

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.

>> Good morning. This is the business meeting of the Judicial Council of California for Friday, March 15 of 2019. Our meeting is now in session and we plan to adjourn according to our agenda at approximately 12:35 PM this afternoon. I believe if they are not already online they might join us soon. Good morning, are you there?

>> Yes ma'am, and good morning. Good morning to all other members.

>> Good morning. We will begin our regular agenda with public comment so I turn the meeting over to Justice Miller.

>> Thank you Chief. Amber, nobody has checked in, so there is no one that has checked in and it is 9:20 AM and we are 20 minutes past the start of the meeting so there will not be any general public comment.

>> Thank you, and our next order of business is review and approval of the meeting minutes from our last meeting. Having another opportunity to review the minutes, is there a motion to approve and a second? All in favor of approving the minutes please say aye. The minutes are approved. Next on the agenda is my regular report as Chief to the council summarizing my engagements and ongoing outreach activities on behalf of the judiciary since January, and during this period I was pleased to accept speaker Anthony Rendon's invitation to attend Governor Gavin Newsom's first State of the State Address at a joint convention of the California State Assembly and Senate along with Justice Chin. Governor Newsom covered a wide range of topics and many of the issues he faces will definitely involve us. Transportation, energy, water challenges and an evolving workforce and aging population, privacy, and of course criminal justice reform. As part of my convene and connect role, I convened the first legislative judicial will summit to connect members of the California Legislature with members of the California judiciary. Thank you to all that attended. When they are writing laws and we are interpreting those laws, it is important to foster a greater understanding of all of our processes. When we are implementing programs they fund, it helps they understand the challenges that we face and we understand their obligations to provide oversight of those public funds. The program was presented by the Institute for Democracy and Justice, and I am an honorary chair of that institute in conjunction with the California State and Federal Judicial Council, and the American Board of Trial Advocates. Participants included Senator Harris, Speaker Anthony Rendon, Justice Ming W. Chin, federal judges Ed and Avila and many other judges including members of the Legislature, and several deans, University of California Dean Kevin Johnson and Michael Waterstone. As part of this process we regulate convene and connect with our justice system partners and during this reporting period we had five liaison meetings with leadership from the California District Attorneys Association, California Defense Counsel, California Public

Defenders Association, and California Attorneys for Criminal Justice, Consumer Attorneys of California and Chief Probation Officers of California. I am generally joined at these liaison meetings and relevant subject matter experts from [indiscernible]. The same core team also joined me for my annual meeting with the California Judges Association. Along with other members of the executive board leadership and staff was present. Also within the branch family I participated in the regular administrative presiding justices meeting and addressed a joint meeting of our Judicial Council's Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee and my thanks to Presiding Judge Gary Nadler for facilitating my participation in that joint session. I was also invited to address California's business community at a number of my engagements. In Sacramento, the Monday Morning Group of western Riverside County, and this is a nonpartisan organization of business, civic, and community leaders. They are discussing their advocacy effort to increase judicial branch funding and judicial branch resources in the Inland Empire California region and I'm grateful for the focus on the judiciary. At the Rotary Club of San Jose there was a luncheon in Silicon Valley and I spoke about the importance of civic learning and engagement and the benefits of nurturing diversity in our society as a whole. On the Walt Disney studio lot I enjoyed the question and answer presentation with the general counsel and an opportunity to discuss with a different group our resource challenges as a judiciary, and our growing number of self-represented litigants and the need for all qualified legal professionals to engage in pro bono work if they are able. Approximate 300 attorneys attended the live event and it was live-streamed to other Disney staff. My engagements involved a number of events with professional legal associations. I joined retired Supreme Court Justice Kathryn Werdegar and Carol Ann Corrigan at the National Association of Women Lawyers meeting. We were introduced by the 100-years-young this April Selma Smith for a program about past and present women of the California Supreme Court moderated by the associate president. Was asked to share our experiences and our journey to the bench and to arriving at one time was a woman-majority Supreme Court bench. Justice John Streeter served as the interviewer at the American College of Trial Lawyers spring national meeting of lawyers and judges from across the United States and Canada. We had an opportunity to discuss the wide range of topics from the importance of judicial independence, public education, access to justice issues in California and promoting high standards and ethics and to some of our initiatives and leadership ideas at Judicial Council. As part of the Black History Month celebration in Sacramento I was honored to be invited by Shirley Weber, chair of the California Legislative Black Caucus, to attend their Dr. Martin Luther King celebration to celebrate his legacy. His teachings and speeches have been an ongoing inspiration to many of us in the legal profession. Finally I was pleased to join the Black History Month Planning Committee here in San Francisco which included Judicial Council staff to introduce Ms. Betty Reid Soskin, the oldest national park ranger, and she works at the World War II Home Front National Historical Park in Richmond. Frankly, she is an elegant and profound person and said many things and I remember she said as to our current challenges, it is as if we are in an upward spiral. We keep touching the same places, but at higher and higher levels. She recounted her history and I am not enslaved like my great-grandmother was. My great-grandmother, my mother, and I with all adults at the same time. Our three lives bridged everything in the

American narrative from the Emancipation Proclamation. That concludes my report to council and I turn it over to our Administrative Director for his report.

>> Thank you Chief, members, and my regular written report and my material that has the usual updates of the office activities, the advisory groups and education activities since the last time we met which was in January. In the last eight weeks or so the council staff to convene and prepare materials for 25 such meetings those committees as well as 20 education and training programs. The report summarizes the progress as it usually does on the annual agenda projects and goals for the purpose of the judicial administration that you require. Also want to note a couple of items that are in that report and highlight them and the first has to do with the judicial demographic data. As a matter of awareness the council is required by statute to collect and release on an annual basis by March 1 of every year some demographic information on the California judges and justices. To do so every judge and justice receives a survey from the council which they would respond to voluntarily. The survey requests data on gender, race, sexual orientation, and veteran and disability status of judges and justices and it does so by specific jurisdiction. The data in this report is collected from December of 2018, and the survey shows for the 13th consecutive year the California judicial branch has grown more diverse. Of particular note the percentage of female justices and judges is reported at 36% which is almost a 10% increase since data was first reported. Of the almost 200 a form is made by Governor Brown women accounted for more than half of those appointees. If you care to see the full report it is available on the California Courts website. Next, the council identifies a goal of access [indiscernible] for the branch. A description of the child is related to these goals in part states that in order to serve the state of California effectively the judicial branch should reflect the diversity of the state. Is supporting this goal and statement I'm happy to report to you that the council's Advisory Committee on Providing Access and Fairness has undertaken an update of what we refer to as the judicial diversity toolkit and is a product first produced by the council in 2010. The implementation of this toolkit which involves the bench and the State Bar is designed to increase the diversity of applicants for judicial appointment in California. The updated toolkit we expect will be made available this year and for the folks to work on both at the community level as well as at the state level. I want to also make a brief note of two additional items from the report and one has to do with our audit advisories, our audit services group to share an about the to all trial courts highlighting best practices and providing guidance on areas of risk. The advisory is based on compliance measures that are contained in our contract law, our contracting manual, and our Financial Policies and Procedures Manual. The advisories are you should periodically and provide a good service of the court to support their own internal reviews. I want to take a note to talk about a little bit why we do this. It is our approach and brand of not doing audits in a value added way where we can provide advisories and alert folks to problems that are occurring more in real time rather than some of the traditional audit approach which is much later and after the fact. It gives the courts an example or a way to see and solve issues long before any auditors show up. It also gives us an opportunity if we see the same issue in multiple courts to identify that as perhaps a systemic issue that can be permeating throughout the system, and that way we shifted into a value added risk solution service instead of an after action got you scenario. I really think it is effective in supporting and helping the courts. Not all programs do it

that way, but I am pleased and proud to report to you that is been our approach and well-received. The second thing is it is tax season and March Madness is on us for basketball, but the term also provides to us getting our tax preparation efforts completed. We have been doing our part and we blasted out in advance of the April 15 filing deadline using our Phoenix payroll system, and about 12,000 salary and benefit tax forms that we prepared and mailed to our trial court employees, jurors, and vendors. Shifting away from the report that is mine and in your content, I wanted to highlight a little bit about the consent agenda in your consideration today. There is 10 reports presented to you and two are budget related items to approve meatier redistribution of grant funds. Five are related to rules and form revisions and there is one on criminal [indiscernible], and one new instruction, and there is also a Court Facilities Modification Advisory Committee recommendation to approve and update the court facility modification policy. These updates are the first and six year really being made to update with existing business processes and having to do with defining scoring and prioritizing the request that comes out of our system. The last item is a consensus for greater awareness and we are seeking nominations of a Judicial Council appointment to the California Council for Interstate Adult Offender Supervision and this appointment is one of the half-dozen appointments that you all make from time to time and do so to other external committees and other includes the California Committee on Access to Justice, the board estate, the Sex Offender Management Board, and others. Last but not least of course we are in the midst of a legislative hearing related to the budget proposal, and the first hearing was yesterday. This is the first round in the subcommittees and there will be another hearing next week. Those issues are developing and we are getting terrific cooperation and collaboration from our partners, Mike and Nancy was up there yesterday and Judge Nadler I understand was up there yesterday. We are harnessing what energy is necessary and coordinating to harmonize our voices and missions to be in support of the budget, but to see there can be any other changes on top of what was proposed. With that that concludes my report.

>> Thank you Martin. We next we hear from the internal chair and vice chair member and we will start with Justice Doug Miller.

>> Thank you Chief and as usual my written report will be filed online. Executive and Planning has met a number of times over the last two months by merely to perform one of our functions, which is to review and set the agenda for the meeting today. Yesterday we met in both the closed and open session to perform other duties of executive planning. The first was an open meeting, open to the public, where we reviewed the agenda of the various advisory committees. We want to thank the advisory committees and their chairs for attendance at that meeting, and from the work they do, and it was evident from all of the information that we received that the advisory committee does an exemplary job. We met in closed session to review nominations for the Judicial Council and we vetted those individuals and reviewed those individuals and we will make recommendations to the Chief so she can pursue her constitutional duty to appoint new and effective Judicial Council members. So thanks to the committee members for a long and thorough date yesterday. Chief, that completes my report.

>> Thank you Justice Miller.

>> Thank you Chief. The policy committee has not met since our last meeting, but we are going to be meeting regularly for the next two months. We are reviewing only 2600 bills. Thank you. [LAUGHTER]

>> What happens a lot of the time is those bills get review by the advisory committee, and they will provide input to the PCLC, and then we will take a position. I would like to thank in advance the committee for what I am sure it will be a lot of work in the next couple of months. Becky Chief.

>> I think we look forward to your future reports. Next we will hear about the Rules and Projects.

>> Thank you Chief and I would like to read my report, the Rules and Projects Committee has met by telephone twice, and acted by e-mail three times and see January 15 council meeting. We met by telephone on January 24 to consider additions and revisions to criminal jury instructions. A rule proposal that has circulated for comment and minor revisions to civil jury instruction and a proposal for which the council had delegated authority to approve. They recommend approval of the first two proposals which are items 19-045 and 19-48 on the consent today. On February 6, we met by telephone to consider the appointment of a non-advisory committee member to the subcommittee of the family and juvenile all committee to ensure that the membership represents key domestic violence committee stakeholders. Two proposals was considered own death panel habeas corpus proceeding to implement Proposition 66 which had been circulated for comment. They also considered two technical member reports one of which makes changes on the current federal poverty guideline. We recommend approval of the proposal and 19-052. Group row recommends approval of this proposal on the consent agenda today. They also acted by email on March 5 to consider a report correcting a technical error and 66 forms that was approved by the council in September and was to be effective on April 25th. They recommend approval of this proposal which is item 19-058 on the consent agenda today. Filing on March 6, they considered a request by the Family and Juvenile Law Advisory Committee to amend the annual agenda and to add an item to revive certain restraining order forms to ensure the that these orders are properly entered into the California law enforcement telecommunications system. As the oversight committee, the request was approved. That includes my report.

>> Next we will hear from Presiding Judge Gary Nadler vice chair of our Judicial Council Technology Committee.

>> Thank you Chief and I am giving this report on behalf of the justice and chair who is here by phone but unable to sit in this very chair today. I point out we have heard two abbreviated reports today, and this is the fourth, and I had the unenviable pride of presenting the longest report this morning. To since our last council meeting, the committee has helped two telephonic meetings, one in person, an education session. In addition the Information Technology Advisory Committee has met twice and the second update to the Tactical Plan for Technology was distributed for public comment. On February 11 the committee met to review for proposals related to statute revisions. They also reviewed the draft interpreting pilot projects which included recommended guidelines for minimum technology requirements, which will be discussed a little bit later. The committee approved these five items. On November 26 the

committee met to review and prioritize the technology budget change proposal for the BCP initial funding request. The committee established evaluation criteria and used it to evaluate the concepts. It determined that five proposals would give great benefit to the branch and rank them as follows. Number 1, electronic or intelligent Judicial Council forms solution. Number 2, [indiscernible], and disaster recovery solutions in a pile. Also, digitizing documents, and next-generation data hosting services. The rankings were provided to the JBBC. The committee approved the use of savings for fiscal year 2018-19 for the hosting of the Sustain Justice Edition course through December of the next fiscal year at the Technology Center. ITAC met on February 8 and at the February meeting, ITAC recommended support from the digital evidence workstream. They circulated for the public comment four proposals. At the March 4 meeting, ITAC voted to approve circulating for public comment to two rule proposals as well as recommending to the Judicial Council a pilot program with the California Department of Corrections and Rehabilitation for e-delivery between one state prison and the Court of Appeals in the Third Appellate District. The ITAC workstream continues to be engaged and members include judicial officers, court executive officers, IT professionals, those in court operations, and judicial staff. But we are working together to develop solutions to be effective and effectively address statewide technology issues consistent with the chief access initiative while also providing efficiencies within our court. Teams are exploring ways to extend collaboration across the branch. For instance, several work streams are partnering with court innovation grant projects to develop pilots, assess findings, and share learnings. The IT community workstream is specifically charged with finding ways to expand collaboration and professional development within the branch. A team is conducting focus groups with judicial officers, CEOs, CIOs, and court staff to assess the need for technology-related education and will be making recommendations around collaborative tool and knowledge sharing. We are grateful to all who participated in these activities. One collaborative initiative that I mentioned earlier will present its final report today, and the language plan implementation task force and the video remote interpreting workstream have included their effort to pilot remote interpreting by video. You will find the report as item 34 on the discussion agenda and you can look forward to the presentation on this very exciting initiative to increase meaningful access to justice by limiting English proficient court users. I would like to congratulate the ITAC workstream. I am circulating the proposed plan for branch. At the conclusion of this the team will review the comments and update the plan accordingly. The plan will then be circulated for a four week public comment period before it will be reviewed and finally the Judicial Council for consideration at our May meeting. Enclosing I want to thank you Chief for your leadership and vision of access and inclusion and recognition of the community and ITAC for their work. I would like to thank the IT community and staff for their commitment to supporting this agenda. I will say that if it sounds like a lot happened, it really did. Probably if there was more time there will be a lot more that went on. This is a very hard-working group of people and been really fabulous to me to watch how these initiatives have grown and presented themselves. That concludes my report and thank you Chief. Said next, we will hear from Judge David Rubin.

>> Thank you Chief. Chief, given the important work that the Judicial Branch Budget Committee does, we decided that from time to time so that the Judicial Council can meet all of

our members and the listening public can get to know a little bit more about others, we will have a member of the committee delivered the report for the budget committee. Today, it is my honor to introduce Judge Anne Moorman. Before becoming a judge she was a very distinct attorney for 23 years and a much sought after educator. She served as president of both the California Attorneys for Criminal Justice and the Legal Services Corporation of Mendocino and Lake Counties. She is currently the presiding judge of Mendocino County and my pleasure to introduce her.

>> Thank you judge and thank you Chief and council members for this opportunity to report on the activities of the judicial branch budget committee since our general council meeting. The budget committee take the branchwide approach to his work promoting the efficient fiscally prudent, effective, and fair allocation of limited resources. Reflecting our branches over wide state interest. We have met once in person since our last Judicial Council meeting and we will be meeting again in person next week to start developing budget change proposal for the fiscal year 2020 and 2021. We will determine which of the 26 funding request submitted to us by various advisory bodies will move forward to be developed into budget change proposals. We will complete that work by the July council meeting. At our last budget council meeting we agreed on a legislative proposal for a Judicial Council sponsored bill to update and improve the fee structure relating to civil case telephone appearances. If this legislation goes for a, the effective expected date will be January 1 of 2021. This proposal is now with [indiscernible] for public comment. They also had an outstanding educational session , and they provided the committee with an extremely informative overview of the work and appellate advisory committee and the critical unmet physical need facing appointed counsel in criminal appeals. The committee benefits from these educational sessions and learning about the various groups within the branch seeking better funding to increase the public access to justice. The sessions and with the committee's understanding of the wide range of services provided by our branch to [indiscernible] that we all serve. It assist us in developing and helping to develop branch funding request. The budget committee also address the ongoing work in the court innovation grant program. As to the program, there is a quarterly report summarizing the 2018-2019 2nd quarter activity in your informational materials today and later this morning Judge Ruben will introduce members of the San Joaquin court that will provide information related to the courts very exciting and innovative court and DUI prevention programs. Finally, so far, of the 22 .9 million awarded in the program, 60.7 million has been distributed to the project. Additional funds will be distributed in the fiscal year of 2019-2 on the 20, or as approved by the judicial branch budget committee. As a reminder we have maintained a contingency fund which at the end of the second quarter is a little over 1.5 million. The Jeff I will continue to monitor the contingency fund closely. A few grant program highlights in the report include the implementation of superior courts enhancements to their self-help and assistance program and the expansion of 13 participant courts and one of them is Mendocino County. The court has reached out to additional interested courts for more expansion opportunities. The San Diego Superior Court online message board which allows litigants to register online with the family law facilitator's office to communicate with staff and participate in remote appointments. That [indiscernible] self-help legal access center offers webinars and videos on topics including divorce, or legal separation, or

how to file a request for order, civil law, family law, and review. The judicial branch continues to demonstrate tremendous creativity and innovation in developing better and more efficient ways to give the public access to the courts and justice. This completes the committee's report and is always the committee thanks very much the dedicated staff without whom we cannot do our important work. Thank you.

>> Thank you Judge Moorman. I want to point out before we get to the consent agenda that not too many years ago there was no technology internal chair committee at the Judicial Council, nor was there a Judicial Branch Budget Committee and council. We soon learned that so much of our work and efficiencies are about technology and of course everything we do is about our values that lay in our budget. As you can see all of our internal committees are hard-working and you know that because you are on them. But also how much they are informed by our 20+ advisory committees of 400 different lawyers and judges and court executives and other court professionals. All of our work is pretty grassroots and comes from the foot soldiers and the boots on the ground folks and comes up to us. I think it is important to know this is a working counsel. This is something that all of you know how much work you put in and are members of these internal chairs and I thank you for your work and moving us forward and evolving to add an judicial branch internal committee. My agenda next as a recess, but I'm going to ask you to take time as you need without having a formal recess. If I can see that critical mass is not present, I will recess, but at this point we will go forward and take on the consent agenda. You have had an opportunity and I want to say to think about the consent agenda. First, you heard how much work and time goes into sits important matters on the consent agenda and the fact they are on the consent agenda in the way diminishes the importance of this work and what it means to the policy of this branch, but this important work helps us to work through and obtain and agree and reach more policy decisions quicker. I think all of the advisory committee to inform the consent agenda items and as you know at any time a councilmember they remove an item from consent and move into discussion merely for illumination or action as needed. With that in mind, I would entertain any motion to move the consent agenda.

>> So moved.

>> Second.

>> Thank you. All in favor please say aye. The consent agenda items are adopted. We are now moving to our discussion agenda, and I wanted to say something before we discussed the six agenda items and the first panic and start to assimilate the presentation desk. I do want to note that the people and the process and the progress that we have made on certain issues, and I believe we as a counsel have been responsive to the issues brought to our attention while still being thorough and deliberate. Thanks to the justice and her workgroup who less than a month we had a proposed rule change that could be circulated for public comment and council voted on in less than two months. That report also highlighted other issues which led to the workgroup that we have in front of us and the work for prevention of discrimination and harassment, and this progress report from our cochairs is most welcome. Thank you. And good morning Chief and fellow members of the council. Thank you for the opportunity to provide a quick update on the efforts of the workgroup for the prevention of discrimination and harassment. I will provide

you with an overview of the work we have been tasked with to undertake and an expiration of how we have gone about our work thus far and efforts to engage the branch leadership to inform the perspectives, concerns, and needs of the course before making final recommendations to you. As is noted by the Chief last April she convened a workgroup that made recommendations to the council to clarify within our Rules of Court that any settlement agreement to resolve sexual harassment or emanation complaint against judicial officers must be publicly disclosed in response to record request. The Chief reiterated that our branch relies on the trust and confidence of the public that we all serve. In that regard and as a continuation of that work last October the Chief created this workgroup to study and make recommendations for how the branch can prevent harassment, discrimination, and inappropriate workplace conduct. Many of the members of the initial workgroup from last April our own this new workgroup. The Chief wanted us to ensure that we are on the right track in our efforts to ensure our workplaces are safe for all of our employees. With that understanding our current charges to look into ways that we can improve our existing practices and ensure our resources and information are also providing modernized definitions, clarified reporting obligations as well as reporting best practices from here in California as well as around the nation. We are on target to have final recommendation to the council later this year. In the early stages of our efforts the workgroup reviewed and digested a myriad of materials. We reviewed existing policies and practices and complaint procedures utilized by our trial court and Courts of Appeal. We are cognizant of the variations in protocol, some of which are the results of MOUs instituted with our various groups. We know that one size does not fit all and we further recognize and respect that administrative presiding justices and judges, Court of Appeal clerk administrators and CEOs have existing expertise and are managing their own resources and unique culture and dynamics. We are analyzing the education and resource material as well as classes hosted for judicial offices and staff relative to harassment and bias. In addition and with an aim of not reinventing the wheel, we have focused a significant amount of our efforts to review and analyze the work that has been conducted by the California Legislature, the EEOC, the federal judiciary, and the Ninth Circuit in particular in this regard. Many of you may know or have read about how the federal judiciary workplace conduct group has undertaken significant efforts to solicit the views of if she did and impacted constituents to discern how they can improve their efforts to prevent and address misconduct. We have looked into all of their work product and have had the privilege of Judge Margaret McCune of the Ninth Circuit participate by phone during one of our meetings to learn more about how the two federal judiciary workgroups when about their work. With respect to our workgroup process, we have distributed to the trial courts and courts of appeal information regarding a dedicated email box to provide judicial branch judicial officers and employees, an early opportunity to provide us with feedback. We encourage full and frank commentary and have appreciated the responses we have received. Based on our review of existing material, a very healthy dialogue and early feedback that we are soliciting, and once we receive the input of our branch leadership, we will take another review of our preliminary proposals before sending them out to the broader branch community. I work is not complete and we are determined to facilitate a meaningful opportunity for all to share their thoughts and ideas. So that you know some of our recommendations that our group is considering include a new California rule of court that would clarify the responsibility of courts to adopt updated policies that address

complaint reporting procedures, and promoting the standardization of judicial branch responses to complaints. Also, a model policy to assist all the courts with the elements of the likely proposal in the course. While there is still much work to be done, Justice Hill and I are happy to answer any questions that you have. Anything that you wanted to add quake

>> Nothing to add at this point and I would like to thank the staff all of the terrific assistance and we are looking forward to the public comment so we can move this to you as soon as possible.

>> I hesitate to ask this question. That is because the last time I asked the Chief said we will give them your telephone number. How did you select the individuals to whom these complaints will be lodged either via e-mail or telephone number?

>> I'm not sure.

>> Or have you quake

>> How do we determine who will be the recipient quake

>> Yes. And one of the things and Justice Hill can also respond to one of the things we are mindful of is particular with our trial courts it is not the function of the council to set forth for them what their local practices are. So one of the things we have discussed is mindful of existing laws both state and federal that we need to ensure that everyone is clear about the existing law, give guidance to both courts of appeal and trial courts to say these are the facets and alternative reporting procedures that you need to locally develop and contemplate and figure out what will work best for you. We are mindful that large courts, small courts and courts of appeal already have in many respects guidelines and procedures about who to respond to. But as we all know, there is situations where employees may feel uncomfortable with going to that chain of command. That is something that our work group has discussed a lot and one of the things that we continue to delve into before we set forth a model policy in that regard Berger

>> Chief thank you. I had the good fortune of serving with members of the committee and I wanted to add to that this issue has been at the forefront of our consideration because a number of the anonymous comments that we received when we solicited them included the concern, if not complaint, the people do not know who to report to, especially if the allegation involved a presiding judge or justice. To further add the answer to the question, this is a critical issue that we are working hard to make sure is clarified. Thanks.

>> Thank you. I have not seen any more hands raised and we look forward to your recommendation later on this year. Thank you for your work on this.

>> Thank you. The next item on your agenda is an action item. It is the trial court budget base funding floor allocation, item 19-035 on your tab. We welcome the judge and chair of the Trial Court Advisory Committee. Good morning.

>> Good morning all and thank you very much for allowing for us to take just a few minutes of your very valuable time for this budget issue. Leah Rose Goodwin is with me. She is here to answer your technical questions and I'm here to give you an overview of the recommendations and that is we are asking this counsel to improve the recommendation set forth in this report to improve the base funding level for the two courts involved from \$750,000 up to \$800,000. Just

to remind you generally the work that is been done by this council, when it relates to a funding methodology is that you approved back in January of 2018 a revised funding methodology to account for the funds afloat through this body to the trial courts. This request is to address something that comes from that methodology and essentially what happens is you have courts that are funded based upon that methodology and 100% of funding thanks in part to the Governor's budget. But two of those smaller courts, even 100% funding does not allow them to have a sufficient budget to perform their tasks. Those two courts are the ones that are outlined. The size of the allocation is impacted by the 1% that is part of that funding methodology and part of the mechanism. Reminding you that courts now for lack of a better description cannot keep any more than a 1% bank account to try and do their business. For those very small courts it impacts their ability to keep the doors open. Both Sierra and Alpine was in touch with the budget advisory committee to submit this request and it was considered by the community and unanimously approved by the committee quite candidly without controversy and I think a very fair and appropriate request considering the over \$2 billion budget and the \$100,000 and while it is not insignificant to those courts, I don't think it will impact to any degree the overall trial court operation of all of the courts in general because we are mindful as well that anytime you allocate dollars to one court, you may take dollars away from another court. That concern is not one that I think is realistic for this request. I think I have said enough and Leah is here as well for questions.

>> Yes, judge never.

>> I am ready to move and adopt the recommendation.

>> I think I saw a second and you understand the affirmation for your proposal and how thoroughly you presented it that we don't have any questions. All in favor of the recommendation please say aye.

>> Aye.

>> The recommendation passes and thank you very much.

>> Make you all and thank you again to staff are making this easy.

>> I understand we will take a 10 minute recess until approximately 10:15 AM. Thank you.
[Meeting on 10 minute recess]

>> We will wait a few minutes while the other folks come in. Said so to keep track we are taking the final item on the agenda and moving it to this timeslot. I think the presenters for being ready and this is item 19-051, and the Superior Court of San Joaquin County community supervision court and I welcome Judge Rubin.

>> Thank you for this opportunity to address you. Back in 2016 to give you a little bit of background for those who are new to the council for those who are listening in. We was fortunate enough back in 2016 to get in our judicial branch budget a \$25 million innovation grant program. The program is divided into three parts. We had a collaborative core part, a self-help part, and other grant part. We are about halfway through the lifecycle of the grant program and what we have been doing for the last few meetings is presenting to the council and very exciting

programs have been coming out of this grant. We had a wonderful presentation from Monterey and an amazing presentation from San Jose, and we're going to take a presentation, and we are very excited to present our panel, and the court executive officer, welcome. We have our case manager and importantly today we have Ms. Turner who is actually someone who is a client of the program for whom we will hear a little bit later. The main project goal of this program was to do a DUI and drug court innovation and to [indiscernible], that will increase access to services and encompass cost-effective practices and creates continuity of services and really creates a much more comprehensive approach to serving offenders and those at high risk. With that let me turn it over to this panel and hear this exciting presentation.

>> Good morning Chief Justice and council members. I am the court executive officer and thank you first of all awarding our court this grant and it provides us an opportunity to enhance the services and we have an example here today of the great work our court has done, and for allowing us to be here this morning to present to you. We have and is currently the chair of the Collaborative Court Justice Advisory Committee, what a grown advisory committees. We have Judge Christine Eagle and Judge Eagle has been a judicial officer with our court for the last four years. Tried to that was a pricing attorney for about 25 years in our county. She has provided over the drug court since July of last year. She will also be sworn in next week at the midyear conference as one of the executive board members. Next, we have the trees Woodruff and she is currently employed by our court as a compliance manager for drug court and was a former drug court client and you will hear from her too. Finally we have Nadia Turner and a current drug court participant who is really taken to heart and you will hear from her as well, taking to heart the problem she has faced in her past and where she wants to go in her future. Thank you very much and without further ado, I want to thank you for let me read a project and we are very proud of the funding that has allowed us to start it. We are called the community project court because it is a redesign of the justice system to get more actively engaged on the supervision side. But we're trying to do is put together one coordinated system that targets high risk offenders. You don't want to do anything with low risk offenders, it is a high risk offenders you want to focus on and use the resources on. We wanted to put something together and skill up to meet the high risk needs in cooperation with our partners. We had 1342 participants and the grant cost was \$480 a participant. We leveraged a lot of money and a lot of other support from other agencies. The concept is you will identify and divide the group into two groups and respond based on their need and to use the tool and do that there will be very different approaches you will take with each of them. Then we tried to do some of the evidence-based stuff research wise by creating gender responsive calendars. What I was starting to see was the need for mental health services, and we actually brought a clinician in, and we now have a clinician on our side that will bridge that gap. The other thing that we do is use case managers employed by the court, and they do the case management and almost all of them are credentialed substance abuse counselors. We also have the Stockton police chief that agreed with our vision and assigned two police officers that work for me and the judge. The concept being to respond to people and bring them back in front of the judge and they have been great. This is kind of a diagram and the community supervision court. There is a lot more to it that you will see, but the innovation money went to these two programs, DUI court and drug core. Both of them have two

tracks and one track is for the ones that are not substance dependent they can stop anytime they want to, but they just don't want to. The second track deals with the treatment needs, those who are substance dependent and the referral to substance program and split them up based on their need because you have to treat them different. This is kind of the supervision court in a visual, and the centerpiece is this revocation calendar. So everyone who has a violation of probation or community supervision comes to my calendar. We can do the screening and assessment and this is the center of all of it. We can do that diagnostic and I look at it as court emergency triage. You have this person and they had these injuries that are causing their behavior which needs to stop. You are going to screen, assess, refer, and then the nice part about being the court is that you can use leverage. Doctors don't have as much leverage as judges do in terms to try and make sure people follow through with their behavior. Overall the model has been really successful. There is also a mental health court on there, Parole reentry court, and overflow court. Most of them have it two track model so you can deal with both levels of needs from individuals. With that, I am going to turn it over to Judge Eagle.

>> I'm going to skip ahead for a minute and thank you for asking us to be here. We are very excited to tell you about our innovation grant and how that has been implemented here. As the judge referenced traditional drug court which is shown in this slide is track 2. It targets people at high risk and they have high drug and alcohol treatment needs. Generally, they need residential treatment, a higher level of supervision, more court time, and they consume significant resources and average cost of a drug court participant in our court per year is about \$1700. Previously underrepresented is the folks who are at high risk of [indiscernible], but the drug and alcohol treatment needs are significantly lower. Traditional drug court evidence-based tools screen these people out and our message to them traditionally has been I'm sorry, you are not addicted enough to warrant our drug court and this is not what any of us ever wanted to say to these people. The grant has given us the means to intervene with these folks before they acquire a full-blown addiction using the track 1 community supervision court. Using a drug court model and the evidence-based component that ruled the drug court, we are able to address drug and alcohol abuse with this group with outpatient treatment, which is obviously at a much lower cost than residential. It also gives us a means to access other low-cost resources in our county such as community-based organizations, and they are a large part of our drug court track 1. We were able to use things like cognitive behavioral therapy through probation. Track 1 is essentially an early intervention model of drug court. As shown in the subsequent slide, we believe that early intervention is dramatically impacting the crime rate in San Joaquin County. This slide represents the demographics as participants come to track 1 and track 2 to the recommendation of judges, attorneys, and probation officers, and the top part of this graph addresses the overall demographics of our drug court as a whole. Both tracks benefit from the innovations grant. The lower part of the chart represents the California Department of Justice demographics. These numbers as you can see closely track each other and it reflects that all population or having access to and benefiting from the innovation grant. I am just going to go back and draw your attention to this slide. I want to direct you to the top portion. The innovation grant has allowed us to increase dramatically the number of people who are served by drug court. The number not in this slide is from 2016-2017 fiscal year. During that time we served about 216 participants in

drug court. In the implementation year of the innovations grant, you can see that we were able to increase our participants well over 100%. As shown by the next part of this slide in the fiscal year 2018-2019, we are only halfway through it, and we are clearly on track for dramatically increasing the total participants served. Overall rates in California are very high for non-drug court folks with averages ranging from the mid-40s to the mid-80 percentiles, depending on whose numbers you use.

>> [Captioners transitioning]

>> We have been able to reduce our recidivism rate in the first half of this fiscal year to 7.24%. You can also see the violations of probation have fallen dramatically in this population. Inc. you for the opportunity to speak about drug court.

>> On the other side the other part of the grant was DUI court. I do the DUI part and this is where we started initially and kind of it morphed into what we're doing now but as you can see we are serving a very large number of participants. It was 814 in 2017 and 2018 and it will probably be that amount in 2018 and 2019, that number is going down pretty quickly. For the new convictions we measure subsequent convictions in terms of that we have research being done. And then DUI offenders are lower subsequent conviction rate than most they tend to score more prosocial on the scheduling tools or the assessing tools but you can see the violations are 1.53% and 1% with the new convictions down a lot lower than the average. This is one that is really interesting in the sense that this deals with focusing on the high risk low needs individual because they are a bigger part of your population. As you can see we spend more money on the treatment track because they need more resources but there are a lot more people in the monitoring track. There were 500, only 307 in the treatment track. So it is 63% versus 37% but look at the cost per participant and that is one thing we missed out, we missed out on the high risk high needs which is expensive, high risk low needs is actually higher. They are equally as likely to commit an offense and much cheaper to deal with process wise because it's just monitoring and accountability not adding treatment on top of that. This one is preliminary data from our researchers. We have a three-year research project funded by the innovations grant and we are in the second year, we have a longitudinal study that should be finalized by the end of the year if you look at the graphs, the decrease in recidivism grows over time all the way to six years. Not only are we maintaining increasing recidivism but by keeping them for a whole year doing the cognitive behavioral stuff we are actually changing the lifestyle and it is lasting and growing overtime which is pretty exciting. So this is where workload wise it is really important to take a look. Stockton is where we started with this program because it would've been too large to do the whole County and Stockton is the largest part so we just started in Stockton. Look what happened with the filing DUI in Stockton down 50% from 15-16, 16-17, to 17-18. The other counties might be down a little bit with south county up but not the same level of change so we are actually not just reducing recidivism we are reducing filings coming to the court later on. This is the graph, this is our San Joaquin filings, the blue line in the middle is when we started. Look what happens the filings are literally down by 2/3 on DUI filings because and that is a lot more than you could do with repeat offenders but what is happening, you are setting the culture. People come through the court and talk to each other, they talk to each other when they're out, they talk to friends and family so you are literally changing a mindset by bringing in the court

and holding the line on accountability you are changing the mindset flowing over beyond that. This was beyond what I ever even expected that we could have gotten done going in. In terms of how we handle it, this business model of the courts working with probation and working with parole on the supervision side, to make people do what they need to as part of the program, those effects are more than I thought they would be. There are some others, alcohol and traffic fatalities in San Joaquin County went from 52 per year before we started to the five-year average after down to 32 per year. So, the statewide integrated traffic records system, it is actually a 38% decrease. With DUI, more so than the traditional criminal case when you reduce recidivism you save lives because of the collisions and the factors on the danger. We are getting a cost benefit analysis done by researchers about one year from now, year three of the project we should have a cost-benefit analysis. We moved over to the revocation, we are about 1-1/2 years into tracking the model but early results are pretty much the same. We went from 888 prior to 336 afterward and we are down 20%. By taking the same principles we used over the 10 years we evaluated we knew they worked with DUI court we apply them to the entire system and it is showing pretty much the same result. The one lesson that we have been able to learn through this process as we can, if we change the way we do business on the supervision side, if we change the way we do business and work with agencies we really have a pretty large effect. So this is the theory take all. Everybody convicted of a crime is a high risk offender, those who respond to supervision, you let them go there is no reason for us to do anything. Their high risk but we don't need to intervene because they responded to the supervising agency. If they don't respond to the agency this is where you bring the court oversight in two of the agency so you are only doing it on high-risk offenders that are not responding and then you bring in court supervision. The key piece we have added with the Stockton police chief is law enforcement as part of the team dedicated to the team so when they violate they can bring them back to the judge and you create a cycle. So with using sanctions to change behavior the key is not the severity the key is swiftness and certainty so swift and bring it back. I want to turn it over, I have talked about the longitudinal study and the analysis so I will turn it over to you.

>> Do you have time to finish your presentation you can go over the rest of the sites.

>> The study we talked about, the cost-benefit analysis is starting there is a how-to manual. We talked about replicability, I'm proud to say Judge Burlison has come and he took notes he was there three times, they are applying for a grant and I think Monterey who has a traditional DUI court will expand to the multitrack model. So hopefully we will be able to use the model to participate.

>> Thank you. Next we have as I mentioned before she was a former drug court client and is now an employee of the court. And is a compliance officer helping those who once helped her along the way.

>> Hello my name is Latrice Woodruff and thank you for having me here today. When I got to drug court I was broken and defeated and I came with seven pending cases. Those cases could've sent me to prison had I not completed drug court. This was in 2010 when I completed drug court I completed with honors and my judge was Judge View. He showed me love and support because I was in San Joaquin County but my family lived in Fresno so I had no family here so I

always felt alone but he showered me with love and support and guidance and the resources I needed to successfully complete drug court. He gave me back what I lost which was self-worth and motivation to succeed. I had allowed drugs to steal everything from me and he destroyed my relationships with my family and children. I knew I wanted something different and my drug court case manager encouraged me to enroll in school so I did. I enrolled in 2012 to obtain my certificate in substance abuse but I also got psychology and I obtain my certificate and then I started working at service first as a counselor in DUI and substance abuse. And I started going to the University to obtain my bachelor's degree. When I was working at service first I was hired on with the courts for drug court and I completed my bachelor's degree in psychology and now I am studying for my human behavior master's degree here at San Joaquin County and I have five classes left to go. I should be done around September. I have my book on the floor because we are studying. I don't know, my master's in human behavior I don't know where it's going to take me but I do know I love working in this field. It is one thing to understand clients but it is also wanting to understand the human behavior as a whole. So I am very grateful for drug court because without them there is no telling where I would be. I know drug court work because I'm a product of drug court. So I believe in what I am if limiting to my clients. Nadia is one of my clients and I know she has the ability to succeed and I self-disclose to my clients I am a drug court client because I want them to know they are able to do what I have done. So thank you.

>> I know I speak for all of judicial counsel when I say thank you for sharing your story of struggle and success and thank you for letting us know that Judge V set the example so all of us in these courts can know the kind of support we need to give to each individual and I know you have inspired all of us with your story of struggle, challenge, solution, education and now giving back. I want you to know you have touched us and we will remember this. Thank you.

>> [Applause]

>> Next I will turn it over to Nadia.

>> Hello thank you for having me I name is Nadia Turner I'm a former graduate of dependency drug court and CPS court in 2016. I learned a lot but did not apply it any of it to my life because I was only doing it to get my children back, not for me so I relapsed. Yet again in 2018 I found myself in a jail cell asking for drug court. What have I done differently this time is I have applied the suggestions and tools I have learned to my life. I have a vision to be a substance abuse counselor. I am currently enrolled in the San Joaquin Delta College and will be starting August 2019. I asked for drug court because I knew I had a problem not only with drugs but also with the lifestyle. In order to keep me from digging a bigger hole and keeping me out of jail I knew I wanted to do something that would hold me accountable for my choices and teach me to make better ones. Next I will read a goodbye addiction letter. To my addiction. Dear meth addiction today I am writing to inform you I can no longer be involved with you. This is the hardest thing I have had to do. Why? Because I am in love with you, the love I have for you is a love that has become so strong it has caused me to think of nothing else. I love you so much I never wanted to be alone so I did whatever it took to have you. I always made sure we were together no matter what, I have allowed you to take me away from the things and people that mattered most regardless of the impact it made on them and myself but no more. It stops here. I have let you

consume me for way too long, God has a plan for me so even though this is going to hurt me more than it's going to hurt you, this letter is my goodbye to us. You're no longer wanted in my life mind or soul. It is time for me to move on with my new friend recovery. Thank you for all you have taught me, I know better now and from this moment from this moment on I believe I am somebody. Goodbye my love. Yours truly, Nadia, the one you did not succeed with. The difference, the difference for me in my life was drug court, it changed my life my way of thinking, help me reestablish my relationship with my family and has given me hope, self-worth, gratitude, accountability, and a purpose to want to be successful in my life. With the help and resources drug court provided by placing me in a sober living environment every day I am learning how to live life on my terms without the use of drugs. I want to be a person my mother and children can be proud of and to know she did not fail with me, thank you for all you have taught me, I know better now and from this moment on I know I am somebody. Thank you.

>> [Applause]

>> I want to say on behalf of all of the judicial counsel we are profoundly grateful for you sharing. Often judges do not hear the kind of emotions and truth you have been strong enough and brave enough to share. We thank both judges for creating the environment and we wish you the very best and the greatest strength in the beginning is to ask for help. We know every day will be a challenge but we also are pulling for you. We know you have the strength and thank you for sharing such a profound and honest letter. Thank you.

>> [Applause]

>> Chief Justice that concludes our presentation this morning but we are open to questions or comments from the council.

>> Thank you.

>> One comment and one question. Thank you to the judges and everybody else for making your program a tremendous success. What is the difference between track one and track two in DUIs and the second question, do you have a percentage between first DUI, second and third when dealing with second and third are you giving ESS sentences and the last question is the program you have is that separate from the probation adult probation or is it an alignment with what probation does? I want to make sure we don't have any duplicate programs between probation and what you do.

>> Probation is integrated with us. It is a little bit, we do have one probation officer as part of the court grant dealing with the track one folks. There is a probation officer that deals with some track two folks that is a separate grant but we got together and integrated, the key is integrating into one system so we are not doing duplication like you're talking about.

>> We have their funds and our funds to work together. The difference between the tracks?

>> Track one is the accountability only track. Their substance abusers but not dependent. These are people who the assessment says could stop anytime they want to. I just do not want to. So you have to use that okay you have monitoring come back and see me with no violations. So you

use that almost like a parental oversight just to check to make sure and do that and you stretch it out over one year and we find we are getting great behavior.

>> Is that the first DUI for track one in the truck two is the second and third?

>> No the difference between substance abuse and dependence is based on the assessment and it does not relate to priors or not. I leave first offenders alone, we do not bring first offenders into the program. Unless they are specifically referred by a judge because they think there is a need. The reason for that is this, 80% of first offenders you'll never see again. There is no way to accurately identify who the 20% is so you run the risk of using resources on people that do not need resources and if you do that you make things worse. The other thing is I was worried about the perception, the courts overreaching for lack of a better phrase I going out taking the first offender with no offenses now mandating all of this stuff. So to bring it in and make it work I said we will take repeat offenders people who have been on probation and then came back and violated again. Nobody can object to that and there's a lot of data that says repeat offenders in California are 1.43% of the driving population and they are involved in 60% of the fatal injury collisions.

>> So again my question is, is it first DUIs you take care of for you leave them alone? And you deal with the second and third.

>> The minute they come back with a prior conviction is not optional. They don't get to decide if they want it, it is mandated as part of probation. My colleagues have supported that so first offenders we leave alone coming with the second that is when we bring in the screening assessment and the other tools. Out of it is manageability, if you did first offenders the numbers would almost be too big to handle for us.

>> Thank you.

>> Two observations, well one observation and one question. I am greatly impressed by the program and the fact that Judge Vlavianos you bring years of experience in collaborative court and you, Judge Eagle having four years will be the continuity and the download of information in order to bring new talent to judicial officers with some new eyes. My question is, this is a pretty wise and sophisticated program how did you even dream it up in the first place?

>> For me it started in 2000-2001 when I was with Judge Nadler at some conferences at the national judicial College in Reno and they started presenting on things that were happening and I was doing a DUI calendar at the time. We did not get anything started at that time, I got assigned to juvenile but that is when the idea was planted in my mind for what was working with other judges in other states. Then when I came back to the DUI calendar and Justice Murray at the time we came up with this concept trying to do the traditional DUI court but then I realized I did not handle nearly enough to meet the need or move the safety needle so that's why I brought in these other ideas I have learned in the other conferences. Then with the support of Justice Murray we started in 2008.

>> I appreciate that, I realize you tracked changes and collaboration and some education to get where you are. And I think it is amazing work and we are all impressed.

>> Thank you, I wanted to note judge, he adds his talents to all of these efforts through that effort also, thank you very much.

>> One more thing. I know that you use assessments and assessments are key to your ability to decide who needs more treatment and funds and allocation of resources, I want to put in a plug for you and the great work you do with pretrial and your work with assessments and the model you have created and that you are sharing statewide for the courts that want to change their pretrial assessment process and they look to San Joaquin as a model so thank you very much.

>> We would love to take credit for that but that is Chief James the president of the Association and the best probationary officer ever anyway and she is as evidence-based as you get.

>> We all appreciate.

>> We are from the budget committee. The innovations grant program that the legislature and executive from the branch came up with has been sensational. This program really shows some of the direction we are able to explore, they are data-driven, best practices driven and we can affect lives as we have seen here today and sometimes we can get a little we forget that or we get too far away and it gets passed. Seeing Ms. Woodruff and Ms. Turner here has been inspirational and behalf on the budget committee we are really thrilled with San Joaquin's efforts and we wanted to share that.

>> Thank you.

>> I just wanted to say I supervise an adult felon drug court and behavioral health court in my courthouse and we meet, all of the participants for the most part in phase 1 come every week and then every two weeks for two and every four weeks in three and one of the hardest things for people to do is to come in and talk about where they have been. And they do it in court and then they do it at graduation which now we do twice a year. For both of you to get up here and talk about how you have turned it around and what is success it has been takes a tremendous amount of guts knowing you are in a room full of people that you don't know but to acknowledge where you have been and where you're headed on behalf basically of the other people who will come after you in the program is commendable. So I really want to thank you and everybody here does as well. Nice job.

>> Thank you and we will continue to monitor and hopefully replicate this throughout the state. Thank you.

>> [Applause]

>> Going to call up the next panel that is justice for two discussion items that we will be hearing concurrently items 19-049 and 19-050. As we prepare for those action items I will turn it over to Justice Miller.

>> Thank you, we have someone here for public comment before these two items and I hope I pronounce the name right. Ms. Nancy if you could come forward please we appreciate you being here and thank you for taking time out of your busy schedule to talk with us. You have three minutes. There is red and yellow lights and will give you a warning.

>> I have three minutes for each subject?

>> To have different items to talk about?

>> There are two different --

>> Go ahead.

>> Thank you for having me. I am from death penalty focus and I am also the chair of the death penalty committee for California attorneys for criminal justice. In my committee we have over 50 attorneys who are death penalty practitioners in trial and in appeals so I am deeply rooted in this field. This is, I was a capital trial attorney previously with a case that where the habeas corpus petition was submitted in 2002 to show cause in 2009 and hearings have still not been held from 2019. So I wanted to thank you, is there anyone here who was on the working group for these rules. So if so I have to thank you. This is going to change. This will absolutely change for the better everything about capital habeas corpus I have to tell you and criminal defense attorneys are a lot like working with them is a lot like trying to get them in the direction that you want them to go. When we, when Prop 66 passed we were greatly concerned, we were concerned about quality of appointed counsel, concerned about what we perceived as unreasonable deadlines and we were concerned about inadequate funding. As we look at this, as I looked through the various county budgets and various superior court budgets I have yet to see a line item for Prop 66 management, Prop 66 funding, both for the core and the staff as well as appointed council. So we do not know what is going to happen as far as the funding but we are happy to see it is at the county level.

>> A suggestion. Make sure you talk about the first item in the second so we get both.

>> Yes yes. What I wanted to say is the rules, they did very little as far as diluting the quality of council. So we are thankful for that. As far as the unreasonable deadlines, one of the great things the rules committee did was give the superior court judges the opportunity to extend deadlines for good cause and to all of us we breathed a sigh of relief after that. The third point, the inadequate funding, this is a problem and the way habeas corpus has worked in capital up until now is that everything went through the Supreme Court. Everything, there was no transparency there. You could submit your bill and the Supreme Court had a well-earned reputation for denying and deferring payments. Even to the point where in my particular case, payments were denied for years and then council was terminated without any pay and really without any reason. So this is not, my story is not a unique story and for this reason we are really looking forward to things going back to superior court. As to the appellate rules we have never had an opportunity to appeal. We would send petitions, for those who don't know, habeas corpus petition for capital cases is generally 300-plus pages long containing thousands of pages of exhibits that go along with it. It is a great amount of work for a team of attorneys and investigators. Petitions are filed, you know the AG response, we reply and, and then the cases will go to the court to go to the Supreme Court. We really did not have any idea what was going on. On average it took seven years for the court to reply to us and that statistic is from a study I did at Loyola. From July 2016 I believe. Anyhow, we never had a right to appeal before so we were thrilled with the opportunity. We are thrilled to get back an understanding of whether we could prove claims or

not. In the old model you would submit your petition, it would wait for a number of years and for the majority of all habeas corpus petitions the habeas corpus petition would be resolved with a single paragraph saying simply all claims are denied. So having the opportunity to appeal is thrilling to us and I have to thank you for that. I think it is very interesting how all the rules were put together so that we could actually effectively appeal. We can appeal, for example if a judge is unwilling to provide money for an expert we can appeal that. We can appeal rulings, interlocking rulings about experts and so forth so this is a great thing and I want to thank you because it will change the way all of habeas corpus will work and it will be more just and more fair.

>> Thank you very much we appreciate it.

>> Yes thank you.

>> That concludes public comment.

>> We welcome Presiding Justice Perluss, chair of the Proposition 66 Rules Working Group.

>> Thank you, is this on? I guess it is, thank you. Today's agenda has the final two sets of rules developed by the Proposition 66 Rules Working Group, item 49th on your agenda. Rules Governing the Filing, Hearing and Adjudication of Death Penalty-Related Habeas Corpus Proceedings in the Superior Court and item 50 are the Rules Governing Appeals From Superior Court Decisions on Death Penalty-Related Habeas Corpus Proceedings. These sets of rules implement Proposition 66's mandate that habeas corpus proceedings and death penalty-related cases generally must be filed in the superior court that imposed the death sentence and that appeals by the petitioner and the state from those superior court decisions are to be heard in the Courts of Appeal. A brief recap, it does not seem long ago I was here with two earlier sets of proposals but as I'm sure you know Proposition 66, the Death Penalty Reform Savings Act of 2016 became effective October 25, 2017, following the denial and petition of a hearing in *Briggs versus Brown*. Shortly thereafter the Chief Justice created the Proposition 66 Rules Working Group with a charge to develop rules and forms as directed by Proposition 66 to expedite the processing of capital appeals and state habeas corpus review. The goal was for the rules to be in place 18 months after the effective date of Proposition 66 which turns out to be April 25, a little over one month from now. The working group has 23 members: appellate justices, superior court judges, court administrators, attorneys with subject matter expertise and advisory staff, critically important advisory staff for the Supreme Court and Judicial Council. The group developed five sets of proposals, three which you have considered and approved record preparation and death penalty appeals, qualification for appointment of counsel and death penalty appeals in habeas corpus proceedings in the superior court and appointment of counsel in death-related proceedings in superior court, the two sets of proposal on today's agenda as I indicated deal with the rules governing the procedures in the superior court and the Courts of Appeal. They were circulated for public comment between October 19 and November 19, 2018. As you can see from both the reports we prepared and submitted and the charts there was a substantial amount of comment, most of which found something to critique in a not positive way but overall as our speaker recognized it was a difficult task in the working group had proceeded to try to solve many of the problems in a healthful way. With respect to item 49, death-penalty-related proceedings in the

superior court, to the extent practicable we modeled rules on rules that now exist for handling noncapital habeas corpus proceedings in the superior court. The idea was this is for the most part an entirely new concept that the superior courts will be handling habeas corpus proceedings in death penalty related cases but the superior courts have a lot of experience handling felony habeas corpus proceedings to the extent we could we wanted rules to be familiar so that the implementation process would be as painless as possible. Some of the provisions however reflect newly enacted requirements, for example the rules regarding transfers because cases were petitions may not be filed in the superior court imposing the death penalty in the first instance including other superior courts or still in the Supreme Court. And the rules regarding successive petitions which are quite new. The timeline created by the rules which again was subject of a lot of comment from the various folks particularly those involved in the defense bar representing petitioners. The overall timeline is roughly one year if every step is undertaken and is taken in the full amount of time that the rules provide, with no additional extensions of time, it will be just slightly a few days more than 365 days from filing the petition to the completion of the superior court proceeding. That is consistent with Proposition 66 provision that those proceedings should in general be completed within one year. The Supreme Court in the case said that the one year period was directory not mandatory but nonetheless the working group felt that the rules themselves should do their best to comply with that directive and as our speaker indicated also provided the superior court for good cause shown could extend that time to be consistent with the fair adjudication that is essential in all proceedings. Turning to the appeals. When in the rare instances habeas corpus petitions in capital cases were filed in the past in superior court any review of that went to the Supreme Court though most of the petitions were filed directly in the Supreme Court so there was no further review. The Courts of Appeal, my courts and Justice Miller's court and a few others of us here have the, are confronting the task for the first time of really dealing with death penalty cases at the appellate level. What is unusual about the appeals, to the extent that the superior court decides a case there is a requirement there is issued a statement of decision which is not quite like the statement of decision at the rules contemplate in civil cases and that will be reviewed by the Court of Appeal. And it will be familiar to most of us, the approach to resolving those claims would be familiar although the cases would have many more claims and that is often the case but it is in some sense a hybrid as well. Because Proposition 66 and the statutes enacted or amended provide that the court of appeal can hear as a new claim, a claim that trial counsel was constitutionally ineffective. If habeas corpus will was constitutionally ineffective in raising the claimant is with the working group referred to as IAS squared because you have to consider the ineffective counsel claim from the perspective of both was the trial judge and the trial court, excuse me the trial counsel in the trial court allegedly ineffective and was ineffective assistance of counsel raised in the initiates proceeding? So the rules have a set of proposals for how to deal with that, those cases, that aspect will typically include the presentation of new information, material that was not in either the record is a direct appeal or the proceeding itself so we have provided for evidence with rules as to how that is to be put together. And considered in the rules permit as does Proposition 66 statutory provision a limited ream and if evidentiary hearing is necessary for those cases. Finally rule 8.391 establishes qualifications of council eligible for appointment to handle appeals of ABS cases as was the case with qualifications in the superior court. Rules with respect to

qualifications of council approved not only by this counsel but also the Supreme Court and the Supreme Court has already indicated approval of the provisions of rule 8.391. I just have one concluding, and then I would be happy to try to answer any questions. In January 2018 the Chief Justice created a working group including many highly talented judges and lawyers with a vast amount of experience in a wide variety of views about the death penalty and death penalty litigation. Notwithstanding those differences the members of the group worked cooperatively and diligently for more than one year to develop the two sets of rules you have now with the three sets of rules that were before previously. The goal was to be not only faithful to the requirements of Proposition 66, but also to preserve the rights of the parties in death penalty litigation to a fair adjudication. On behalf of that group I recommend the council approve these two new sets of [indiscernible].

>> Thank you. Thank you Chief and Justice Perluss and all of your members and staff. It has been a big job for you. I have more of a comment or prediction I suppose. On the point of habeas death penalty habeas petitions being appealed to the Court of Appeal. I've had discussions with my colleagues in the Third District Court of Appeal and I noted in particular public speakers referencing to the average death penalty habeas running 300 pages or more. By way of looking forward, my own particular point of view on this is that the Court of Appeal in the various districts were going to need some help with additional personnel. Need some help with additional funding to manage this new workload matter. And I see that down the road so it is a budget item, it is an item that is not yet fully before us but I think that this is going to be something we will have to confront at some point, anyway thank you so much for all of your work.

>> Chief is a motion in order?

>> Yes and I would indicate a motion that encompasses both number 49 and its recommendations and number 50 and its 12 recommendations.

>> So moved.

>> Second.

>> Thank you. And all in favor of these collective 20 recommendations found in your binder and also discussed here to a certain extent, please say aye. Any no? Before you go Justice Perluss I do want to express incredible gratitude to your leadership into your committee, your work group. First of all, when the solicitation went out we were very fortunate to have such high level educated scholarly and experienced members of the legal community agreed to take on this incredible task. And as you indicated, I think what rang out most was this was your final set of recommendations. I think you meant your final I have heard you say that before because we know this is an evolving process and we will continue looking at rules like we always do when any changes but I wanted to deeply express gratitude for your committee and your staff's work on this complicated thoughtful area of law. Evidenced by our public speaker I don't know that I can remember in recent history when a public speaker praised the work of judicial counsel let alone thrilled by it but I am thrilled that is the feeling because of the way the committee put together the work, the recognitions, the transparency and also the public comment. So I cannot,

really overstate how grateful we are for you leading your committee and staff leading the charge requiring a lot of education for staff, clerks, judges and justices and attorneys to learn the new area and to work through it according to the rules and Prop. 66, so thank you.

>> I had some involvement in, I guess recruiting is the right word, members of the workgroup and I talked with Justice and asked if he would like to work on this project. I do not think he anticipated that he would be chairing the project at the time as it turns out he was and he has assured me that he has not held any thought against me that I was sandbagging when I asked him so once again, good work and thank you very much.

>> So you know you're not alone. In 1978 I sandbagged the justice into joining the editorial board of Los Angeles Lawyer.

>> I don't want to leave without again expressing my really deep appreciation for the work of Michael and Heather who is now retired and others on the staff. As all of you know who work with staff here we cannot possibly do the work that ends up before you with an incredible work of staff. I'm going to miss working with them and I want to not only do I not hold a grudge I want to thank Justice Hall and the Chief Justice, this was a very rewarding experience for me and for the other members of the committee to get to know each other, to work on something that needed this passionate evaluation even among those who feel passionate about the subject. I think the work product shows that so thank you for the opportunity.

>> Thank you.

>> [Applause]

>> I believe our final agenda item is item number 19-034 regarding Language Access Plan. I would like the panel to assemble while we hear from two public comments on the subject and on the public comment aspect of this presentation before we hear from the panel I turn it over to Justice Miller.

>> Thank you. If we could have and I apologize if I mispronounced the names but if you could come forward please and then if Carol would be ready in the wings, each of you have three minutes. We appreciate you being here and thank you very much for taking time out of your busy schedules to be here we are looking forward to what you have to say, you have three minutes and the light will turn yellow when you have one minute and I will make a comment at 30 seconds so thank you so much and thank you for being here.

>> Thank you, good morning Chief Justice and members of the council. And members of the VRI workstream group. Thank you for the opportunity to comment this morning my name is Annabelle and I am a representative with the California Federation of Interpreters. As the council considers the recommended guidelines for video remote interpreting for spoken language, and the findings of the VRI pilot project we would ask you to also consider some key points. We believe the VRI pilot did not capture the data necessary to clearly deem it a success. The study did not gather information regarding due process, interconnectivity, the effectiveness and reliability of the technology and the equipment. It did not consider whether the use of VRI increased cord user access to certified and registered interpreters. Interpreters who participated in the pilot were not interviewed. We believe very strongly that VRI, in order for it to work , court

interpreters and limited English proficient individuals should be consulted every step of the way. CFI is not against limited use of VRI to expand language access I think we share that common goal. We believe that it could be used in such instances when an in person interpreter is not immediately available and forecourt events that are non-evidentiary and not complex. We support using VRI to expand access outside of the courtroom. For such events as patient interviews, prehearing witness and criminal defendant interviews, what we are against is the misuse of VRI. We are against utilizing VRI in a way that diminishes meaningful access for limited English proficient court users. Or in a way that violates the due process. Where against using VRI for cutting cost at the expense of effective and accurate communication. We are against using VRI so that the courts can avoid sharing interpreter resources.

>> 30 seconds.

>> Be responsible and cost-effective solution is for the court to invest in recruiting and retaining employee interpreters. Those who are the conduits for communication and access. CFI stands ready to work with you in devising a responsible plan that includes our expertise and respects our knowledge and how to best implement VRI in a way allowing for meaningful access to justice, thank you.

>> Thank you very much, next and again I apologize if I mispronounced your name. Carol, good morning and welcome and thank you for being here.

>> Good morning councilmembers, take you for allowing me the opportunity to speak before you. I am a court certified Spanish-English interpreter employee for San Mateo County Superior Court. I am here before you because I am extremely concerned about the proposal to introduce VRI into the court. It may be a good solution for emergency situations where an interpreter is not available. I feel that by adopting VRI the courts are stepping onto a slippery slope. Having been directly involved in bargaining and contract during the last round of negotiations in Region 2 I have seen firsthand the great lengths court administrators go to to cut corners on very tight budgets. The investment and maintenance of VRI equipment will be very expensive. It is my opinion unless there are very strict guidelines in place counties that make this investment are going to want to justify the expense by finding reasons to use VRI over in-court interpreters. A much better use of funds would be to invest in growing a solid interpreter workforce so in-person interpreters are readily available. I would like to give you a brief synopsis of the very recent day I had in court. On my way to court in the morning I ran into five separate litigants that needed help in the hallway. One person was at the wrong courthouse and had to be told to go to a different city, another woman could not find her name on the calendar, I took her to the clerk's office and they cannot find her case so we went to the DA's office she was given further instruction because her case had not been filed. Three other lost people turned out to be on the arraignment calendar and later needed assistance filling out paperwork for a court-appointed attorney. They were later arraigned on the record along with the only two litigants who had successfully found their way to court. It would've been very difficult for these court users to get the help they needed without an on-site interpreter. In the afternoon there was a defendant on calendar at a preliminary hearing scheduled on an attempted homicide. A private attorney was subbed in on the matter and the case was put over. The attorney told me in broken Spanish she

did not need me because she could speak directly to her client. After the defendant was taken from the courtroom I decided to go to the holding cell to check on the attorney because I was concerned about her client. When I came in she asked me to please interpret for her. Because you cannot fully understand. The defendant who spoke very softly and at times was difficult to understand even for an interpreter, an interpreter through video screen would've had great difficulty understanding him and he was talking about facts pertinent to the defense in the case. I also later accompanied that same attorney to talk to his family in the hallway to find out about available witnesses. Can I just finish my last? These are a few examples of a typical day at work for an interpreter employee. I sincerely hope when you make your decision regarding VRI policy that you keep first and foremost in your mind the impact your decision will have on the vulnerable lives of the LEP litigants that seek access to justice in our courts every day.

>> Thank you very much.

>> This is item number 19-034, Language Access Plan Video Remote Interpreting Pilot Project and Recommended Guidelines for VRI, an action item and we welcome the honorable Supreme Court Justice Mariano-Florentino Cuellar, chair of the Language Access Plan Implementation Task Force. The honorable Samantha Jessner, executive sponsor of the workstream Information Technology Advisory Committee and Mr. David Yamasaki, co-executive sponsor, VRI workstream Information Technology Advisory Committee and Judicial Council. I want to make a special point recognizing and welcoming retired justice who is here. Who has made amazing contributions to technology and I know you're retired but glad to see you here and still engaged, thank you. I do have an introduction for you so wait for a few moments and it goes like this. I want to acknowledge that this final piece of extraordinary work conducted by our Language Access Implementation Task Force is ably chaired by Supreme Court Justice Mariano-Florentino Cuellar, the culmination of nearly four years of work. We have counted 23 meetings in person or virtual including four community outreach meetings in Los Angeles, San Francisco and Sacramento, not to mention numerous public comment opportunities and I want to say we thank you very much for being so inclusive and so collaborative and so open. The justice and his team have helped expand interpreter services to critical civil proceedings cases including domestic violence, child custody, elder abuse and evictions. Launching a pilot project to see if using remote video could help broaden access to interpreters in the future in Sacramento, Merced and Ventura. But also push to recruit new interpreters into the branch. Identifying regional needs and support training programs to help prospective exam takers pass the California exam. To improve data collection, expand multilingual signage at courthouses, create designated representatives at each courthouse to coordinate services needed. Create a new complaint form providing an outlet for court users if their needs are not met. Also to begin testing on how handheld tablets with digital translation and counters could help in a self-help setting. I will say that all of this while ably serving as a productive and prestigious Supreme Court justice also on the Harvard Corporation and as a panelist at Comic-Con, Star Trek where lawyers boldly go, thank you.

>> Thank you that is a very kind introduction and I should say it is a team effort. We have been in this together. It is an honor to have this privilege and be back again. This is even more fun than Comic-Con.

>> [Laughter]

>> On the advice of counsel I'm going to move on. It is a particular honor to be here with Judge Jessner whom I have enjoyed working with and with David Yamasaki who is just a stalwart of our task force. The fact that their cosponsors of this project has helped the project enormously. And of course we are always happy to be here with Douglas who is just, just a key part of our language access team. Before I go on and recognize a few other people and jump into the substance I want to underscore although we are here to talk about technology this is really about teamwork, the project has been one that has touched and been touched by many people. I do know that it is not the last moment where we will have to listen to people including interpreters to make this better if the council goes forward with it but we have tried to do in all humility a lot of listening, a lot of correcting and surveying and I think that has made the project stronger. I want to recognize some people that helped us do that. First as the Chief mentioned justice from the beginning a key part of this and we are so grateful to him. -- Melinda, Libby, Barbara, Richard Park Assistant U.S. Attorney at the Department of Justice and all of the judges, interpreters, staff and stakeholders and members of the public who participated in the pilot project. As I mentioned Doug Denton and Virginia Sanders Hines from the Judicial Council along with the superb team of supporters. The point of today is to deliver the findings of this project. I want to give you a little context so you have a sense where this comes from, we started the task force with the Chief's blessing and support in March 2015 to implement the Language Access Plan. One of the recommendations, if you look at the plan carefully, several recommendations 12 through 17 all covered video remote interpreting. We knew from the get-go this would take a lot of care, there was no way moving forward without a carefully designed pilot project. We knew nonetheless there was reason why the recommendation was there. I never tire of conveying and hopefully you never tire of hearing we speak over 20 languages in California and it is no mystery sometimes the certified interpreters we need are not where we need them to be to deliver the services to folks that require them. From the get-go we knew this would be important in language access. We perhaps suspect it would help the branch learned some things about how technology might work in another context when done right. So the council Language Access Plan adopted the recommendation or started working on implementing it early in our tenure at the LAP task force. We have guidelines for the use of VRI and one of the four bargaining regions, we know Region 3 has a side letter allowing the use of VRI under certain conditions so the whole point of the project was to collect data. To help us understand what this would look like, what it would mean if we try to implement it. We want to stress that the goal was not and has never been to replace in person interpreting which is always preferred. Let me repeat that it is always preferred but instead the goal is to increase access to qualified certified or registered interpreters when on-site interpreter is not readily available and all of our bench officers know that we seriously have challenges sometimes in terms of moving cases quickly. We had to make some practical judgments and how to put together the pilots, how to design and run it given scarce resources and time so I'm sure there's more we could've learned and more we can learn in the future but I am pretty confident the basic architecture of the pilot gave us a solid foundation to understand VRI in this context and we remain thoughtful and hopeful about the

knowledge gained. To tell you more about how we govern this I will turn it over to one of my co-conspirators, Judge Jessner.

>> Thank you members of the council for this opportunity it is certainly a privilege and honor to be here and share this discussion with you today. Concentrating for a moment on the governance structure of this pilot, it was a joint project of the LAP implementation task force as well as this slide shows the governance structure for the project and a shout out to Virginia for helping figure out how we were going to do this jointly. At the bottom you will see David and previously the co-executive sponsors on behalf of our committees. ITAC in terms of me and TSS of the implementation task force for David. ITAC was responsible in part for development of the technical guidelines which we will discuss to some extent today. And TSS was responsible for development of the programmatic standards but to be frank with you, it really was truly a joint project in that a discussion with one of those things necessarily involved discussion of the other. After the pilot was completed the work stream reviewed the Language Access Plan programmatic guidelines to make sure there were updated as needed as a result of what we learned. And developed minimum technical guidelines before passing these findings onto the oversight committees, ITAC, excuse me the task force as well as JCTC and ultimately the council today. Moving onto sort of a discussion of who made this project happen. The VRI workstream was very inclusive, including judges, court CEOs, obviously court interpreters, court staff including I.T. staff and Judicial Council staff. The work stream members were consulted on VRI training which we conducted early last year. As well as consultation on updating the VRI programmatic and usage guidelines after the pilot including the establishment of recommended minimum technical guidelines for VRI which we will talk about shortly. So we have been talking about the fact that we conducted a pilot so the next couple of slides will actually show you how this pilot project evolved and what it involved. So the six-month pilot was kicked off in early 2018 and three quarts and the idea was to try to conduct a pilot in courts of differing sizes, in differing parts of the state which included Sacramento, Merced and Ventura. Truly, each court is to be commended for doing a tremendous job from the beginning to prepare for support and move the pilot forward. So we had three quarts in three different parts of the state and ultimately we ended up with two vendors. One was Paras and Associates and the other was Connected Justice. Both qualified under the RFP process and both use Cisco equipment. So you can see in this slide some of the equipment that was at the interpreter station. So you would have found this at the remote station where the interpreter was located. So you will see on the left a Cisco two-way videophone and separate monitor, the larger monitor that shows the interpreter who is seated at the remote location, images from the courtroom. Next slide please. So we started with training because I'm sure it makes sense to you that training had to have been robust. From a technical standpoint as well as sort of a 20,000 feet from above how does this work, who am I looking at and what do I push? We had hands-on training provided by the vendors. There were specific training modules depending on what role you occupied in a proceeding. So there was training for the judicial officer, court interpreter, courtroom staff and court I.T. staff. I think it is definitely an example of it takes a village because if you read some of the reports, certainly there was a lot of collective action that took place between I.T. staff, courtroom staff and the vendors to get this up and running technologically. In Sacramento there was a request for all interpreters to be trained

and so the training was offered to all interpreters that were interested in learning this. Everyone was trained on data collection which as you saw consisted of a survey, a paper survey and an online survey which we will get into in a moment. And then following the pilot designated council staff will be able to update and have updated training materials for statewide use. So, the pilot began early last year more specifically January in Ventura and Merced in February at Sacramento. The case types were primarily short felony and traffic arraignments with some civil proceedings. Sort of worked in at different points in time depending upon which county and which courtroom. These slides show the set up in Sacramento County more specifically at the Carol Miller Justice Center. As some of you know in Sacramento this courtroom is actually in the jail. On the upper left you will see an interpreter, his name is Joey Tobin at his remote interpreter station. So you will see he is looking at the monitor I referenced a couple of slides ago and he can also see the LEP on the little screen on the phone. So the bigger screen enables him to see everything or all aspects of what's going on in the courtroom and then the smaller screen enables him to see the person that he is providing interpreting services for. And then in the courtroom, if you look to the bigger photo on the right you can see a larger screen in the corner of the courtroom and that is the screen that allows everybody in the courtroom to see the interpreter. And then the lower photo, you will see the defendant using a handheld phone which enables the defendant to hear and listen to the interpreter. And the defendant is actually looking forward at a phone with a monitor that is on a rolling or portable stand that the bailiff was able to rollover to the cage as we call it in that courtroom. So he was able to push the technology over so that the defendant who needed to use the services of the interpreter was able to do so. So, a moment and word about attorney-client communication. The videophone that the defendant is using in the lower left-hand photo also enables an attorney to confidentially communicate with his or her client using the services of the interpreter. There is a separate handset that the lawyer can pick up and use to communicate confidentially. During the attorney-client communication the interpreter will blackout the large screen to ensure privacy and no sound or picture is shown on the large screen as that communication is going on. You will see in a couple of photos there is another way attorney-client communications were conducted having to do with a halo that enabled that confidential communication. These three photos depict the set up in Merced County. Where VRI equipment was installed. On the top left photo, you will see once again the interpreter appears on the large screen. You will also see sitting on top of that large monitor is a camera and that camera is the camera that captures all of the courtroom images for the interpreter sitting remotely and you will remember he had a larger screen where he could see all of the courtroom. The upper right shows a courtroom with the monitor behind the judge during a mock hearing. This was requested in terms of placement in the particular courtroom. Some judges, for example the judge who sat in the courtroom in Sacramento, he had requested a smaller monitor to have on the bench, I think it was the size of an iPad to give you some reference for that. Some judges preferred that rather than looking at a large screened that was opposite from where the judge would've otherwise to been addressing the defendant so the smaller screen enabled the judge to conduct that face-to-face person-to-person in a way that was more comfortable and more natural. So with that I am going to hand it over to David Yamasaki.

>> Thank you very much. Good morning Chief Justice, members of the council. Let me first start by saying what a privilege it is for me to help carry forward the heavy lifting of Judge Jessner, Justice and the other members of the workstream as well as members of the support staff from Judicial Council. Moving forward, I wanted to draw your attention to this slide which is a depiction of the equipment at the Ventura court. On the right of the screen you can see the interpreter is using the equipment. What you do not see is the fact that he has chosen to utilize a foot pedal which allows them to operate hands-free and this particular feature allows for the interpreter to participate in conversations that need to be silenced between he and the defendant. That is one of the benefits of the technology that we have. There is quite a variety in opportunities to capitalize on those advancements that exist there. On the next slide this is also a demonstration where the VRI equipment has a bit of versatility. It is showing interpreters are testing and training for American sign language usage on the VRI equipment. As you can see in the upper right the picture on the bottom right shows headset equipment reserved for listen only mode and it is equipment that can be made available for friends and family who may want to participate and listen in on what's going on in court. The next slide is an important element of this particular activity and involves an evaluation. San Diego State University Foundation which is an independent third-party evaluator collected data on the pilot including the VRI events and non-events for comparison purposes. Short surveys were completed by bench officers, LEP court users, interpreters, court staff after each event, SDSU administered an online survey after the pilot to capture overall impressions from pilot stakeholders including participating judges, staff and court interpreters involved in the pilot. SDSU completed their final report in December 2018 and the report is attached to the report before you as Attachment C. On slide 15 you can see it might be difficult to see but a couple of points I wanted to make. All of the court participants were asked if they could clearly hear the proceedings, whether the VRI equipment was easy to use and if they were satisfied with the interpreting services provided. The surveys did include information provided by interpreters that participated in this activity as well. The next slide shows a summary of the report which is also before you today. Due process concerns for LEP persons were primarily assessed by evaluating communication effectiveness from the equipment and by reviewing data collected during and after pilot. 95% of judicial officers indicated VRI allowed for effective communication between the LEP court user and the courtroom. One point I wanted to add is if at any time there was a challenge in the hearing of the testimony the parties could immediately request an interpreter to be present as well. 59% of the post pilot survey respondents including court interpreter determined VRI allowed for LEP court users to meaningful participate in court proceedings and an additional 22% of the survey respondents were neutral. This particular slide also shows the VRI equipment received high marks from LEP court users for satisfaction and ease-of-use. Both vendors connected justice and Paras scored very well on technical aspects and were approved to go forward by Judicial Council. As potential vendors that could be retained by courts who choose to move forward with the insulation of equipment but because the pilot use employee court interpreters were not able to establish cost savings from the use of VRI. Moving on to post pilot activity. It is, it was recommended minimum technical guidelines for VRI be adopted by the Judicial Council information technology team. Working carefully with the three pilot courts that were included in Attachment B. These impacts are recommended, minimum I'm sorry, these are recommended minimum

technical guidelines not requirements. They are suggested technical guidelines based on current best practices and assets should be subject to updating and accommodate advances in technology that will help ensure quality communication with LEP court users. Programmatic guidelines were updated as Attachment A to include the addition of the recommended minimum technical guidelines for VRI. We drafted a Judicial Council final report including the SDSU findings and draft guidelines. These were shared with VRI workstream, on December 14 2018. California Federation of Interpreters, CFI and Interpreter Guild of America also provided written comments including the report as Attachment D. Judge Jessner and I reviewed the CFI and AGI comments carefully but determined many of the suggested changes were bargaining issues not appropriate for guidelines however some suggestions may be helpful for development of best practices. As appropriate these suggestions will be included in a separate VRI best practices document that is being developed by the National Center for State Courts as an additional resource for the courts. On January 22 of this year the implementation task force approved the draft report before you today to go forward in council. Concerns were raised by court interpreters during the meeting regarding the need for cords and the council to carefully monitor appropriate use of VRI to ensure LEP users and the due process is not compromised due to unintentional interpreter errors caused by equipment errors or misuse. Also reiterating VRI is most appropriate for short noncomplex events. On February 8 and 11 2019, ITAC and JCTC proved the draft report to go forward for consideration.

>> Thank you both of you. We are almost done, let me make a few brief highlights enclosing. So from our perspective this pilot was particularly important for several reasons. It was evaluated by third party, it showed the capacity of the equipment and set up to allow for meaningful participation from our LEP court users and it was well received by those users. So that is very significant from our perspective. We realize that though these considerations are important, some interpreter experienced frustration with the equipment and with the pilot. We did the best we could over the course of the pilot to adjust and learn from the frustration but it is not lost on us that not everything is perfect with this project. That said we are also mindful of the need to keep innovation going so we can better serve our court users and we think this pilot at the end of the day was successful in showing equipment can work and help us expand access to justice. Our role was to facilitate the pilot and the findings, the VRI pilot helped establish what we think of as sound guidelines for VRI including these recommended minimum technical standards. So what the report recommends for the council to consider is the following four things. One, to adopt the revised VRI guidelines in attachment A which include recommended minimum technical guidelines for VRI to facilitate its use. Two for staff to create leverage procurement agreements for courts with the two approved vendors that successfully participated in the pilot project. Three, staff to begin development of a VRI program for the branch in 2019 and last for staff to regularly report to the council on VRI implementation progress so we can keep learning. With that, thank you and we are open for any questions or comments.

>> Thank you.

>> Yes, first of all I would like to congratulate Justice and his committee and staff on obviously what was a lot of work and from my personal point of view this represents a large step into the future for LEP court users in California so thank you for that. I had a couple of questions not

really on the recommendations but Justice Cuellar you mentioned in your initial comments there are 200 or 200-plus languages spoken in the state of California. Are we able to find qualified interpreters for all of those languages? Are there some I don't want to use the term dead spots but I guess that's what I mean.

>> Thanks for the question, we have work to do, the reality is we have a bewildering array of languages and dialects and for many of them we are lucky that we have not only people who are qualified but really certified and there has been great work done by the branch to establish certification protocol so we do the best we can when we have a big enough pool of people who speak the language. It gets trickier when we are dealing with dialect and languages that are less frequently spoken and there we look for qualified interpreters and you know I think the goal is to expand as much as we can the certification protocol but one place where the test has common ground with some comments made today earlier. In recognizing the real backbone of the entire language access effort in the court is interpreters, they do really important work and working with edge officers they are sure in the courtroom people get what they need. In order to make the work effectively we have to couple innovations with real effort to recruit people into the profession. So I like to tell people while we have a big challenge in California getting those languages represented we also are lucky we have this incredible pool of talented people given how diverse the state is. So other parts of the task force work have been trying to find ways in community colleges and elsewhere to recruit people into the profession.

>> My second and last question is more mechanical. As we go forward with these programs, if for instance we had a defendant or party who was only proficient in one of the languages that we hear less often in one of the remote counties or smaller counties, how do you anticipate, I know this was a pilot project but how would that work? Would there be a statewide search for a qualified interpreter and they would be advised for the next court appearance?

>> We are getting better and better at having a statewide capacity to know who speaks what languages and where but to build on that, one of the reasons why we think it is important to do the innovation we talked about today is if we find somebody who speaks the language in San Diego and have a need for that in Placer County or Merced it will expand the options in terms of doing this effectively and quickly to be able to have a video link.

>> That is great thank you for your work.

>> Thank you. I have a question that may be appropriate for David or Judge Jessner. In recommendation number one we're talking about adopting revised VRI guidelines to provide for minimum technical requirements and recommendation number two the creation of leverage procurement agreements for the specific vendors that I think anticipated in the pilot there may be situations in which San Diego or San Bernardino or another court where we have integrated AV systems and sound systems that we may find a vendor who is not one of the two approved. Are we then able to move over and look at those minimum standards and provide there may be another alternative especially if it happens a year or two from now as technology moves so we can meet the intended guidelines of VRI but not be limited to those specific vendors and I understand the reason for the limited procurement but I am trying to reconcile the distinction between the two.

>> One of the great opportunities that exists among the branch is the opportunity to not replicate a process request for proposal that is very lengthy but rather capitalize on agreements that already exist so the courts choosing a particular technology can go out and when they have been qualified, can utilize one of the vendors that exists quickly. It is something in place today as it relates to collection vendors there is a master service agreement. Where the same price, we pay the same service fee, rather than having a separate contract that each of us have to engage in but rather capitalize on the work that these two particular vendors have demonstrated success in. As is the case in the other arrangements the courts are not bound by using the vendors here but have the opportunity to and if it from the leveraged contracts that are in place and as you just said, there are situations where maybe the technology does not fit the existing technology in the court and the court can very easily pursue an option that best suits them.

>> As long as we certify the minimum requirements in these recommendations.

>> Ideally, yes.

>> Quickly I think it is important to recognize from boots on the ground perspective and how this is looked at, years ago as he came to Fresno and sat in the chair and put on the equipment it was a very rustic equipment compared to what is finalized here, but the concept was experienced firsthand and as we went through the language access plan subcommittee meetings I think there was significant effort put forth to get the best possible. I think it was Mr. Yamasaki who said sometimes perfection is the enemy of the good and this might not be perfect, as it evolved I think this equipment went a long way to try to solve the problem of being able to get interpreters as expeditiously and effectively as possible when they could not otherwise be made available and if they are available we use them but this will fill the critical gap when they are not.

>> Thank you judge. I agree and I remember the trip to Fresno well as it informed our thinking. Among the important things to try to can indicate to the public and stakeholders is it is not a question of simply finding a technology that a great many situations will work okay it is a question of having a higher standard and in designing the pilot we are building on a lot of work and thinking the branch has been doing with some piloting affecting the branch at the local level. I think we have come a long way even though obviously it will be an ongoing process.

>> Thank you.

>> I want to thank you, add my thank you to the thanks of the Chief. As you know I have been working on technology for a little while. I want to do it the justice for working with me for so many years but why did you abandon me?

>> [Laughter]

>> I want to thank David for stepping in and carrying on where Terry left off. We were introduced in the public comment to some concerns. Due process concerns, replacing in person interpreters, I heard from your comments that we are not doing that. We are paying attention to due process concerns. We are not trying to replace in person interpreters. We are trying to bring interpreters to people who otherwise would not have them. I want to thank you for doing that and I want to get your answer to the questions raised in the public comment. Do you think we have adequately answered their concerns?

>> Thank you justice and I hope you will continue to work on technology for a little while longer. I think we have done our best to be responsive to the concerns that were raised in the pilot. I will say honestly with technology it is important to realize despite the best efforts we all make it almost never works exactly as you would expect, there will always be some surprises so I would say that ethos of our effort now which is baked into the recommendation is that this will be ongoing. If this goes forward we will have additional learning, we will have things we want to change in the future but the baseline question we asked ourselves for due process purposes were two. One was are the court users responding in a way that suggests there is adequate communication? That they are being communicated and hearing and understanding. The independent evaluation case answer is yes. Second, can we survey people who participate including interpreters to hear the range of concerns and evaluate fairly? Have done that, we feel like that gives us confidence and how we can move forward and bring the recommendations to you but it should be part of our culture to always be listening to see what we can do better.

>> This is not the most lofty of comments but I do have a question about your findings. Has any consideration been given to sharing the technological aspect of this with the real estate division so the new court houses that are being built will incorporate that technology?

>> That is a very interesting idea. I would be happy to hear thoughts from the rest of the panel about that.

>> Having recently been involved in the construction of a courthouse one of the things that has been very enlightening is the inclusion of great technology in the different facilities that technology that is used to utilize this equipment is not a rarity. It is something that can be put in place in other court houses so I think it would be fair to say new court construction would include the ability to implement these types of equipment very easily.

>> Thank you.

>> Chief I will move for approval.

>> One more question.

>> That's fine and we can talk after, the motion is on.

>> Second.

>> Very quickly. First of all I want to thank as a group for doing an amazing job. I've been watching the progress of the work and I am pleased with the positive success of the pilot. I understand based on what you said and on the report that you were not able to provide a cost-benefit analysis and I understand why you do not have the information. When you think that will be done so I can incorporate that into a potential amendment to the recommendation? Cost-benefit analysis?

>> Our next step is to develop a master agreement with the vendors which will include pricing for the different options. So we will have that available to the courts so they will be able to see the different options and with the cost and what might be appropriate for the courtroom. I think that would be future work for the council to determine does VRI have direct cost savings?

>> That's what I'm interested to see. Do you think one year from now?

>> I am hesitant to commit to it because I finished the pilot but I support what you're saying and I think that would be phase two.

>> If I just say one comment which connects, in doing for their analysis on that part, what the staff and those of us involved with would want to convey is that we do still have a strong preference for in person. Any analysis should proceed from the premise that this is not for such widespread use that it displaces preference of in person interpretation but there are definitely situations right now where the only option is to get service to the people who need it it is very lengthy and quite costly and so there are definitely opportunities to have this be positive in terms of cost.

>> Thank you.

>> Commissioner?

>> Coming from a courtroom where I have had to and I'm sure many of us have had to continue matters where we don't have interpreters I appreciate this is moving forward and that we set statewide guidelines but I have a question. Was there any consideration with regard to the interaction between video remote interpreting and the move and need of courts for efficiency in regards to electronic court reporting and how that intersects or impacts the quality of what might happen or are there any guidelines on that? Because that is an issue I could foresee when the electronic recording was introduced there were issues and problems on quality and then you add another layer how that intersects.

>> From a practical standpoint, one of the points I had made earlier is if at any time the proceedings may not be conducive to the use of the video remote interpreting equipment, the proceedings could be stopped by any of the attorneys or the judge. But that is not something that was reported. I cannot even recall an instance of that being sought except for instance were perhaps the proceedings ended up being more complex in duration and detail, but of course if in fact there is an instance where there are some challenges in a court proceeding there is an opportunity for the judge to make a decision.

>> Did the pilot include courtrooms with electronic versus court reporting or was that even captured?

>> It did not but let me add one more thing on that thought. There is a great amount of portability with this equipment. So what you're talking about is really can everybody hear what is happening such that an electronic recording system can capture it? What we did not highlight in the photos is there a portable microphones that at least in the proceedings I watched, if for example the public defender was moving around the courtroom she could literally pick up the microphone and move it with her. And their sort of all part of the cart that is the non-technological way to say you get a cart with wheels, you can load the technology on it, move it from one courtroom to another which would be ideal especially if the cost is higher. Including microphones that would enable electronic recording equipment to capture what is said.

>> Thank you.

>> First off, thank you very much I can appreciate how much hard work this was. I ran into Judge Jessner as she was scampering up for a meeting last year. Given she is doing the filing in Los Angeles superior I can't figure out how she can do it at all. But, thank you for the work. I was curious, is the concept of the vendors so the court can choose between the two or are you choosing on the fly any given day? I will use this one this day and tomorrow a different one?

>> Just to give maximum options for the courts as a starting point. I guess in one respect you could have two contracts depending on what your arrangement is but both of them have demonstrated great effectiveness in providing and installing equipment and the use of the equipment so ideally you want to have a bit of competition to make sure you can maximize pricing.

>> Thank you.

>> Maybe I can help from my perspective for example we would be looking to get a vendor we would be using countywide or court wide for consistency purposes. Have training issues, issues of reliability and portability and so what I was trying to get to is if in fact our systems are such we need another vendor we have the ability to do that but at the end of the day when you land on that decision you're going to want the same person for all operations so you don't have to worry about which system, which training, which location and so forth so it is simple and straightforward.

>> I would say at this point having recognized one of those courtrooms in your slides to which I spent nine years next door to it and I know where the cages are. It struck me that this idea also facilitates attorney-client visits because often when the attorney does not have an interpreter and the client comes up through the cage it is an opportunity to give the attorney some time to have a conversation with the interpreter if you have one, I commiserate with the Commissioner where you put matters over because you don't have the interpreter and even though they are the gold standard, not to the person who finds out their case is put over for one and how this will be used in limited circumstances. I think this is a huge expansion of access to justice and it is a new frontier, notwithstanding he wants to do it on his watch, I think all of us know as indicated by Justice Cuellar it is new and evolving and we will continue to learn and hold due process at the forefront. I am greatly impressed by the practical questions that are asked which shows how important it is for these important movements going forward we have people who know how courtrooms run and how clients are treated and what we need going forward, these questions are important because these folks are in the courtroom wondering how this can work and how we can move so this has been really we have the motions but Justice Miller.

>> Again I wanted to add my voice to those who have congratulated you and the committee but on a personal note I'm going to miss speaking with you on this as we did many times and I have enjoyed those conversations. Watching with glee with your accomplishments but I will miss those but you should be proud of what you compassed and the legacy.

>> Thank you Justice Miller it has been a team effort and I'm grateful for the support of this council and our Chief Justice. I will so you can still call me I will not be on the Starship Enterprise.

>> I want to say this is the cherry on the top to your previous presentation Justice Cuellar when you landed the starship language access plan at the last meeting and now with VRI. It is an exciting tremendous work for California and an example nationwide so thank you very much and I will take the vote in a moment.

>> [Applause] all in favor of approving the recommendations please say aye. Any opposition any abstention? The matter carries thank you so much. Thank you. At this time I'm going to ask to present.

>> Thank you very much Chief. On behalf of the executive team here at their Judicial Council I wanted to take this opportunity to thank Bob Lowney for his years of service as he is retiring effective April 1 and I thought it was April Fools but apparently not, he is going through retirement so I wanted to acknowledge Bob and his hard work for the council, 23 years here, most of his career spent with and he is the true definition of plug and play. Stepping up when we needed him in the director's role, in the Appellate Court Services and Court Operations Services so we are grateful of his time lending a hand to the initiatives we have been able to bring forward. So for those of you who do not know, Bob is an open water swimmer so in his spare time he is out swimming in the bay. If you're out there in a boat watch out. We look forward to inviting you back as faculty if you will have us on an interim basis for some teaching. That is his passion and I wanted to take this opportunity to thank you, Bob.

>> [Applause]

>> Bob, I want to join in that because I know that you are also the contact person for appellate court services and I think we e-mail each other twice a week and I know Justice Hill and the other administrative presiding justices in California are grateful for your attention to detail. Your efficient running of meetings, you take care of every problem you make it seem so easy. We are going to miss you greatly. Best wishes in this next chapter. Thank you. Thank you very much. This concludes our March Judicial Council meeting. Our next scheduled meeting is May 16 and May 17, we are adjourned, happy April.

>> [Event concluded]