

1 IN THE WEST VIRGINIA LEGISLATURE
 2 HOUSE OF DELEGATES
 3 JUDICIARY COMMITTEE
 4 * * * * *
 5 IN RE:
 6 House Judiciary Committee Proceeding
 7 Regarding the Impeachment of West Virginia
 8 Supreme Court Justices Pursuant to
 9 House Resolution 201 Passed During the
 10 Second Extended Session of 2018.
 11 * * * * *
 12
 13 VOLUME IV
 14
 15 Hearing held on July 20, 2018, before the House
 16 Judiciary Committee of the West Virginia Legislature.
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 20
 21 Transcribed By:
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1 P R O C E E D I N G S
 2 CHAIRMAN SHOTT: Good morning. We'll
 3 call this meeting of the Committee on the Judiciary to
 4 order, and I'll ask the clerk to take the role and
 5 ascertain a quorum is present.
 6 (The clerk took the roll.)
 7 CHAIRMAN SHOTT: Quorum is present.
 8 And Delegate Byrd is arriving, so please mark him
 9 present as well.
 10 We're going to begin today with an
 11 Affidavit that we received from Kim Ellis, who is a
 12 witness that has an attorney and is not able to be
 13 before us before the week of the 30th, and so we are
 14 going to provide this at this time for whatever weight
 15 you want to accord to it.
 16 I'm going to ask counsel to explain how
 17 this Affidavit was arrived at and to go ahead and read
 18 it since it will be an exhibit for those of you with a
 19 notebook, but since this is an open hearing and we want
 20 those who are viewing our live stream to know what's
 21 going on with regard to this evidence, so we'll read it
 22 into the record.
 23 Counsel, will you explain the process?
 24 MS. KAUFFMAN: Yes, thank you. As the

1 APPEARANCES:
 2
 3 APPEARING FOR THE HOUSE JUDICIARY COMMITTEE:
 4 Marsha Kauffman, Esquire
 5 John Hardison, Esquire
 6 Brian Casto, Esquire
 7 Robert E. Akers, Esquire
 8 Charles Roskovenski, Esquire
 9
 10 HOUSE JUDICIARY COMMITTEE MEMBERS:
 11 John Shott, Chair
 12 Roger Hanshaw, Vice Chair
 13 Barbara Evans Fleischauer, Minority Chair
 14 Shawn Fluharty, Minority Vice Chair
 15 Mark White, Clerk
 16 Andrew Byrd
 17 Joe Canestraro
 18 Moore Capito
 19 Frank Deem
 20 Tom Fast
 21 Geoff Foster
 22 Jason Harshbarger
 23 Ray Hollen
 24 Phil Isner
 Kayla Kessinger
 Charlotte Lane
 Chad Lovejoy
 Rodney Miller
 Riley Moore
 John Overington
 Mike Pushkin
 Ben Queen
 Andrew Robinson
 Kelli Sobonya
 Amy Summers
 Mark Zatezalo
 ALSO PRESENT:
 John A. Carr, Esquire (Counsel for Justice Loughry)

1 Chairman indicated, Ms. Ellis is currently represented
 2 by counsel. We have been in contact with various
 3 witnesses throughout the course of these proceedings
 4 and have tried to work around scheduling.
 5 It is our understanding that this is
 6 one of those where scheduling would not permit the
 7 Committee to be able to obtain any testimony until
 8 approximately the first week of August, so we went the
 9 route of the affidavit.
 10 Ms. Ellis provided testimony to the
 11 Judicial Investigation Commission, so that some of the
 12 information that was provided by her to the Judicial
 13 Investigation Commission was taken and this affidavit
 14 was drafted as a result of that.
 15 It was provided to her counsel and then
 16 executed by Ms. Ellis.
 17 So that is the method by which the
 18 Committee came into possession of this particular
 19 Affidavit. As the Chairman indicated, for purposes of
 20 those that may be listening, I will now read her
 21 Affidavit into the record.
 22 The Affidavit states as follows:
 23 "I, Kimberly Ellis, being
 24 first duly sworn, upon her oath depose and

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1 say as follows:
 2 No. 1. My name is Kimberly
 3 Ellis and I am over the age of 18.
 4 No. 2. I am currently
 5 employed with the Supreme Court of Appeals of
 6 West Virginia as the Director of
 7 Administrative Services in the Administrative
 8 Offices.
 9 No. 3. I began working for
 10 the Supreme Court of Appeals of West Virginia
 11 as Deputy Director of Administrative Services
 12 on May 16, 2013.
 13 I have held the position of
 14 Director of Administrative Services since
 15 November 1, 2015.
 16 My duties include, but are
 17 not limited to, managing the fleet vehicles,
 18 overseeing two warehouses, managing security
 19 systems, overseeing facilities planning and
 20 upkeep for the lower courts in all 55
 21 counties, and consultation/facilitation
 22 regarding selection and procurement of
 23 furniture and equipment for the Court.
 24 No. 6. Construction on

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1 Justice Loughry's office began in June of --
 2 June 2013.
 3 No. 7. My initial meeting
 4 with Justice Loughry to discuss the
 5 renovations to his office occurred before I
 6 was an employee of the Court and while I was
 7 an employee of Silling Associates.
 8 The initial meeting occurred
 9 in Justice Loughry's current office. At that
 10 time, there was a desk in his office. The
 11 desk was an antique walnut desk, specified by
 12 Cass Gilbert.
 13 No. 8. During my initial
 14 meeting with Justice Loughry to discuss the
 15 renovations to his office, there was a green
 16 leather couch in his office. That couch is
 17 now at the Venable Avenue warehouse.
 18 No. 9. During my initial
 19 meeting with Justice Loughry to discuss the
 20 renovations to his office, Justice Loughry
 21 did not mention to me that the desk in his
 22 office was a Cass Gilbert desk.
 23 No. 10. I left the
 24 employment of Silling Associates and began

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1 working for the Supreme Court of Appeals of
 2 West Virginia prior to the beginning of
 3 construction on Justice Loughry's office.
 4 No. 11. Justice Loughry was
 5 very involved in the decisions regarding the
 6 renovations to and furnishings of his office.
 7 No. 12. The construction
 8 costs associated with the renovations to
 9 Justice Loughry's office were discussed with
 10 Justice Loughry and a detailed cost estimate
 11 was provided to Justice Loughry by the
 12 contractor before construction began.
 13 No. 13. The pillows for
 14 Justice Loughry's couch were ordered well
 15 after the renovations were completed.
 16 Justice Loughry decided that he wanted custom
 17 pillows, and he personally selected the
 18 fabrics and down inserts for the pillows.
 19 No. 14. Justice Loughry
 20 wanted a West Virginia map on the floor of
 21 his office. Justice Loughry hand sketched
 22 the West Virginia map and the placement of
 23 his furnishings on a shell floor plan of his
 24 office, which also included his handwritten

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1 notes about other items he wanted for his
 2 office and their locations.
 3 No. 15. Justice Loughry
 4 wanted Tucker County to stand out on the map.
 5 He wanted the granite that was selected for
 6 his bathroom floor to be used for Tucker
 7 County.
 8 No. 16. Justice Loughry was
 9 updated throughout the project. I do not
 10 recall any surprises regarding the map.
 11 No. 17. I was asked by
 12 Justice Davis about a written or oral policy
 13 on allowing the justices to have a home
 14 office with furniture provided by the Court,
 15 and I drafted a memo to Justice Davis in
 16 response to her request.
 17 No. 18. I was first made
 18 aware that a couch was at Justice Loughry's
 19 house when I received a call from Paul
 20 Mendez, a Court employee who works for my
 21 division, informing me that he had been
 22 instructed to go to Justice Loughry's house
 23 and remove a green leather couch.
 24 During that phone call,

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1 Mr. Mendez also informed me that Justice
2 Loughry had a Cass Gilbert desk at his house
3 that he also wanted to remove, but there were
4 -- they were only getting the couch at that
5 time.
6 No. 19. At the time of the
7 phone call from Mr. Mendez referenced above,
8 I did not know that a Cass Gilbert desk or
9 any other Court furniture was located at
10 Justice Loughry's residence.
11 No. 20. Other than
12 Mr. Mendez, the only information that I had
13 about the couch being returned to the
14 warehouse was from information that I saw on
15 social media.
16 No. 21. It is my
17 understanding that the couch was picked up on
18 a Monday and the desk was supposed to be
19 removed on the following day. However, Paul
20 Mendez told me that Justice Loughry called
21 off the removal of the desk for the following
22 day and told Paul to be on standby because
23 Justice Loughry wanted to wait until his
24 neighbor left so that pictures wouldn't be

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1 taken and posted on social media again.
2 No. 22. A few days after the
3 couch and desk were both delivered to the
4 warehouse, I went to the warehouse and
5 observed and photographed the couch and the
6 desk.
7 No. 23. I received a phone
8 call from Justice Loughry on the evening of
9 January 4, 2017, which was the day that Steve
10 Canterbury was fired. Justice Loughry called
11 me at night on my personal cell phone and
12 asked me to keep our conversation off the
13 record. He informed me that he had fired
14 Steve Canterbury.
15 He also said that it was his
16 understanding that I was a spy or loyal to
17 Steve Canterbury, but I had nothing to worry
18 about because they liked me. I felt like
19 this was a threat and feared for my
20 employment with the Court.
21 No. 24. It is my
22 understanding that Justice Loughry also made
23 a similar statement to my former assistant,
24 Tamerra Gilmore, based on information and

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1 belief.
2 While I was out of the office
3 on Court business, Justice Loughry instructed
4 Tamerra to come into his office and shut the
5 door and then told Tamerra that he believed
6 that she and I were spies for Steve
7 Canterbury. Tamerra found another job and
8 resigned from her position with the Court
9 shortly thereafter.
10 No. 25. On or about October
11 18, 2017, Sue Troy came to my office and
12 requested my files on the renovations to
13 Justice Loughry's office and Justice Davis's
14 office. I provided her with my files on that
15 date.
16 No. 26. On the following
17 day, October 19, 2017, I was contacted by
18 Joan Mullins in the Administrative Office,
19 and I was told that Judge Johnson wanted to
20 see me in his office immediately. When I
21 arrived at Judge Johnson's office, Justice
22 Loughry was sitting at a table with
23 administrative counsel sitting on both sides
24 of him.

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1 Judge Johnson and Sue Troy
2 were also present. Justice Loughry began
3 questioning me about the costs associated
4 with his office. Justice Loughry asked me if
5 I recalled a meeting with him where I had
6 written down on a piece of paper the cost for
7 Justice Ketchum and Justice Workman's office,
8 and I said that I did not.
9 During this same meeting,
10 Justice Loughry said that he had specifically
11 told me over and over again that regardless
12 of what is spent on his office, it was not to
13 cost more than Justice Ketchum or Justice
14 Workman's office, and he asked me if I
15 recalled that conversation, and I said, "No."
16 I felt like he was trying to
17 intimidate me and coerce me to lie.
18 No. 27. Not long after the
19 October 19, 27 meeting -- 2017 meeting in
20 Judge Johnson's office, my personal office
21 was relocated from an office suite located
22 down the hall from the Court's main
23 administrative office to a smaller office
24 located within the Court's main

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1 administrative office between the offices of
2 the Court's two administrative counsel who
3 were present at the October 19, 2017
4 meeting."
5 Signed, "Kimberly Ellis," and then
6 notarized.
7 CHAIRMAN SHOTT: Thank you, Counsel.
8 And as indicated, that Affidavit is now part of the
9 exhibits as No. 36.
10 Counsel for Ms. Ellis has confirmed to
11 us that Ms. Ellis will - if there's need to appear in
12 the Senate for a trial - appear and testify consistent
13 with that Affidavit and authenticate any type of
14 documents that are necessary.
15 We're in the process of gathering
16 various e-mails, extracting those from the JIC files
17 and will forward those to her for inspection and get
18 her to authenticate them by Affidavit before we
19 conclude our proceedings.
20 The next item that we're gonna take up
21 today -- as I mentioned yesterday, in our conference
22 with counsel for the JIC, it was pretty clear from
23 their discussion of the hearing before the finance
24 committee that they were taking into consideration the

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1 entirety of Justice Loughry's testimony as opposed to
2 the excerpt that appeared in their charges.
3 So we're gonna play for you now the
4 entirety of that -- that testimony, at least insofar as
5 it involved Justice Loughry.
6 If we're ready, let's go ahead and play
7 the tape.
8 We need some -- we need some volume.
9 (A tape was played from January 12 as
10 follows:)
11 HOUSE FINANCE CHAIR NELSON:
12 -- take a silent role. All right, today's
13 our first of quite a few budget hearings for
14 the Fiscal '19 budget. And we're starting
15 off with the Supreme Court and we'll have the
16 Chief up here in just a little bit, and if we
17 can hold the questions to the end, and then
18 the Supremes will be followed by Lottery at
19 roughly 10:00 o'clock.
20 So Mr. Chief -- and we do
21 have a procedure that we do go through so if
22 -- will there be anybody else speaking?
23 CHIEF JUSTICE LOUGHRY: No.
24 FINANCE CHAIR NELSON: Okay.

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1 If you don't mind, the clerk will administer
2 the oath.
3 (Unintelligible)
4 FINANCE CHAIR NELSON: You're
5 good, you're good, just stand right here.
6 CHIEF JUSTICE LOUGHRY: Oh,
7 okay. All right.
8 THE CLERK: Please raise your
9 right hand over your heart.
10 CHIEF JUSTICE LOUGHRY: Right
11 hand over your heart, okay.
12 THE CLERK: And state your
13 name.
14 FINANCE CHAIR NELSON:
15 "Nothing like getting a notice from a
16 justice."
17 CHIEF JUSTICE LOUGHRY: Allen
18 Loughry.
19 (Justice Loughry was sworn to
20 tell the truth.)
21 FINANCE CHAIR NELSON: Thank
22 you. Welcome. We're glad to have you here
23 today, and the floor's all yours.
24 CHIEF JUSTICE LOUGHRY: Thank

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1 you very much. It is my honor and privilege
2 as Chief Justice of the Supreme Court of
3 Appeals and administrative head of the third
4 branch of government to speak with you today
5 regarding the judiciary's budget for Fiscal
6 Year 2019.
7 I'd like to talk about that
8 budget within the larger frame of reference
9 that includes the judiciary's role in our
10 government, recent concerns regarding Supreme
11 Court expenditures, the successful efforts to
12 cut millions of dollars from our budget last
13 year and the legislature's push for a
14 Constitutional amendment to diminish the
15 judiciary's independence.
16 We in the judiciary are
17 painfully aware of the State's financial
18 worries in recent years. This year will once
19 again require difficult financial decisions
20 from this legislative body, from the Judicial
21 Branch and from our Governor.
22 And in spite of recent
23 headlines that may lead you to believe
24 otherwise, the Judicial Branch of government

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1 takes this issue very seriously.
 2 In full consideration of
 3 these fiscal realities, I present to you the
 4 2019 fiscal year budget in the amount of
 5 \$139,759,670.
 6 This is approximately 1.1
 7 percent of the entire State's budget. This
 8 budget represents a \$2,000,000 reduction from
 9 the amount requested by the Supreme Court
 10 last year and another \$2,000,000 from the
 11 year before that. And we make these
 12 reductions while our own work load has been
 13 increasing.
 14 Before we discuss specifics,
 15 I believe it is important to address the
 16 issue of some isolated excessive furniture
 17 expenditures at the Supreme Court and to
 18 place those expenditures in the overall
 19 project of which they were a part.
 20 The Court has received
 21 significant negative press during the past
 22 couple of months regarding some isolated, but
 23 obviously inappropriate, purchases. Such
 24 extravagant expenditures damage the entire

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1 judiciary.
 2 People must have faith in our
 3 institutions to have civil order, and these
 4 expenditures are indefensible, and they are
 5 insensitive to all West Virginians.
 6 We live in a time of cynicism
 7 toward our government, and when stories such
 8 as this wasteful spending emerge, it feeds
 9 that cynicism and clouds the focus of the
 10 judiciary's mission to do justice.
 11 One action by any justice,
 12 judge, magistrate, administrative director or
 13 any other employee within the Judicial Branch
 14 is instantaneously transmitted via social
 15 media around the world.
 16 When we act responsibly,
 17 humbly and with regard for the people who
 18 come before us, we build trust. When we act
 19 in any other way, we damage the trust that
 20 people have in our judicial system.
 21 Shortly after this story
 22 broke, I received a letter from a citizen of
 23 our state. She wrote, in part, "After much
 24 thought about the story on TV, I thought each

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1 of you judges were supposed to be for the
 2 people of West Virginia. When you spent
 3 enormous amounts of taxpayers' hard-earned
 4 money, do you ever consider us as supplying
 5 your salary?"
 6 I called her, and we
 7 discussed this issue. We found ourselves in
 8 complete agreement. There is simply no
 9 justification for such outrageous purchases.
 10 The important result of this
 11 conversation, however, is that I am reminded
 12 every single day, there is more work to be
 13 done to promote financial accountability and
 14 transparency in our government.
 15 Keeping this point firmly in
 16 mind, I do want to provide to you a clear
 17 view of the project within which these
 18 purchases were made.
 19 In 2008, the Court began
 20 renovating offices on the fourth floor of the
 21 Capitol. It obtained bids for that project,
 22 and the original contract was for \$876,156.
 23 The project covered one half of the fourth
 24 floor.

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1 Given the disrepair of these
 2 offices, renovation was necessary for safety
 3 and provision of an appropriate work space.
 4 The reporting of this project has been
 5 somewhat misleading. It has been widely
 6 reported that the Court started with an
 7 \$876,000 contract that ballooned out of
 8 control to 3.7 million dollars.
 9 That leaves the impression
 10 that the \$876,000 figure was the original
 11 overall estimate for all of the restoration
 12 and renovations that occurred on the first,
 13 third and fourth floors of the Capitol. That
 14 is inaccurate.
 15 The \$876,156 contract was
 16 only to cover the cost of the renovation and
 17 restoration of the fourth floor counsel's
 18 office. Upon completion of that office, the
 19 justices who were on the Court at that time
 20 began restoration, wholly separate, from the
 21 counsel's office, including renovating parts
 22 of the State's only public library, also on
 23 the fourth floor, and three offices on the
 24 fourth floor.

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1 Throughout the next few
2 years, the project also continued on the
3 third floor, including the clerk's office,
4 the -- our courtroom, the hallway, the
5 offices there, the public restrooms, the
6 counsel -- the -- our conference room, the
7 hallway of the chambers and the individual
8 justices' offices.

9 On the first floor, a
10 conference room was also renovated. The
11 scope of the work changed dramatically from
12 the original contract.

13 If you remove the isolated,
14 unjustifiable furniture expenditures, you are
15 left with renovations that were needed and
16 necessary. The first, third and fourth
17 floors of the East Wing of the Capitol needed
18 extensive electrical, heating, cooling,
19 plumbing and structural renovations.

20 We have a responsibility to
21 take care of this incredible building and the
22 dedicated people who work in it. This is the
23 context within which the Court's foolish
24 furniture expenditures needs to be viewed.

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1 Now, let's talk in more
2 detail about the judiciary's budget and our
3 unified system of the courts. In 1974, the
4 citizens of our state amended our
5 Constitution to create a unified court
6 system, and in so doing, greatly advanced
7 judicial independence and effectiveness.

8 Prior to these sweeping
9 revisions to our Constitution - which were
10 overwhelmingly approved by the voters in a
11 subsequent election - the judiciary was
12 fragmented, virtually unsupervised and run
13 primarily at the county level.

14 As we move from that time
15 period until today, I would ask that you
16 think about the Court differently and beyond
17 the five justices in Charleston.

18 Here in the Capitol, the
19 judiciary's budget is frequently referred to
20 as the Supreme Court's budget. We need to
21 remember that our budget covers the operation
22 of the courts in all 55 counties, not just in
23 Charleston.

24 Separate from the five

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1 justices, we have 279 judicial officers
2 presiding over their own courts, including 74
3 circuit judges, 47 family court judges and
4 158 magistrates.

5 In addition to those judicial
6 officers, the judiciary has many other
7 people, functions and responsibilities. We
8 employ fewer than 1500 people with the
9 largest group being more than 300 people
10 state-wide in our probation department.

11 We also have magistrate
12 assistants, circuit and family court judge
13 secretaries, court reporters and law clerks,
14 administrative staff, human resources, an IT
15 department, educational training, accounting
16 and payroll, all serving the entire state of
17 West Virginia.

18 We have our Supreme Court
19 clerk's office, our chief counsel's office,
20 Workers' Compensation appeals, the State law
21 library, the Board of Law Review, the
22 Judicial Investigation Commission, the Lawyer
23 Disciplinary Board and much more.

24 Given the nature of our work,

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1 our budget is necessarily employee-driven,
2 but one of the most important points
3 surrounding our budget is that approximately
4 90 percent of our spending is
5 nondiscretionary.

6 The largest part of that 90
7 percent figure is for our 1459 employees.
8 And keep in mind, of those employees, the
9 legislature and not the Court actually sets
10 the salaries for 663 of those individuals,
11 totaling 50.6 million dollars.

12 For example, Supreme Court
13 justices, circuit and family court judges,
14 family court case coordinators, family court
15 secretaries, magistrates, magistrate clerks,
16 deputy magistrate clerks, and magistrate
17 assistants are all set by the legislature.

18 This fact means that separate
19 from all of the other nondiscretionary
20 obligations contained within our budget, the
21 legislature has significant control with
22 regard to nearly half of our employees.

23 And while the court system
24 has certainly grown throughout the years,

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1 that is largely due to the unavoidable result
2 of our socioeconomic challenges and the most
3 of that growth is a direct response to
4 mandates passed by the legislature.
5 The addition of drug courts
6 and their increased budgetary demands is just
7 one example. However, let's talk about where
8 we are today and the direction that we're
9 going in the future. When I was elected
10 Chief Justice in January of 2017, I was well
11 aware of the fiscal challenges facing West
12 Virginia and made transparency and
13 accountability of our budgetary process my
14 primary mission.
15 Since that time, our Court
16 has been going through more changes than any
17 time in recent history, and these changes
18 have created real savings. At the end of
19 Fiscal Year 2016, we had a carryover balance
20 of approximately 1.2 million dollars.
21 At the end of Fiscal Year
22 2017, we had approximately 8.5 million in
23 carryover funds. These savings were not a
24 response to any press coverage. They are

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1 simply the result of our commitment to sound
2 financial management.
3 Upon hiring new
4 administrative leadership in Judge Gary
5 Johnson in January of 2017, we began making
6 seismic changes at rapid speeds. We began
7 looking at everything, large and small.
8 We started asking, "What are
9 the core functions that our court system must
10 perform under the United States and West
11 Virginia Constitution and under the laws of
12 our state?"
13 When sitting down with our
14 administrative team, I made it clear that
15 everything must be on the table and nothing
16 was untouchable. We had to evaluate what we
17 were doing and things not critical to our
18 core mission as a court system must either be
19 eliminated or substantially reduced.
20 Even small amounts of money
21 add up to large amounts of money. Change is
22 not easy, but the Court has begun building a
23 more efficient and effective branch of
24 government. Some of the financial changes

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1 that occurred in 2017 included: Reducing our
2 spending by at least \$7,000,000; eliminating
3 nonessential positions, and with the help of
4 the National Center for State Courts,
5 beginning a significant reorganization.
6 For example, reorganizing our
7 probation division, saving millions of
8 dollars and setting up a system where sexual
9 offenders will be more closely watched.
10 Redesigning our professional
11 services appointment and invoicing processes,
12 saving hundreds of thousands of dollars.
13 This includes our mental hygiene, guardian ad
14 litem and expert witness invoices.
15 Moreover, our clarification
16 of our rules regarding guardians ad litem in
17 family court cases has enabled us to cut
18 spending in that area by millions of dollars,
19 while still providing excellent service to
20 our children.
21 Changing the funding
22 structure for drug courts to save hundreds of
23 thousands of dollars while continuing to
24 provide the level of services necessary to

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1 help these people change their lives.
2 Putting procedures in place
3 in our finance division that will change the
4 transparency of the Court forever. Even the
5 simplest of actions with an invoice is now at
6 least a two-person process.
7 Reducing library staff and
8 eliminating seven underutilized regional law
9 libraries at a savings of more than \$200,000.
10 Limiting the appointment of
11 senior status judges when judicial officers
12 are recused from cases. Instead, the Chief
13 Justice appoints sitting judges from other
14 circuits to travel and handle the particular
15 cases, saving hundreds of thousands of
16 dollars per year.
17 Streamlining some of our
18 educational programs and exploring ways to
19 deliver more education to our people in more
20 cost-effective ways, including web-based
21 education.
22 We have even made a change in
23 the term of our Chief Justice. Instead of a
24 one-year rotation, the Chief Justice is now

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1 selected for a four-year term, with the
2 ability to serve for subsequent terms. This
3 change places more effective administrative
4 and financial control in the hands of an
5 elected official rather than an appointed
6 employee.

7 We have improved and
8 implemented a procurement function with
9 standards and processes in several of our
10 divisions. We now research and utilize
11 state-wide contracts whenever possible. This
12 change allowed us to immediately realize an
13 approximately \$100,000 savings upon reviewing
14 our copier contracts throughout the state.

15 We have broken down our
16 internal budgeting into spending units, which
17 creates more accountability. Monthly
18 financial reports are now distributed to
19 division directors to monitor spending. And
20 P-cards and technology are to be used on an
21 emergency basis, and only with prior
22 approval.

23 And we're looking to the
24 future in working toward the implementation

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1 of a state-wide e-filing system that will
2 save county commissions, litigants and others
3 significant amounts of money as we move into
4 an essentially paperless process.

5 We will also be able to
6 provide accurate statistics to the
7 legislative body that we are currently unable
8 to provide.

9 We have implemented
10 significant cost savings in the day report
11 center program wherein we realized more than
12 \$100,000 within the first quarter after
13 making these changes.

14 We received the largest
15 Federal drug court grant in the nation, 1.4
16 million dollars. And we have expanded our
17 legal division to allow more review,
18 renegotiation and oversight of all contracts
19 and to implement policies, procedures and
20 standards that have been absent. This change
21 has also allowed us to avoid large outside
22 legal fees.

23 These examples - and there
24 are many more - should make it abundantly

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1 clear that this has been a year of
2 significant financial improvement within the
3 Judicial Branch of government. Our
4 reorganization has created a more streamlined
5 system and a management team of legal,
6 education, probation, technology, court
7 services and finance that all work together
8 to ensure that we are able to do our job in a
9 more effective and efficient manner.

10 These changes will shape the
11 future of this branch in ways that will
12 provide more accountability and transparency,
13 but also meet the needs and challenges of the
14 future.

15 Having discussed these
16 important structural and financial changes, I
17 will tell you that we are not finished.
18 However, I would now like to take just a few
19 minutes to focus on some of the complexities
20 of our budget and where it is difficult to
21 significantly reduce spending.

22 We have to have this
23 conversation with the awareness of the
24 nonnegotiable elements of our judicial

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1 system. Article III, Section 7 of our
2 Constitution provides: "The courts of this
3 state shall be open, and every person for an
4 injury done to him and his person, property
5 or reputation shall have remedy by due course
6 of law and justice shall be administered
7 without sale, denial or delay."

8 It is clear that without
9 adequate funding of the Judicial Branch, we
10 will not be able to provide or guarantee
11 these Constitutional rights. Moreover, it is
12 also clear that administering justice is a
13 Constitutional mandate for all three branches
14 of government.

15 It is a core function. It is
16 essential that we have adequate court
17 funding.

18 A few years ago in his annual
19 report, Chief Justice John Roberts said that
20 failing to adequately fund the court system
21 poses a genuine threat to public safety. He
22 further explained that courts do not have
23 discretionary programs they can postpone or
24 eliminate because virtually all of their

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1 court functions are Constitutionally or
2 statutorily required.

3 He explained that reductions
4 in court spending cause widespread delays in
5 civil cases, causing commercial uncertainty,
6 lost opportunities and unvindicated rights.

7 Chief Justice Roberts made
8 clear that failing to meet the Judiciary's
9 essential requirements undermines the
10 public's confidence in all three branches of
11 government.

12 Without adequate funding of
13 our judicial budget, West Virginians will
14 experience a lack of services, as problems
15 will emerge from one end to the other.
16 Delays in court services would happen, and
17 justice delayed is tantamount to justice
18 denied.

19 Insufficient funding would
20 cause specialty courts to be eliminated and
21 our troubled adults and juveniles would get
22 much less supervision, if any at all.

23 Insufficient funding would
24 mean that significant costs would be added to

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1 West Virginia's general budget, and it would
2 mean fewer opportunities for our citizens.

3 While that may sound like a
4 parade of horrors, it is a reality.
5 Consider just a few examples of the
6 Constitutional and statutorily-required work
7 of the courts:

8 Probation. West Virginia is
9 one of just 13 states with the probation
10 officers working out of the Judicial Branch
11 of government.

12 In the vast majority of
13 states, probation is entirely an Executive
14 Branch function. Probation costs amount to
15 about one sixth of our budget. Any cuts to
16 probation officers means more jail time for
17 nonviolent offenders, costing the State of
18 West Virginia and our individual counties
19 millions of dollars to house these
20 individuals in the regional jails and
21 prisons.

22 While that money is not
23 coming out of the judicial budget, it
24 nonetheless is a significant cost to the

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1 State of West Virginia. For example, if the
2 current number of people on probation had to
3 be incarcerated, it would cost the State of
4 West Virginia more than 280 million dollars
5 for just one year. Those numbers are scary.

6 Instead, the Judicial Branch
7 spends a little more than \$20,000,000 to
8 supervise and attempt to rehabilitate these
9 individuals. Anyone can do that math.

10 Along those same lines, our
11 drug courts are helping to keep some
12 individuals out of prison, helping them deal
13 with their dependency issues, allowing them
14 to find a job, take care of their families
15 and to become productive members of society.

16 They walk away from these
17 courts with a support system, and they are
18 far more likely to succeed in life than an
19 incarcerated felon.

20 And again, consider the cost
21 savings of millions of dollars not being used
22 to incarcerate these individuals. We've had
23 more than 1600 drug court graduates since
24 December of 2012, at a significant savings

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1 over incarceration.

2 Indigent transcripts. We
3 spend about 1.7 million dollars per year to
4 provide these transcripts, and those people
5 have a Constitutional right to them. That is
6 nondiscretionary.

7 Language interpreters. It is
8 necessary that we have an appropriate number
9 of interpreters so that litigants, juries,
10 judges and others participating in court
11 proceedings are able to understand what is
12 being said in the courtroom.

13 We spend more than \$150,000
14 per year, and that is nondiscretionary.

15 Education. Educating our
16 judicial officers and employees is critical
17 to the services we provide. The 2017 year
18 brought an influx of a significant number of
19 new circuit judges, family court judges and
20 magistrates. To provide due process to our
21 citizens, our judges must know the law and
22 keep up with its changes, and so we in the
23 court system have an obligation to educate
24 them.

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1 Now, let's briefly discuss
2 the Constitutional amendment issue. There is
3 much talk at the moment about a
4 Constitutional amendment directed at the
5 judiciary's budget. While this is discussed
6 year after year, there is no doubt this will
7 have more focus this year based upon the news
8 regarding isolated, but excessive, furniture
9 spending.

10 When you discuss such an
11 amendment, I would just ask that you take a
12 moment and consider the big picture. Our
13 Constitutional structure is carefully thought
14 out. The current Constitutional provision
15 says no item relating to the judiciary can be
16 decreased.

17 This provision prevents
18 legislative interference with the judiciary
19 and preserves the checks and balances by
20 protecting against retribution by the
21 legislature for any particular action that a
22 court may take.

23 And before you say, "I would
24 never punish the Court for doing its job,"

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1 let's look at what's been happening in the
2 State of Kansas.

3 The controversy began a few
4 years ago when the executive and legislative
5 branches became frustrated with some of their
6 Supreme Court's decisions. Among those
7 decisions was one dealing with school
8 funding.

9 In response to that Kansas
10 Supreme Court decision, their legislature
11 enacted a supplemental funding bill for the
12 judiciary, but it included in it provisions
13 that would have removed much of the Supreme
14 Court's administrative power over its own
15 courts.

16 The provision was clearly
17 unconstitutional. However, the bill
18 contained a nonseverability clause. It
19 provided that the funding was void if the
20 Court struck down any section of the bill
21 that removed the Supreme Court's power.

22 This bill was a direct
23 attempt to punish the Kansas Supreme Court
24 for its decision. And the Kansas legislature

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1 passed the same thing the next year, except
2 the provision said it removed all funding for
3 the Judicial Branch.

4 This is the sort of thing
5 that can happen when court budgets are not
6 independent. This didn't happen in 1816.
7 This has been happening for the last few
8 years. And similar controversies continue in
9 those states where legislatures have
10 significant budgetary authority over their
11 court systems.

12 It has often been said that a
13 fair judiciary is the cornerstone of
14 democracy. We must resolve disputes fairly,
15 and we are often called upon to resolve
16 deeply socially and politically-divisive
17 issues wherein the results may not be
18 popular.

19 We may be declaring a law
20 written by this body to be unconstitutional.
21 We simply must uphold the rights and
22 protections of our constitutions.

23 It has often been said that
24 judicial financial independence is something

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1 that prior legislators and citizens of this
2 state have worked hard to create and
3 preserve.

4 It was solidified in 1917
5 with the passage of a modern budget
6 amendment, and it was further strengthened
7 with the Judicial Reorganization Amendment of
8 1974.

9 As Martin Luther King once
10 wrote, "Injustice anywhere is a threat to
11 justice everywhere. We are caught in an
12 inescapable network of mutuality, tied in a
13 single garment of destiny. Whatever affects
14 one directly affects all indirectly."

15 I believe that those words
16 ring true in considering the relationships
17 between our three co-equal branches of
18 government. The State Constitution is a
19 foundational document.

20 Like a house, the State needs
21 a stable and firm - not fluid and flexible -
22 foundation. If we reject the foundational
23 principle of a fiscally- independent
24 judiciary, we remove a portion of our State's

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1 foundation, making the whole less stable,
2 less durable, and crucially, less safe for
3 the most important principles of our
4 democracy.

5 We have, unfortunately, had
6 many instances in all three branches of our
7 government throughout our history that have
8 led to the frustration and disappointment of
9 our citizens.

10 However, in none of those
11 circumstances do I recall this body's
12 response to be a Constitutional amendment to
13 reduce the authority of an entire branch of
14 government. Instead, the proper and measured
15 response was to institute policies and
16 procedures that minimize the ability of
17 individuals to act without transparency and
18 accountability in the future.

19 We in the Judicial Branch
20 have done just these things. We have made
21 significant staffing changes. We have
22 implemented a reorganization replete with
23 policies and procedures that will jealously
24 guard our finances, and each of us will have

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1 to explain ourselves to the voters of West
2 Virginia.

3 And all I ask of you, our
4 legislators, is that when you judge the acts
5 of the isolated wasteful spending that
6 occurred years ago and those failures of
7 oversight that allowed them, you do so in the
8 judicious, measured fashion of any good
9 judge.

10 I ask that you take into
11 account the extent to which we have,
12 ourselves, remedied our own transgressions.
13 While I certainly understand the legislature
14 is concerned about instances of wasteful
15 spending, I would rather each of the justices
16 stand in front of the voters of this state
17 and let them decide how we have managed the
18 Court's finances instead of having the
19 drastic measure of a Constitutional amendment
20 that will significantly change this branch of
21 government forever.

22 In summary, this Court is
23 making significant changes with regard to how
24 we do things, and these changes will benefit

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1 the Court and the people of West Virginia for
2 decades. We had a problem, and we addressed
3 it.

4 I am so proud to work in this
5 branch of government and with these great
6 judges, magistrates and employees of the
7 court system throughout this state. I would
8 put these people up against any of their
9 counterparts anywhere in this country, and I
10 am saddened that these fine judicial officers
11 and employees have been damaged from these
12 recent stories.

13 We will continue to work
14 hard, and we will regain the trust of West
15 Virginians. I am looking to the future as we
16 are making substantial positive changes
17 throughout the Judicial Branch.

18 I sincerely thank you for
19 your time today and for allowing me to talk
20 about our Judicial Branch of government,
21 recent changes and our -- our budget. Our
22 three branches of government must continue to
23 work together for the long-term interests of
24 all of our citizens, and I can assure you

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1 that this branch will continue to operate
2 with transparency, with integrity and with
3 impartiality.

4 As Alexander Hamilton
5 reflected, "The ordinary administration of
6 criminal and civil justice contributes more
7 than any other circumstance to impressing
8 upon the minds of people affection, esteem
9 and reference toward their government."

10 I thank you for your time
11 today, and I look forward to answering your
12 questions.

13 FINANCE CHAIR NELSON: Thank
14 you, Chief. Appreciate the information. You
15 know, I applaud your efforts and -- yourself
16 the last two years, and Justice Ketchum
17 before you. And we'll open this up now for
18 some questions.

19 Vice Chairman Householder.
20 FINANCE VICE CHAIR
21 HOUSEHOLDER: Thank you, Mr. Chairman, and
22 thank you, Chief Justice Loughry.

23 You know, there is no denying
24 that there was wasteful spending and

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1 obviously extravagant purchases happening
2 within the Court, and I think that it begs
3 the need for more transparency and oversight
4 from this body.
5 It appears that some
6 safeguards have failed, and obviously there
7 were -- there were renovation items that were
8 not needed, and in the context of
9 transparency, what is the Court's plan to
10 prevent the misappropriation of taxpayers'
11 dollars in the future?
12 CHIEF JUSTICE LOUGHRY: I
13 think that's a wonderful question. And one
14 of the things that we started in 2017 was we
15 started a complete reorganization of the
16 administrative office of the courts, and we
17 brought in the National Center for State
18 Courts. This was not a minor undertaking.
19 I want to be very clear about
20 this. We had a situation where we had --
21 where an administrative director had 20 some
22 people -- I believe 27 people reporting
23 directly -- it's irrelevant who the
24 administrative directors are. Just talking

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1 about the structure.
2 -- where you had 27 people
3 reporting directly to -- to that individual.
4 So you had 27 silos. It makes no sense
5 whatsoever. So you have 27 people out there
6 making decisions. And what we did - in
7 working, again, with the National Center and
8 looking at the structures of court systems
9 throughout this entire country - was we came
10 up with something where you had the
11 administrative director, and you go down and
12 you have six contacts that work with that
13 individual.
14 You have a legal division;
15 you have finance; you have probation; you
16 have technology; you have education; and you
17 have court services.
18 So now we have these
19 individuals who meet weekly, number one, and
20 we have communication, we have transparency.
21 So it -- we've hired -- another wonderful
22 thing that we did along those same lines, we
23 hired two procurement individuals.
24 FINANCE VICE CHAIR

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1 HOUSEHOLDER: I was going to ask. So you
2 don't think you have the fox guarding the hen
3 house?
4 CHIEF JUSTICE LOUGHRY:
5 Absolutely not.
6 FINANCE VICE CHAIR
7 HOUSEHOLDER: Okay.
8 CHIEF JUSTICE LOUGHRY: So in
9 the past, invoices would come in, invoices
10 would get paid, invoices would go out.
11 There's not a single invoice that comes in --
12 my understanding is, there's not a single
13 invoice that comes into our court system
14 where at least two individuals review those.
15 And you know, I've been asked
16 since this has occurred many times, "Well,
17 don't the justices sign off on every invoice
18 that comes through the court system?"
19 Well, no, and of course not.
20 Because we have more than 20 -- keep in mind,
21 we're talking about an entire court system in
22 all 55 counties. We have more than 25,000
23 invoices that come through the court system
24 every single year. And on top of that, we

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1 have another 10,000 to 15,000 transactions on
2 our purchasing cards.
3 So -- and we're also sitting
4 down -- we haven't had written procedures and
5 protocols. And I want to have written
6 procedures and protocols for everything. We
7 need that. We just -- the people of West
8 Virginia deserve that.
9 So we want to put things in
10 place so that not only this will never happen
11 again, but it doesn't matter who is in the
12 Chief position or who's in the legislature or
13 whatever.
14 And another big thing that we
15 did - and I know I touched upon it - but the
16 change of the Chief Justice position is huge.
17 It's not about me. I'm talking about 20
18 years down the road.
19 If you -- let's look at the
20 renovation period, okay? These renovations
21 occurred from 2008 until 2014, all right? I
22 wasn't even on the Court until 2013. So for
23 that six-year period, you had five
24 individuals who served in a one-year capacity

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1 as Chief Justice.
 2 I think that that creates an
 3 impossibility -- it puts a lot of pressure on
 4 each one of those individuals for any
 5 long-term project. I think that's one more
 6 example of how --
 7 FINANCE VICE CHAIR
 8 HOUSEHOLDER: Well, you know, there is a lot
 9 of public pressure from this body to do
 10 something, because I don't think you would
 11 dispute that it was outrageous, there were a
 12 lot of claims -- I mean, the average
 13 taxpayer, they're out -- they're outraged
 14 from what they -- from what was reported.
 15 So we want to make sure that
 16 there are some safeguards or assurances that
 17 this will not happen again.
 18 CHIEF JUSTICE LOUGHRY: I
 19 think that that is an absolutely legitimate
 20 concern and question. There is nobody more
 21 outraged by these purchases than me. Many
 22 people in this room have known me for more
 23 than two decades and they know that I would
 24 have never approved of such things.

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1 However, there was clearly a
 2 failure of oversight at the Court. These
 3 things happened. We can't go back and change
 4 them, but what we can do is go forward and
 5 make sure that something like this never
 6 happens again.
 7 FINANCE VICE CHAIR
 8 HOUSEHOLDER: Thank you. Thank you,
 9 Mr. Chairman.
 10 FINANCE CHAIR NELSON: Thank
 11 you. Yes, Delegate Cowles.
 12 DELEGATE COWLES: Thank you,
 13 Mr. Chairman. And first, thank you Mr. Chief
 14 Justice for coming to the meeting today.
 15 CHIEF JUSTICE LOUGHRY: Thank
 16 you.
 17 DELEGATE COWLES: And I agree
 18 and appreciate with your com -- your comments
 19 that it is indefensible and insensitive and
 20 harmful to the Court. But I appreciate you
 21 coming here to say that, and what I would --
 22 and I also appreciate the reorganization that
 23 you just talked about, because if we all
 24 recognize -- and I think you've recognized it

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1 before the media, but if we all recognize
 2 that changes need to be made, and you've made
 3 -- it sounds like the Court is making some
 4 reorganization changes.
 5 What -- the two things I
 6 would like to understand about it is the
 7 timeline, the project origin, its completion,
 8 and you became the chief judge, or you got to
 9 the Court in 2013?
 10 CHIEF JUSTICE LOUGHRY:
 11 That's correct.
 12 DELEGATE COWLES: -- chief
 13 judge in 2017?
 14 CHIEF JUSTICE LOUGHRY:
 15 That's correct.
 16 DELEGATE COWLES: A new
 17 administrator in 2017?
 18 CHIEF JUSTICE LOUGHRY:
 19 That's correct.
 20 DELEGATE COWLES: And I guess
 21 the disgruntled employee started -- took that
 22 spot in 2017? Started in 2017?
 23 CHIEF JUSTICE LOUGHRY: Well,
 24 I will say in 2017, I had the honor of -- the

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1 Court hired Gary Johnson as the new
 2 Administrative Director, and he's doing a
 3 wonderful job in that position. In January,
 4 actually, the -- my first day as Chief, I
 5 guess.
 6 DELEGATE COWLES: So your
 7 reorganization has been fairly sizable:
 8 Change in administrator, change in processes
 9 and protocols and written procedures and --
 10 But if you could elaborate
 11 any on the timeline, that might help me as we
 12 go forward.
 13 And if you've already done
 14 some of these improved oversight issues, from
 15 your perspective, what can we do, short of a
 16 Constitutional amendment - which I know
 17 bothers you - what do you think we the
 18 legislature could do?
 19 Because we have a role as
 20 well to protect the taxpayers.
 21 CHIEF JUSTICE LOUGHRY: You
 22 most certainly do have a role, and I
 23 understand that role and I respect that role,
 24 and I think that our three co-equal branches

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1 of government have to have that respect for
2 each other.

3 So where to begin? So please
4 interrupt me and stop me -- you've asked
5 several questions, and I'll come back to the
6 beginning. So you want more of a timeline
7 for what occurred.

8 So it is my understanding
9 that in 2008, the Court decided to begin some
10 renovation and restoration on the fourth
11 floor of the East Wing of the Capitol. Okay?
12 That is where our chief
13 counsel's office is located. And there were
14 -- four of the current members of the Court
15 were not even members of the Court at that
16 time. So the Court decided to undertake that
17 project.

18 And from reviewing old notes,
19 I saw that they did obtain a contract for
20 that -- for that project. So they did that.
21 And it was successful. And it improved that
22 area drastically.

23 And after that, the members
24 of the Court at that time began restoring

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1 these other areas of the Court system. And
2 from reviewing the notes, they did it in a
3 way -- it was done in a way that I wouldn't
4 have -- have done it, but nonetheless, it was
5 done that way.

6 There was a utilization of 17
7 separate change orders that -- that went
8 forward. Moving forward, that's -- that's
9 not how I would have proceeded on that. But
10 nonetheless, that is -- that's how it
11 occurred.

12 So the Court then looked at
13 renovating part of the library, which was
14 also on the fourth floor. My understanding
15 is, none of this stuff had been done since
16 the East Wing of the Capitol had been
17 completed in, I believe, December of 1928,
18 and there were -- it has been reported to me
19 that there were serious electrical issues,
20 some structural issues, plumbing and heating,
21 etc.

22 So -- and we do have a
23 responsibility to take care of this building.
24 The project -- the justices then moved into

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1 looking at the other areas. They saw the
2 success of the coun -- the chief counsel's
3 office, so then restoration of our clerk's
4 office occurred.

5 Our clerk's office is busy.
6 They do wonderful things. They process about
7 10,000 orders per year. And we put in a more
8 safe work space, created a -- certainly a
9 better work environment.

10 Our courtroom -- we have a
11 magnificent courtroom. This is -- I mean,
12 Cass Gilbert designed this, and this was
13 supposed to be his last job. And he took on
14 one job after that, which was the U.S.
15 Supreme Court, modeled on us.

16 But nonetheless, we have a
17 responsibility to take care of that
18 courtroom.

19 FINANCE CHAIR NELSON: He --
20 I think the gentleman was also asking how we
21 as a legislature can be involved with this
22 process when -- okay, so --

23 CHIEF JUSTICE LOUGHRY: Okay,
24 just to wind up, the -- and ask -- if I don't

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1 answer that fully, just to wind up the
2 others. So then we went -- then the Court at
3 that time completed the hallway renovations,
4 offices, the conference room, the hallway of
5 the justices, the conference room on the
6 first floor.

7 So it was a significant -- it
8 was a large project. One of the things that
9 -- answering the question a little more like
10 this is: I believe that a big part of the
11 responsibility has to come back on the Court.

12 When I come over here next
13 year, I have to provide to you a more
14 transparent budget than you've ever seen from
15 the Court system. And I think that you
16 deserve that. I think you should be able to
17 say, a hundred and -- "Why do you want
18 \$139,000,000?" You know, "Explain that to
19 us. You know, you say that you spend 1 point
20 -- you only get 1.1 percent of our total
21 budget, so does that mean that because you
22 get so little, you're allowed to waste
23 money?"

24 Absolutely not. And of

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1 course not. And I think this branch of
2 government has to be transparent, and we have
3 to be able to come to you and provide that
4 information.
5 And I think in just
6 communications with the Chairman -- I'm not
7 asking you to comment, but I believe that
8 you've seen a transparency in the last year
9 or so that is -- you know, we're making these
10 changes here.
11 So --
12 FINANCE CHAIR NELSON: Well,
13 let me bounce one idea off you.
14 CHIEF JUSTICE LOUGHRY: Yes.
15 FINANCE CHAIR NELSON: Short
16 of a Constitutional amendment, what if the
17 Legislative branch or the Executive Branch
18 controlled the space of the Court? Any
19 renovations, we decided, any upgrades, we
20 decided, or the Executive Branch decided,
21 whether that's the County Commission at a
22 courthouse or the Supreme Court's facilities
23 here on the campus.
24 It strikes me that perhaps

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1 there's a bigger role for us to play in that
2 rather than the -- the Court trying to do
3 that themselves through their administrative
4 office.
5 CHIEF JUSTICE LOUGHRY: You
6 know, I think -- I think -- I'm not speaking
7 for the Court, because we -- you know, I'm
8 speaking -- standing here for me as I say
9 this. I think that's a really legitimate
10 question. When you -- you know, should we
11 have three -- perhaps this applies to the
12 Executive as well.
13 Should we have individual
14 branches who are able to take this wonderful
15 building and do things without one -- maybe
16 it's a legislative -- a joint body where we
17 have to come in front of the legislature and
18 say, "We would like to do" X, Y and Z. I
19 don't have any -- I personally have no
20 problem with that whatsoever.
21 FINANCE CHAIR NELSON: That's
22 where my thoughts were going for some issue,
23 and I don't have them formulated yet, but I
24 just wanted to bounce that off of you.

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1 CHIEF JUSTICE LOUGHRY: Well,
2 and let me throw this also out and just say
3 that as far as a Constitutional amendment,
4 let's say that we had that in place. That
5 would not have stopped these types of
6 expenditures. I mean, what would have
7 happened would have been there would have
8 been a punishment the next year for that.
9 But that's not going to stop
10 something like that, so I like your idea, and
11 I'd like to explore that.
12 FINANCE CHAIR NELSON: Thank
13 you.
14 CHIEF JUSTICE LOUGHRY: --
15 much more. Thank you very much.
16 FINANCE CHAIR NELSON: Yes,
17 Delegate Boggs.
18 FINANCE MINORITY CHAIR BOGGS:
19 Thank you Mr. Chairman. Mr. Chief Justice,
20 thank you for being here. It's good to see
21 you.
22 CHIEF JUSTICE LOUGHRY: Good
23 to see you.
24 FINANCE MINORITY CHAIR

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1 BOGGS: I want to just go back a couple
2 things. Just for some perspective. Refresh
3 my memory. How many other states oversee the
4 judicial budget, the legislature controls the
5 budget?
6 CHIEF JUSTICE LOUGHRY:
7 That's a really good question, and what will
8 sound like a simple answer is this -- because
9 people say, "There's nowhere else in the
10 country with a situation like this."
11 And on the one hand, with the
12 one aspect of it, that is correct. I am not
13 aware of another state where the legislature
14 cannot reduce the Court's budget.
15 However, when you start
16 talking about budgets throughout this state,
17 there are as many ways of doing judicial
18 budgets as there are states. And let me give
19 you an example.
20 Well, also think about it
21 like this: In West Virginia, we have a
22 unified system of courts, so our budget,
23 again, covers all 55 counties, covers all of
24 our court system. That's not the way it is

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1 across the country.
 2 I mean, you have -- you have
 3 hybrids all over the place. In many states,
 4 you have a Supreme Court budget, and you have
 5 separate budgets for whatever their court
 6 systems may be below, whether they're
 7 district courts or circuit courts, justices
 8 of the peace or magistrates. Some are set by
 9 the legislature; some are set at a county
 10 level.
 11 So it's -- it's not apples to
 12 apples when you look at these circumstances.
 13 And let's also look at the Supreme Court.
 14 Even though we have that idea of not being
 15 able to reduce the number, we've already
 16 talked about approximately 90 percent of our
 17 funding is nondiscretionary.
 18 And when you start to look at
 19 some of the so-called discretionary money,
 20 really a lot of that is millions of dollars
 21 for a computer system and licensing for our
 22 uniform judicial application, and you wonder,
 23 is that really -- is that really
 24 discretionary also?

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1 So you know, this branch has
 2 the ultimate check and threat on the Judicial
 3 Branch of government because it's always
 4 looming, to have that Constitutional
 5 amendment. And what will probably happen is,
 6 if this passes, you will see the judicial
 7 budget increase.
 8 Why is that? Because you're
 9 going to get pressured constantly, because
 10 people are now going to come to you, and
 11 they're going to say, "We don't get enough
 12 money. The Supreme Court doesn't give us
 13 enough money for our family courtroom. And
 14 over here in Braxton County, we need another
 15 probation officer. And over here, we need to
 16 do this and we need to do that."
 17 But -- but I think we work
 18 very well together. If this Court ever came
 19 in here, we have a -- we've had a consistent
 20 budget, and if this Court ever came in here -
 21 say for example, next year - and said, "We
 22 want -- instead of \$139,000,000, we want
 23 \$180,000,000, and we're not gonna tell you
 24 why."

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1 Well, that may happen for one
 2 year, but that Constitutional amendment would
 3 pass rapidly. But that's never happened.
 4 FINANCE MINORITY CHAIR BOGGS:
 5 You mentioned the Kansas situation. Do you
 6 have any other examples of -- of maybe the
 7 pendulum swinging too far the other way other
 8 than Kansas?
 9 CHIEF JUSTICE LOUGHRY: Well,
 10 so I go to these chief justice conference
 11 meetings and you meet with chief justices
 12 from throughout the country, and you sit down
 13 and you have these conversations. And it's
 14 -- it's very telling when you have judges and
 15 justices making comments that they're afraid
 16 to rule on a case a certain way because
 17 they're scared to death that the legislature
 18 is going to cut their budget.
 19 So a lot of these -- a lot of
 20 these situations, they occur all the time;
 21 they just don't reach the newspapers in the
 22 same way that the Kansas situation did.
 23 FINANCE MINORITY CHAIR BOGGS:
 24 You mentioned -- you mentioned something

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1 about the modern budget amendment. I thought
 2 you said 1917?
 3 CHIEF JUSTICE LOUGHRY: There
 4 was a -- there was a 1917 amendment --
 5 FINANCE MINORITY CHAIR BOGGS:
 6 So, I'm -- I'm thinking the modern budget
 7 amendment being more like in 1960s --
 8 CHIEF JUSTICE LOUGHRY: Well
 9 --
 10 FINANCE MINORITY CHAIR BOGGS:
 11 -- or '70s.
 12 CHIEF JUSTICE LOUGHRY: Well,
 13 the 1917 budget amendment specifically
 14 provided this situation with regard to the
 15 judiciary's budget, the 1917.
 16 (Playing of tape was paused.)
 17 CHAIRMAN SHOTT: Let me just alert the
 18 Committee members. Apparently our estimate of time of
 19 this -- this testimony was -- we underestimated it a
 20 bit, but we've notified the Court, so don't worry about
 21 our 10:30 appointment.
 22 We'll go when we're complete with this
 23 testimony, and the Court is aware of it and is --
 24 that's not gonna create any problems.

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1 Go ahead and continue the tape --
2 (Tape continued being played as
3 follows:)
4 FINANCE MINORITY CHAIR BOGGS:
5 And the others just dealt with the -- the
6 most recent just dealt with the Executive
7 Branch versus the Board of Public Works
8 putting together a budget.
9 CHIEF JUSTICE LOUGHRY: Well,
10 and the 1917 amendment included other things
11 as well, is my understanding.
12 FINANCE MINORITY CHAIR BOGGS:
13 Just one final question, and this has nothing
14 to do with it, but just out of curiosity: On
15 the federal level, does Congress control the
16 budget for the U.S. Supreme Court?
17 CHIEF JUSTICE LOUGHRY: They
18 do control the budget.
19 FINANCE MINORITY CHAIR BOGGS:
20 Okay. All right. Thank you.
21 CHIEF JUSTICE LOUGHRY: And
22 -- and -- very good questions. And you heard
23 some of the comments that I read from Chief
24 Justice, Justice Roberts.

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1 FINANCE MINORITY CHAIR BOGGS:
2 Thank you.
3 CHIEF JUSTICE LOUGHRY: Thank
4 you very much.
5 FINANCE CHAIR NELSON: We
6 have a couple more and if I may ask just --
7 we'll get to the summary answers?
8 CHIEF JUSTICE LOUGHRY: I'll
9 work on that.
10 FINANCE CHAIR NELSON: Yes.
11 Delegate Gearheart, I'm sorry.
12 DELEGATE GEARHEART: Thank
13 you, Mr. Chairman.
14 And my questions are quick
15 and number oriented. Number one, you
16 indicated \$139,000,000 budget.
17 CHIEF JUSTICE LOUGHRY:
18 That's correct.
19 DELEGATE GEARHEART: The
20 budget document says 141. What is the
21 difference?
22 CHIEF JUSTICE LOUGHRY: The
23 difference is that we met in January and
24 reviewed our finances and we decided to drop

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1 that number \$2,000,000.
2 DELEGATE GEARHEART: So
3 where's the \$2,000,000 coming out of this?
4 Mr. Chairman, I'm sure you
5 had to go to that meeting.
6 FINANCE CHAIR NELSON: We --
7 we will follow up --
8 CHIEF JUSTICE LOUGHRY: Yes.
9 That will be gone. This -- this document --
10 my understanding is this document was not
11 even available until yesterday, I believe, so
12 --
13 DELEGATE GEARHEART: That's
14 the budget bill?
15 CHIEF JUSTICE LOUGHRY:
16 That's correct.
17 DELEGATE GEARHEART: That's
18 it. There's \$2,000,000 more than in --
19 Second question. Each of
20 your line items is set up as a reappropriated
21 account. You're kind to mention how much
22 carryover you had in '16 and '17, and between
23 those two years was 9.7 million dollars. I
24 assume we're going to have an amount carry

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1 over for this year.
2 My question is: Is how much
3 cash are you sitting on in total in
4 reappropriations?
5 CHIEF JUSTICE LOUGHRY:
6 The -- the reappropriated accounts, it's my
7 understanding that it is 8.5 million. So --
8 DELEGATE GEARHEART: Okay.
9 So what you're -- you're saying is that
10 amount you gave was the total that you have
11 accumulated, not just what each of those
12 years turned back. Is that fair --
13 CHIEF JUSTICE LOUGHRY: Well,
14 I'm not sure I understand the question, so
15 let me -- let's -- let me hear it -- let me
16 hear it again.
17 DELEGATE GEARHEART: Okay.
18 CHIEF JUSTICE LOUGHRY: And
19 what page are you on?
20 DELEGATE GEARHEART: I'm
21 looking at the budget bill. In each of your
22 accounts, your line items says
23 "Reappropriated." So your actual spend as
24 compared to the budget, those dollars are

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1 coming back to you.
 2 CHIEF JUSTICE LOUGHRY: Oh,
 3 that's correct. So we have a -- we have a --
 4 DELEGATE GEARHEART: The
 5 question is: How much total cash are you
 6 sitting on in reappropriated money?
 7 CHIEF JUSTICE LOUGHRY: Yeah,
 8 that -- my understanding -- because I don't
 9 want to -- I don't want to say something
 10 that's incorrect. My understanding is 8.5
 11 million dollars.
 12 DELEGATE GEARHEART: Okay, I
 13 gotcha. Very good.
 14 Last question -- and Delegate
 15 Walters came in late, and so I'm on his -- I
 16 assume he wasn't gonna ask, but you have a
 17 couple of special revenue accounts, Account
 18 No. 1757 and 1759, both of which had
 19 extremely light disbursements and very
 20 healthy influx and/or balances. Between the
 21 two of them, about 1.6 million dollars.
 22 Are we charging too much for
 23 the fees that are required here or is there
 24 money that should be available to be captured

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1 by the legislature for reappropriation?
 2 CHIEF JUSTICE LOUGHRY: Let
 3 me see if I can locate those. Yes, I have
 4 something on special -- so tell me which
 5 accounts one more time, Delegate.
 6 DELEGATE GEARHEART: 1757 and
 7 1759. And I apologize to Delegate Walters.
 8 I didn't think you were gonna make it.
 9 FINANCE CHAIR NELSON: If
 10 anybody's looking at the -- it's page 158.
 11 CHIEF JUSTICE LOUGHRY: Okay.
 12 In 1757, that is something called a Parental
 13 Education Fund. And what this is, is for
 14 people going through divorce, and they could
 15 be ordered to take certain classes.
 16 The 1759 is called a Parental
 17 Education and Mediation Fund. Parents are
 18 ordered to mediation for child custody
 19 issues.
 20 I mean, these aren't things
 21 -- these special revenue accounts are things
 22 created by the legislative body, as you're
 23 aware --
 24 DELEGATE GEARHEART: And I

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1 have appreciation for the function and
 2 purpose of the funds. My question, though,
 3 is that the amount of revenue in the funds
 4 and accumulating is -- well exceeds the
 5 expenditures to accomplish the purpose of the
 6 funds, which means that those --
 7 We're either charging too
 8 much, frankly, for what folks are doing, or
 9 those dollars need to be put into play for --
 10 for expenditures as opposed to sitting in a
 11 savings account.
 12 CHIEF JUSTICE LOUGHRY: I --
 13 the -- I have the 2017 current level numbers
 14 with me and I do not have the 2018 current
 15 levels, but the numbers I had in there were
 16 much smaller. But the -- I have \$200,000 and
 17 \$400,000.
 18 So you have \$135,000 --
 19 DELEGATE GEARHEART: No,
 20 it's --
 21 FINANCE CHAIRMAN NELSON: No,
 22 it's 244.
 23 DELEGATE GEARHEART: -- 245
 24 and --

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1 CHIEF JUSTICE LOUGHRY: Okay,
 2 245 and 1.4 million. Okay.
 3 DELEGATE GEARHEART: The 1.4
 4 --
 5 FINANCE CHAIR NELSON: If you
 6 can let him --
 7 CHIEF JUSTICE LOUGHRY: I'll
 8 answer --
 9 FINANCE CHAIR NELSON: Come
 10 let him know and then -- let the Chief know
 11 and then he --
 12 CHIEF JUSTICE LOUGHRY: Give
 13 me one second.
 14 DELEGATE GEARHEART: Is that
 15 the money that was wasted on -- (inaudible)
 16 CHIEF JUSTICE LOUGHRY: Oh,
 17 that's a wonderful question. There was money
 18 placed in our account - not by us, by mistake
 19 - and I believe that money was regional jail
 20 money, 1.4 million.
 21 So this money was placed into
 22 our account by mistake. It was then put back
 23 into the proper account. So it was not money
 24 that went to the judiciary.

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1 There are other special
2 accounts as well. We have an Access to
3 Justice -- something called Access to Justice
4 account. It's a little misleading. I kind
5 of wish you would rename that, because it's
6 not really access to justice.
7 That is something where all
8 the money collected in the fees for the
9 Supreme Court, that money goes directly to
10 Legal Aid.
11 FINANCE CHAIR NELSON:
12 Delegate Boggs, you asked what the -- yield?
13 DELEGATE BOGGS: Can we find
14 out what the account was that that went back
15 into?
16 CHIEF JUSTICE LOUGHRY: Yes,
17 I will have our finance -- I -- my office
18 will -- will provide that information to you
19 today.
20 DELEGATE BOGGS: That would
21 be good. And you know, I think it's
22 questions like this that other agencies that
23 come in and the transparency and the
24 discussion that goes on around not only

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1 special revenue line items, but also general
2 revenue line items and so -- yes, sir.
3 FINANCE CHAIR NELSON: Let me
4 see. Sorry. Delegate Bates.
5 MINORITY VICE CHAIR BATES:
6 Just real quick. You alluded to the word
7 "transparency" multiple times.
8 CHIEF JUSTICE LOUGHRY: Yes.
9 MINORITY VICE CHAIR BATES:
10 Sometimes when something becomes very
11 transparent, you can see right through it.
12 So what I'm looking for is: Where would I,
13 or a member of this legislature or a member
14 of the public, or member of the press, find
15 the detailed breakdown or analysis of your
16 actual expenditures from 2017 of \$134,000,000
17 that was spent by the judiciary.
18 Where would an individual go
19 to see where that money was spent --
20 CHIEF JUSTICE LOUGHRY: Well
21 --
22 MINORITY VICE CHAIR BATES:
23 -- or to find that?
24 CHIEF JUSTICE LOUGHRY: I

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1 think that's a good question; it's a fair
2 question. And one thing -- I'm not sure if
3 they announced it yet or not, but the -- the
4 auditor is rolling out a new web page -- I'm
5 not certain if that has occurred today or not
6 or whatever.
7 But we've worked with them
8 and asked them to feature us on the front
9 page so that people can jump right into the
10 Supreme Court and dig in and start to look at
11 things.
12 But some of our funding --
13 when you look at -- when you look at our
14 entire spending, so much of that spending is,
15 again, employee-driven.
16 MINORITY VICE CHAIR BATES:
17 So I'm sorry -- I didn't mean to interrupt
18 but we're on a time -- timeline here. So
19 where is the books? That's the question,
20 basically. If I had a \$134,000,000 business,
21 I would have a set of books.
22 So where are the books?
23 Where do I go to find the books? Where do I
24 go, whether as a member of this legislature,

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1 the press, or the public go to see the books
2 of the Supreme Court like the books of any
3 other governmental agency?
4 Where do I find those? Where
5 do I see them? Or do they exist?
6 CHIEF JUSTICE LOUGHRY: Well,
7 what you have today is you have the
8 information that has always been provided to
9 this body. But I believe that the Supreme
10 Court absolutely must provide more
11 information.
12 MINORITY VICE CHAIR BATES:
13 So can you -- can you provide a commitment to
14 this Committee, the members of this Committee
15 of the legislature, that you will provide us
16 with a copy of those expenditures for 2017?
17 CHIEF JUSTICE LOUGHRY:
18 That's fine with me.
19 MINORITY VICE CHAIR BATES:
20 So that we can consider your -- your request?
21 So -- I think we have that responsibility.
22 CHIEF JUSTICE LOUGHRY: Okay.
23 MINORITY VICE CHAIR BATES:
24 Thank you.

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1 CHIEF JUSTICE LOUGHRY: Thank
2 you.
3 MINORITY VICE CHAIR BATES:
4 Thank you, Mr. Chair.
5 FINANCE CHAIR NELSON: Yes,
6 Delegate Hartman?
7 DELEGATE HARTMAN: Thank you,
8 Mr. Chairman. And thank you --
9 FINANCE CHAIR NELSON: We've
10 just got a couple quick questions, if that's
11 okay, for everybody else.
12 CHIEF JUSTICE LOUGHRY: Okay.
13 FINANCE CHAIR NELSON: Go
14 ahead. I'm sorry.
15 DELEGATE HARTMAN: Let's talk
16 about the drug courts. I mean, does each
17 circuit have a drug court? And is that
18 mandated that they have one and maybe one of
19 the most important expenditures that you
20 could make today?
21 CHIEF JUSTICE LOUGHRY: The
22 -- so this is your -- I will speak a little
23 faster. So as you're well aware, this Court
24 mandated that drug courts occur. However,

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1 within that same legislation, it says the
2 continuance or discontinuance is up to the
3 Court.
4 However, we have drug courts,
5 I believe, in every circuit -- if -- I
6 questioned one circuit because there was an
7 issue with regard to Day Report Centers, but
8 there's nothing in our budget that is
9 preventing -- in fact, we just approved the
10 start of another drug court this week. Won't
11 mention where until we finalize our
12 administrative minutes.
13 But we're committed to this
14 occurring. And people are able to change
15 their lives. I mean, I've heard comments
16 saying, "We should get control of the budget,
17 because we want to put more money in the drug
18 courts."
19 But the thing about that is,
20 there isn't anyone that I'm aware of who has
21 not been able to participate in a drug court
22 due to court funding. So they are providing
23 significant resource to the State, and we've
24 been committed to those.

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1 DELEGATE HARTMAN: Thank you.
2 CHIEF JUSTICE LOUGHRY: Thank
3 you.
4 FINANCE CHAIR NELSON:
5 Delegate Walters, if we could have a very --
6 DELEGATE WALTERS: We're
7 going to do it quick, I promise you.
8 FINANCE CHAIR NELSON: Okay.
9 DELEGATE WALTERS: We're --
10 within the Department of Administration,
11 we're rewriting the Purchasing Division's
12 function. My question is simply this, and it
13 will bounce off with the -- what Delegate
14 Cowles asked.
15 You are exempt under
16 Purchasing, currently. That bill is going to
17 say that you will have the ability to work
18 with the Department of Administration to
19 establish rules and regulations. And then
20 after a certain period of time, all agencies
21 will come back under Purchasing, but they
22 will all have input.
23 Are you okay with -- with
24 working with the Department of Administration

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1 to reformulate purchasing?
2 CHIEF JUSTICE LOUGHRY: Part
3 of it -- so you said, "but they will all have
4 input." What do you mean -- what do you mean
5 by that?
6 DELEGATE WALTERS: Well,
7 during the rule-making process - and probably
8 the Chairman will make you not answer this
9 question - there's open hearings, there's
10 comment periods, you will have the ability to
11 discuss the rules as they would apply to you,
12 and then those rules have to come back to the
13 legislature to be approved.
14 And I'm -- my question simply
15 is this: If we rewrite the Purchasing
16 Division, re -- repackage it and give you the
17 opportunity to work in establishing the rules
18 and regulations as it applies to you, will
19 you be willing to be under Purchasing?
20 CHIEF JUSTICE LOUGHRY: You
21 know, I think that's a good question, and I
22 think that's a fair question, and I think if
23 you tie -- if you tie that question with
24 Delegate Cowles' question, that also is

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1 another way where you're saying we can have
2 more accountability and transparency of the
3 Judicial Branch.
4 I have not discussed that
5 issue with the entire Court; however,
6 personally, it's not -- it's not something
7 that I would be opposed to.
8 DELEGATE WALTERS: Thank you.
9 FINANCE CHAIRMAN
10 NELSON: Okay, so two last quick ones,
11 please. I'm going way over on this one. But
12 Delegate Frich.
13 DELEGATE FRICH: Thank you,
14 Mr. Chairman. Did you mention that -- a
15 different way of funding day courts was part
16 of your streamlining or savings? And was
17 that due to the 1.4 million dollar grant, or
18 something else?
19 CHIEF JUSTICE LOUGHRY: No,
20 it had nothing to do with the 1.4 million
21 dollar grant. What happened was, again, in
22 started to work with putting procedures and
23 protocols in place -- again, we looked at
24 everything.

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1 I mean, we got into mental
2 hygiene fees and guardian ad litem fees and
3 our probation division and sexual offender
4 probation officers, and we started looking at
5 these Day Report Centers, and we worked with
6 them to come up with a per diem to provide
7 the services that they needed to provide to
8 us versus just invoicing back and forth
9 without any accountability and ability to
10 plan.
11 So we did that, and we now
12 have, one, more transparency, but we're able
13 to make those -- we're able to plan better.
14 So we're providing the same
15 services, and we're doing so for less money.
16 DELEGATE FRICH: Did you make
17 drug court funding changes?
18 CHIEF JUSTICE LOUGHRY: Well,
19 that's what I was talking --
20 DELEGATE FRICH: So that was
21 part of the day report, okay.
22 CHIEF JUSTICE LOUGHRY: With
23 the drug courts, the Court was spending - I
24 believe last year or the year before - about

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1 2.6 million dollars just for drug tests. And
2 there's no way of knowing when you do this
3 how many people are going to be taking drug
4 tests. I mean, there's a lot of
5 unpredictability when you look at the Court's
6 budget.
7 So we worked with them, we
8 came up with the -- a plan to where we pay
9 them a per diem to provide these services,
10 and within the very first quarter after doing
11 this, we realized 100 plus thousand dollars
12 in savings.
13 Now, in addition to that,
14 with the various providers, we are having
15 them work very hard to be able to get
16 Medicaid reimbursement, and we think that
17 will help us and also help them.
18 DELEGATE FRICH: All right.
19 And real quick, do you have any comments or
20 updates on the real estate rent dispute in
21 Monongalia County? I know I shouldn't make
22 it local, but you've discussed it in the
23 past.
24 CHIEF JUSTICE LOUGHRY: No, I

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1 do not have any comments on that today.
2 DELEGATE FRICH: Okay, thank
3 you.
4 CHIEF JUSTICE LOUGHRY: Thank
5 you, Delegate.
6 FINANCE CHAIR NELSON:
7 Delegate Rowe? Last one.
8 DELEGATE ROWE: Thank you
9 very much for coming, sir.
10 I agree -- I share your
11 concern about control of one branch by
12 another - I think that's something we should
13 all resist - but I do also appreciate your
14 concerns about transparency, and I'm
15 wondering from several questions --
16 I hear from you that the
17 Court would be willing to look at the
18 procedures that are used in other branches of
19 State government and the reporting
20 requirements, that the Court would look at
21 those and perhaps adopt those as its own in
22 order to make sure that you have the
23 transparency that citizens can maybe go
24 online and find out what their expenditures

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1 are and where they're going.
 2 And for my purposes, I would
 3 be happy to know what category of spending
 4 there is as to the programs that you're
 5 supporting.
 6 But -- and is that -- is that
 7 a fair statement, that the Court is looking
 8 at its procedures and reporting requirements
 9 to -- to do that.
 10 CHIEF JUSTICE LOUGHRY: Oh,
 11 there's no question about it. I mean, we're
 12 looking at everything. And as we continue,
 13 we're gonna be able to get so far down into
 14 the weeds throughout this next year --
 15 And I think people deserve
 16 that. You know, I said to somebody, I said,
 17 "I'm looking forward to going over and
 18 talking with Finance."
 19 And they laughed and they
 20 said, "No, you're not."
 21 I said, "No, I really am, I
 22 really am." I'm proud of the work that we've
 23 done in the last year.
 24 Do I enjoy these stories and

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1 the things that have occurred? No. But I'm
 2 not going to stand before you and say that
 3 it's improper to ask these questions and for
 4 people to be outraged by such spending,
 5 because they should be outraged by it.
 6 DELEGATE ROWE: Thank you.
 7 Thank you.
 8 CHIEF JUSTICE LOUGHRY: Thank
 9 you.
 10 DELEGATE ROWE: Thank you,
 11 Mr. Chairman.
 12 FINANCE CHAIR NELSON: Well,
 13 again, Chief Justice, we greatly appreciate
 14 you coming over and giving the report. I
 15 appreciate the moves that you and the Court
 16 have made to become more efficient, but this
 17 body's --
 18 (Tape was ended.)
 19 CHAIRMAN SHOTT: I think that concludes
 20 Justice Loughry's testimony before Finance. A few
 21 comments about our visit to the Supreme Court. Those
 22 of you know that we requested that visit as a result of
 23 a request that was made at the conclusion of, I think,
 24 our meeting last week, our last meeting.

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1 The Court has agreed -- it was a
 2 request made on behalf of the members of our Committee
 3 who wished to actually view the areas in the -- in the
 4 Supreme Court that were affected by the renovations,
 5 and we did some research to be sure that we're not
 6 overstepping our bounds and violating the Open Meetings
 7 law, and if you look at that section of the Code, under
 8 6-9A-2, there are a series of definitions.
 9 No. (5) defines the meeting that is
 10 subject to the Open Meetings Act, and there are some
 11 exceptions. The second exception is -- reads as
 12 follows: "Any on-site inspection of any project or
 13 program."
 14 And because there's been a number of
 15 concerns raised by the renovations that occurred during
 16 the period that coincided with the reduction in the
 17 reserve fund in the Court from 29 million plus or minus
 18 to less than \$400,000 over about four or five years, I
 19 think it is relevant that we view those renovations.
 20 And that will be the scope of what
 21 we're doing. The Court has asked us for efficiency,
 22 that we divide into two groups, instead of one large
 23 group, assuming that there's gonna be more than ten or
 24 twelve that want to go.

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1 This will not be a continuation of the
 2 meeting; it will be a separate tour that's been
 3 arranged for those of you who want to go.
 4 So if you don't want to go, you don't
 5 have to go. It won't -- won't matter. We'll divide
 6 just alphabetically, I would think would be the
 7 simplest thing --
 8 MINORITY VICE CHAIR FLUHARTY: Point of
 9 inquiry?
 10 CHAIRMAN SHOTT: Yes, what is your
 11 point of inquiry?
 12 MINORITY VICE CHAIR FLUHARTY: As to
 13 the -- could I get miked, my mic -- as to the
 14 procedure, you just mentioned Section -- I believe it's
 15 Section 6-9A-2(5)(B) which is the exception that is
 16 being cited by the Supreme Court. Now, that's being
 17 cited by them, not by our Committee, correct? Are you
 18 testifying --
 19 CHAIRMAN SHOTT: No, we are relying on
 20 that exception. They haven't raised the issue.
 21 MINORITY VICE CHAIR FLUHARTY: So it is
 22 the ruling of the Chair that we are -- we are
 23 inspecting a project or program? Could you just
 24 describe to me what the project or program is under

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1 that exception?
2 CHAIRMAN SHOTT: Yes. The renovations
3 that occurred during the period of the reduction in the
4 reserve fund of the Court.
5 MINORITY VICE CHAIR FLUHARTY: Well, I
6 believe the project or program under that Code is
7 citing work product of an agency. I don't believe that
8 renovations qualify as some sort of work product of an
9 agency.
10 And it's funny that you brought up the
11 Open Meetings potential violation. As you know, any
12 member who knowingly goes over and now I heard that
13 we're going to separate into two groups, which I
14 believe is an attempt to - by the Court - to say that
15 we're not going to meet the quorum requirement of an
16 Open Meetings law violation.
17 If we would do so, it would be a
18 misdemeanor under the law. If you knowingly violate an
19 Open Meetings law, that is a misdemeanor under law
20 which could be brought against every member of this
21 body.
22 CHAIRMAN SHOTT: Well, that's your
23 interpretation of the -- of the Act. We've conferred
24 with other counsel, at least three lawyers, about the

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1 issue. They're all of the opinion - unanimously - that
2 this provision would exempt this from a -- a meeting.
3 However, it's voluntary.
4 MINORITY VICE CHAIR FLUHARTY: Who did
5 you confer with?
6 CHAIRMAN SHOTT: Any -- any member of
7 the Committee who does not want to go does not have to
8 go. That's -- and so if you -- if you're concerned
9 about that, I would suggest to you if you -- you not
10 go. And anyone else who is concerned about that --
11 MINORITY VICE CHAIR FLUHARTY: Who did
12 you confer with in reaching that understanding?
13 CHAIRMAN SHOTT: Well, we conferred
14 with the chief of staff here; we conferred with our own
15 counsel; and we conferred with the vice chair of our --
16 of our Committee, is also an attorney. So we have at
17 least --
18 MINORITY VICE CHAIR FLUHARTY: Did you
19 discuss --
20 CHAIRMAN SHOTT: -- at least four
21 attorneys that have reached the same opinion.
22 MINORITY VICE CHAIR FLUHARTY: Did you
23 discuss it with the Supreme Court? Because it's my
24 understanding that the Supreme Court released a

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1 statement saying that these exceptions apply, not that
2 the Committee did.
3 CHAIRMAN SHOTT: I did not discuss it
4 with the Supreme Court, and I did not see the release
5 that you're referring to.
6 MINORITY VICE CHAIR FLUHARTY: Is it
7 your opinion that by going over and visiting the
8 Supreme Court that it's not part of our deliberative
9 process in these impeachment proceedings?
10 CHAIRMAN SHOTT: It's -- it's not part
11 -- no, there will be no decisions made, there will be
12 no ma -- motions taken up, there won't be any testimony
13 taken. It's just a simple viewing that's been
14 requested by a member of your caucus, and that's what
15 we'll -- we --
16 MINORITY VICE CHAIR FLUHARTY: But the
17 information received by going over and visiting the
18 Supreme Court would certainly play into the
19 intellectual capacity of this Committee to reach a
20 decision.
21 Notes can be taken -- I don't believe
22 that you've restricted any video to this point --
23 And we can certainly --
24 CHAIRMAN SHOTT: Well, let me stop you

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1 there.
2 MINORITY VICE CHAIR FLUHARTY: --
3 receive that information --
4 CHAIRMAN-SHOTT: They have said there
5 won't be any photography other than what they're
6 willing to work with our legislative photographer to
7 take any photos that the Committee wants.
8 MINORITY VICE CHAIR FLUHARTY: So
9 members of the body are not allowed to take photos --
10 CHAIRMAN SHOTT: That's correct.
11 MINORITY VICE CHAIR FLUHARTY: -- of --
12 of the furnishings and renovations paid for by the
13 taxpayers of West Virginia?
14 CHAIRMAN SHOTT: The -- the decision of
15 the Supreme Court is that they will take photos using
16 our legislative photographer, but they will not allow
17 individual photos taken by members.
18 MINORITY VICE CHAIR FLUHARTY: So this
19 is a decision by the Supreme Court, not a decision by
20 this Committee.
21 CHAIRMAN SHOTT: That's correct.
22 MINORITY VICE CHAIR FLUHARTY: So we
23 are allowing them to dictate our open meeting?
24 CHAIRMAN SHOTT: Once again, this is a

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1 voluntary visit arranged -- just like anybody else
 2 could ask for a visit to the Supreme Court. We've
 3 asked, as a group, for members who wish to visit to be
 4 permitted to visit. It's a public building, but it's
 5 subject to certain controls, as we've had testimony
 6 that would indicate, for various reasons, and anyone
 7 here could make an individual request, if you wish, to
 8 visit that building, but we have made a request based
 9 on a member's -- a request by a member of our Committee
 10 that those who want to visit the Supreme Court and
 11 those areas of the Supreme Court affected by those
 12 projects will be permitted to do so this morning, if
 13 we're finished with this discussion in time to do so.
 14 MINORITY VICE CHAIR FLUHARTY: Well,
 15 I'll wrap up here shortly. I understand time is of the
 16 essence. But it hasn't been for the past few days.
 17 Now, you mention this project or program. My reading
 18 and interpretation of this law is that it is an ongoing
 19 project or program, the renovations to the Supreme
 20 Court, that is a completed project.
 21 Or completed program, whatever
 22 definition you want to use. But it is already done.
 23 I don't understand how we are violating this provision
 24 if those renovations have already been to completion.

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1 CHAIRMAN SHOTT: And I do not read the
 2 word "completed" anywhere in that sentence. Do you see
 3 the word "completed" in there?
 4 MINORITY VICE CHAIR FLUHARTY: It is
 5 not. I think it's easily interpreted that way.
 6 CHAIRMAN SHOTT: Well, --
 7 MINORITY VICE CHAIR FLUHARTY: Neither
 8 is "project" defined; neither is "program" defined,
 9 based upon my reading of the Code.
 10 CHAIRMAN SHOTT: If the legislature had
 11 wished to limit that to completed projects, it could
 12 have put the word "completed" in that sentence. It is
 13 not there.
 14 MINORITY VICE CHAIR FLUHARTY: It could
 15 also have defined "project or program" which it did
 16 not.
 17 CHAIRMAN SHOTT: It could have. It
 18 didn't.
 19 MINORITY VICE CHAIR FLUHARTY: Okay.
 20 So I would move, Mr. Chairman -- we don't have -- first
 21 off, let me ask: We don't have an actual ruling by any
 22 Court saying that this is not an Open Meetings
 23 violation; correct?
 24 CHAIRMAN SHOTT: That is correct.

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1 MINORITY VICE CHAIR FLUHARTY: We only
 2 have opinions by attorneys that you consulted.
 3 CHAIRMAN SHOTT: Correct.
 4 MINORITY VICE CHAIR FLUHARTY: And we
 5 have an opinion by the Supreme Court that this
 6 exception applies.
 7 CHAIRMAN SHOTT: I'll take your word
 8 for it. I haven't seen that opinion.
 9 MINORITY VICE CHAIR FLUHARTY: Okay.
 10 Well, I would move that -- we know that we're going to
 11 be here next week. I would move that we delay visiting
 12 the Supreme Court because of the potential Open
 13 Meetings violation and the crimes that could be
 14 committed by doing so by members of this body; or in
 15 the at -- or in the alternative, we choose - which we
 16 are allowed to do within our confines of the rules of
 17 the Committee - that we take the media with us to the
 18 Supreme Court and put it on the Supreme Court to say
 19 that they're not allowed to be there and not have the
 20 decision be made by this Committee.
 21 CHAIRMAN SHOTT: And we'll -- we'll
 22 entertain your motion. Is there a second to the
 23 gentleman's motion?
 24 There is a second.

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1 Is there discussion? Is there any
 2 discussion?
 3 Gentlelady from the 52nd.
 4 MINORITY CHAIR FLEISCHAUER: 51st.
 5 CHAIRMAN SHOTT: 51st, pardon me.
 6 MINORITY CHAIR FLEISCHAUER: Thank you,
 7 Mr. Chairman.
 8 I do -- I think there's a balancing
 9 here. I think that most of us want to proceed quickly,
 10 but we already have a truncated day here. I don't
 11 think there's any harm of delaying and double-checking.
 12 I'm not sure that it would -- and this is something we
 13 could probably fit in.
 14 They only are having court two days a
 15 week. I personally am available Monday, Tuesday and
 16 Wednesday next week and wouldn't mind coming in on a --
 17 on another day if it's consecutive if we can work that
 18 out. I don't -- so I support the gentleman's motion.
 19 I don't see any reason not to be careful about this and
 20 make sure we're not trampling on the First Amendment
 21 and the rights of the press to accompany us.
 22 CHAIRMAN SHOTT: Yes. Del -- Delegate
 23 Summers?
 24 DELEGATE SUMMERS: Chairman, did I

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1 misunderstand the motion? I thought the motion was not
2 -- I mean, I thought he made that suggestion, but then
3 he made a motion that we go upstairs with the press and
4 have them deny their entry. Did I -- could he restate
5 the motion?
6 CHAIRMAN SHOTT: The motion is somewhat
7 contorted. The motion is either we -- we delay or we
8 go armed with the press.
9 MINORITY VICE CHAIR FLUHARTY: I made
10 it clear that my concern is that we'd be committing an
11 Open Meetings violation. So I believe the motion was
12 pretty clear in that we should delay it. We're gonna
13 be here next week. We don't believe it's gonna take a
14 lot of time.
15 We could come in at 8:00 a.m., if
16 necessary, if we want to start at 9:00 a.m. here, just
17 because I would like to have clarification that we're
18 not committing an Open Meetings violation.
19 My motion was clear that we would --
20 should delay it, first, or in the alternative, bring
21 the media with us, as I believe we have the discretion
22 to do so. So if the media is with us, it's clearly not
23 an Open Meetings violation, so then we're bypassing the
24 possibility that it is.

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1 If we don't have the media with us and
2 we go over there and there's a quorum present - which
3 there would be, even if we go in two separate groups -
4 then I believe it could be an Open Meetings violation.
5 So obviously, step one, delay until we
6 have clarification or an agreement is reached to bring
7 the media; and step two, if that delay does not take
8 place, in the alternative take the media with us.
9 MINORITY CHAIR FLEISCHAUER: So two --
10 two motions?
11 MINORITY VICE CHAIR FLUHARTY: Well,
12 you could separate them out if you'd like, but it's
13 just delay, or in the alternative, take the motion
14 {sic} with us.
15 MINORITY CHAIR FLEISCHAUER: Okay.
16 MINORITY VICE CHAIR FLUHARTY: We could
17 -- we could separate them out if you'd like.
18 CHAIRMAN SHOTT: So just to clarify,
19 the delay is to establish in what form, whether or not
20 we're violating --
21 MINORITY VICE CHAIR FLUHARTY: I'll
22 make a motion to delay.
23 CHAIRMAN SHOTT: All right.
24 MINORITY VICE CHAIR FLUHARTY: And then

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1 if that fails --
2 CHAIRMAN SHOTT: What are you asking us
3 to do if that mo -- I don't have a problem with that,
4 but if that motion passes, what are you asking us to do
5 that would avoid this same conversation coming up again
6 next week if we -- if our -- if our request is granted
7 and we schedule a second -- or another tour?
8 MINORITY VICE CHAIR FLUHARTY: Well, I
9 believe, Mr. Chairman, that the media would be able to
10 play a role in trying to reach an agreement with the
11 Supreme Court and this Committee in saying that, okay,
12 select individuals may be able to participate.
13 And I believe we have the power as a
14 Committee -- we're allowed to say, "Okay, media, you
15 sit in the back row, you sit here." In the committee
16 process, we're allowed to dictate that.
17 This is part of the committee process.
18 This is a deliberative process in trying to reach an
19 agreement. We're allowed to dictate to the media as
20 well in the confines of that subject material.
21 In other words, we could say certain
22 media members are allowed to accompany us to the
23 Supreme Court. That's my understanding of the law.
24 CHAIRMAN SHOTT: Okay, I think I

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1 understand your point.
2 Delegate -- yes.
3 -- whose name escapes me at the moment.
4 Robinson -- Delegate Robinson. I
5 should never forget that one. Go ahead.
6 DELEGATE ROBINSON: How could you --
7 Mr. Chairman, what -- could you just clarify the
8 section that you're speaking of about projects and --
9 projects and -- what are we able to look at without it
10 being a Committee meeting?
11 CHAIRMAN SHOTT: Yes. The Code Section
12 is Section 6-9A-2, the definitional section, Subsection
13 (5) that defines the word "meeting," and the exception
14 that we believe would apply would be Subsection (B),
15 "any onsite inspection of any project or program."
16 DELEGATE ROBINSON: Mr. Chairman, is
17 this tour or visit as the result of my request last
18 Friday?
19 CHAIRMAN SHOTT: It is.
20 DELEGATE ROBINSON: Mr. Chairman, I
21 believe my request was to go look for framing in
22 certain items that were hung or not hung or removed
23 that weren't a part of renovation; it was just to look
24 for items.

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1 So I don't know if we're actually
2 looking at a project. It's actually just, we're
3 looking for property that may have been converted to
4 personal property.
5 CHAIRMAN SHOTT: My understanding of
6 your request was that the office in which this alleged
7 photos or framing exists is one of those that were
8 affected by the renovations.
9 And your request was the trigger for
10 this, but there were other individuals who, when you
11 made your request, indicated other areas that they
12 would like to see. So we asked for more exposure than
13 just to pho -- the pictures.
14 DELEGATE ROBINSON: Okay, Mr. Chairman.
15 I'd also ask for the ayes and nays, please.
16 CHAIRMAN SHOTT: Okay. We have --
17 Yes, Delegate Foster.
18 DELEGATE FOSTER: On the motion, the
19 motion's just to delay the meeting, correct?
20 CHAIRMAN SHOTT: That's correct.
21 DELEGATE FOSTER: And on this delay, I
22 would also ask that if we do delay -- if this motion is
23 successful, that we explore the fact of whether the
24 press should be allowed or not.

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1 I think that is something that's a very
2 important question, given that it is basic public
3 dollars that has been expended.
4 CHAIRMAN SHOTT: It's my understanding
5 that the press did make a request, but it hasn't been
6 acted on yet. So perhaps a delay will give the Court
7 time to deal with that. So may not be a bad idea. And
8 if view of the hour, we -- it may be more -- less
9 convenient for us to go now than it was before. So
10 whatever the Committee wishes to do. I'm not gonna
11 take a strong position one way or the other.
12 DELEGATE FOSTER: All right. Thank
13 you.
14 CHAIRMAN SHOTT: This was basically an
15 accommodation.
16 Delegate Moore?
17 DELEGATE MOORE: Thank you,
18 Mr. Chairman.
19 I'd certainly support the gentleman's
20 motion, particularly in regards to what you just
21 touched on. I think that we want to accommodate,
22 certainly, members of the press, given how important
23 this issue is that we're looking at, and you know,
24 let's not rush this and get into a situation where the

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1 First Amendment is not being fully recognized here, and
2 so I think what -- I think what's probably prudent is
3 to - as the gentleman's motion on the table right now -
4 is to delay and ensure that the media does have some
5 level of access and giving us more time to do so.
6 I think this perhaps might be a little
7 rushed at this point. Thank you.
8 CHAIRMAN SHOTT: Further discussion?
9 Delegate Lane.
10 DELEGATE LANE: Well, I'm going to vote
11 no on the motion. I'm a little annoyed that we are
12 having a delay motion from members of our Committee who
13 have been trying to get this done before August the
14 14th, and has been complaining about all efforts to
15 delay and stall, and I think that we have heard our
16 chairman say that it is not a violation of the Open
17 Meetings law.
18 I've been looking forward to this site
19 visit for a couple days, and I think that today is a
20 good day to do it, and we can go ahead and get this
21 over with. Thank you.
22 CHAIRMAN SHOTT: Further discussion?
23 Delegate Fleischauer, followed by Delegate Fast and
24 then Delegate Overington.

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1 MINORITY CHAIR FLEISCHAUER: Thank you,
2 Mr. Chairman. I do agree with the lady from Kanawha
3 that it is -- we have been asking to proceed. But I
4 think there are a couple of things that militate
5 against this one decision. One is, it's gonna subject
6 the legislature to a lawsuit.
7 There will be the -- the Court -- the
8 media will file a lawsuit, and I don't -- I don't think
9 this is worthy of a lawsuit and worthy of the time of
10 our staff. I also think that this is analogous to
11 inspection that is done during a trial, when they go
12 see the scene of the crime, and this is -- this is like
13 a trial.
14 We are trying impeachment, so I think
15 that we have been open to the media and that we should
16 continue to do that. So because we're not certain -
17 we're on uncharted territory here - I think we should
18 just be careful.
19 Oh, and the third reason is, I think
20 it's kind of strange that we would allow our
21 legislative photographer, but we wouldn't allow the
22 media in. And also that we wouldn't allow the members
23 to take pictures.
24 So I support the gentleman's motion. I

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1 realize there are arguments both ways, but I think it
2 makes sense to delay.

3 CHAIRMAN SHOTT: Delegate Capito,
4 followed by Delegate Fast, and Delegate Overington.

5 DELEGATE CAPITO: Thank you,
6 Mr. Chairman. I, too, support the gentleman's motion
7 and would encourage other members of the Committee to
8 do so. We are here looking -- in the context of what
9 we're doing here, we're talking about transparency,
10 which is tremendously important in restoring the
11 confidence that the citizens of West Virginia not only
12 have in the judicial body, but the government of the
13 State, you know, which we are a part of.

14 So again, I'll support the gentleman's
15 motion and would encourage the body to do the same.

16 CHAIRMAN SHOTT: Delegate Fast?
17 DELEGATE FAST: Thank you,
18 Mr. Chairman. Given that this meeting has been
19 scheduled now for quite some time, I do have a
20 question. Are there any prohibitions for members of
21 the media or members of the public, for all that
22 matters, to contact the Supreme Court at any time and
23 request a tour of the facility?
24 Or does the Supreme Court have a

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1 standing rule that those persons are not allowed in
2 ever?

3 CHAIRMAN SHOTT: I'll answer to the
4 best of my understanding. I think any member of the
5 public could request the opportunity, but I think
6 subject to security issues, as well as confidentiality
7 issues regarding the matters that are before the Court,
8 I think the Court would have the discretion to control
9 the number of people and that -- the degree of access.

10 But I think that -- I'm not aware of
11 any prohibition against someone requesting it and being
12 allowed access subject to, you know, reasonable
13 limitations. That's my understanding. I don't know if
14 -- I haven't researched that issue.

15 I will say this to the Committee: It
16 certainly wasn't our intention to -- to expose any
17 member of the Committee to any potential misdemeanor
18 offenses. It is our opinion we could do this subject
19 to that ex -- based on that exception, but if there's
20 -- if there is significant concern, I personally have
21 no problem with the delay and trying to resolve these
22 issues, and certainly have no problem with the -- with
23 the press resolving its issue with the Court in the
24 time frame that would be allowed between now and next

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1 week.

2 So -- we were trying to expedite it.
3 We had some time left on our schedule today, but I
4 don't think it's a matter that's worthy of splitting
5 the Committee. We've managed to work really well
6 together so far, so --

7 However you wish to vote on this, do --
8 just vote the way your conscience directs you.
9 Delegate Overington.

10 DELEGATE OVERINGTON: Thank you,
11 Mr. Chairman. First of all, if this is delayed, I
12 would request that we not have a separate meeting
13 Monday, Tuesday or Wednesday apart from our
14 regularly-scheduled meetings just because some of us
15 have five-hour drives, ten hours in round trips,
16 whether it's a five or four or three hour drive or some
17 other time frame.

18 Do we know if the media is included,
19 there would be additional restrictions on where we
20 could go? I would think that would be a consideration.
21 It's nice if the media could attend, but I would also
22 wonder whether the media could make its own separate
23 request and -- apart from ours, that -- and I would be
24 a little concerned that if the media is present, it's a

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1 great feature, but at the same time, the Court may put
2 additional restrictions on where we could go, which
3 means we may not be able to get the full scope of the
4 renovations and the changes that were made at the
5 Supreme Court.

6 CHAIRMAN SHOTT: I understand --
7 DELEGATE OVERINGTON: Thank you,
8 Mr. Chairman.

9 CHAIRMAN SHOTT: -- your concern. I
10 can't speak for the Court, so I don't know whether
11 there would be any additional restrictions or not. But
12 that's something that could be worked out with the
13 media and the Court -- Court personnel.

14 Any other discussion? Delegate Miller?
15 DELEGATE MILLER: Thank you,
16 Mr. Chairman.

17 I would support the gentleman's
18 amendment. I find it ironic -- well, before I get to
19 that, in light of not being an attorney and the
20 concerns of Open Meeting -- potential Open Meeting
21 violations, I would advocate that we proceed with
22 caution on this.

23 Rather than make a mistake, we need to
24 be sure as to what we are doing. But as far as having

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1 access -- and I'm not necessarily advocating for the
2 media itself or -- I don't think this is an argument
3 just to allow the media to come with us. But I find it
4 ironic that back during some of the visits that we have
5 made in the off session in consideration of potential
6 legislation dealing with our corrections system that
7 ultimately passed, that members of the media were
8 actually allowed to go with us into our State's maximum
9 security prison and be on the front line with us.
10 They didn't take cameras or anything
11 like that, but they were able to go see for themselves.
12 They were able to accompany us into the maximum
13 security prison, but they're not able to go along into
14 the public's domain of public-owned facility here in
15 the Capitol of the State of West Virginia. So I find
16 that ironic.
17 But I would support the gentleman's
18 motion. Thank you.
19 CHAIRMAN SHOTT: Further discussion?
20 Delegate Pushkin.
21 DELEGATE PUSHKIN: Thank you,
22 Mr. Chairman. While I agree with the sentiments from
23 the gentelady from the 35th, said that she'd been
24 waiting to go on this little excursion for a while, so

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1 have all of us. And I've also been saying that we need
2 to speed up these proceedings.
3 The -- they have been, you know, moving
4 quite slowly so far. However, do I believe that we're
5 gonna uncover any new and enlightening evidence from
6 taking a walk-through that has been arranged by the
7 Supreme Court? I find that -- I find that highly
8 unlikely, especially since the gentleman from the 36th
9 made this request on Friday because he was specifically
10 interested in knowing if some items that were framed,
11 pictures that were framed and paid for by the citizens
12 and, you know, the taxpayers of West Virginia, if they
13 were still in the building.
14 Since then, there has been ample time
15 to either remove those items or put them back in the
16 office that we wanted to -- to look at. So while I
17 feel that yes, time is of the essence and I've -- and
18 I've wanted to get these proceedings moving more
19 quickly, I think what's more important is the First
20 Amendment of the United States, the Constitution of the
21 United States of America, and I -- I'm less concerned
22 about the Open Meetings part as I am that I -- I
23 personally will not go over there without the media.
24 That -- this building belongs to the

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1 people of West Virginia. Those offices do not belong
2 to the justices; they belong to the people of West
3 Virginia. When those justices leave, somebody else
4 will take that office.
5 So the people deserve to see that
6 ornate floor; they deserve to see the couch, and the
7 media has a right to be there. So I'll support the
8 motion and hopefully we can work something out that
9 will allow the freedom of the press to enter the
10 building owned by the people of West Virginia.
11 CHAIRMAN SHOTT: Further -- excuse me.
12 Further discussion? Further discussion? The yeas and
13 the nays have been demanded. Is the demand sustained?
14 Demand is sustained. The clerk will call the roll.
15 If you're in favor of the gentleman's
16 motion, you'll say "aye" or "yea"; if you're opposed
17 "no" or "nay."
18 Please call the roll.
19 THE CLERK: Delegate Hanshaw.
20 Delegate Capito.
21 DELEGATE CAPITO: Yes.
22 THE CLERK: Delegate Queen.
23 DELEGATE QUEEN: Yes.
24 THE CLERK: Delegate Zatezalo.

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1 DELEGATE ZATEZALO: Yes.
2 THE CLERK: Delegate Lovejoy.
3 Delegate Lane.
4 DELEGATE LANE: No.
5 THE CLERK: Delegate Canestraro.
6 DELEGATE CANESTRARO: Yes.
7 THE CLERK: Delegate Hollen.
8 DELEGATE HOLLEN: Yea.
9 THE CLERK: Delegate Sobonya. Delegate
10 Deem. Delegate Pushkin.
11 DELEGATE PUSHKIN: Yes.
12 THE CLERK: Delegate Foster.
13 DELEGATE FOSTER: Yes.
14 THE CLERK: Delegate Summers.
15 DELEGATE SUMMERS: Yes.
16 THE CLERK: Delegate Miller.
17 DELEGATE MILLER: Yes.
18 THE CLERK: Delegate Isner.
19 DELEGATE ISNER: Yes.
20 THE CLERK: Delegate Moore.
21 DELEGATE MOORE: Yes.
22 THE CLERK: Delegate Kessinger.
23 Delegate Robinson.
24 DELEGATE ROBINSON: Yes.

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1 THE CLERK: Delegate Fast.
 2 DELEGATE FAST: No.
 3 THE CLERK: Delegate Fluharty.
 4 MINORITY VICE CHAIR FLUHARTY: Yes.
 5 THE CLERK: Delegate Overington.
 6 DELEGATE OVERINGTON: Yes.
 7 THE CLERK: Delegate Byrd.
 8 DELEGATE BYRD: Yes.
 9 THE CLERK: Delegate Harshbarger.
 10 DELEGATE HARSHBARGER: Yes.
 11 THE CLERK: Delegate Fleischauer.
 12 MINORITY CHAIR FLEISCHAUER: Yes.
 13 THE CLERK: Mr. Chairman.
 14 CHAIRMAN SHOTT: Yes.
 15 Are there any further motions to be
 16 made? All right.
 17 Well, let's talk about how we're gonna
 18 coordinate this so we don't go through this again next
 19 week. We will reissue our Committee's request for some
 20 time next week, understanding that we have a witness
 21 set Thursday by concurrence of his counsel - that's
 22 Mr. Canterbury - who will likely consume the whole day,
 23 so I would -- we'll probably be looking at Friday,
 24 whenever we can work this out -- excuse me -- with the

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1 Court.
 2 Now, I don't know who speaks for the
 3 press, if they speak with a -- with a single voice. We
 4 certainly will cooperate, but I think that request is
 5 gonna have to be made either individually or by some
 6 representative of the request to acc -- the -- well,
 7 let me -- let me back up a minute.
 8 Is it the sentiment of this group that
 9 we couple our request and condition it upon allowing
 10 the accompaniment of some members of the press? And I
 11 don't think that could be unlimited. I think we have
 12 to have some understanding here as to whether it's
 13 gonna be 25 more people or it's gonna be a handful.
 14 Since it's -- it was the gentleman from
 15 the -- from the 3rd -- I'm groping for whether it was
 16 the 3rd or the 4th.
 17 -- the 3rd, who made the request, what
 18 is your suggestion as to how we do that?
 19 MINORITY VICE CHAIR FLUHARTY: I'm
 20 sorry. Could you repeat the question, Mr. Chairman?
 21 How we should move forward?
 22 CHAIRMAN SHOTT: The question is
 23 whether we ought to condition our request upon being
 24 accompanied by the press, and if so, is that unlimited

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1 or is there some limitation on the get -- the group of
 2 the press that comes along?
 3 Because we could have --
 4 MINORITY VICE CHAIR FLUHARTY: Well,
 5 I --
 6 CHAIRMAN SHOTT: -- 40 people that say
 7 they --
 8 MINORITY VICE CHAIR FLUHARTY: -- brush
 9 off my old j-school days, but my understanding is - and
 10 I think we're gonna have a agreement from the back row
 11 - is that they could probably reach an agreement on who
 12 could be representative of the media.
 13 I don't believe that -- I think we have
 14 the discretion as a Committee, with that limitation, as
 15 to how many and how they would proceed forward, just
 16 like we do over how they would sit in our Committee
 17 meetings. We're allowed to say, "Sit in the back row,"
 18 we're allowed to say, "X amount of individuals are
 19 allowed in."
 20 CHAIRMAN SHOTT: All right. Let me
 21 stop you a minute. I've been informed that the request
 22 of the media was for a pool of one broadcaster and one
 23 journalist. And I'll just look for nods of the head.
 24 Yes.

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1 Okay. So if the gentlemen would like
 2 to make the motion that we condition our -- our visit
 3 on a pool of the broadcast media of a one person from
 4 print media and one person from --
 5 MINORITY VICE CHAIR FLUHARTY: I so
 6 move, Mr. Chairman.
 7 CHAIRMAN SHOTT: -- telecommunications
 8 media. I hope that's the right way to -- to phrase it.
 9 MINORITY VICE CHAIR FLUHARTY:
 10 Broadcast media. I so move.
 11 CHAIRMAN SHOTT: -- broadcast media,
 12 let me say that.
 13 MINORITY VICE CHAIR FLUHARTY: That
 14 means video I assume?
 15 CHAIRMAN SHOTT: Yes.
 16 Is that is that the gentleman's motion
 17 now?
 18 MINORITY VICE CHAIR FLUHARTY: Yes,
 19 Mr. Chairman.
 20 CHAIRMAN SHOTT: All right. Thank you.
 21 Is there a second to that motion? There's a second and
 22 a second to the second. All right.
 23 Is there discussion regarding the
 24 gentleman's motion?

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1 Yes, Delegate Queen.
 2 DELEGATE QUEEN: So are we allowing two
 3 members of the media to go with us?
 4 CHAIRMAN SHOTT: I think that --
 5 DELEGATE QUEEN: Sorry.
 6 MINORITY VICE CHAIR FLUHARTY: Well, I
 7 believe there's one broadcast and one -- was it one
 8 print? Was that how we clarified it? Radio, TV and
 9 print.
 10 CHAIRMAN SHOTT: All right, it's your
 11 motion. Why don't you take a minute and clarify it.
 12 MINORITY VICE CHAIR FLUHARTY: Okay.
 13 So radio, TV and print. So three total. One from
 14 each.
 15 DELEGATE QUEEN: Any cameras?
 16 MINORITY VICE CHAIR FLUHARTY: I bel --
 17 yes, broadcast media would --
 18 DELEGATE QUEEN: Are we asking for one
 19 video and one still? That's usually how a court --
 20 MINORITY VICE CHAIR FLUHARTY: You're
 21 the trained photographer. So now you're getting into
 22 an area --
 23 DELEGATE QUEEN: Well, that's what I
 24 think usually in a court proceeding, they do allow one

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1 video camera, one still camera and the willingness and
 2 the -- and the mandatory action to share within the
 3 other media outlets.
 4 MINORITY VICE CHAIR FLUHARTY: If my
 5 motion was not clear on that, I would so amend the
 6 motion to be reflective of your changes.
 7 DELEGATE QUEEN: And I'll ask one more
 8 general question to the fact, will you allow -- never
 9 mind. I'll stay quiet. All right, thanks.
 10 CHAIRMAN SHOTT: All right. Do we
 11 have clarity on the motion now?
 12 MINORITY VICE CHAIR FLUHARTY: I
 13 believe so. We have one media, one print, one
 14 photograph -- still photography -- correct? Is that
 15 how you wanted it? Radio --
 16 CHAIRMAN SHOTT: Gentlemen, gentlemen
 17 -- Delegate Queen, do you yield for that question?
 18 DELEGATE QUEEN: The cameras, I think,
 19 are gonna be the issue.
 20 CHAIRMAN SHOTT: Sure.
 21 DELEGATE QUEEN: If you do one still,
 22 one video, and then that third member of the media will
 23 just be able to walk, take notes and then write a story
 24 later.

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1 MINORITY VICE CHAIR FLUHARTY: I
 2 believe -- I mean, I don't have a problem with that. I
 3 think that's -- that covers all the bases. That's
 4 three different areas.
 5 DELEGATE QUEEN: I support that.
 6 MINORITY VICE CHAIR FLUHARTY: That --
 7 CHAIRMAN SHOTT: Okay. So that
 8 clarifies the motion. And let me restate the
 9 gentleman's motion and make sure I understand it. The
 10 motion is that we -- we request, next Friday, a tour of
 11 the facility, as a Committee, accompanied by three
 12 members of the press: One broadcast, one print, one
 13 still photographer -- is that it? Radio? Radio in
 14 addition to broadcast? Is that covered?
 15 Just a moment. I want to be sure we've
 16 got the motion right.
 17 MINORITY VICE CHAIR FLUHARTY: We're
 18 gonna have three.
 19 CHAIRMAN SHOTT: Just --
 20 MINORITY VICE CHAIR FLUHARTY: Yeah, I
 21 mean, their ability to what they do with it -- I mean,
 22 we don't want three with a bunch of cameras -- I
 23 suppose the goal of the chair here is to make it clear
 24 to the Court that we're not gonna bombard them with a

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1 bunch of equipment. So if we limit it to --
 2 CHAIRMAN SHOTT: -- three --
 3 MINORITY VICE CHAIR FLUHARTY: -- one
 4 broadcast; that's one person going in with a video. We
 5 limit it to, I guess, one photographer, which the
 6 delegate brought up, and then one print media -- which
 7 I assume would -- could include radio, they could
 8 record things.
 9 I suppose they could -- they absolutely
 10 have the ability to record what's being said in there.
 11 So I think we've covered it.
 12 CHAIRMAN SHOTT: Yeah, I'm not in the
 13 debate stage. I just want to be sure I understand your
 14 motion. Okay.
 15 The motion has been made, and is the
 16 second accepting the clarified motion? Okay.
 17 Now, Delegate Robinson, followed by
 18 Delegate Pushkin for discussion, and Delegate Zatezalo.
 19 DELEGATE ROBINSON: Mr. Chair, being as
 20 we're 50 yards away, could we amend that to say
 21 "earliest possible?" I mean, we're 50 yards away. I'm
 22 sure they're watching. If they could say they're okay
 23 with that, we could go there immediately like we
 24 planned.

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1 I mean, we're putting it off a week,
2 but if they would just --
3 CHAIRMAN SHOTT: I think we've already
4 voted to delay -- delay the tour.
5 Delegate Pushkin.
6 DELEGATE PUSHKIN: Thank you,
7 Mr. Chairman.
8 Would the gentleman from the 3rd be
9 willing to amend his motion to state that there would
10 be one broadcast, one TV, one member of the media from
11 the radio and then that the print media also be able to
12 take a still -- be able to take still pictures?
13 It's not included. The radio wasn't
14 included. This would include radio but keep it at
15 three people, while the print media would be able to
16 take the still pictures.
17 MINORITY VICE CHAIR FLUHARTY: But
18 we're keep -- we're keeping it to three people, so --
19 DELEGATE PUSHKIN: Yeah, three people,
20 but I'm including radio.
21 MINORITY VICE CHAIR FLUHARTY: They can
22 decide what -- who are we allowing to decide the three?
23 I assume we'd let them decide it and move on. So sure,
24 I mean, we can include radio in that just as long as

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1 they're not coming in with a bunch of cameras.
2 DELEGATE PUSHKIN: No, it should be one
3 sti -- what I was getting at is one still photographer
4 would be -- would be -- also be the representative of
5 print media.
6 MINORITY VICE CHAIR FLUHARTY: Okay.
7 No, I think that was already covered. How is that not
8 covered?
9 CHAIRMAN SHOTT: To the gentleman from
10 the 3rd, does that modify your amendment, or do you
11 just want to let the press decide among themselves who
12 the three representatives would be?
13 MINORITY VICE CHAIR FLUHARTY: Let's --
14 let's let the press decide on that.
15 CHAIRMAN SHOTT: All right. So the
16 motion now is -- this is --
17 MINORITY VICE CHAIR FLUHARTY: We're
18 limited to three - the press decides - one broadcast,
19 one -- I mean, I think -- feel like print is an
20 umbrella, could be -- include radio.
21 CHAIRMAN SHOTT: Let's just let the
22 press decide which three.
23 MINORITY VICE CHAIR FLUHARTY: Perfect.
24 CHAIRMAN SHOTT: All right. Delegate

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1 Zatezalo.
2 DELEGATE ZATEZALO: Thank you,
3 Mr. Chairman.
4 I just have one question for -- for the
5 Committee. Is there a -- some way to guarantee that
6 the criteria for Open Meetings is met by the media?
7 Does the media have a plan for distribution, you know,
8 to make sure that everybody who might want to see gets
9 the -- the information that -- that they're gonna
10 collect?
11 CHAIRMAN SHOTT: Well, if I understand
12 your question, we would not be going as an effort to be
13 an exception to the Open Meetings Act. This would be a
14 continuation of a meeting. We would have a quorum
15 present.
16 It would be open to representatives of
17 the public in the form of the media, but I don't -- I
18 don't think that it's gonna create a problem, but we'll
19 certainly seek further opinions on that as to whether
20 it has to be totally open to the public, in which case
21 that could create a problem, and we may have to figure
22 out a way to fit within the scope of the rule, the
23 exception, and that's probably doable.
24 We can do that. I think we can figure

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1 that out. But we'll -- we'll focus on that in the --
2 in the time period between now and then.
3 We have a motion and a second -- excuse
4 me, and a second. Is there further discussion?
5 Delegate Overington, followed by Delegate Hollen.
6 DELEGATE OVERINGTON: Thank you,
7 Mr. Chair. Could the chair -- if you could explain
8 that in arranging the meeting that had been planned for
9 today, that we would have to be broken up into two or
10 more groups to accommodate the touring?
11 CHAIRMAN SHOTT: Well, from a -- just
12 from a logistical standpoint, the more people we have
13 crowded into a particular person's office, it may be
14 difficult for those who are -- want us to look -- to
15 even see anything. So I suspect the Court will ask us,
16 just for logistical purposes, to somehow break down
17 into a manageable units that would allow, you know, a
18 meaningful tour. That would be my impression.
19 That would be sort of up to them. But
20 as long as we're all there and relatively close
21 together, I think we would still be considered part of
22 the meeting. Now, how the press divides up their
23 representatives would be up to them, if we're divided
24 into groups. That's my opinion, but I think the Court

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1 will be making that call as to how they want to take us
2 through the facility.
3 DELEGATE OVERINGTON: Thank you.
4 CHAIRMAN SHOTT: Delegate Hollen?
5 DELEGATE HOLLEN: Thank you,
6 Mr. Chairman.
7 Just a point of clarification. If the
8 Court does not get back with us on this request, then
9 the group tour is no longer on at that point?
10 CHAIRMAN SHOTT: Well, it's no longer
11 on at the moment, and we'll see how the Court responds
12 to our request. If they have an alternative
13 suggestion, we'll certainly bring that up to our
14 members, but I think we ought to assume that they're --
15 it's a reasonable request and they'll figure out some
16 way to grant it.
17 That's -- they've been relatively
18 cooperative so far. I think they would work with us.
19 DELEGATE HOLLEN: All right, thank you.
20 CHAIRMAN SHOTT: Further discussion?
21 Then the question before the Committee is the
22 gentleman's motion. All in favor will say "aye".
23 DELEGATES: Aye.
24 CHAIRMAN SHOTT: Opposed, "no."

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1 The ayes appear to have it; the ayes do
2 have it. The motion is granted.
3 One housekeeping issue before we
4 recess. We've been informed -- if you received the
5 memo -- the e-mail memo from the clerk, you know that
6 the normal entrance down here on this end of the
7 building is under renovation, so the clerk has arranged
8 parking next week on the front Boulevard, on Kanawha
9 Boulevard, and you can probably enter through the lower
10 entrance on the ground floor.
11 (Inaudible)
12 CHAIRMAN SHOTT: I assume that won't
13 affect the East Wing. You could still come through the
14 East Wing or through the security other -- but the
15 entrance that many of us that park on California Avenue
16 out here is gonna be under construction, so you won't
17 be able to come in that way.
18 So the -- the parking that's designated
19 for us - which is usually by the blue bag over the
20 meter - will all be along Kanawha, Kanawha Boulevard.
21 Other questions? Delegate Fleischauer.
22 MINORITY CHAIR FLEISCHAUER: Thank you,
23 Mr. Chairman. I like the suggestion of the delegate
24 from Kanawha that we check with the Court and see if

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1 they're available today. It is 20 minutes -- or till
2 lunchtime. We've all come all the way down here. We
3 have some really intense meetings next week.
4 I don't -- I'll go with the will of the
5 Committee, but it seemed to me that it would be
6 worthwhile since it's right before lunch to check with
7 them and see if they would go along -- they're - as
8 someone said - probably listening to this. I think it
9 would be good to get this done, but I'll go along with
10 the will of the Committee and I'll make a motion to
11 that effect if -- unless there's a huge hue and cry.
12 CHAIRMAN SHOTT: Why don't we be at
13 ease for a moment and just have counsel call over
14 there, and then we can rescind our delay motion, and if
15 they're able to accommodate us, we can do so today.
16 MINORITY CHAIR FLEISCHAUER:
17 Mr. Chairman, I don't think we said delay until a date
18 certain. We are delaying at this point. We could
19 delay until later this afternoon if they would go along
20 with it.
21 CHAIRMAN SHOTT: I'll just have to
22 check the terms of the motion.
23 MINORITY CHAIR FLEISCHAUER: I'd
24 appreciate that, Mr. Chairman.

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1 CHAIRMAN SHOTT: All right. I think it
2 was -- the clerk tells me it was a motion to delay
3 until next week, so the proper motion would be to
4 rescind that motion and -- but let's just check first
5 before we --
6 MINORITY CHAIR FLEISCHAUER: Thank you,
7 Mr. Chairman, I appreciate that.
8 CHAIRMAN SHOTT: Members, please stand
9 at ease for a minute while we make the Inquiry.
10 (The Committee stood at ease.)
11 CHAIRMAN SHOTT: They said they need to
12 get the Court back together to -- please take your
13 seats.
14 To the members of the Committee, we did
15 communicate to the Court. We were informed that
16 because of the change and the nature of the so-called
17 tour, that they needed to gather their -- the Court
18 back together again to discuss it, and so it's not
19 gonna happen this afternoon.
20 I also understand that maybe the media
21 might need a little more time to get their
22 representatives together. So we will communicate that
23 request. It was confirmed by the Committee to the
24 Court for next Friday, and as soon as we get a

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1 response, we'll share it with everyone, and hopefully
2 we'll be able to go forward at that time.
3 And we'll just have to deal with the
4 testimony to conform to the time that we're given by
5 the Court. There's some concern that Mr. Canterbury's
6 testimony may take more than a day. Who knows?
7 I certainly hope not. But that's a
8 possibility. But we'll -- we'll make sure that if they
9 give us a time, we will -- we'll be there.
10 Is there any further business to come
11 before our meeting before we recess?
12 Delegate Byrd, do you have a question
13 or an inquiry?
14 DELEGATE BYRD: Just an inquiry,
15 Mr. Chairman.
16 Given this possible tour next week and
17 Canterbury's -- does the Chair have any idea of like
18 maybe a proposed schedule? I know we'll have to
19 probably fluctuate given the response from the Court,
20 but any proposals?
21 CHAIRMAN SHOTT: I can tell you what
22 we'll be looking at to try to work into the schedule.
23 We'll have a -- we're gonna -- there's been a request
24 by one of our managers for a subpoena for Justice

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1 Loughry's wife to testify about certain factual issues.
2 We will issue that subpoena.
3 There have been -- there's been an
4 inquiry about the so-called missing computer. We're
5 gonna try to find out who would be able to confirm or
6 -- well, confirm one way or the other whether those
7 facts are correct.
8 We've got some additional -- we
9 gathered just this week some additional information
10 regarding the renovation expenses. Staff will be
11 organizing that, determining how we're gonna present --
12 what, if any, of that we're going to present and by
13 whom.
14 My understanding is that the Auditor's
15 Office has some information regarding the issue that
16 was raised about the employment of Mr. Pritt as a
17 consultant, and we'll be determining whether that
18 information is -- is going to be -- is relevant and
19 needs to be presented.
20 Our -- some of our managers are doing
21 some additional work on the issue of the Tucker County
22 Magistrate Court case, and also the Greenbrier book
23 signing trips with State vehicles. So all of those
24 things, to the extent we develop documents or testimony

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1 or in some cases, perhaps affidavits, we'll be blending
2 into next week's schedule.
3 So hopefully we'll have a full schedule
4 and no holes in it. But it all depends on how that
5 comes together.
6 DELEGATE BYRD: Thank you,
7 Mr. Chairman.
8 CHAIRMAN SHOTT: Yes, sir?
9 Delegate Pushkins -- Pushkin.
10 DELEGATE PUSHKIN: Thank you,
11 Mr. Chairman.
12 Just a point of inquiry. In light of
13 the Affidavit that we received at the beginning of the
14 -- of the hearing today from Ms. Ellis, specifically
15 Points 11 through 16 that I would say validates the --
16 some of the other evidence that has not yet been
17 entered in - specifically e-mails from Justice Loughry
18 concerning some of the spending in his office, invoices
19 that he had signed and a sketch of his floor - I was
20 gonna ask if -- if this Affidavit validates those
21 items, and they could be entered in as evidence as
22 well.
23 CHAIRMAN SHOTT: The plan was -- and I
24 think I introduced this -- I mentioned this earlier,

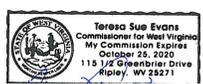
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1 but maybe I wasn't very clear.
2 We're gonna ask Ms. Ellis to supplement
3 her Affidavit by verifying or authenticating copies of
4 the sketch and the e-mails that she either authored or
5 received, and we'll do that by a supplemental
6 Affidavit. We were in the process of trying to get the
7 basic facts in an Affidavit. There were some time
8 constraints on doing that.
9 But we will -- and some of that
10 evidence could probably be authenticated by
11 Mr. Canterbury. I think he can identify the sketch.
12 There'll be some -- I'm sure there's some e-mails that
13 he was copied on or authored that went to Ms. Ellis.
14 But we'll -- we'll -- we're gonna try to get that
15 information back in time to be submitted as -- as
16 exhibits, as a supplement to her Affidavit.
17 But in all likelihood, some of that can
18 be authenticated by Mr. Canterbury.
19 DELEGATE PUSHKIN: Okay, thank you.
20 CHAIRMAN SHOTT: Delegate Overington,
21 question?
22 DELEGATE OVERINGTON: Thank you,
23 Mr. Chairman.
24 Do you anticipate that we will be

1 meeting Saturday, and also the following week, Thursday
 2 and Friday? And -- for long-term planning sake?
 3 CHAIRMAN SHOTT: I -- first of all, I
 4 would plan on Saturday, because it looks like if all
 5 this comes together, we could very well spill over into
 6 Saturday.
 7 But as we had plans to go into Saturday
 8 of this week and we had some issues with availability
 9 of witnesses and other issues that are abundantly clear
 10 at the moment. So I can't be sure about that.
 11 The following week, we have some real
 12 issues with staffing, staff vacations. So as soon as
 13 we determine whether we would be able to cover the
 14 following week with staff, I'll let everybody know.
 15 But at this point, that may be a problem, the week of
 16 the 30th.
 17 Delegate Fast.
 18 DELEGATE FAST: Thank you. Ms. Ellis,
 19 I understand she submitted this Affidavit, and I just
 20 want to clarify. Was that in lieu of testimony or just
 21 to get us along right now until such time as she can
 22 come and appear before this Committee?
 23 CHAIRMAN SHOTT: At the --
 24 DELEGATE FAST: Because I --

1 CHAIRMAN SHOTT: At the moment, it's in
 2 lieu of testimony.
 3 DELEGATE FAST: Okay. I -- I would
 4 certainly like her to appear before this Committee for
 5 questions. I think that --
 6 CHAIRMAN SHOTT: We'll take that up --
 7 DELEGATE FAST: -- that's very
 8 important.
 9 CHAIRMAN SHOTT: I will say that both
 10 the JIC representatives and indirectly from the U.S.
 11 Attorney's office, they've asked us not to bring her,
 12 so -- for what it's worth. But the Committee can do
 13 whatever the Committee wishes to do about that.
 14 DELEGATE FAST: I'm specifically
 15 requesting a subpoena for her appearance.
 16 CHAIRMAN SHOTT: All right.
 17 DELEGATE FAST: Thank you.
 18 CHAIRMAN SHOTT: We'll take that up
 19 with our managers. We're gonna have -- and that brings
 20 up -- I'm glad you raised that. I'd like to meet with
 21 the managers shortly after we recess today so we can
 22 discuss the plans for next week and what still needs to
 23 be gathered.
 24 Delegate Fleischauer.

1 MINORITY CHAIR FLEISCHAUER: Thank you,
 2 Mr. Chairman. I just wanted to clarify about that week
 3 of the 30th, Thursday, Friday and Saturday. Is that up
 4 in the air?
 5 CHAIRMAN SHOTT: It is.
 6 MINORITY CHAIR FLEISCHAUER: Okay,
 7 thanks.
 8 CHAIRMAN SHOTT: Further questions? If
 9 not, the chair recognizes our acting vice chair,
 10 delegate -- Delegate Capito.
 11 DELEGATE CAPITO: Thank you,
 12 Mr. Chairman. I move that the Committee stand in recess
 13 until 9:00 a.m. on July 26th, which is a Thursday, next
 14 Thursday.
 15 CHAIRMAN SHOTT: You've heard the
 16 gentleman's motion. All in favor will say "aye".
 17 DELEGATES: Aye.
 18 CHAIRMAN SHOTT: Opposed "no."
 19 The ayes have it.
 20 We are in recess until Thursday, next
 21 Thursday, at 9:00 a.m.
 22
 23 ---oOo---
 24

1 STATE OF WEST VIRGINIA,
 2 COUNTY OF JACKSON, to wit:
 3 I, Teresa Evans, Registered Merit
 4 Reporter and a Notary Public within and for the
 5 County and State aforesaid, duly commissioned and
 6 qualified, do hereby certify that the foregoing
 7 proceedings were duly transcribed by me from an
 8 audio recording to the best of my skill and
 9 ability.
 10 I do further certify that the said
 11 proceedings were correctly taken by me in
 12 shorthand notes, and that the same were accurately
 13 written out in full and reduced to typewriting by
 14 means of computer-aided transcription.
 15 Given under my hand this 8th day of
 16 August, 2018.
 17 
 18
 19 _____
 20 TERESA EVANS, RMR, CRR
 21
 22 
 23
 24

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