Staff Memorandum 2026-20
Written Comment Related to the November 20, 2026 Meeting

This memorandum collects written comment related to the Committee's meeting on November 20, 2026.

Exhibit	Submitted by
A	Allen Horner, National Intelligence Group LLC

Respectfully submitted,

Thomas M. Nosewicz
Legal Director

Exhibit A

Allen Horner, National Intelligence Group LLC

Written Comment to the Committee on Revision of the Penal Code

November 7, 2026 · Allen Horner, National Intelligence Group, LLC

Re: Staff Memorandum 2026-09, the October 9, 2026 meeting record, and the five bail recommendations in Staff Memorandum 2026-16. Submitted at the Chair's invitation (Oct 9 recording, Part 3, 1:28:16) for the public-comment file and for the Committee's consideration before the November 20, 2026 meeting, at which the draft 2026 Annual Report (Memorandum 2026-18) is scheduled for review.

Bottom line

I watched all five hours of the October 9 recording. Two people spoke for the bail profession that day. They got 90 seconds each and were cut off mid-sentence. Neither name is in the draft minutes. The Chair said, "If you have very specific recommendations, I really do genuinely encourage you to email them to us and I promise you they will be considered." This is that email.

1. **Your own presenters did not support the memo's premise.** The California Policy Lab found Riverside's no-cash schedule produced "no detectable change in the jail population, bookings, or releases," and no detectable change in crime. LA's release rate on filed cases was 71% before PARP and 70% after. Staff's Judicial Council data, covering more than 500,000 bookings statewide outside Los Angeles, show 13% got out by paying bail within two days, against 5% released by any judicial review. The Chair's own words: "I don't understand what's going on."
2. **No vote was taken on bail.** The Chair walked the list and asked, "Any thoughts? Any objections? Great." The minutes record that as approval by all members present. The Chair also said "the chance of this happening are quite small." A recommendation the Committee itself expects to fail should not go into an Annual Report as a finding that the system is unworkable.
3. **The retired judge you invited listed the questions that remain open**, including "does the ability to pay include the ability of the defendant to obtain a bond, pay a premium?" and "what are the roles of the family?" Staff's proposal answers both with "no" before anyone has studied them. Article I, section 12 answers them differently.
4. **The Judicial Council, not the Legislature, moves first.** Judge Couzens said that, absent urgency legislation, the Legislature realistically cannot act before January 2028, and reported the Judicial Council will draft Rules of Court on bail through its Criminal Law Advisory Committee. The surety profession has no seat in that process. We are asking for one.
5. **Nobody in five hours discussed who brings people back.** The word "fugitive" was spoken once in five hours, by Dan Escamilla describing his license. The word "surety," the word article I, section 12 uses, does not appear in the captions at all, and it does not appear in the nineteen pages of Memorandum 2026-09 either.

Court reminders bring back no one who has already missed. Sureties do, at no cost to the county.

6. **The largest number raised all day came from public comment and was cut off.** Carl London told the Committee that Los Angeles County had 2 million outstanding warrants and failures to appear when SB 10 was considered and, by his estimate, closer to 4 million today, each one "also the victim's day in court." The LA court's own witnesses said its magistrates see every bench warrant at booking, so the court can produce the number. Neither staff memorandum contains it. He also reminded the Committee that about 68% of voters passed Prop 36 and about 56% rejected the elimination of bail in 2020. Neither figure appears in either staff memorandum.

What we ask is in section 7. Short version: put this in the record, amend four of the five bullets as specified in section 4, invite one bail presenter and one fugitive recovery presenter before the Annual Report is final, and ask the Judicial Council to seat a surety representative on the rules drafting.

1. What your own presenters told you

The Committee invited six bail presenters on October 9. None was from bail, surety, fugitive recovery or the Department of Insurance. Their testimony still cuts against the memo. Timestamps are to the YouTube recording the Committee posted on October 12.

Presenter	What they said	Where
Johanna Lacoe, California Policy Lab	Riverside's October 2025 schedule: "no detectable change in the jail population, bookings, or releases relative to other California counties"; no detectable change in reported crime, on about five months of post-change data; sentenced jail population rose, not statistically significant	Part 1, 1:26:19 to 1:32:38
Johanna Lacoe	LA PARP: jail population down 2.5% to 3% in the first two months; no change in reported crime, total arrests or felony arrests	Part 1, 1:23:53 to 1:25:08
Chair Romano, reacting	"We have these supposedly dramatic changes in policy but we're still having the same number of people behind bars. No up, no down... I don't understand what's going on."	Part 1, 1:31:48
David Slayton, LA Superior Court	Release rate on filed cases 71% before PARP, 70% under PARP	Part 1, 34:00
David Slayton	40% of LA bookings remain on money bail under § 1270.1, unchanged "under every bail system that we've had since 2020"	Part 1, 28:50

Judge Tapia, LA Superior Court	"Our county has struggled to find alternatives to incarceration"; later, "there are no alternatives" for judges to release people to	Part 1, 36:16, 48:38
Thomas Nosewicz, staff	Judicial Council data, 500,000+ bookings, LA excluded: 13% paid cash bail within two days; 5% released by judicial review; about half still in custody	Part 1, 1:02:39
Thomas Nosewicz	Statewide pretrial population "pretty close to where we were before COVID" while bookings stayed lower: "a little bit of a conundrum"	Part 1, 1:00:57
Salil Dudani, Civil Rights Corps	"There's plenty of people in pretrial jail right now today on unattainable money bail amounts, notwithstanding *Kowalczyk*"; 100 to 200 writs filed since *Humphrey*	Part 2, 10:09 to 10:34
DA Brooke Jenkins	A defendant charged with murder was released under a *Kowalczyk* ruling; "judges are very confused and they don't know where that bright line is"	Part 2, 1:28:05 to 1:28:46

Read together: the counties that removed cash bail pre-arraignment did not reduce their jails or their crime. The people still in jail after *Kowalczyk* are there, by Civil Rights Corps' account, because judges are not following the decision, not because bail exists. And the one prosecutor you heard from says the decision has judges releasing murder defendants because the line is unclear. The memo's answer to all three is to end cash bail. That does not follow from the record you built.

One more number from your own data. Within two days of booking, 13% of arrestees statewide bought their release through bail. All judicial-review releases combined were 5%. Bail is releasing more than twice as many people as judges are, pre-arraignment, and the memo proposes to remove the larger door and widen the smaller one. The memo's own footnote 43 adds that full cash bail is posted in under 2% of cases, so the 13% is almost entirely surety bonds written by licensed agents.

2. The two arguments you cut off at 90 seconds

Public comment opened at 1:25:01 in Part 3, after five hours. The Chair set 90 seconds per speaker. Two speakers represented the people who actually post bail and return defendants. Both were stopped mid-argument. Here is what they said, and the rest of what they would have said.

Carl London, for Crime Victims United, Golden State Bail Agents Association and Lexington National Insurance (Part 3, 1:26:42 to 1:28:11)

What he got out: "Some of the recommendations lack inclusion of a very important population, especially victims. Victims stand fully behind the concept of innocent till proven guilty, abiding by court rulings, rehabilitation, but also accountability." Voters passed Prop 36

"by nearly 70%," and rejected eliminating the right to bail by referendum. "One important factor that I think was overlooked is the number of outstanding warrants and failures to appear." He put LA County's warrant and FTA backlog at 2 million when SB 10 was considered and "probably closer to 4 million" today: "That's 4 million cases where the accountability process has not occurred. And it's important to note that that's also the victim's day in court." He was cut off at "We also urge you to look carefully at the..."

The rest of the argument:

- **The vote counts are real.** Prop 36 passed in November 2024 with about 68% of the vote. Prop 25, the referendum on SB 10, failed in November 2020 with about 56% voting no. The memo concedes ending cash bail likely needs a ballot measure. The Committee is recommending that voters be asked a question they answered six years ago.
- **Appearance is the number the memo never reports.** Mr. Slayton gave the Committee four findings on PARP: bookings down, magistrate holds down, decisions track risk, new criminal activity down. Not one was a court-appearance rate. The memo's lead appearance study is from Philadelphia, which has had no commercial bail since the 1960s. Nothing presented to the Committee on October 9, and nothing in either staff memorandum, tells it whether people released under PARP come to court.
- **The backlog number can be verified today.** Mr. Slayton told Judge Espinoza he has the magistrate-reversal data and would send it (Part 1, 38:15). The LA magistrates see "every bench warrant for failure to appear" at booking (Part 1, 29:08), so the court can count them. We ask the Committee to request from the Los Angeles Superior Court the number of outstanding bench warrants for failure to appear as of October 1, 2023 and today, and to publish both numbers in the Annual Report beside any PARP finding. If the number is anywhere near what Mr. London described, it is the largest fact in this debate and it is missing from the memo.
- **Victims were an afterthought in the room.** The Chair said twice that Crime Victims United has been "very difficult to get them here," and Assistant DA Robert Brown of San Bernardino asked that victims be invited to the CIM meeting. The Chair's answer was "We're on it." Hold him to it. A pretrial release recommendation written without a single victim presenter should say so on its face.

Dan Escamilla, licensed bail agent and bail fugitive recovery agent (Part 3, 1:30:04 to 1:31:50, 1:32:04 to 1:32:35, 1:34:03)

What he got out: POST-trained, law degree, 20 years in the industry, one of about 180 licensed bail fugitive recovery agents in California. "Bail begins and promotes the reintegration and rehabilitation goals of our criminal justice system." After arrest, "bail often becomes the first interaction that defendants and their families have with our criminal justice system. Bail is uniquely designed to create an investment in a defendant by close family members and friends, usually older than the defendant... This creates a strong social anchor when the defendant's loved ones agree to be a bail indemnitor or guarantor. This begins the rehabilitation process when somebody actually believes in you." The indemnitors "obtain a

vested interest in ensuring that the defendant make their court appearances." Cut off at "one of the most important factors which will determine a successful outcome."

After the Chair said "We just don't want it to be tied to a person's ability to pay, period," Mr. Escamilla added: Kowalczyk himself "had no social network to fall back on, no financial resources to post bail. And our Supreme Court tells us that OR release is the only constitutional option. However, in the case of a person who has loved ones, bail is the only system which compels a defendant to be backed by loved ones throughout the entire judicial process." Professor Ocen answered with the UCLA Million Dollar Hoods study on premiums paid by Black families. Mr. Escamilla corrected the record that the typical premium is 8%, not 10%, "only $800 on a typical misdemeanor domestic violence in Orange County."

The rest of the argument:

- **This is not a bail agent's theory. It is the California Constitution's.** Article I, section 12 guarantees release "by sufficient sureties." The Supreme Court's own footnote in *Kowalczyk*, drawing on an amicus brief, describes a surety historically as a family member, friend or employer. Mr. Escamilla described the modern form of exactly that: the mother, the uncle, the employer who signs the indemnity. Staff's proposal would bar courts from considering what those people can contribute. That is not implementing *Kowalczyk*. It is reading "sufficient sureties" out of section 12.
- **The data say the anchor works.** Federal Bureau of Justice Statistics data on felony defendants in large urban counties show defendants released on surety bond fail to appear less often than those released on their own recognizance, and fewer remain fugitives a year later, about 3% against 8%. Helland and Tabarrok's study in the *Journal of Law and Economics* (2004) found the same pattern. Nobody at the October 9 meeting cited either. Civil Rights Corps told you reminders are the answer; reminders bring back no one who has already missed.
- **The Million Dollar Hoods point proves Mr. Escamilla's, not the Committee's.** The premium is a rate the surety files with the Department of Insurance; an agent cannot charge above it. The memo cites a 2026 antitrust settlement in which underwriters agreed to disclose that rates may vary; that settlement contains no admission and no finding, and it does not change who regulates the rate. What the family buys with it is a guarantee that someone will bring the defendant back if he runs, at no cost to the county. The alternative the Committee recommended in 2022, a percentage deposit paid to the court, comes from the same family, is refunded only if every date is kept, and is forfeited in full on a missed one, with no one paid to go find the defendant. If the concern is money leaving low-income communities, a forfeited deposit and an open warrant cost more than a premium.
- **The Chair's reply conceded the point.** "We want the communities and family members to be invested in this. We just don't want it to be tied to a person's ability to pay." Investment is the point. A surety bond is the only release mechanism in California law that requires a third person to put something at stake for the defendant's appearance. Remove it and the family's role becomes a text message.

3. Judge Couzens' open questions, answered

Judge Couzens endorsed the memo and then said this (Part 2, 2:26 to 3:53): "There are certain things that have been left unanswered. They were left unanswered by *Humphrey*. Those answers were not coming in *Kowalczyk*." His list, and our answers from the field.

His question	Our answer
"Is there a different standard for detention when we're dealing with failures to appear? How many non-appearances does the court have to endure before something can be done?"	Under current law the court does not have to endure them. A surety bond answers a non-appearance with a licensed recovery agent, a forfeiture clock under § 1305, and a defendant returned to custody at the surety's expense. Remove the bond and the court's only tools are a bench warrant and a text message. The memo offers no FTA standard because it has removed the mechanism that enforces one.
"How is public safety defined? Does it include property loss or is it limited to personal injury?"	DA Jenkins and ADA Brown gave the Committee the list: hot-prowl burglary, felon in possession, organized retail theft, fentanyl sales, auto burglary, domestic violence without GBI, assault with a deadly weapon, evading. Voters answered the property-loss question in Prop 36. A schedule that releases those offenses automatically pre-arraignment, which Memo 2026-16 would mandate statewide, is a policy choice the Legislature and voters have already declined.
"What factors must the court consider? We've never had a real distillation."	Article I, section 28(f)(3) lists them: protection of the public, safety of the victim, seriousness of the offense, criminal record, probability of appearance. Staff's four *Kowalczyk* rules replace those with a benefits check and an income formula. Justice Groban's concurrence already lists the conditions a court can consider. The distillation exists; the memo discards it.
"Does the ability to pay include the ability of the defendant to obtain a bond, pay a premium? That's not been directly answered."	It must. Section 12 guarantees release "by sufficient sureties." The premium is how a defendant obtains a surety. A rule that counts only cash the defendant personally holds, and ignores the bond he can actually obtain, measures the wrong thing and reads sureties out of the Constitution. Staff's model, § 1203.25, governs people already convicted and on probation, not the presumed innocent.
"What are the roles of the family? Is there an ability to look to a spouse for the cost of some of these things and in paying a bond premium?"	Yes, and the Supreme Court's own *Kowalczyk* footnote says so: a surety is historically a family member, friend or employer. Staff's rule, in staff's words: "The court should also only evaluate an individual's ability, not what any family member or other associate may be able to pay" (Memo 2026-09, p. 17). Mr. Escamilla described the indemnitor relationship to the Committee and was cut off. Barring courts from considering family resources does not protect poor defendants; it converts

	the one release path that costs the county nothing into a path the court cannot use.
"What happens if there's a violation of an order by the court during this sensitive period from arraignment to post-trial?"	Under a surety bond, the bail agent can surrender the defendant and the court can increase bail. DA Jenkins told the Committee that San Francisco judges do not read *Kowalczyk* to permit detention after a new arrest on a non-violent case, and the Chair himself called the forfeiture argument one "I'm not sure we as a group would want to endorse." The memo offers nothing for this situation. Bail already does.

Judge Couzens said the answers can come from court opinions, the Legislature, or Rules of Court, and that the Judicial Council has agreed to take the third path. Every question on his list touches the surety's role. No surety was asked.

4. The five recommendations in Memo 2026-16, one by one

Staff Memorandum 2026-16, dated October 20 and issued eleven days after the meeting, is the Overview of Proposed Staff Recommendations for the 2026 Annual Report. It is now the operative document: it is what the Committee was to vote up or down on October 27, and what staff will draft the Annual Report from (Memorandum 2026-18, set for the November 20 meeting). Nobody who spoke on October 9 had seen it. Memorandum 2026-09 listed seven staff recommendations. Memorandum 2026-16 lists five. Sobering centers were dropped at the Chair's suggestion. The third recommendation, "expand judicial discretion in pre-arraignment review of serious and violent offenses," was merged into the second, and "magistrate review" became "judicial review." The *Kowalczyk* and 5-day bullets carry the same headlines in both memos; the four staff rules sit beneath the *Kowalczyk* headline in 2026-09 and are not restated in 2026-16, which footnotes back to it for detail. Here is each bullet as written, what the record says about it, and the specific change we ask for.

Bullet 1: "End the use of cash bail."

The record. The Chair: "I'm intuiting that we're sort of all on the same page... the chance of this happening are quite small" (Part 3, 53:53 to 54:05). No motion, no vote. He described the write-up as a statement that the Committee "took a close look at this system many times over a long period of years and it just honestly does not seem to be workable," explicitly "not... SB 10 redux" (54:11 to 54:30). Staff's basis: "if you're the most dangerous person in the world and you can pay it, you can get out" (Part 1, 1:19:37). That describes a schedule set by offense alone, which *Humphrey* ended in 2021 and § 1270.1 already requires a hearing to deviate from. It does not describe the system after *Kowalczyk*. Staff's own memorandum concedes the point: "Because ending cash bail is unlikely to occur soon, the following recommendations largely address issues with the existing system" (Memo 2026-09, p. 16).

Request. Strike the bullet, or state in the Annual Report that (a) the Committee took no vote on it, (b) voters rejected the same proposal in 2020, (c) the Committee's own researcher

found no detectable jail or crime effect from removing cash bail pre-arraignment in Riverside, and (d) the Committee invited no testimony from a bail agent, surety, recovery agent or the Department of Insurance before recommending the abolition of their licensed function, and heard from the profession only in 90-second public comment.

Bullet 2: "Require county schedules to include cite and release, book and release, and judicial review for appropriate offenses, including serious and violent offenses."

The record. The Chair: "I don't know how prescriptive it should be... you could have cite and release, book and release for offenses that no one's arrested for and does it actually make a difference" (Part 3, 55:34 to 55:45). Civil Rights Corps asked the Committee not to export magistrate review at all, citing a 94% pre-arraignment hold rate (Part 2, 13:47); staff kept it in over that objection (Part 3, 56:03). LA's release rate did not change under PARP. ADA Brown told the Committee that law enforcement cannot book for enhancements, so the LA court's claim that enhancements bring money bail back pre-arraignment does not operate in practice (Part 3, 1:36:02). The phrase "including serious and violent offenses" would route robbery, including Estes robbery, and residential burglary with a person present through the same paper magistrate review LA runs today: no prosecutor, no defense counsel, no open court, and a decision made in the four hours after booking. That is not our characterization. Memo 2026-09 says that for offenses "such as Estes robberies" the release decision "should not need to require a hearing" (p. 16).

Request. Strike "including serious and violent offenses." If the Committee keeps a schedule recommendation, require every county adopting one to publish quarterly court-appearance rates and bench-warrant counts for released arrestees, by release category. LA has run the program for three years and presented the Committee four findings on it, none of which was an appearance rate. A recommendation to copy it statewide should not go out without that number.

Bullet 3: "Implement *Kowalczyk* with statewide uniformity and consistency."

The record. The headline is harmless. The content is staff's four rules (Part 1, 1:11:26 to 1:13:28; Part 3, 58:04): count only the defendant's own money, not the premium or family resources; accept counsel's proffer without a sworn statement; presume zero ability to pay for anyone on needs-based benefits or unhoused; set bail at a share of disposable income. Civil Rights Corps told you the 50% figure is too high and to drop presumptions for "bright line rules" (Part 2, 12:03, 20:50); staff agreed to incorporate that (Part 3, 1:01:03). Judge Couzens listed whether the premium counts and what role the family plays as open questions (Part 2, 3:23 to 3:46). Committee members themselves raised whether courts can verify benefits in the time a bail hearing allows; the answer was that the proffer solves it (Part 3, 1:01:20 to 1:03:14). *Kowalczyk* says courts need not accept unsupported, conclusory claims of indigency and puts the burden on the defendant. The no-sworn-statement rule also reverses the Committee's own position: in 2022 the Committee recommended reliance on sworn statements (2022 Annual Report, p. 68). Staff's footnote 90 says staff "now recommends that sworn statements not be required" after "hearing the experience of numerous practitioners," none named. The Committee is being asked to overrule itself on an

anonymous account. Medi-Cal alone covers more than a third of Californians. A presumption of zero ability to pay for that population ends money bail by rule, which is bullet 1 under another name.

Request. If the Committee recommends codifying *Kowalczyk*, codify what the Court held: cash bail only after non-financial conditions are considered and found insufficient by clear and convincing evidence; amount set at a level reasonably attainable; burden on the defendant; public safety the primary consideration. Strike the four staff rules, or at minimum (a) define ability to pay to include the ability to obtain a surety bond and the lawful contributions of family and other sureties, consistent with article I, section 12; (b) return to the Committee's own 2022 recommendation on sworn statements, or at minimum preserve the court's authority, which Kowalczyk and Hood v. Superior Court (1999) both leave intact, to require support for a claim of inability to pay when there is reason to question it, rather than making proffers presumptively sufficient by statute; (c) replace the benefits presumption with the court's duty to inquire; and (d) drop the income-percentage formula, which Civil Rights Corps and staff have both now said does not work at low incomes. Refer the open questions to the Judicial Council's rules process with a surety representative at the table (section 5 below).

Bullet 4: "Amend Penal Code § 1270.2 so that a 5-day review is meaningful."

The record. Staff: if cash bail was set and the person is still in jail five days later, "that suggests that amount was too high because why the heck haven't you paid it... just a presumption, nothing that would tie a judge's hand" (Part 3, 1:03:21 to 1:03:50). Staff also said, in the same breath, that practitioners report the review "essentially never happens because, you know, what's really going to change," then allowed that "it does happen often sometimes too." Remaining in custody can reflect a probation or parole hold, an ICE detainer, a warrant from another county, or a family that has not yet been reached. A bail agent sees all four every week.

Request. Replace the presumption with a requirement: at the § 1270.2 review the court shall inquire on the record into the reason the defendant remains in custody, including holds and detainers, and shall make a finding before adjusting bail. That is "meaningful" without inventing a fact.

Bullet 5: "Mandate that counties employ a court reminder program."

The record. Staff: "something everyone can agree on. Famous last words" (Part 3, 1:04:08). The ideas42 presenter claimed 20% to 40% fewer missed appearances where implemented and offered no cost figure (Part 3, 1:04, 11:08). Staff cited the Judicial Council's estimate from Senator Umberg's SB 255, which died in the Senate in February 2024.

Request. We support this bullet. Bail agents already remind clients because our money is on the line. Add two things: (a) the reminder statute should require the court to notify the surety of record of each date and each failure to appear, as many courts already do by practice, because the surety is the one party with a financial incentive and a licensed means to act on the notice; and (b) the Annual Report should say plainly that reminders reduce missed dates

but do not recover anyone who has already missed. That function has a name and a license, and by Mr. Escamilla's count about 180 people in California who hold it.

5. The Judicial Council rules of court

The most consequential sentence of the day was not in the memo. Judge Couzens (Part 2, 5:34): "The Judicial Council has agreed to undertake a drafting of the rules of court on this issue. This has been touched on briefly by the Criminal Law Advisory Committee to the Council and will now be put on more of a priority status." He said that, absent urgency legislation, the Legislature realistically could not act "until January of 2028, and maybe that's even optimistic" (4:47). The Chair accepted on the spot (7:36), and later told DA Jenkins he wants her office in that process (Part 2, 1:31:50). Staff said the *Kowalczyk* rules could go to "the legislature... or the judicial council should rule it up" (Part 3, 59:22).

So the rules that decide whether a bond premium counts toward ability to pay, whether a court may consider family sureties, what a proffer must contain, and what happens after a failure to appear will likely be written by a Judicial Council advisory committee in 2027, with the Committee's staff, Civil Rights Corps and the San Francisco District Attorney consulted, and with no one from the surety side in the room unless someone asks.

We are asking. Rules of court must be consistent with the Constitution. Article I, section 12 names sureties. The people who have operated under that clause for a century, and who hold the forfeiture risk the rules will allocate, should be consulted before the first draft, not invited to comment on it afterward.

Request. That the Committee's Annual Report, and the Chair's communication to the Judicial Council, recommend that the Criminal Law Advisory Committee's bail rules work include a representative of licensed bail agents and a representative of admitted sureties, and that the drafting address the premium and family-surety questions Judge Couzens identified rather than assume staff's answer.

6. The conduct of the hearing

Two moments on the recording bear on how much weight the Annual Report should carry when it says the Committee "gave an opportunity for public comment" and considered the bail proposals.

The empty public room (Part 1, 19:27 to 19:58). Returning from the first recess, the Chair said: "Along with the Bagley-Keene stuff, we do have a room that members of the public can come to and watch the meeting from there at 925 L Street. I'm informed that no member of the public is there, as is typically the case. We should give out a prize. We should have like a secret prize every once in a while that encourages people to come." A second participant: "We should give Megan, our staff member, a prize, who's always there all by herself all day." The Chair: "At risk of, you know, violating some Bagley-Keene rule about giving prizes to showing up for committee hearings." Then the LA Superior Court panel began.

The Bagley-Keene Act exists so the public can attend. A noticed public location that is empty "as is typically the case" is not a joke; it is a finding about the Committee's notice and outreach, made by the Chair, on the record, at a hearing recommending the end of a constitutionally named release mechanism. As many as 104 people attended, all on Zoom, and the ones who tried to speak against the proposal got 90 seconds in the fifth hour.

"I was not paying attention" (Part 2, 29:31 to 29:51). At the close of the *Kowalczyk* panel, the Chair asked the Legal Director, who co-signed Memorandum 2026-09 and had presented its proposals to the Committee that morning, "Tom, is there anything that we haven't touched on?" The answer: "I'll be honest, I was not paying attention. I was doing some scheduling stuff, so I'm sure there is, but it's probably not important if these two haven't brought it up." The room laughed and the Chair moved on.

That panel was the one in which the retired judge listed the open questions about ability to pay, the premium, and the family's role, and reported that the Judicial Council had agreed to draft rules. Those are questions the staff memorandum answers by assumption. How much of the panel the Legal Director missed, only he can say; we quote him because he said it on the record. Before the Committee adopts staff's answers, it should satisfy itself that staff has engaged with Judge Couzens' questions rather than assumed them away.

We raise both moments without pleasure. The Committee's staff are capable and the Chair runs an efficient meeting. But efficiency at the expense of the public and the record is not a credential for an Annual Report that the Legislature and the courts will cite as the product of careful study.

7. Requests to the Committee

1. Place this comment, and the October 8 rebuttal to Staff Memorandum 2026-09 filed with it, in the public-comment file for Memorandum 2026-09 and Memorandum 2026-16, and note in the November draft minutes that written comment opposing the bail recommendations was received from a licensed bail fugitive recovery agent.
2. Correct the draft minutes of October 9 (Memorandum 2026-14) to name the public commenters and their affiliations, as the Committee's own recording does.
3. Before the Annual Report is final, invite one licensed bail agent and one licensed bail fugitive recovery agent to present for the same time the Committee gave each October 9 panelist. Twenty minutes, not ninety seconds. NABA and the California Bail Agents Association can supply presenters on two weeks' notice.
4. Request from the Los Angeles Superior Court, and publish beside any PARP finding, the number of outstanding bench warrants for failure to appear as of October 1, 2023 and today, and the court-appearance rate for arrestees released under each PARP category.
5. Amend the five bullets in Memorandum 2026-16 as set out in section 4: strike bullet 1 or state its limits; strike "including serious and violent offenses" from bullet 2 and add appearance reporting; replace the four staff rules in bullet 3 with *Kowalczyk*'s actual holdings and a definition of ability to pay that includes the

ability to obtain a surety; replace the bullet 4 presumption with a duty of inquiry; adopt bullet 5 with surety notification.

6. Recommend that the Judicial Council's Criminal Law Advisory Committee seat a bail-agent representative and a surety representative for its bail rules drafting.
7. Take up ADA Brown's request and the Chair's answer: convene the victims' session with CDAA before the Annual Report is adopted, and record who attended.
8. The agenda posted November 6 for the November 20 meeting again places General Public Comment last. Schedule public comment on the bail recommendations at a noticed time near the start of that meeting, not at its end, with at least three minutes per speaker, and report in the minutes how many members of the public attended at the noticed physical location.

The Chair closed public comment by noting the Committee has made some 60 recommendations and 22 to 25 became law. That record is why this comment is specific. A bail recommendation built on a day with no bail witness and a 90-second rebuttal is not the Committee's best work, and the people who will cite the Annual Report will not watch the video.

About the author

Allen Horner
National Intelligence Group, LLC
California Private Investigator License #24825
Licensed California Bail Fugitive Recovery Agent; investigations since 1999, bail recovery since 2001
Fugitive Recovery Agent Chairman, NABA and CBAA
[redacted] · ThePIMan.org

I work as an independent contractor to bail agencies and sureties and own no interest in any of them. I have been returning defendants to California courts for 25 years. I am available to the Committee, its staff, and the Judicial Council's advisory committee at any time, on any notice.

Faith · Facts · Field-Tested.

Sources

Recording of the October 9, 2026 meeting, posted by the California Law Revision Commission on October 12, 2026. Timestamps in this comment are to these files; quotations are from the YouTube auto-generated captions with proper names corrected.

- Part 1 of 3: opening remarks, Los Angeles Superior Court panel (20:12), staff overview (56:50), California Policy Lab (1:20:24)
- Part 2 of 3: *Kowalczyk* panel (0:00), Santa Cruz sobering center (31:12), District Attorney Jenkins (59:03)

- Part 3 of 3: court reminders (0:00), deliberation on staff proposals (47:08), public comment (1:25:01)

Committee documents

- Staff Memorandum 2026-09, Bail, Pretrial Release, and Related Matters (October 2, 2026)
- Memorandum 2026-14, Draft Minutes of the October 9, 2026 Meeting (October 20, 2026)
- Memorandum 2026-16, Overview of Proposed Staff Recommendations for 2026 Annual Report (October 20, 2026)
- CRPC meeting agenda page (October 27 and November 20, 2026 meetings)

Law and data cited

- California Constitution, article I, sections 12 and 28(f)(3)
- *In re Humphrey* (2021) 11 Cal.5th 135; *In re Kowalczyk* (2026), including the footnote on sureties and Justice Groban's concurrence
- Penal Code sections 1269b, 1270.1, 1270.2, 1203.25, 1305
- Proposition 25 (November 2020) and Proposition 36 (November 2024) results, California Secretary of State Statement of Vote
- Bureau of Justice Statistics, *Pretrial Release of Felony Defendants in State Courts* (release-type outcomes by failure-to-appear and fugitive status at one year)
- Helland and Tabarrok, "The Fugitive: Evidence on Public versus Private Law Enforcement from Bail Jumping," *Journal of Law and Economics* 47 (2004)
- Rebuttal to CRPC Staff Memorandum 2026-09, Allen Horner (October 8, 2026), filed with this comment, for the pretrial-population, release-count, LA PARP, pretrial-program and Philadelphia figures referenced here