently developed. These reports, we believe, are extremely important to us and to our members of the committee to keep us informed of all progress toward grant technology initiatives. In addition to that, we continue to work on updating our strategic plan. As you all know, we are charged with updating the strategic plan every four years. We continue to make progress on that. We have a workstream for which I chair, and I appreciate Rob's assistance in working on this important project. We have examined and made proposed revisions to our four overarching technologies strategic goals that came out of the original plan. As expected, we are not proposing that they be drastically changed. Rather, we propose to revise them so that they are more relevant and they are reflective of the progress that has indeed occurred over the past four years. Also, that they will represent our vision. Of course, we will incorporate technology directives, which you assigned to us, Chief Justice, from the commission report. Our strategic plan team is working toward providing a more simplified, concise version of the plan. If you all remember it before, it was rather dense. We will be modeling it after the strategic plan from the California Department of Technology, and we look forward to sharing that plan with you in the coming months. Lastly, while JCTC has held meetings with robust agendas, marking significant progress along the way, we also find it important to continue to dialogue with our IT communities outside of our committee and at their meetings, and with that I wish to thank Judge Brodie, who traveled to San Benito Court to attend the most recent meeting of the court information officers, which is also known as the CI

TMS committee, and he went on behalf of JCTC. Thank you. We get good feedback from that group because they appreciate our interest in their work and they commented, Judge Brodie, that your comments you made to them were not only insightful but helping them to do the work they are doing at the trial court level to what we are trying to accomplish at the branchwide level. In summary, I think the work we are doing demonstrates, and by we I mean we the IT community, are collaboratively leveraging our work together. Again, Chief Justice, I want to thank you for your leadership and vision and opportunity. That concludes my report.

>> Thank you. I know all of the work that is done at JCTC affects every aspect of what we do, and we have come a long way. Every aspect of not only our case, addressing them and handling them in communicating with council, but also just statewide on our discussion and conversations with the legislature and each other. Thank you. We will hear from Judge David Rubin on the branch budget committee.

>> Thank you for this opportunity to report on activities of the Judicial Branch Budget Committee since our last meeting here in March. I understand we are running a little bit behind schedule so I will summarize this to some extent. Part is already in your materials in terms of the update on the innovations grant. This committee is charged -- to our new member to the right -- to administer the \$10 million branch emergency fund to coordinate budget change proposal requests, and we will talk about that in a minute, that go to the state Department of Finance, and to administer the \$25 million innovations grant program and any other budget tasks assigned to this committee. We take a branchwide approach in our work, meaning that we look to promote the efficient, fiscally prudent and effective allocation of limited resources reflecting our branch's overall statewide interests. We have met in person three times since our last Judicial Council meeting and these meetings have all been primarily concerned with the budget change proposal process and getting those ready for presentation to this body in July, and this will be for the 2019-20 fiscal year, and we had available to assist us in our meetings and staff who are expert in their specific fields, and we also had Justice Cuellar come down to share with us a little bit about the language access program as our budget change proposal concepts that were submitted on that, and he was as always very educational and inspirational, and as you all know, that is a passion of his, and when he speaks about it, it is really reflective any lights up the room when he talks about it. Overall we started out with 28 requests and we have pared that down to 14, and those 14 or 15 will now proceed to further development into budget change proposals themselves, and we will present those to this body in July and that is an understatement. It is an interactive process, and we work to identify which proposals would be of the greatest benefit and understand that all 28 that were submitted, were 29, were critical and important, but obviously we had to be practical and it makes it difficult to make decisions, which you will hear about in July.

>> As you recall, for those of you here and for those of you who weren't, let me remind you. The process was designed to start in March and conclude in July, and part of that process was to allow the committee to react to what is going on in Sacramento and to react to signals that we get back from various sources throughout the state in terms of what budgeting components will perhaps be more successful in the upcoming budget year. And we met yesterday to make adjustments to our original prioritization. That is based on what was going on in the legislature, and as I said all the proposals had merit and we will present the balance to you in July. I want to present a footnote here to thank the staff who showed up yesterday, and there were a number of staff who came in on various proposals, and the way I run the meeting or the way we run the

committee meeting it is like Thanksgiving dinner at our house. It is talk loud and talk fast and prepare to defend. The staff was definitely into the spirit of it and it is helpful to us as we start making decisions to have as much information as we can in a spirit of discussion, and it was had by all. Moving on to the court innovations grant, in your materials you will see updates -- I won't go into the detail I was going to go into but you will see what is going on and what happened for 2017-18. We awarded \$22.2 million as kind of the overview, and we expended almost \$11 million to 47 projects, and a few of them are just getting off to a start in this fiscal year as planned, and in general the projects are going as planned and we made some adjustments. This was requested by the courts in terms of augmenting money or to move money within the grant, which they do with our approval and a few highlights I want to talk about. In July we will have a little bit more of a presentation about some of the real stars of the show in terms of those grants because there is so much going on. But as you see in the report, we have the county superior court project, which is reporting some great success with engaging with difficult to reach populations in the post-release community and mandatory supervision. We are excited about that and San Bernardino County, and reporting success with their videoconferencing remediation sessions and that is now going out to three courthouses. And I am the liaison to San Bernardino County, and those of you who don't remember my important and significant report about that county, it is over 21,000 square miles and it is huge, largest county in the 48 contiguous United States. So to have this capability up and running from remediation sessions is a big boon to people in terms of making it safer and having the sessions, and also for remote locations. And in San Mateo the restitution reports good success in avoidance and jail costs and increased collections of restitution. I do want to say, we could not on this committee do our work without the outstanding -- let me back up. I first want to thank Justice Slough for showing up and having JCTC be responsive to our committee and request. It makes our work so much easier and that much more significant when you have been so generous and your committee generous on its time. And Judge Conklin in the front row in terms of feedback and willingness to be so open with information and give us information. I want to thank both of you and again all of the other people. But now to Budget Services staff and to Rocco and Lucian Brandy and the others, we could not do our work without them and they are amazing, and I wanted to make sure they got thank you'd as well.

>> Thank you, Judge Rubin. And as I often say this, as you see, we are a working council, because all of these committees are comprised of ourselves. There is a lot of communication and integration of information keeping people informed to get our work done. I think all of you who serve on these committees for this work, you put in above and beyond your day jobs. Next we will have the liaison reports, and I turn this over to Judge Anderson for presentation.

>> Today we have two reports. The first one is being presented by Judge Lucas and she is reporting on Monterey County Superior Court and then we will also have Judge [Indiscernible] reporting on Mariposa and Merced Superior Courts. This is a reminder the liaison program provides an avenue to improve the administration of justice by enhancing communication and access between the trial courts and council. The report gives members information on our court's operations and its challenges and solutions and effectiveness, and we look forward to those reports. We will start with Judge Lucas and again that is on the Superior Court of Monterey County.

>> Thank you, Judge Anderson. A court you are familiar with.

>> Just a little bit. [Laughter]

>> On April 11, I traveled to beautiful Monterey County to visit the superior court. Located on the Central Coast, it is the 16th largest county in the state and ranked 21st in population, with 450,000 residents as of 2017 and almost 60% of the population is Latino or Hispanic and about 30% white and 7% Asian, and the balance African American or biracial. The county contains 12 incorporated cities and two state prisons. The key industries are agriculture and tourism. The unemployment rate is about 10%. The county and the court system are impacted by the substantial presence of active street gangs. I was warmly welcomed to Monterey County by the judicial leadership and the executive team, who all met in the city of Monterey courthouse and presented me with a wealth of useful information. The team included court executive officer Chris Rule and the presiding judge, Lydia Villareal, and the assistant presiding judge, Julie Culver. Monterey's population is served by 19 authorized judgeships and three commissioners filling 22 positions and there are no vacancies. And these 22 judicial officers work in 20 courtrooms and there is required -- courthouses and to one quarter -- courtroom locations. All five of the court facilities of Monterey Superior Court are located in the northern end of this 100-mile-long county. From left to right on the slide, the courthouse in the city of Monterey, and another in Marina, and in Salinas, the county seat, third courthouse, had 21 courtroom annexes. About 87% of the county population lives in Salinas and about 65,000 people live in South County, which is a two and a half hour roundtrip from the North County courthouses. This is if you have a car. Public transportation is inadequate and the King City courthouse in South County closed in September 2013, and the court's proposal to build a new court facility in Greenfield for the South County population has been indefinitely delayed since 2012. Given these challenges to ensuring access to justice for the residents of South County Monterey, the court has come up with a workaround, bringing self-help services to South County residents one day per month. This is starting in January of this year. The court uses the Greenfield city council chambers, which is free to the court except for the cost of upgrading Internet access so that the self-help personnel can electronically file the paperwork for the South County court users. The court hopes that at some point it may be able to increase self-help services to one day per week and also to conduct small claims proceedings in the Greenfield city council chambers. The courthouse in the city of Monterey, the first stop on my tour, has five courtrooms, two civil trial departments and two family law departments, a domestic violence restraining order department that shares the family courtrooms, and a probate department that also handles civil restraining orders. The building is owned by the county because it also houses county offices. Monterey is currently funded at about 73 percent of its need. The court has about 80 percent of the authorized employee positions that it had 10 years ago. As in most courts, Monterey's filings have declined in recent years. However, as is also the case in other courts, the bulk of the decline is infractions, which constitute 60 percent of the filings. The court remains busy, especially with a large number of gang cases in Salinas. In 2016 the court completed 501 days of jury trial, representing 144 jury trials of which 54 were felony trials. The next stop on the tour was the Marina courthouse, which is about 20 years old and is owned by the state. In its two courtrooms, the case types heard are trial support, small claims, and traffic. The courthouse also has a multibillion-dollar view of the ocean. When I visited last month the staff was eager to tell me Meryl Streep would be coming to this courthouse shortly to film for Big Little Lies. This photo in the Marina courthouse shows Commissioner Baker demonstrating the full courtroom technology that helps litigants follow along as she explains the component numbers that go into the formula calculation of child support. The required calculations are projected on the screen, on the left side, and arrows appear one by one to highlight the particular numbers as

the commissioner explains to the litigants how these numbers fit into the calculation. The Monterey court is justly proud of its disproportionate contribution to state leadership that, despite its modest size, the Monterey court has contributed many leaders to statewide judicial governance, including our own councilmember and former Judicial College Dean Anderson and several other judges have donated their time and leadership skills to various statewide committees and initiatives. The next stop on my tour was the Salinas courthouse. It has 11 courtrooms, five used for felony trials and one for arraignments, three for misdemeanor trials and one for arraignments, one juvenile dependency and truancy, and yes we have already reached 11. But the PJ handles complex civil cases and shares a courtroom. The entrance to the main Salinas courthouse features a beautiful mural integrating symbols of local and state history, including the bear popping through the poppies and blind justice clutching the American and California flags.

>> Down the street from the main Salinas courthouse I visited a one courtroom antics where collaborative court proceedings are conducted. Those cases include drug treatment and Prop. 36 veterans court and military diversions as well as DUI court. The Monterey court has focused on technology with its success. The Odyssey case management system has been successfully implemented as part of the collaboration with Napa and Santa Clara. That implementation includes paperless courtrooms and e-filing. With grant funding, the court is launching a mobile app for payment and case search functions, as well as a text reminder program for criminal defendants. The jury scanners in the Salinas courthouse were a great example of art and technology enhancing each other. In the jury room the scanning machine that jurors use to check in recalls the beautiful image of the mural the jurors just passed under as they enter the building. The final stop on my journey to Monterey was the wonderful monthly dinner meeting of the collegial superior court bench. This concludes my report considering the Monterey Superior Court.

>> Thank you. Good report on a fantastic courtroom. [Laughter]

>> And we now have Judge [indiscernible] on Mariposa. Then Merced.

>> Thank you chief. In February this year I had the privilege of visiting Merced and Mariposa Counties. A little-known fact, it used to be one county, Mariposa County, and Mariposa County was divvied up. One of the counties that resulted was Merced. As the population of a little over 270,000, as of July. I was warmly welcomed by the presiding judge, Don Perretti, and Mira Souls, court officer. And of course, our colleague and friend Brian McCabe was there to give me a hard time, which I appreciated. They were extremely warm and welcoming. Their budget is about \$13 million, they have 12 authorized judges, 136 full-time budgeted staff, 12 authorized judicial positions including commissioners, and 13 part-time staff. What I found was they are really a well-run court. They have improved services and initiatives, for example, they were an early adopter of Tyler. They do remote interpreting. They have innovation grant for videoconference hearings did they have improved their jury services. They have a veterans treatment court. And they have recently improved their collections. What was striking to me when I visited both Merced and Mariposa was the variety of facilities. And the variety of facilities I think is really important for the council. We are going to be building facilities. And a famous person once said that we shape our buildings and thereafter they shape us. I think nothing demonstrates that more than these two counties. As far as facilities, there is a new courthouse, main courthouse, old Courthouse, juvenile division and a traffic division and a Los Banos division. I will show you the pictures of all of these. The new courthouse, the old

courthouse, juvenile division. The traffic division. I was able to go to the groundbreaking of the Los Banos division. The Chief participated in the dedication. But let's go back to find out what they replaced. They replaced a courthouse, old courthouse that is now a museum. It is a reminder of the solemnity, dignity of the service we provide. One of the reminders that I received on my trip to Merced and Mariposa was that we have that awesome responsibility to be sure that the justice that is meted out is done in a place where the work is done in an appropriate way, where people are safe, where people have access, and where people are comfortable to come. And I am trying to get us back on track, Judge Rubin. That completes my report on Merced County. I would like to now move to Mariposa, which was fascinating to me because it is a two-judge court, the best two judges in the court. Mariposa County is the gateway to Yosemite, right adjacent to Merced. Look at the small population, 17,000. Many tourists in the summer. I was greeted by Assistant Judge Dana Walton and Michael Fagalde, presiding judge. They also were very warm and welcoming. They have 2.3 authorized judges, two judges, and part-time commissioners. Staff. A staff of 13. Some of our larger courts, one of the small buildings, envelopes this. One time court investigator and a budget of \$1.7 million. Despite its size, they also do things that other courts throughout the state do. They have a drug court, a behavioral health court, and they tell me some of the big problems include the mental health issues that people in the county have. And their struggle to find appropriate services for these people. They do have challenges that are very similar to other smaller courts. One IT staff member. That person is out of service or out-of-pocket, they have to really search for help. The clerk vacancies are difficult to fill. They have a lack of regularly scheduled language interpreters did if they had one language speaker, it is very difficult to schedule interpreters. They have an outdated case management system. An outdated phone system. Like many smaller courts, the one percent reserve limit makes it difficult for them to save for special projects. This is one area where the judicial staff can be extremely helpful in the smaller courts because of the economies of scale. As far as facilities are concerned, I think you will like this. That is the old courthouse, in the 1850s it was built. That is the current courthouse. [laughter]

>> Bigger trees.

>> Let's take a look at what is inside. Storage. Old courtroom. We shape our buildings and thereafter they shape us. That concludes my report.

>> Thank you. Chief, that concludes the liaison reports. Thank you for that report. For visiting, for staying in contact. It's all very helpful to us. I remember the days when we did those in person. The council itself would trek to the courts. I'm glad we can still maintain and have this connection. I know our calendar says we will take a short recess. At this point what I would like to do is handle the consent agenda and come back and start the discussion agenda. As you know I want to take the opportunity to thank the numerous volunteers that were alluded to in Judge Anderson's report who are advisory members and staff. You heard there are multiple appointments for vacancies now on the 21 different advisory committees and to this body. Because there is, as you know it has been described in our work, not only in a JC internal chair reports but be kind the best behind the [indiscernible] much work goes into the preparation of the proposals before us. This dedication from our volunteers enables the council to accomplish so much policymaking at this level, which continues to serve the needs of our public. And so at this time I invite a motion to move the 18 items on the consent agenda. Thank you, Justice Chin, seconded by Mr. Kelly. All in favor of the consent agenda item, say aye. Any opposition?

This passed. We will stand in recess for 10 minutes. Starting the agenda items at 11:30 AM. Thank you.

>> [The court is on a 10 minute break, to reconvene at 11:30 AM PT]

>> We can continue our business meeting. I invite everyone to take their seats so we can continue our meeting. The first time or the second time did you not hear me. [laughter] Welcome back. On our discussion agenda, we have item 18-082. I turn this over to Judge Anderson.

>> We do have one public comment had a presiding judge of the Superior Court of Los Angeles County. Step forward to the speaker. You will have three minutes. You have a device there, as you know, it will give you the time.

>> Thank you, Judge Anderson. Chief Justice and members, good morning. You have heard my name is Judge Dan Buckley, presiding judge of the Los Angeles County Superior Court. I am here to express full support of the recommended modifications of rule of court 10.500. We believe the proposed modification meets the Chief Justice's view that traditional independence lives in part under judicial accountability. The public has the right to know how the judicial branch spends taxpayer funds. The modification does just that. As you know, 10.500 at (7) states nothing requires disclosure at records of evaluations of come complaints regarding or investigations of traditional officers. The proposed modification is quite clear and direct. With this language in the placement of the language in subsection the only exception now is settlement agreements from which public funds are spent. We should thank Justice Lowell the members of the working group for considering the thoughts and concerns expressed by our court and others. Let me also discuss inherent in the need to discuss judicial accountability, what is necessary for we in the judiciary to rely on the trust and confidence of the public we serve, is the need to educate the public that we have a system that investigates judges, and if necessary publicly disciplines them. The process of investigating judicial misconduct starts with the ethical obligation of all judges to take appropriate corrective action if they see another judge acting unethically. Next is an extensive process of presiding judges to confidentially investigate all complaints, whether made by another judge, staff, or members of the public. The primary method by which officers, unlike other constitutional officers or private individuals, are subject to oversight with respect to their conduct and misconduct. And subject to discipline lies with the Commission for Judicial Performance. This is an independent body, constitutionally vested to answer only to the Supreme Court, and a distinct majority of the members are nonjudges. The commission protects the confidentiality of the investigations and empowers us to private discipline. Once CJP recommends serious discipline it discloses the name of the judge as well as the allegations. Our system has grown a strong accountability with public recognition of discipline when necessary. I suggest and discussing the role modification, this system, our protection is discussed. Chief, thank you very much and thank you to everyone for the great work you do.

>> Thank you and that concludes the public comment on this agenda item. Thank you, Judge Buckley. A few brief words.

>> I want to acknowledge the committee members and our staff who worked on this clarification of rule 10.500. As you know, the group is chaired by Justice Lowell and [indiscernible] and attorneys Ms. Gretchen Nelson [indiscernible] who came together in a brief period of time and it was so important for us for public confidence in the judiciary. There is

much more to be said and I'm sure we will have it over this discussion agenda item. It is not the first time we have acted. We did the traffic rule a few years ago as some of you will remember. This is important for us. It is something that received a lot of input rather quickly. I am grateful that we are having this conversation amongst ourselves. And that conversation was tendered to the public in the proposed public comment. At this time I turn it over to Justice Slough.

>> Your point is well made. It is a team effort. I thank the team members who join me of front.

>> Excellent.

>> It was just, as we get situated it was interesting that the group you put together included Justice Hull as the chair of rule setting joined us as well. And included two appellate court justices, and trial court justices, and two lawyers. It was really very interesting to hear the varying perspectives in this justice system displayed. I want to thank you for putting this group together to address this point of concern. And with that Judicial Council members and the chair as the lead of the cheese justices working group, I am pleased to present the recommendation for amendment for rule 10.500, Public Access to Administrative Records, to clarify the settlement agreements, including settlement agreements that resolve sexual harassment and sexual discrimination complaints, against judicial officers must be disclosed in response to, [laughter]

>> The lack of a mike.

>> My brothers would say [indiscernible].

>> Can you switch over.

>> You bet. May I close this lid.

>> You are very welcome, thank you.

>> So. The rule is being amended to make it very clear that settlement agreements, including settlement agreements that resolve cases dealing with sexual harassment and sexual discrimination complaints against judicial officers, must be disclosed in response to public records requests and that the names of judicial officers may not be redacted from those agreements. On April 10, Chief, you asked the Judicial Council to take immediate action, to revise the court rule on public records to ensure that all levels of the state court system are required to disclose the names of judicial officers who entered into settlement agreements to resolve sexual harassment and sexual discrimination complaints. And Chief, I quote you from that statement, "I want to make sure there is no ambiguity as to whether courts should be required to disclose those records. The current rule does not make it clear enough that these records should be disclosed." To implement her charge, the Chief appointed this working group, though small we were pretty widely and diverse. The working group as indicated consisted of myself, two superior court judges, Judge Boley [indiscernible] [indiscernible] and Gretchen Nelson. As stated, Justice Hull joined us in our discussion in our thoughts as we developed them and moved forward.

>> So we recognize of course that the issue that is before us today is one of national interest, and frankly it should be one of personal interest for all of us. In recent times there has been serious problems of sexual harassment and sexual discrimination revealed in the movie industry, in the media, and technology firms, and these problems have also been disclosed in all branches of government across the country. In this situation, the California judicial branch,

whose special responsibility it is to articulate and uphold the law, must be particularly built and we must exercise leadership on this topic. To carry out the task assigned to us by the Chief, we as a group met in April and again this month. We focused our attention on what amendments should be made to the rule to ensure the public has access to settlement agreements that resolve sexual harassment and sexual discrimination claims against judicial officers. Based on a review, the group agreed that the rule currently does not make it clear enough that the settlement agreements must be disclosed specifically. There is ambiguity regarding the scope of the exemption from disclosures, and subdivision (f)(7), which was spoken of earlier in his public comment period that relates to records related to evaluations of, complaints regarding, and investigation of justices, judges, including temporary judges, subordinate judicial officers, and applicants or candidates for judicial office. The working group focused its efforts on clarifying the subdivision (f)(7) exemption that is unique to the judicial branch, refocused the letter (f)(7) does not prevent the disclosure and settlement of agreements. The exemption does not extend to these agreements, particularly in claims involving complaints of sexual harassment and sexual discrimination, against judicial officers. The working group recommends amending letter (f)(7) expressly to state three things. First, judicial branch entities in response to judicial administrative reference request must disclose any settlement agreement for which public funds were spent in payment of the settlement, including any settlement agreement arising from claims or complaints of sexual harassment or sexual discrimination. And number two, the names of judicial officers may not be redacted from any settlement agreement that is produced under this rule. And number three, the names of complainants or witness for identity information that would rebuild a complainant or witness may be redacted. In addition, the working group recommends amending the advisory committee comment to rule 10.500. The expanded comment would explain the purpose of these amendments, it would assist in the implementation of the amended rule, and clarify that rule 10.500 and its amendments do not apply to the Commission on Judicial Performance, which is as stated by Judge Buckley, an independent state agency established under article 6, section 18 of the California Constitution, an entity that has its own separate rules that apply to its work and its records. The working group's final recommendations are being made after careful review of the public comments that we received, specifically from five different sources, the California Judges Association, we received a response from an associate justice of the Court of Appeal, and three superior courts. The full discussion of the comments in the working group's response is contained in the report that is before you today. I will just discuss a few of the highlights. First, let me stress the majority of the comments were generally positive. For example, the California Judges Association stated that it fully supports the chief test this policy determination, the settlement agreements requiring the expenditure of public funds to resolve claims against judicial officers, or sexual harassment, sexual discrimination being publicly disclosed. A presiding judge stated I write on behalf of the Los Angeles Superior Court in support of the proposed change to the California rule 10.500. Another presiding judge wrote, the Tulare County Superior Court supports the proposed amendments. This proposed rule clarifies a gray area in the law. Regarding specific comments, suggesting changes or modifications to the rule that went out for public comment, the working group reviewed those and we agreed with some of the recommendations while disagreeing with others. For instance, the California Judges Association suggested that the amended rule should clarify that any disclosure made pursuant to the rule have no effect on the privacy rights with regard to private proceedings and/or discipline by the Commission on Judicial Performance. The working group after discussion agreed with

this comment. That is why we are also suggesting the advisory comment will be modified as I just spoke of. Another public comment received stated the proposed rule amendment was too broad and should require disclosure of settlement agreements only in cases of sexual harassment and sexual discrimination. We discussed this extensively. And we arrived at a different conclusion. Instead of recommending that the new provision and letter (f)(7) be so limited in its scope, the group recommends requiring disclosure of all types of settlements for which public funds were spent in the payment of the settlement. That includes settlements based on issues arising from sexual harassment or discrimination. The approach recommended by the working group is appropriate, we believe, for a number of reasons. Frankly, and first, it is the law. It is complying with the law. The broad approach will ensure that all types of settlement agreements in which public funds have been expended will be disclosed double. This regards public policy on access to records and reflects the Chief Justice's statement on April 10, and again I quote you, "The judiciary relies on the trust and confidence of the public it serves and the public has the right to know how the judicial branch spends taxpayer funds." This approach will also ensure that settlement agreements relating to sexual harassment and discrimination that were identified by the Chief in her missive of April 10, it will assure that with no dispute those are to be disclosable. These types of settlements are specifically mentioned in the amendment rule as example of this disposable example. The broad approach will ensure that when other settlement agreements [indiscernible] harassment or discrimination based on religious preference or any other protected class, along with any settlement agreement, even those unrelated to harassment and discrimination, are disclosable. To place the present proposal in context, the focus of our working group has been to assure public access to settlement agreements involving sexual harassment and discrimination. It is sought to accomplish this goal on an expedited basis. Hence, the proposal has concentrated on amending 10.500(f)(7) to clarify the settlement agreements in these types of cases and others, of expenditures of public funds, must be made available to the public in response to the record request. I will say that while we worked on this project, many issues arose. It became very clear that there are other important issues surrounding the concepts of harassment in this great nation and relating to public access to court administrative records. After a lot of discussion and dialogue, we determined those truly would be beyond the scope of the call of question. But we raise that issue because it may well be appropriate at some point in time in the future, for this Judicial Council to address those points of concern as well. In sum, the working group recommends the Judicial Council amend rule of court 10.500, effective June 1 2018, to clarify that publicly funded settlement agreements arising from complaints against judicial officers must be disclosed in response to public records requests. The names of judicial officers may not be redacted from the settlement agreements when produced, and the names of complainants and witnesses or any identifying information of complainants and/or witnesses may be redacted. That is the conclusion of the report and recommendation to you. We are open to any questions any of you may have.

>> Thank you, Justice Slough. Judge Rice.

>> Thank you, Chief. Thank you Justice Slough. I was listening to this presentation and the whole process we have gone through in a short period of time is just reflective of the work of this body and how proud I that we submitted a public comment on behalf of CJA and how seriously they were taken. And how the workgroup looked at all of the public comments and incorporated those that they felt were appropriate for the rule they presented to the body today. CJA wanted to be constructive and helpful in this process. And Justice Slough has summarized

the best Justice Slough regarding the language publicly funded settlement agreements. Our full comments are a matter of public record and with that I want to thank Justice Slough and her working group. The Chief of the work that we are doing on an important issue to society and all of the people that utilize our court system. With that I say thank you.

>> Thank you, Judge Rice. Yes, Mr. Chatters.

>> Our roles in our day jobs and on the council are often looking at nuance, how all the various pieces fit together and what are the exceptions. This context it is nice to take a step back and be able to simply say there are times when we simply do the right thing. I think we are looking at this will change from an objective standpoint. It's the right thing to do.

>> Thank you, Mr. Chatters.

>> I make a motion to accept that, to adopt the recommendations.

>> Second.

>> [Indiscernible] seconded by Pat Kelly and Judge Lyons. Not seeing any hands for public, further comment. All the recommendations, say aye. Any opposed? Thank you.

>> I thank the members of the group for responding and for being there and dialoguing on a difficult discussion at times. I would totally be remiss if I did not thank people from Legal Services, including Debbie Brown and Patrick O'Donnell for your work that you did. We called on you, I know I texted you late at night and you responded. For that I am grateful. Thank you for the work you do for us. To your staff as well that helped us. Thank you.

>> Thank you.

>> Our next business item is regarding trial courts and the Trial Court Trust Fund.
[indiscernible-low volume]

>> Council budget services.

>> Good morning, Chief and members. Thank you very much. Admittedly, while these three items are important, they pale in comparison to the work just completed. I anticipate them being equally brief, and by making that comment I do not imply we are not fully open to questions that candidly I think this council is very aware of these issues and has dealt with them numerous times. These are essentially reviews. I want to preface my comments as many have ended theirs, thanks to the budget staff, Ms. Fogarty, Sanborn, all of the work going into these reports. These reports are the great and substantial amount of the work done by staff and then sent to the chair for approval. Most of the work comes from the brains behind the business. Getting to the business, the first item today addresses the Trial Court Trust Fund revenue shortfall. It is set forth in the materials, the report itself. I will mirror the comments from Mr. Hoshino about the importance of this recommendation. Shortfall can be dealt with in three separate ways as is put forth in the report. One would be a substantial and detrimental impact to the cornet budget the courts are dealing with for the 2017-18 fiscal year. We are almost at the end of the year and the shortfall will have to come from those courts' budgets. It would be very difficult to ask those courts to adjust their annual budget at the end of the annual budget. Likewise it has the director noted, substantial work now going into the budget coming up. Asking those courts to look into that budget and make changes already would be very difficult. The third recommendation is the one that has unanimously recommended the council approve,

to simply draw from the fund itself to make up for the shortfall. [Indiscernible] is here to answer to the strength of that fund. It would have no essential impact on the trials ongoing.

>> Our request is that recommendation be recommended as set forth. That is, the council approve the current year shortfall at \$7 million, be covered by the existing Trial Court Trust Fund balance. For that we were allotted for 25 minutes. We are open to questions.

>> Thanks you, Judge Conklin.

>> No comments. Move for recommendation

>> It never cuts off comments or remarks, or observations before we take a vote. All in favor please say aye. Any opposition? Any abstentions? This carries unanimously.

>> Now moving to the next item, adjustments to the fiscal year 2017-18 allocations from the state Trial Court Improvement and Modernization Fund, the IMF fund, action on this report as well, the court sets forth recommendation that the amount of essentially \$1.2 million, in addition to the fiscal year 2017-18 approved allocations be approved. Those are set forth. Three main items that make up that amount set forth in the report. Two of the three items are zero budget items as noted. One is \$352,000 for the language access plan and support for the court language access support program. The other is \$340,000 for the jury management program and the report shows there is essentially no budget. No impact. Finally for Legal Services, \$600,000 supplement for litigation. I want to be careful how I state this. There doesn't seem to be an alternative but to approve it. It is crucial for litigation management that that money be approved for the important work it does.

>> Thank you Judge Conklin. Happy to entertain a motion. Thank you. Seconded by Mr. Kelly. Not seeing any hands raised, all in favor say aye. Any opposition? Abstentions? It is unanimous and it carries.

>> Thank you, Chief. The third and final item, the trial court budget minimum operating and emergency fund balance policy. Folks have dealt with this in years past, probably years to come. That is just to expand, not eliminate this budget in the emergency fund balance policy. This is an ongoing issue, and the request for the suspension versus the elimination, is hope that in fact will come back into play but it hasn't yet. The best way to deal with this is as set forth in the report. That is to suspend the fund balance, it plays into the one percent reserve. When I was discussing this report and prep for the meeting I use the word mutually exclusive. I was educated, it's not mutually exclusive. The one percent makes it different to play otherwise. That is why we are asking this council approve suspending that ongoing policy, rather than eliminating it in hopes it will be changed.

>> Thank you Judge Conklin.

>> Judge Rubin moves, seconded by Judge Brody. I have to say it has been years since I remember the discussion of this policy. When we started to chip away. It has been years. I am glad to see it is still alive in terms of being out there as a protection and that we are suspending it and will consider it again. All in favor say aye. Any opposition, abstention? Motion carries. Thank you for your good work on these complicated matters.

>> And that work is done by TCBAC itself. Just regarding the hard work they do, those in the room, those that may be listening, thank you for your work and Judge Rubin thank you for the 8:30 AM call the other night. [laughter]

>> The first time that's happened.

>> Thank you very much, Chief.

>> Thank you, Lucy.

>> Finally we conclude today's meeting, as sadly we often do, with a brief remembrance of our judicial colleagues recently deceased, all are retired. [indiscernible] Superior Court of Los Angeles County. Supreme Court of California. Superior Court of Merced County. Court of Appeal for the Appellate District of Fresno. He was not yet retired from the bench. Judge John Henning, Superior Court of Los Angeles County. Justice Harley, First Appellate District, San Francisco. Judge Samuel Ms. Nick, Superior Court of Contra Costa County. Judge Bernard [indiscernible], Superior Court of San Diego County. Judge Shelton, Riverside County. Judge Bruce similar, and Judge Donald Thomas. We honor all of them for their service to the courts and to the cause of justice to the people of California. This concludes the business meeting. The regularly scheduled meeting is set for July 19 and 20. Very interesting updates at that time. Thank you for your time, safe travels. We stand adjourned.

>>[Event concluded]