

Judicial Council of California
Executive and Planning Committee
October 16, 2009
Proposal Circulated by E-mail on October 16, 2009

Members Commenting: Judges James Michael Welch, Lee Smalley Edmon, and Mr. Frederick K. Ohlrich

Members Without Comment: Justice Richard D. Huffman and; Judges Mary Ann O'Malley, Winifred Younge Smith, Kenneth K. So, and Mr. Michael P. Vicencia; and Mr. James N. Penrod and Mr. Michael M. Roddy

Other Judicial Council Members Commenting: Justices Tani Cantil-Sakauye and Brad R. Hill

Staff Participating: Ms. Nancy E. Spero

Judicial Participation in Voluntary Salary Waiver Program and Donations: Record-keeping and Reporting

The committee provided comments on draft policy guidance prepared by the Office of the General Counsel to clarify record-keeping and reporting requirements for the voluntary salary waiver program.

Respectfully submitted,



Kenneth L. Kann
Director, Executive Office Programs Division

**Judicial Council of California
Executive and Planning Committee
December 7, 2009, 12:00 p.m.–12:15 p.m.
Conference Call**

Members Participating: Judges Lee Smalley Edmon, Mary Ann O'Malley, Winifred Younge Smith, and James Michael Welch; and Mr. Frederick K. Ohlrich and Mr. James N. Penrod

Members Absent: Justice Richard D. Huffman, Judge Kenneth K. So, and Mr. Michael M. Roddy

AOC Members Participating: Mr. Dennis Blanchard, Ms. Deborah Brown, Mr. Curtis L. Child, Mr. Bob Fleshman, Ms. Donna S. Hershkowitz, Mr. John Judnick, Mr. Kenneth L. Kann, Mr. William L. Kasley, Mr. Greg Keil, Mr. Dag MacLeod, Ms. Susan McMullan, Mr. Daniel Pone, Ms. Nancy E. Spero, Ms. Ann Springgate, and Mr. William C. Vickrey

Minutes

The committee reviewed and approved the minutes of the November 12 and 23, 2009 E&P meetings.

Conversion of Subordinate Judicial Officer Positions

The committee reviewed and approved the staff recommendation confirming the conversion of an SJO position in the Superior Court of Contra Costa County effective January 29, 2010, and confirming the conversion of an SJO position in the Superior Court of Sonoma County at the earliest possible effective date upon the Legislature authorizing SJO position conversions for Fiscal Year 2010-2011.

Agenda Setting for the December 15, 2009, Judicial Council Meeting

The committee reviewed reports and set the agenda for the next Judicial Council business meeting.

Respectfully submitted,



Kenneth L. Kann
Director, Executive Office Programs Division

**Judicial Council of California
Executive and Planning Committee
January 13, 2010, 4:00–4:20 p.m.
Conference Call**

Members Participating: Justice Richard D. Huffman; Judges Lee Smalley Edmon, Mary Ann O'Malley, Winifred Younge Smith, Kenneth K. So, and James Michael Welch; and Mr. James N. Penrod

Members Absent: Mr. Frederick K. Ohlrich and Mr. Michael M. Roddy

AOC Members Participating: Mr. Christopher Belloli, Ms. Sheila Calabro, Ms. Eunice Calvert-Banks, Ms. Nancy Carlisle, Mr. Curtis L. Child, Mr. Bob Fleshman, Mr. Bradley Heinz, Ms. Donna S. Hershkowitz, Mr. Burt Hirschfeld, Mr. Kenneth L. Kann, Mr. Stephen Nash, Ms. Diane Nunn, Mr. Ronald G. Overholt, Ms. Jessica Sanora, Mr. Curt Soderlund, Ms. Nancy E. Spero, and Mr. William C. Vickrey, and Mr. Lee Willoughby

Minutes

The committee reviewed and approved the minutes of the December 7, 2009, Executive & Planning Committee meeting.

Agenda Setting for the January 21, 2010, Judicial Council Meeting

The committee reviewed reports and set the agenda for the next Judicial Council business meeting.

Respectfully submitted,



Ronald G. Overholt
Chief Deputy Director

Judicial Council of California
Executive and Planning Committee
January 15, 2010, 4:30 p.m.–5:00 p.m.
Conference Call

Members Participating: Justice Richard D. Huffman; Judges Lee Smalley Edmon, Mary Ann O'Malley, Winifred Younge Smith, Kenneth K. So, and James Michael Welch; and Mr. Frederick K. Ohlrich, Mr. James N. Penrod, and Mr. Michael M. Roddy

AOC Members Participating: Mr. Kenneth L. Kann, Mr. Ronald G. Overholt, Ms. Nancy E. Spero, and Mr. William C. Vickrey

Requests To Speak and/or Distribute Written Statements under Rules 10.6(e) and 10.6(d) for the Judicial Council January 21, 2010, Meeting

The committee reviewed and considered several requests to speak at the January 21, 2010, Judicial Council meeting as well as requests to distribute written statements. This meeting was specially called for the purpose of the council evaluating the impact of the one-day-per-month court closures for fiscal year 09-10 and consider if a change should be made for the remainder of the fiscal year. The committee also discussed the likelihood that additional requests will come subsequent to today's E&P meeting and before the January 21 council meeting.

On January 19, 2010, the committee chair directed staff to communicate with each group requesting the opportunity to publicly comment that its speaker be allowed no more than 3 minutes and that the speaker be requested to limit his or her remarks to court closures and related court budget issues. The committee chair directed staff to copy and distribute at the council meeting the written submissions.

Respectfully submitted,



Ronald G. Overholt
Chief Deputy Director

Judicial Council of California
Executive and Planning Committee
January 26, 2010
Proposal Circulated by E-mail on January 22, 2010

Members Voting: Justice Richard D. Huffman; Judges, Mary Ann O'Malley, Lee Smalley Edmon, Winifred Younge Smith, and Kenneth K. So; and Mr. Frederick K. Ohlrich, Mr. James N. Penrod, and Mr. Michael M. Roddy

Members Not Voting: Judge James Michael Welch

Staff Participating: Ms. Nancy E. Spero

Conversion of Subordinate Judicial Officer Positions (SJO)

The committee reviewed and approved the staff recommendations confirming the conversion of two SJO positions in the Superior Court of Los Angeles County effective immediately for the position left vacant on January 4, 2010, and effective March 4, 2010, for the position that will become vacant on that date. The committee also approved the court's request not to convert the third commissioner vacancy which will occur on April 5, 2010. The committee authorized the court to fill each converted position, if desired, with a retired commissioner, until a judge is appointed and sworn for that position.

The committee also reviewed and approved the staff recommendations confirming the conversion of two vacant positions in the Superior Courts of Imperial and Orange Counties effective July 1, 2010, or the date of legislative ratification of the authority to convert the positions in fiscal year 2010–2011, whichever is later. The committee authorized the courts to fill each position, if desired, with a retired commissioner, until the finalization of the Budget Act for Fiscal Year 2010–2011 and until a judge is appointed and sworn for that position.

Respectfully submitted,



Kenneth L. Kann
Director, Executive Office Programs Division

Judicial Council of California
Executive and Planning Committee
February 4, 2010, 12:00–12:50 p.m.
Conference Call

Members Participating: Justice Richard D. Huffman; Judges Lee Smalley Edmon, Mary Ann O'Malley, Winifred Younge Smith, Kenneth K. So, and James Michael Welch; and Mr. Frederick K. Ohlrich, Mr. James N. Penrod and Mr. Michael M. Roddy

AOC Members Participating: Mr. Dennis Blanchard, Ms. Deborah Brown, Ms. Nancy Carlisle, Ms. Roma Cheadle, Mr. Steven R. Crooks, Mr. Chad Finke, Mr. Bob Fleshman, Mr. Bradley Heinz, Mr. Kenneth L. Kann, Mr. Greg Keil, Ms. Shelly LaBotte, Mr. Frederick Miller, Mr. Ronald G. Overholt, Ms. Chris Patton, Mr. Brian Simeroth, Mr. Curt Soderlund, Ms. Nancy E. Spero, and Mr. Michael Wright

Minutes

The committee reviewed and approved the minutes of the January 13 and 15, 2010, Executive & Planning Committee meetings and the actions taken via e-mail on October 16, 2009 and January 26, 2010.

Briefing on the February 25, 2010, Issues Meeting

AOC staff briefed the committee on the agenda proposed for the issues meeting, February 25, 2010.

Agenda Setting for the February 26, 2010, Judicial Council Meeting

The committee reviewed reports submitted for the next Judicial Council business meeting and deferred setting the agenda setting pending the availability of further information.

National Center for State Courts (NCSC) Report on Criminal Case Management Improvement Program in the Superior Court of Riverside County

AOC staff briefed the committee on an assessment by the National Center for State Courts on the case management progress at the Superior Court of Riverside County. The committee received and accepted the report, as well as the response from the Superior Court of Riverside County, on behalf of the Judicial Council under Rule of Court 10.11(d). Copies of the report and response are attached.

February 24, 2010, Annual Agenda Review

The committee reviewed the Annual Agenda Guidelines and was briefed by AOC staff regarding the advisory committee and task force annual agenda process, in preparation for the committee's February 24, 2010, meeting with chairs and principal staff of each of the advisory committees and task forces which E&P oversees.

Nomination Process for Filling a Vacancy on the Judicial Council due to the Impending Retirement of Judge Friedman

The committee decided to solicit nominations for the council position which will become vacant with the retirement of Judge Terry B. Friedman, as part of the regular 2010 nominations solicitation cycle.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Overholt", written in a cursive style.

Ronald G. Overholt
Chief Deputy Director

Attachments:

Independent Assessment of the Criminal Case Management Improvement Program in the Superior Court of Riverside County, California – Parts 1 and 2

Riverside County Superior Court response



Independent Assessment of the Criminal Case Management Improvement Program in the Superior Court of Riverside County, California

**Final Report Part 1 – Synopsis of Findings
August 2009**

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This document has been prepared under an agreement between the National Center for State Courts and the Administrative Office of the Courts of California. The points of view and opinions offered in this report are those of the project consultants and do not necessarily represent the official policies or position of the Administrative Office of the Courts of California or the National Center for State Courts

Online legal research provided by LexisNexis.



ACKNOWLEDGMENTS

The authors wish to thank the judges and staff of the Superior Court of California, County of Riverside, the Riverside County District Attorney's Office, the Riverside County Public Defender's Office, the Riverside County Contract Defense Lawyer Program, the Riverside County Sheriff's Office, and the Riverside County Probation Department for their time, courtesy, openness, and insights. The authors also wish to thank Sheila Calabro, Fred Miller, and their colleagues at the Administrative Office of the Courts of California for their support, encouragement and understanding.

Introduction

Because of a serious accumulation of criminal cases, the Superior Court of California, County of Riverside (the Court) has been engaged in a systemic effort to reduce the backlog of cases and improve the rate and timeliness of dispositions of newly-filed cases, with the assistance of the California Administrative Office of the Courts (AOC) and the Chief Justice. The Chief Justice authorized the assignment of a Strike Force of highly experienced active and retired judges from around the state to try the oldest felony cases along with other felony and misdemeanor matters trailing those cases, and the Court and its Riverside County justice system partners implemented a two-track case management system. Those pending felony cases in which there had been an information arraignment prior to March 17, 2008 were assigned to a Backlog track; those cases in which there had not been an information arraignment were assigned to a New Structure track that included a more intensive case management process than had been used by the Court previously.

On March 17, 2008, when the new case management process became operational, the Riverside Court's case information system indicated that 6,280 felony cases were pending. Over two years had passed since the information arraignment for hundreds of these felony cases. Cases were being continued multiple times at each stage of the process, so that the backlog continued to build. Caseload management reports were not produced regularly, and the data available for managing the caseload was opaque and inconsistent. The Court was aware of the problem, but it was not focused on addressing it. Efforts to productively bring together the constituent elements of the Riverside criminal justice system had not been successful. The U.S. District Court had imposed a population cap on the local jails. Few civil cases could be tried because most judges and courtrooms were being devoted to criminal matters.

Since the AOC was integrally involved in facilitating the design and monitoring of the implementation of the new caseload management structure, it requested the National Center for State Courts (NCSC) to conduct an independent process evaluation of the implementation and assessment of the validity, reliability, and utility of the data being collected regarding the impact on case backlogs and new case processing. The NCSC Project Team sought to assess whether the key elements of the plan developed by the Riverside Court and justice system partners had been implemented and what the impact has been on strengthening case management by the Court; decreasing the time required to process felony cases; disposing of cases as early as possible in the process; and reducing the backlog of felony cases that had been created over time. In order to do so, the NCSC Project Team conducted two sets of interviews with judges and court staff, and senior managers and staff of all the justice partners and analyzed databases of pending felony cases provided by the Court for three key points in time:

- The commencement of the New Structure (March 17, 2008)
- A few days after departure of the Strike Force (June 30, 2008)
- The first anniversary of the New Structure (March 17, 2009)

This NCSC evaluation focuses on the progress made in implementing the new caseflow management structure for felonies only. The Riverside Criminal Backlog Reduction Task Force decided not to make any substantive changes to the misdemeanor calendar structure.

Findings:

Have the key elements of the plan been implemented? Overall, the two-track plan developed by the Riverside Criminal Backlog Reduction Task Force was implemented. In particular, the Vertical Calendar Departments (VCD Courts) and Master Calendar courts are operating smoothly in each court location although the VCD calendars move more slowly in the Western location (Riverside) than in the Mid-County (Murrieta) and Desert (Indio) locations, most likely due to the greater volume of cases and differences in the local legal culture. The willingness of VCD judges to provide indicated sentences is generally seen as useful in concluding at least some cases prior to the preliminary hearing. The communication among the Master Calendar judges and the timeliness of information regarding the availability of trial courtrooms throughout the County is excellent.

The most notable exception to the successful implementation of the new structure is the Pre-Preliminary Hearing Conference Departments (PPCDs) which were dropped within six months of the beginning of the new structure. The restrictions imposed on the types of cases that could be referred to these calendars limited their use to cases that were seen as likely to settle relatively quickly without designated judges, courtrooms, and attorneys.

In addition, the data indicate that continuances remain frequent and the number of "touches" per case may not have decreased significantly, although the perception of judges, prosecutors, and defense counsel is that the process for requesting continuances has become more formal (i.e., submission of a Rule 1050 form stating "good cause"); that when a continuance is approved, the period to the next setting has become shorter; that counsel are frequently subjected to admonitions from the bench to be ready to proceed at that setting; and that there are fewer "touches" in routine cases. As one lawyer put it, judges no longer tolerate "dribs and drabs continuances." However, despite these improvements, the general view is that once a reason for a continuance is offered, it is rare for the Court to deny the request. In part, the frequency with which continuances are granted may be related to the two most common bases cited by judges, prosecutors, and defense counsel: (1) that one or both attorneys are engaged in a trial; or (2) that discovery is either incomplete or was just provided to opposing counsel.

Has case management been strengthened? It was clear from interviews with judges, prosecutors, defense counsel, and court staff that the mind-set has changed. The leadership of the Court recognizes its responsibility to manage the caseload and continue to adjust policy to reduce delay causing practices and urge individual judges not to fall back into old patterns. The current set of VCD and Master Calendar judges

assertively seeks to bring cases to a just conclusion. The new Court Executive Officer has initiated development of a set of new monthly management reports to closely track the timeliness and disposition of criminal and civil cases.

Challenges remain, including late and/or incomplete provision of discovery materials; the large number of cases that reach the trial setting stage (resulting in part from the strict interpretation of California Penal Code section 1192.7); and the significant delays incurred in the limited number of cases in which there are motions either before or after the preliminary hearing. Moreover, this new court culture is still fragile; it remains dependent on the commitment of the judicial leadership of the Court rather than being the assumed way that “things are done” in Riverside County. Recognizing this fragility, the Court has embarked on a number of initiatives to institutionalize the new processes and enhance the momentum of change.

Have the changes in process and attitude decreased delay and reduced case backlogs? The answers to this question are mixed. Table 1 shows the age of total pending felony cases at these three points in time, with no distinction between New Structure and backlog track cases.

Date	Number of cases	Summary Percent of cases pending more than...					Number of days	
		90 days	180 days	365 days	540 days	730 days	mean	median
		3/17/2008	6,280	64	50	29	18	11
6/30/2008	5,902	59	46	30	19	12	302	150
3/17/2009	5,219	63	47	30	22	14	326	161

This Table shows that:

- **The total number of pending felony cases declined almost 17 percent during the evaluation period, from 6,280 to 5,219.**
- **The median age of pending cases decreased 11 percent between March 2008 and March 2009 from 181 days to 161 days,** although it has increased somewhat following the departure of the Strike Force so that the mean or average age increased nearly 7 percent during the evaluation period, indicating that there are still a substantial number of old cases. This is confirmed by the age profile which shows small decreases in the percentage of cases pending less than a year, and small increases in the percentage of cases pending 18 months or more.

To better understand these observations, it is necessary to look “inside the numbers.” The following tables are designed to help clarify the extent to which the criminal case management improvement efforts initiated in Riverside County have had their intended effect. These analyses focused on the following questions:

- What is the relationship between the number of new felony filings, felony dispositions, and pending felony cases?
- What is the age profile of cases assigned to the New Structure track compared to the cases assigned to the Backlog track?
- How many New Structure and Backlog cases are pending at each stage of the process and how have the numbers changed?
- How has the age of pending New Structure cases changed between March 17, 2008 and March 17, 2009?
- How successful have the VCDs been in moving cases through the preliminary hearing?

The relationship between felony filings, dispositions, and pending cases: There are two sources of data that can be drawn on to explore the overall trend in felony filings, dispositions, and pending cases. The first is aggregate data reported to the AOC. Figure 1 shows the monthly trend of felony filings and dispositions between July, 2006 and May, 2009. Beginning in March, 2008, the data show dispositions exceeding filings in most months, with the implication being that pending caseload is being reduced. In addition, the data shows a downward trend in the number of felony filings.

The second source of data comes directly from the management reports produced by the Riverside County Superior Court. These reports include:

- Felony filings by month (January 2008 – current)
- Total pending felony cases by week (3/17/08 – current)
- Pending felony cases distinguishing New Structure from backlog (3/17/08 – current)

Disposition data is not currently included in these reports. The Court's IT staff stated that they were sufficiently concerned about the accuracy of felony case disposition data that they decided not to include it in their weekly/monthly internal management reports. Improving the quality of the disposition data is a top priority for the Riverside Court's IT staff.

The relationship between the monthly trend in felony filings and felony pending is shown in Figure 2. Both felony filings and total pending show a similar downward trend, with the relationship between the two remaining fairly stable at around four pending cases for every new felony filing.

The nature of the drop in pending caseload is clarified when pending New Structure cases are viewed separately from pending Backlog cases (Figure 3). From March 17, 2008 to March 17, 2009, the number of pending New Structure cases actually rose slightly, while the number of pending Backlog track cases declined considerably.

Taking both sources of data together, it appears that **the fall in felony pending cases benefited primarily from the decline in felony filings. The work by the Court to increase the number of felony dispositions contributed as well.**

Figure 1: Total Filings and Dispositions - July, 2005 to May, 2009

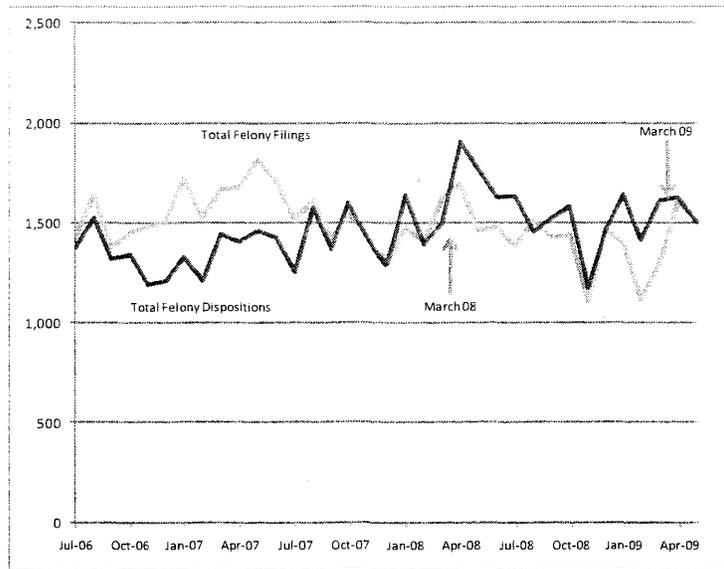


Figure 2: Relationship Between New Filings and Pending - March, 2008 to February, 2009

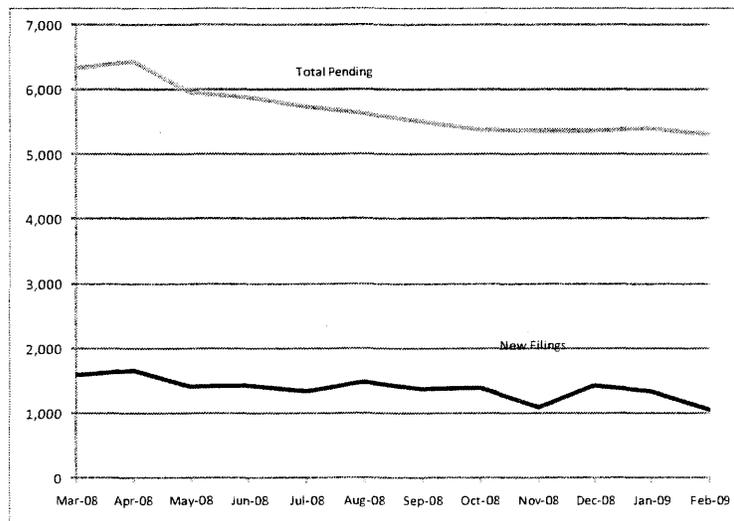
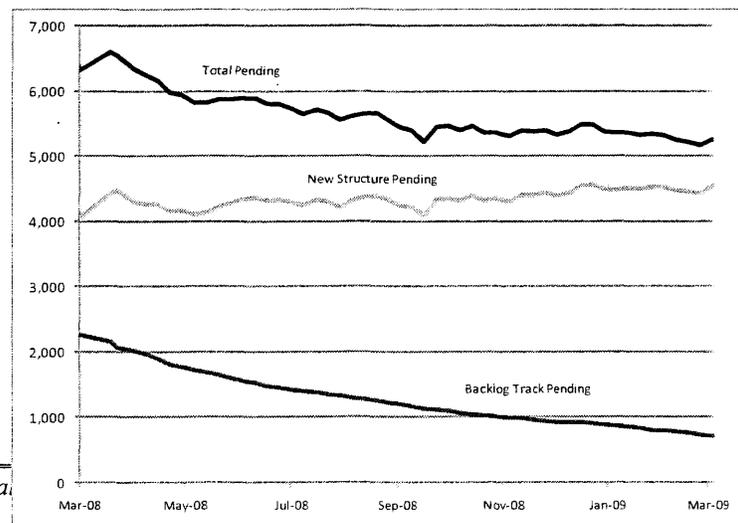


Figure 3: New Structure and Backlog Track Pending - March, 2008 to March, 2009



New Structure cases compared to Backlog cases: The decision to form two case processing tracks was made to enable the newer cases to be processed through a new caseflow structure designed to improve overall felony case processing, while the older cases, once identified, were dealt with as time and resources allowed. In addition, it was believed that the two tracks supported the Court’s efforts to better align and target existing judicial resources with the processing demands of cases at different stages of the process. As a consequence, gauging the success of the Court in improving case processing requires distinguishing and examining changes across the two tracks.

On March 17, 2008, all pending cases for which the information arraignment had been held were assigned to the Backlog track. All cases that had not yet completed the information arraignment were assigned to the New Structure track. In addition, all new cases filed in the Court were placed on the New Structure track. Because no new cases could be added to the Backlog track, the number of cases on this track can only go down. When the Backlog cases are eventually resolved, all felony cases will be processed using the New Structure. Table 2a shows the number and age profile for the New Structure and Backlog cases at the three points in time. Findings include:

- As anticipated, the Backlog cases are clearly much older than the New Structure cases although there were more “old” New Structure cases than anticipated.
- **The number of backlog track cases fell by about two-thirds from 2,237 on March 17, 2008 to 730 on March 17, 2009.** During the three months of the evaluation period when the Strike Force judges were still in Riverside County, 710 Backlog cases were disposed. After the Strike Force judges departed, another 797 Backlog cases were concluded.
- **The number of New Structure cases grew about 10 percent from 4,043 on March 17, 2008 to 4,489 on March 17, 2009.**
- **Both the mean and average age of pending New Structure felony cases were slightly lower on June 30, 2008 than on March 17, 2008, but rose between June 30, 2008 and March 17, 2009 to exceed the average age at the outset of the evaluation period.**

		Summary							Number of days	
		Number of cases	Percent of cases pending more than...					mean	median	
Date	90 days		180 days	365 days	540 days	730 days				
Backlog cases	3/17/08	2,237	95	85	59	38	23	524	431	
	6/30/08	1,527	99	97	79	55	36	685	586	
	3/17/09	730	100	100	100	93	69	991	925	
New Structure cases	3/17/08	4,043	47	30	13	7	5	184	81	
	6/30/08	4,375	44	28	12	6	4	169	75	
	3/17/09	4,489	57	39	19	10	5	218	119	

While the number of New Structure pending rose by 342 during the first three months of the evaluation period (March 17, 2008 to June 30, 2008), the average age distribution of these cases remained relatively stable. For example, the percent of cases pending more than 365 days, 540 days, or 730 days stayed essentially the same between March 17, 2008 and June 30, 2008, indicating that older New Structure cases were not necessarily the focus during this period.

Table 2b confirms that older New Structure cases were not being targeted for disposition during the first three months. This table shows the number of "old" New Structure cases (pending at least one year) at each of the three time periods. On March 17, 2008, there were 520 old New Structure cases (12.9 percent of total New Structure cases), while on June 30, 2008 there were 543 old New Structure cases (12.4 percent of total New Structure cases). The number of old New Structure cases rises to 840 (18.7 percent of total New Structure cases) on March 17, 2009. This is one indicator that a new backlog may be beginning to grow.

Table 2b: Number of felony cases pending at each stage older than one year
 Summary

Dates	Number of cases	first arraignment	pre-preliminary motions	felony settlement conference	preliminary hearing	information arraignment	post-preliminary motions	trial readiness conference	jury trial set
3/17/2008	520	1	23	150	140	52	112	12	30
6/30/2008	543	6	65	161	85	28	36	74	88
3/17/2009	840	1	82	100	55	24	86	183	309

If the efforts to speed up the early disposition of cases are working, then the Court's capacity to try cases should be improving (just making use of its own complement of criminal judges). To examine this issue, Table 3 compares the number of Backlog cases as of March 17, 2008 (plus the handful of new structure cases at trial readiness or set for trial) with the sum of (1) the remaining Backlog cases as of March 17, 2009, (2) the number of cases set for trial readiness conference, and (3) the number of cases set for trial. This comparison provides a means to assess the number of cases "headed for trial" on March 17, 2008 and on March 17, 2009. This comparison provides a way to gauge whether there has been any change in the overall number of felony cases that will require trial and whether that number is within the court's capacity to accommodate.

Table 3: Total Number of Backlog and New Structure cases pending at the late stages
Summary

	total cases	Backlog + New Structure cases at jury trial set	percent of total	Backlog + New Structure Cases at TRC & jury trial set	Percent of Total
3/17/08	6325	2305	36%	2329	37%
3/17/09	5219	1530	29%	2130	41%

The results are somewhat mixed depending on whether cases at trial readiness conference stage are included in the analysis. The left part of Table 3 compares Backlog cases plus cases at the jury trial set stage for the two time periods. The number and percentage have dropped significantly since March 2008. However, when those cases at the trial readiness conference stage are added to the mix (right side of Table 3), the reduction in the number of late stage cases is substantially less, and the proportion of late stage cases has increased. This could be a sign that cases are moving through the process more quickly, or as is discussed below, that cases are again beginning to stack up awaiting trial.

Status of New Structure caseload by stage: March 17, 2008 to June 30, 2008: Although the age profile of the New Structure pending felony caseload changed little during this period, cases were moving forward through the process. Table 4 shows the number of cases pending at each major stage of the felony process (the data reflect the next hearing set, not the most recently completed hearing). Of the total of 4,085 cases pending on March 17, 2008, only 17 percent (712 cases) had completed the preliminary hearing. That number had risen to 27 percent on June 30, 2008 (1,157 of 4,375 cases). In addition, on June 30, 2008, 361 cases were pending at the Trial Readiness Conference and 434 were pending at jury trial. By March 17, 2009, 40 percent of the 4,489 cases had had a preliminary hearing (1798). However, the proportion of cases at the trial readiness conference and jury trial set stages had increased from 19 percent of the total caseload on June 30, 2008 to 31 percent of the March 17, 2009 cases.¹ While it is a positive sign that more and more cases are progressing toward the end of the process, the fact that the inventory of these cases has increased so sharply further suggests that a new backlog may be building.

¹ The number of New Structure cases in the late stages at the beginning of the evaluation was low by definition. Indeed, that there are any post information arraignment cases included in the database provided by the Court suggests that the initial division of cases between the Backlog and New Structure tracks was not perfect and that in preparing the database provided to NCSC, some errors occurred. However, the number of cases apparently misassigned to a track is not large enough to impair the validity of the analysis.

Table 4: Number of cases pending at each stage (next hearing set)

New structure cases - Summary

Region	Number of cases	first arraignment	pre-preliminary motions	felony settlement conference	preliminary hearing	information arraignment	post-preliminary motions	trial readiness conference	jury trial set
3/17/08	4,085	498	66	2,009	800	254	370	23	65
6/30/08	4,375	429	332	1,883	574	218	144	361	434
3/17/09	4,489	371	273	1,526	521	182	216	600	800

Age of pending New Structure cases by stage: March 17, 2008 to June 30, 2008:

Improvement in the timeliness of case processing is seen by examining the average age of cases pending at each stage (Table 5). As of June 30, 2008, the average age of cases pending at the felony settlement conference, preliminary hearing, and information arraignment stages had all fallen significantly from the levels seen on March 17, 2008 (10 percent, 25 percent, and 19.6 percent respectively). [Given the small number of cases pending at the TRC (23 cases) and at Jury Trial (65 cases) on March 17, 2008, little should be read into the long average times on that date. Many more cases had advanced to these later stages by June 30, 2008.] However, the age of the cases at the late stages had increased markedly between June 30, 2008 and March 17, 2009 by 24 percent at TRC stage (256 days to 318 days) and 40 percent at the jury trial set stage (269 days to 378 days). It should be noted that the majority of cases may actually be moving more quickly than these figures suggest, since those with motions, particularly at the pre-preliminary hearing stage, are significantly older than those that have reached the information arraignment.

Table 5: Average age of New Structure cases pending at each stage (next hearing set)

Summary

Region	Number of cases	first arraignment	pre-preliminary motions	felony settlement conference	preliminary hearing	information arraignment	post-preliminary motions	trial readiness conference	jury set
3/17/2008	4,085	5	574	134	225	245	396	587	544
6/30/2008	4,375	11	289	119	184	213	353	256	269
3/17/2009	4,489	6	323	121	168	197	404	318	378

Thus, Tables 2-5 make clear that two different trends are shaping the pattern of New Structure cases. The Vertical Calendar Departments created in Riverside County to manage the caseload prior to trial readiness are moving cases more quickly through the early stages of the felony case process. **The average age of cases pending at the FSC, preliminary hearing, and information arraignment show a steady improvement across the three time periods. In contrast, the tables also provide evidence that felony cases are stacking up in the later stages.** Not only are there more cases pending at the TRC and Jury Trial Set stages, they are older. Although there is recent anecdotal information that trial-ready felony cases are not

having to be dismissed for lack of available courtrooms and that at least some cases are assigned out for trial early in the ten-day period (e.g., Day two rather than Day nine or ten), the Master Calendar Departments appear to be challenged by the heavy flow of cases. Consequently, the success at the earlier stages of case processing may be lost by rising delay at the end.

Finally, although it is not one of the matters that fell directly within the scope of the issues that the NCSC Project Team was directed to explore, it is important to note that **the number of felony defendants in custody dropped from 2,694 to 2,317, or 14 percent between June 30, 2008 and March 17, 2009**. Based on current cost estimates of \$110/day for each occupied jail bed, if the reduction in the number of pretrial detainees were maintained for a year, approximately \$15 million could be saved. This reduction in the number of detainees cannot be attributed directly to the improvements in case processing. It is likely the result of a combination of factors including the decrease in the number of filings and possible changes in detention policies and practices, as well as the more rapid disposition of cases.

Conclusion

The intervention to address the significant backlog of criminal cases in Riverside County has produced some significant changes in attitude and process. However, although routine cases are moving more quickly through the early stages of the process, the hope that a large enough proportion of felony cases could be resolved and disposed of before the preliminary or shortly after the information arraignment in order to avoid creation of a new backlog has not yet been realized. That backlog appears to be building and will create problems in the future unless there is continued vigorous attention to managing caseflow by the leadership of the Court and its justice partners.



Independent Assessment of the Criminal Case Management Improvement Program in the Superior Court of Riverside County, California

**Final Report Part 2 – Findings, Data, and Analysis
July 2009**

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I. INTRODUCTION

Because of a serious accumulation of criminal cases, the Superior Court of California, County of Riverside (the Court) has been engaged in a systemic effort to reduce the backlog of cases and improve the rate and timeliness of dispositions of newly-filed cases, with the assistance of the California Administrative Office of the Courts (AOC) and the Chief Justice. On March 17, 2008, as backlog reduction and improved case management programs were about to be instituted, the Riverside Court's case information system indicated that it had 6,280 felony cases pending.

Many of these cases exceeded California's time standards. Over two years had passed since the information arraignment for hundreds of felony cases. Cases were continued multiple times at each stage of the process, so that the backlog continued to build. Caseload management reports were not produced regularly and the data available for managing the caseload was opaque and inconsistent. While the Court was aware of the problem, it was not focused on addressing it. Efforts to productively bring together the constituent elements of the Riverside criminal justice system had not been successful. The local jails were subject to a population cap imposed by the U.S. District Court. Few civil cases could be tried because most of the available judges and courtrooms were being devoted to criminal matters. Several factors contributed to this crisis situation.

Between 1989 and 2006, California's population grew by more than 30 percent, while the population of Riverside County grew by more than 76 percent. During that same period, the county received only three new judgeships, a 6.5 percent increase. Since 2001, felony filings have grown by 35 percent, misdemeanor filings by 17 percent. [In addition] ... [t]he Riverside County District Attorney established and diligently enforced a very vigorous charging policy and very restrictive policy on plea bargaining . . . [after taking office in January 2007].¹

A three-pronged strategy was implemented to assist the Riverside Court. First, Chief Justice Ronald M. George and State Court Administrator William Vickrey sought

¹ Hon. Richard D. Huffman, Chair, Riverside Criminal Backlog Reduction Task Force, *Report to the Judicial Council of California* 6,1 (August 1, 2008).

authorization and appropriations from the legislature for additional judgeships. A total of 20 new judicial positions were authorized for Riverside County, but only seven of those judicial positions authorized for FY 2007 have been funded because of budget constraints. Second, a “Strike Force” of active and retired judges with extensive criminal trial experience including Judge David Wesley from Los Angeles County and Judge Richard Couzens (ret.) from Placer County was temporarily assigned to Riverside County to try the oldest pending cases. The Strike Force began with 12 judges in August 2007. The Strike Force dropped to six at the end of 2007 and concluded its work on June 25, 2008.² During this period, the Strike Force judges tried 125 of the 127 oldest cases along with related felonies and misdemeanors and heard 83 trials from the Master Calendar of the Hall of Justice in Riverside as well as 295 preliminary hearings, 199 pleas, and various motions and other matters.³

Third, a new criminal caseflow management model was designed by a criminal law advisory committee – the Riverside Criminal Backlog Reduction Task Force chaired by Justice Richard Huffman, which included representatives of all components of the County criminal justice system with the assistance of the AOC and outside consultants. The Task Force and its Working Group, chaired by Sheila Calabro, AOC Regional Administrative Director for the Southern Region, devoted considerable time reviewing data on the existing case management process, prepared an improvement plan, and tasked consultants to conduct a study to assess whether the Court had sufficient resources to implement the plan, modified the proposed plan when three of its components were rejected, and helped secure resources to pay for additional conflict attorneys. The model that was agreed upon provided for a two-track case management system with a revised criminal case management process initially running parallel with a backlog reduction panel to which cases that had had an arraignment on

² *Id.*, at 6.

³ *Id.* At 10.

the information or indictment are referred. More specifically, this involved the following:⁴

- *New Structure track*: all incoming cases and all cases pending on March 17, 2008 that had not reached the information arraignment stage.
- *Backlog track*: all cases pending on March 17, 2008 that had reached the information arraignment stage.

The New Structure was implemented on March 17, 2008. The key elements of the new process were memorialized as “Guiding Principles” and approved by all of the Riverside justice system partners. They are:

1. Coordination of criminal policy countywide through the Criminal Law Advisory Committee.
2. Application of the model consistently in all three major court locations.
3. Operation of a two-track case management system with the new structure running parallel to the separate backlog system.
4. “Front-loading” the process to facilitate early case resolution.
5. Assignment of criminal case coordinators to support caseflow and calendar management in the three major court locations.
6. Limiting continuances at all stages of the process.
7. Early and complete discovery.
8. Limiting time waivers for preliminary hearings.
9. Establishment of “Vertical Calendar Departments” (VCD’s) in each major court location to preside over all calendar appearances before the parties have stated that they are ready for trial.
10. Establishment of a “Pre-Preliminary Hearing Conference Department” (PPCD) in each major court location to enable experienced counsel and an experienced judicial officer, who will not be involved in further proceedings, to discuss just resolution of a felony matter referred to the PPCD.
11. Provision of opportunities for defense attorneys to meet with their clients to discuss settlement offers sufficiently before a proceeding so clients have adequate time to consider the offer and decide whether to accept it.

⁴ It appears that there are some imperfections in the split of cases between the “New Structure” track and the “Backlog Reduction” track. NCSC evaluators are not certain whether this occurred in 2008 during the initial assignment of cases to the two tracks, or in 2009 with the Court’s creation of the data set for NCSC analysis. Whenever the problem occurred, it is clear that the New Structure track included some cases that had languished for a long period of time during the pre-information arraignment stages of the felony process. Yet these “older” cases did not artificially inflate the average preliminary processing times for the New Structure cases as of March 17, 2008, because the number of such “older” cases is too small to make a difference in the analysis of either the New Structure or Backlog Reduction cases.

12. Preparation of pre-plea probation reports prior to sentencing if requested by a judge.
13. Enhanced communication among the master calendar judges in each major court location who are responsible for assigning trial ready felony and misdemeanor cases to courtrooms.
14. Ensuring that calendar proceedings do not interfere with attorneys' trial obligations.
15. Establishing a process for pre-screening jurors at the request of a judge.⁵

Because the AOC was integrally involved in designing and assisting implementation of the New Structure, it was not appropriate for it to also conduct an evaluation of its implementation and impact. Accordingly, it requested the NCSC to conduct an independent process evaluation of the implementation and an assessment of the validity, reliability, and utility of the data being collected regarding the impact on case backlogs and new case processing.

II. EVALUATION APPROACH

Following attendance by the NCSC project director at the June 2008 meeting of the Backlog Reduction Task Force, a four-person NCSC assessment team reviewed the plans, reports, and news articles regarding the implementation and performance of the new structure and the efforts of the Strike Force. In October 2008 the NCSC assessment team conducted an extensive set of group and individual interviews with representatives of the key components of the Riverside County criminal justice system at each of the major court locations – Riverside, Murrieta, and Indio. These interviews included discussions with judges, key court staff, prosecutors, public defenders and contract criminal defense counsel, bar representatives, sheriff department senior staff, and probation department personnel. Interviews covered the issues listed in the Interview Protocol included in Appendix A and were designed to determine to what extent the key elements of the plan were implemented and whether case management has been strengthened in the Court. Interviewees were told that responses would not be attributed.

⁵ *Id.*, at 13-16.

A follow-up site visit was conducted six months later to record the perceptions of the justice system partners regarding how the process was changing and whether it was having the intended effects. Individual and group interviews were conducted with judges, prosecutors, and defense attorneys in all three major court locations. The interviews followed the Interview Protocol included in Appendix B. Again, interviewees were informed that their responses were not attributable.

In June 2008, the NCSC assessment team asked the Court to provide a database for analysis regarding all criminal cases pending on June 30, 2008. The caseflow information included in the dataset was determined by personnel at the Court. There was difficulty initially transmitting the database and several months were spent clarifying the underlying definitions of each data element and the assumptions used. Once an understanding of these data was developed, the Court was asked to provide parallel databases from March 17, 2008 and March 17, 2009. The 2009 database was transmitted very promptly, but construction of the March 17, 2008 database proved much more time-consuming than the Court had anticipated when it agreed to provide it. Working with the Court, an alternative was developed that enabled analysis using a March 17, 2008 baseline that includes some but not all the data elements contained in the June 30, 2008 and March 17, 2009 datasets. The NCSC assessment team also examined the summary trend data produced for internal use by the Riverside Court to provide a broader context for the in-depth analysis as well as data provided by the AOC.

In examining the pending caseload, the evaluation used a combination of trend and cross-sectional analysis techniques to assess the impact of the New Structure at three points in time:

- The commencement of the new structure (March 17, 2008)
- A few days after the departure of the Strike Force (June 30, 2008)
- The first anniversary of the new structure (March 17, 2009)

These analyses focused on the following key questions, both County-wide and for each court location:

- 1.** How has the age of cases from first arraignment to disposition changed?

2. How many and what percentage of cases are pending at each stage of the process and how have the numbers and percentages changed?
3. How has the age of cases at each stage changed?
4. How have the periods of time between stages changed?
5. How does case processing time differ between those cases in which the defendant is in custody and those in which the defendant is not in custody?
6. How does case processing time vary by the type of crime with which the defendant is charged?
7. Does the case processing time vary by VCD court and how has that time changed in each VCD court?

Questions 1-4 are addressed in Section IV.A; questions 5-7 in Section IV.B. This information forms the basis of a defined set of management reports that are currently being used by court personnel. They provide a good overview of the success of the new model in reducing the age and number of pending cases by region and by stage.

III. DATA AVAILABILITY AND QUALITY

Riverside court administrative staff members have devoted considerable time and resources to data quality improvement efforts during the life of this study. The Court clearly recognizes that complete and accurate data are essential to understanding and effectively managing criminal caseflow. It has implemented many upgrades to the quality and content of case management information over the past year.

MIS staff members are also working to enhance the capacity of the Court's information system to produce high quality case-level data sets essential for in-depth analyses of criminal case processing. Ongoing improvements to data design and data quality allowed MIS staff to produce the March 17, 2009 data base quickly and efficiently. It proved more difficult and time-consuming to build the March 17, 2008 data base. Eventually, a workable data set was constructed that allowed for direct comparison of essential aspects of pending felony cases at the three points in time.

Although considerable improvements in data content and quality have been made by the Court, there are still important areas requiring further development that limited the NCSC project team's analysis. The most significant of these were the inability to automatically generate the data required to:

- Calculate clearance rates and time to disposition.
- Determine the number of continuances without a case by case file review.
- Exclude time periods during which cases are outside the Court’s control (e.g., when the defendant has absconded), thus inflating average case ages to an indeterminable extent.
- Measure actual occurrence dates for key events (e.g., completed motion hearings and the trial readiness conference) conducted between the information arraignment and the trial set date, making it difficult to analyze case processing during the later stages of a case.

A more detailed discussion of these and other data availability and quality issues is contained in Appendix C.

IV. FINDINGS

Based on the review of documents, the multiple interviews, and the analyses of the data provided, the NCSC assessment team reached conclusions about the success of the Riverside County effort.

A. Have the Changes in Process Implemented on March 17, 2008 Decreased Delay and Reduced Case Backlogs?

The answers to this question are mixed. Table 1 shows the age of total pending felony cases at the three points in time, with no distinction between New Structure and backlog track cases.

Date	Number of cases	Summary Percent of cases pending more than...					Number of days	
		90 days	180 days	365 days	540 days	730 days	mean	median
3/17/2008	6,280	64	50	29	18	11	305	181
6/30/2008	5,902	59	46	30	19	12	302	150
3/17/2009	5,219	63	47	30	22	14	326	161

This Table shows that:

- The total number of pending felony cases declined almost 17% during the evaluation period, from 6,280 to 5,219.

- The median age of pending cases decreased 11% between March 2008 and March 2009, although it has increased somewhat following the departure of the Strike Force so that the mean or average age increased nearly 7% during the evaluation period, indicating that there are still a substantial number of old cases. This is confirmed by the age profile which shows small decreases in the percentage of cases pending less than a year, and small increases in the percentage of cases pending 18 months or more.

Throughout this period, the Court had an average of just under 30 judges available to hear criminal trials, about a third of whom were assigned from other counties or from the ranks of senior judges. The total varied from a high of 36 in March 2008 and February and March 2009, to a low of 18 in August 2008.

To better understand these observations, it is necessary to look “inside the numbers.” The following tables are designed to help clarify the extent to which the criminal case management improvement efforts initiated in Riverside County have had their intended effect. These analyses focused on the following questions:

- What is the relationship between the number of new felony filings, felony dispositions, and pending felony cases?
- What is the age profile of cases assigned to the New Structure track compared to the cases assigned to the Backlog track?
- How many New Structure and Backlog cases are pending at each stage of the process and how have the numbers changed?
- How has the age of pending New Structure and backlog cases changed between March 17, 2008 and March 17, 2009?
- How successful have the VCDs been in moving cases through the preliminary hearing?

The relationship between felony filings, dispositions, and pending cases: There are two sources of data that can be drawn on to explore the overall trend in felony filings, dispositions, and pending cases. The first is aggregate data reported to the AOC. Figure 1 shows the monthly trend of felony filings and dispositions between July, 2006 and May, 2009. Beginning in March, 2008, the data show dispositions exceeding filings in most months, with the implication being that pending caseload is being reduced. In addition, the data shows a downward trend in the number of felony filings.

The second source of data comes directly from the management reports produced by the Riverside County Superior Court. These reports include:

- Felony filings by month (January 2008 – current)
- Total pending felony cases by week (3/17/08 – current)
- Pending felony cases distinguishing New Structure from backlog (3/17/08 – current)

Total felony filing numbers by month are similar (though not identical) to those reported to the AOC. The relationship between the monthly trend in felony filings and felony pending is shown in Figure 2. Both felony filings and total pending show a similar downward trend, with the relationship between the two remaining fairly stable at around four pending cases for every new felony filing. The nature of the drop in pending caseload is clarified when pending New Structure cases are viewed separately from pending Backlog cases (Figure 3). From March 17, 2008 to March 17, 2009, the number of pending New Structure cases actually rose slightly, while the number of pending Backlog track cases declined considerably.

Taking both sources of data together, it appears that the fall in felony pending cases benefited both from a decline in felony filings and work by the Court to increase the number of felony dispositions.

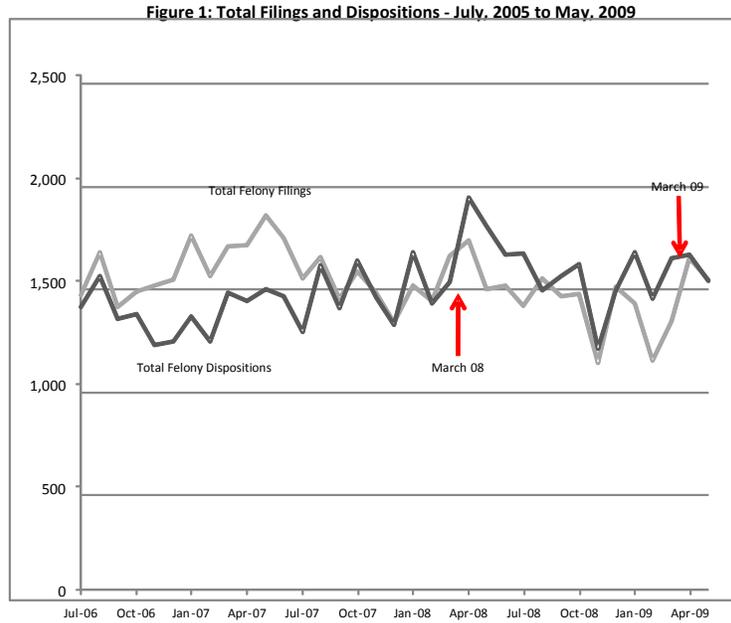


Figure 2: Relationship Between New Filings and Pending - March, 2008 to February, 2009

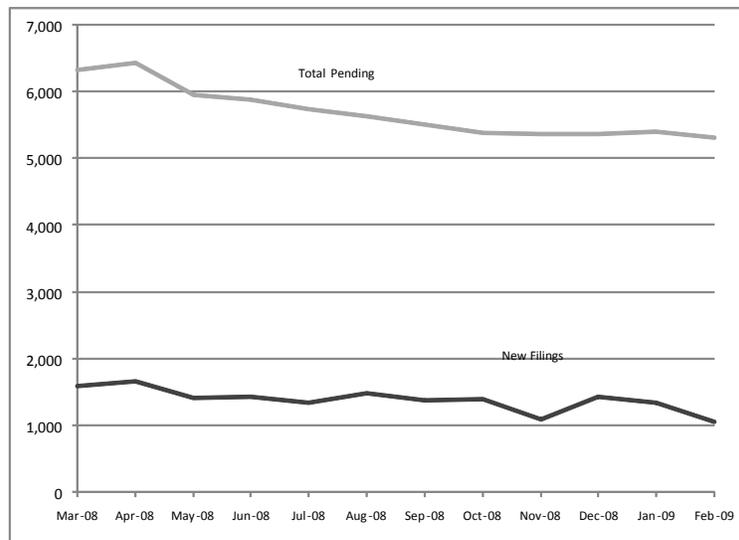
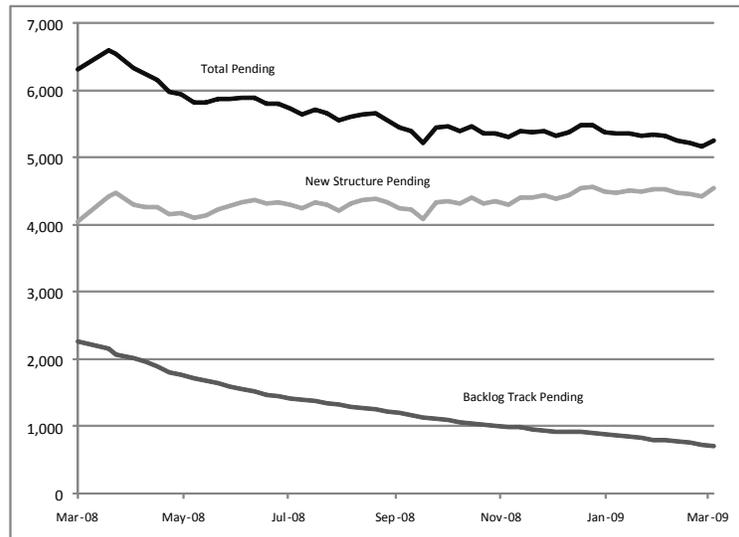


Figure 3: New Structure and Backlog Track Pending - March, 2008 to March, 2009



New Structure cases compared to Backlog cases: The decision to form two case processing tracks was made to enable the newer cases to be processed through a new caseload structure designed to improve overall felony case processing, while the older cases, once identified, were dealt with as time and resources allowed. In addition, it was believed that the two tracks supported the Court's efforts to better align and target existing judicial resources with the processing demands of cases at different stages of the process. As a consequence, gauging the success of the Court in improving case processing requires distinguishing and examining changes across the two tracks.

Table 2a shows the number and age profile for the New Structure and Backlog cases at the three points in time. Findings include:

- As anticipated, the Backlog cases are clearly much older than the New Structure cases although there were more "old" New Structure cases than anticipated.
- The number of backlog track cases fell by about two-thirds from 2,237 on March 17, 2008 to 730 on March 17, 2009. During the three months of the evaluation period when the Strike Force judges were still in Riverside County, 710 Backlog cases were disposed. After the Strike Force judges departed, another 797 Backlog cases were concluded.⁶
- The number of New Structure cases grew about 10 percent from 4,043 on March 17, 2008 to 4,489 on March 17, 2009.
- Both the mean and average age of pending New Structure felony cases were slightly lower on June 30, 2008 than on March 17, 2008, but rose between June 30, 2008 and March 17, 2009 to exceed the average age at the outset of the evaluation period.

While the number of New Structure pending rose by 332 during the first three months of the evaluation period (March 17, 2008 to June 30, 2008), the average age distribution of these cases remained relatively stable. For example, the percent of cases pending more than 365 days, 540 days, or 730 days stayed essentially the same between March 17, 2008 and June 30, 2008, indicating that older New Structure cases were not necessarily the focus during this period.

⁶ Because no new cases could be added to the Backlog track, the number of cases on this track can only go down.

Table 2a: Age in days from first arraignment

Summary

	Date	Number of cases	Percent of cases pending more than...					Number of days	
			90 days	180 days	365 days	540 days	730 days	mean	median
Backlog cases	3/17/08	2,237	95	85	59	38	23	524	431
	6/30/08	1,527	99	97	79	55	36	685	586
	3/17/09	730	100	100	100	93	69	991	925
New Structure cases	3/17/08	4,043	47	30	13	7	5	184	81
	6/30/08	4,375	44	28	12	6	4	169	75
	3/17/09	4,489	57	39	19	10	5	218	119

Table 2b confirms that older New Structure cases were not being targeted for disposition during the first three months. This table shows the number of “old” New Structure cases (pending at least one year) at each of the three time periods. On March 17, 2008, there were 520 old New Structure cases (12.9% of total New Structure cases), while on June 30, 2008 there were 543 old New Structure cases (12.4% of total New Structure cases). The number of old New Structure cases rises to 840 (18.7% of total New Structure cases) on March 17, 2009. This is one indicator that a new backlog may be beginning to grow.

Table 2b: Number of New Structure felony cases pending at each stage older than one year

Summary

Dates	Number of cases	first arraignment	pre-preliminary motions	felony settlement conference	preliminary hearing	information arraignment	post-preliminary motions	trial readiness conference	jury trial set
3/17/2008	520	1	23	150	140	52	112	12	30
6/30/2008	543	6	65	161	85	28	36	74	88
3/17/2009	840	1	82	100	55	24	86	183	309

If the efforts to speed up the early disposition of cases are working, then the Court’s capacity to try cases should be improving (just making use of its own complement of criminal judges). To examine this issue, Table 3 compares the number

of Backlog cases as of March 17, 2008 (plus the handful of new structure cases at trial readiness or set for trial) with the sum of (1) the remaining Backlog cases as of March 17, 2009, (2) the number of cases set for trial readiness conference, and (3) the number of cases set for trial. This comparison provides a means to assess the number of cases “headed for trial” on March 17, 2008 and on March 17, 2009. This comparison provides a way to gauge whether there has been any change in the overall number of felony cases that will require trial and whether that number is within the court’s capacity to accommodate.

Table 3: Total Number of Backlog and New Structure cases pending at the late stages
 Summary

	total cases	Backlog + New Structure cases at jury trial set	percent of total	Backlog + New Structure cases at TRC & jury trial set	Percent of Total
3/17/08	6325	2305	36%	2329	37%
3/17/09	5219	1530	29%	2130	41%

The results are somewhat mixed depending on whether cases at trial readiness conference stage are included in the analysis. The left part of Table 3 compares Backlog cases plus cases at the jury trial set stage for the two time periods. The number and percentage have dropped significantly since March 2008. However, when those cases at the trial readiness conference stage are added to the mix (right side of Table 3), the reduction in the number of late stage cases is substantially less, and the proportion of late stage cases has increased. This could be a sign that cases are moving through the process more quickly, or as is discussed below, that cases are again beginning to stack up awaiting trial.

Status of New Structure caseload by stage: March 17, 2008 to June 30, 2008:

Although the age profile of the New Structure pending felony caseload changed little during this period, cases were moving forward through the process. Table 4 shows the number of cases pending at each major stage of the felony process (the data reflect the

next hearing set, not the most recently completed hearing). Of the total of 4,085 cases pending on March 17, 2008, only 17% (712 cases) had completed the preliminary hearing. That number had risen to 27% on June 30, 2008 (1,157 of 4,375 cases). In addition, on June 30, 2008, 361 cases were pending at the Trial Readiness Conference and 434 were pending at jury trial. By March 17, 2009, 40% of the 4,489 cases had had a preliminary hearing (1798). However, the proportion of cases at the trial readiness conference and jury trial set stages had increased from 19% of the total caseload on June 30, 2008 to 31% of the March 17, 2009 cases.⁷ While it is a positive sign that more and more cases are progressing toward the end of the process, the fact that the inventory of these cases has increased so sharply further suggests that a new backlog may be building.

Table 4: Number of cases pending at each stage (next hearing set)

New structure cases - Summary

Region	Number of cases	first arraignment	pre-preliminary motions	felony settlement conference	preliminary hearing	information arraignment	post-preliminary motions	trial readiness conference	jury trial set
3/17/08	4,085	498	66	2,009	800	254	370	23	65
6/30/08	4,375	429	332	1,883	574	218	144	361	434
3/17/09	4,489	371	273	1,526	521	182	216	600	800

Age of pending New Structure cases by stage: March 17, 2008 to June 30, 2008:

Improvement in the timeliness of case processing is seen by examining the average age of cases pending at each stage (Table 5). As of June 30, 2008, the average age of cases pending at the felony settlement conference, preliminary hearing, and information arraignment stages had all fallen significantly from the levels seen on March 17, 2008 (10%, 25%, and 19.6% respectively). [Given the small number of cases pending at the TRC (23 cases) and at Jury Trial (65 cases) on March 17, 2008, little should be read into

⁷ The number of New Structure cases in the late stages at the beginning of the evaluation was low by definition. Indeed, that there are any post information arraignment cases included in the database provided by the Court suggests as indicated earlier that the initial division of cases between the Backlog and New Structure tracks was not perfect and that in preparing the database provided to NCSC, some errors occurred. However, the number of cases apparently misassigned to a track is not large enough to impair the validity of the analysis.

the long average times on that date. Many more cases had advanced to these later stages by June 30, 2008.] However, the age of the cases at the late stages had increased markedly between June 30, 2008 and March 17, 2009 by 24% at TRC stage (256 days to 318 days) and 40% at the jury trial set stage (269 days to 378 days). It should be noted that the majority of cases may actually be moving more quickly than these figures suggest, since those with motions, particularly at the pre-preliminary hearing stage, are significantly older than those that have reached the information arraignment.

Table 5: Average age of cases pending at each stage (next hearing set)

Region	Number of cases	first arraignment	pre-preliminary motions	felony settlement conference	preliminary hearing	information arraignment	post-preliminary motions	trial readiness conference	jury trial set
3/17/2008	4,085	5	574	134	225	245	396	587	544
6/30/2008	4,375	11	289	119	184	213	353	256	269
3/17/2009	4,489	6	323	121	168	197	404	318	378

Thus, Tables 2-5 make clear that two different trends are shaping the pattern of New Structure cases. The Vertical Calendar Departments created in Riverside County to manage the caseload prior to trial readiness are moving cases more quickly through the early stages of the felony case process. The average age of cases pending at the FSC, preliminary hearing, and information arraignment show a steady improvement across the three time periods. In contrast, the tables also provide evidence that felony cases are stacking up in the later stages. Not only are there more cases pending at the TRC and Jury Trial, they are older. Although there is recent anecdotal information that trial-ready cases are not having to be dismissed for lack of available courtrooms and that at least some cases are assigned out for trial early in the trailing period (e.g., Day 2 rather than Day 9 or 10), the Master Calendar Departments appear to be challenged by the heavy flow of cases. Consequently, the success at the earlier stages of case processing may be lost by rising delay at the end.

B. Were the Key Elements of the Plan Implemented and Was Case Management Strengthened in the Riverside County Superior Court?

1. Coordination of criminal justice policy countywide through the Criminal Law Advisory Committee. In mid-2007, at Justice Huffman’s request, the Riverside Criminal Backlog Reduction Task Force began “to review the current structure and performance of the county’s criminal caseflow management process and to devise needed improvements. The role of the Task Force was to devise an improved criminal caseflow management process to alleviate the underlying problems that produced the current backlog.”⁸ The Task Force included participants from all three regions of the Superior Court, the Riverside County District Attorney’s Office, the Riverside County Public Defender’s Office, the Riverside County Probation Department, the Riverside County Sheriff’s Department, two conflict attorney organizations, and the Riverside County Counsel. The Task Force was assisted for more than a year by staff and consultants of the California Administrative Office of the Courts (AOC). A Working Group of the Task Force, chaired by the Regional Administrative Director of the Southern Region of the AOC and assisted by an AOC consultant, devised and refined the New Structure case management plan. The Working Group met monthly during the design and initial implementation period and the Task Force met quarterly. Both sets of meetings provided opportunities to develop and confirm policies, voice concerns, and discuss operational issues. While the decisions made by the Working Group and Task Force did not necessarily bind the policies and practices of the participating entities, it did open lines of communication and provide means for needed coordination.

During the last six months of the evaluation period, meetings have become less frequent. In part this is a result of the major changes in process having been made. The decreasing role of the Judicial Council and AOC are likely to be another factor. Nevertheless, the Task Force has largely met its charge from Justice Huffman, and it is still being used to announce and discuss changes in policy and practice.

⁸ *Id.*, at 12.

2. Application of the model consistently in all three major court locations. The new criminal case management model operates through several departments:

- a. Felony vertical calendar departments (VCD's)
 - i. Control all preliminary case activity up to pronouncement of trial readiness
 - ii. Goal: timely conclusion of all preliminary case events; early disposition of cases ("front loading")
- b. Master calendar departments
 - i. Manage cases from trial readiness to assignment to trial department
 - ii. New structure master calendar
 - iii. Backlog master calendar
- c. Trial departments

This New Structure has been implemented effectively in all three major court locations. VCD courtrooms and Master Calendar courtrooms are operating in each location applying similar approaches and standards. Criminal case coordinators are closely tracking the availability of courtrooms. Judges, prosecutors and defense counsel all understand the goals, processes, and practices. Although there are continuing differences among the Hall of Justice, Southwest, and Desert locations in the pace with which cases move through the process, Table 6 below shows that the numbers run parallel.

Indeed, the comments of both senior Assistant District Attorneys and senior Public Defenders suggest that there may be as much variation among judges within each location as there is among the three courthouses. The more recently appointed judges in particular were cited as more likely to strictly enforce the policies underlying the New Structure. On the other hand, many though not all of the assigned judges, were seen as less familiar with and committed to the new practices, and thus less likely to push for a resolution and to take a hard line on continuances.

Table 6: Age in days from first arraignment date

	Region	Number of cases	Percent of cases pending more than...					Number of days	
			90 days	180 days	365 days	540 days	730 days	mean	Median
3/17/08	Western	3,337	69	55	34	22	14	348	222
	Mid-County	1,565	56	40	21	13	8	240	123
	Desert	1,378	62	48	26	15	7	274	168
	Total	6,280	64	50	29	18	11	305	181
6/30/08	Western	3,201	62	49	33	22	14	333	178
	Mid-County	1,403	56	42	25	16	10	261	125
	Desert	1,298	54	42	26	15	9	271	119
	Total	5,902	59	46	30	19	12	302	150
3/17/09	Western	2,842	66	52	33	23	16	354	190
	Mid-County	1,233	61	44	28	20	11	294	143
	Desert	1,144	57	40	24	18	12	293	122
	Total	5,219	63	47	30	22	14	326	161

3. Operation of a two-track case management system with the New Structure running parallel to the separate backlog system.

Backlog Track Cases. As we note above, the new criminal caseflow management model for Riverside County involved the creation and operation of a two-track case management system with the New Structure running parallel to the separate Backlog system. Tables 7a and 7b compare the size and age of the pending inventory of Backlog cases on March 17, 2008 with that for New Structure cases, followed by a similar comparison for June 30, 2008 and one for March 17, 2009.

They show the dramatic reduction of the number of Backlog cases over the course of the year to less than one-third of the initial total. The design called on the Court to focus on the New Structure cases and hear Backlog cases as time was available. This approach appeared to follow as the Backlog caseload dropped an average of 237 cases per month during the first three months of the program (when the Strike Force judges were still present and many of the New Structure cases were not yet ready for trial), and slowed to an average of 88.5 cases per month for the remaining nine months.

**Table 7a: Age in days from first arraignment
Track B backlog cases**

	Region	Number of cases	Percent of cases pending more than...					Number of days	
			90 days	180 days	365 days	540 days	730 days	mean	Median
3/17/08	Western	1,276	97	89	64	43	26	561	474
	Mid-County	504	89	77	49	34	20	467	353
	Desert	457	95	83	55	31	17	482	395
	Total	2,237	95	85	59	38	23	524	431
6/30/08	Western	911	100	98	82	58	38	700	608
	Mid-County	326	100	94	74	53	36	659	569
	Desert	290	100	97	79	48	30	667	537
	Total	1,527	99	97	79	55	36	685	586
3/17/09	Western	446	100	100	100	93	70	991	911
	Mid-County	156	100	100	100	91	62	961	898
	Desert	128	100	100	99	93	73	1,028	973
	Total	730	100	100	100	93	69	991	925

**Table 7b: Age in days from first arraignment
New structure cases**

	Region	Number of cases	Percent of cases pending more than...					Number of days	
			90 days	180 days	365 days	540 days	730 days	mean	Median
3/17/08	Western	2,061	51	34	15	10	6	215	98
	Mid-County	1,061	41	23	9	4	2	132	61
	Desert	921	46	31	12	7	3	171	77
	Total	4,043	47	30	13	7	5	184	81
6/30/08	Western	2,290	47	30	14	7	5	187	82
	Mid-County	1,077	43	26	10	4	2	141	70
	Desert	1,008	41	27	11	5	3	157	67
	Total	4,375	44	28	12	6	4	169	75
3/17/09	Western	2,396	59	43	21	11	5	235	134
	Mid-County	1,077	55	36	18	9	4	198	108
	Desert	1,016	52	33	15	8	4	200	100
	Total	4,489	57	39	19	10	5	218	119

New Structure Cases. The key test of the new criminal caseflow management model was whether the Court would be able to avoid developing a backlog of New Structure cases. Table 7b shows that between March 17, 2008 and March 17, 2009, the number of pending cases in this track increased by about 10%. During the first three months of the program the age of such pending cases was decreased, so that on June 30, 2008 the mean and median ages were lower than in March 2008, and the percentage of cases more than 90 days, 180, 365, 540 and 730 days old was lower. By March 17, 2009, however, the age of the pending New Structure cases had increased, so that the mean and median age were more than a month higher than at the inception of the program, and almost two months higher than at the end of June 2008. Yet the percentage of cases older than 730 days had basically held steady – there were 5% in March 2008, 4 percent at the end of June 2008, and 5% in March 2009.

As indicated earlier, the number of new filings has declined between March, 2008 and March, 2009, so that rising pending caseload is not driven by rising filings.⁹ Also, as shown in Table 8, there has been no change in the percentage of in-custody defendants. However, as indicated in Table 9, the percentage of cases in which the defendant was represented by the Riverside County Public Defender has dropped slightly (2%) and the percentage represented by conflict counsel has increased correspondingly. This is significant because both the average and median age of cases handled by conflict defense attorneys is significantly higher than that for either private counsel or the Public Defender's Office. Moreover, as indicated in Table 10, the proportion of the New Structure caseload involving serious violent crime (homicide, forcible rape, kidnapping, assault, robbery, and sex offenses) has increased by 5% (33% on March 17, 2008; 38% on March 17, 2009).¹⁰

It is not possible to determine from the information available whether the increase in the age of New Structure cases is attributable to the slight shift in the type of counsel providing representation, in the composition of the caseload, to the maturing

⁹ See Figure 3 *supra*.

¹⁰ This trend is even more pronounced for Backlog cases –52% violent felonies in March, 2008; 66% in March 2009, perhaps explaining the substantial increase in the age of the Backlog cases over the year.

of the New Structure cases and the possibility that the system has not found its equilibrium point as yet, or to some combination of all of these factors and other factors. However, if this trend in the pending inventory of New Structure cases were to continue unabated in the future, the numbers allow a forecast that the Court would in time be back to where it was before the temporary infusion of Strike Force judges and the adoption of the new criminal caseflow management model. Using simple “straight line” projections based on the March 2008 and March 2009 totals, one would expect, absent significant changes in policies and practices or increases in judicial resources, that the size of the pending inventory would double in less than seven years and be over 10,000 cases in less than ten years, even without any increase in the rate of new filings. And in ten years, the number of pending cases over two years old would have surpassed the number of such older cases pending when the new criminal caseflow management model was introduced on March 17, 2008. However, as results discussed in the next section show, Riverside appears to have had success with front loading the process so that progress is being made in changing how business is done.

Table 8: Ages of cases by defendant custody status							
New structure cases							
6/30/08							
Region	Number of cases	Number of in custody defendants	Percent in custody	Case age for in custody defendants (mean/median)	Case age for out of custody defendants (mean/median)	Number of cases w/ out of court control time	Percent of cases w/ out of court control time
Western	2,290	1,012	44	218/89	162/75	511	22
Mid-County	1,077	402	37	157/75	131/69	224	21
Desert	1,008	471	47	183/62	134/68	317	31
Total	4,375	1,885	43	196/81	148/73	1,052	24
3/17/09							
Western	2,396	1,020	43	287/156	196/122	517	22
Mid-County	1,077	438	41	223/132	180/98	279	26
Desert	1,016	453	45	266/134	147/71	244	24
Total	4,489	1,911	43	267/148	182/106	1,040	23

Table 9: Age of cases by type of attorney
New structure cases

6/30/08											
Region	Number of cases	Case age for all attorneys (mean/median)	Number w/private attorney	Percent w/private attorney	Case age for private attorney (mean/median)	Number w/public defender	Percent w/public defender	Case age for public defender (mean/median)	Number with conflict defense attorney	Percent w/conflict defense attorney	Case age for conflict defense attorney (mean/median)
Western	2,179	195/88	679	30	235/136	1,017	47	136/52	483	22	260/140
Mid-County	989	153/83	343	32	179/112	503	51	118/55	143	14	212/122
Desert	806	190/96	260	26	211/119	355	44	134/68	191	24	266/175
Total*	3,974	183/88	1,282	32	215/126	1,875	47	131/55	817	21	253/144
3/17/09											
Western	2,294	242/143	736	32	266/174	990	43	190/90	568	25	301/211
Mid-County	993	213/127	287	29	212/136	504	51	180/102	202	20	295/191
Desert	910	210/115	317	35	259/170	387	43	134/66	206	23	277/155
Total*	4,197	228/132	1,340	32	253/162	1,881	45	176/86	976	23	295/191

* This total excludes 292 cases in which the attorney type was listed as "other."

Table 10:
Trends in Categories of Pending New Structure Cases, March 2008 to March 2009

Category	3/17/08		6/30/08		3/17/09	
	Number of Cases	Percent of Total	Number of Cases	Percent of Total	Number of Cases	Percent of Total
Most Violent	242	6.0%	240	5.5%	379	8.4%
Other Violent	1,110	27.4%	1,303	29.8%	1,351	30.1%
Property	1,175	29.0%	1,210	27.7%	1,151	25.6%
Drug	934	23.1%	992	22.7%	920	20.5%
Vehicle	265	6.5%	236	5.4%	206	4.6%
Weapons	71	1.8%	85	1.9%	183	4.1%
Miscellaneous	288	7.1%	304	6.9%	289	6.4%
Missing	0	0.0%	5	0.1%	10	0.2%
Total	4,049	100.0%	4,375	100.0%	4,489	100.0%

4. “Front-loading” the process to facilitate early case resolution. For New Structure cases, the Court has allocated judges and other court resources to promote early disposition of cases. This has created a perception among all participants in the process that cases are now churning significantly less before the preliminary hearing than they did prior to the new structure, and that cases capable of being resolved without trial are being resolved at an early stage. As Table 11 shows, the data bear this out. On March 17, 2008, the average age of cases set for jury trial was 18 months. For those awaiting a trial readiness conference, it was 19 months; and for those still at the preliminary hearing stage, it was about 7.5 months. The trend was clear: cases were taking a long time getting to trial, and the delay was only going to get worse.

As of March 17, 2009 cases with pre-preliminary motions were still getting bogged down at that stage, but the average age of cases at this stage (about 5.5 months) was two months less than it had been a year before. At every stage through information arraignment, the average age was lower in March 2009 than it had been a year before. As a result, the average age of cases awaiting trial was about eight

months less than it had been in March 2008. The 25% drop in the average age of cases at the preliminary hearing stage shows that case processing issues and problems are now being addressed and resolved much sooner than they had been before the introduction of the new criminal caseflow management model.

Table 11: Average age of cases pending at each stage (next hearing set)
Summary

Backlog cases									
Region	Number Of cases	first arraign.	pre-preliminary motions	felony settlement conference	preliminary hearing	Info. Arraign.	post-preliminary motions	trial readiness conference	jury trial set
3/17/2008	2,240	509	501	392	399	0	567	461	553
6/30/2008	1,527	164	1,088	494	524	39	845	723	661
3/17/2009	730	933	1,091	249		1,320	970	980	997
New Structure cases									
3/17/2008	4,085	5	574	134	225	245	396	587	544
6/30/2008	4,375	11	289	119	184	213	353	256	269
3/17/2009	4,489	6	323	121	168	197	404	318	378

It is noteworthy that the age of cases in which there is a motion is significantly longer than those without motions, especially those with motions prior to the preliminary hearing. As indicated in Table 12, cases with motions appear to be a small proportion of the cases and the number of motion hearings has held relatively steady over the year (down 17% pre-preliminary; up 3% post-preliminary hearing). But, the average age of pre-information cases in which there is a motion is 323 days; the average age of cases at the preliminary hearing is only 168 days. The data do not permit analysis of how many of these cases have more than one motion hearing or repeated continuances of the motion hearing. Neither does the information available permit a detailed analysis of the types of motions made nor does it show anything unusual in the types of cases that most frequently include a motion hearing (drug, murder, and assault cases). While it is inevitable that there will be motions in cases, it

is important for caseload management purposes that provisions be made to require motions to be filed as early as possible and to hear motions promptly, and that motions arising because of regularly-occurring avoidable problems should be addressed if they result in unnecessary delay.

Given that the number of Backlog cases has been dramatically reduced and that events in New Structure cases are proceeding more quickly through the information arraignment, and that the average age of New Structure cases awaiting trial is much less as of March 2009 than it was in March 2008, then why were the mean and median case age figures for New Structure cases in Table 2 for March 2009 *older* than those for March 2008?

One answer to this question is suggested in Table 12, which shows the number of New Structure cases pending at each stage in the court process. From March 2008 to March 2009, there was a great increase in the number of New Structure cases pending at the trial readiness conference (TRC)/jury trial set stages. While the total number of Backlog and New Structure cases at these stages is down slightly (2,111 in March 2008; 2,036 in March 2009), the proportion of the caseload represented by cases at the TRC/jury trial set stages has increased by six percent (33% vs. 39%). The age of pending cases in March 2009 is not lower than it was in March 2008 because cases have begun to queue up at the TRC/jury trial stages. While it is a positive sign that more and more cases are progressing toward the end of the process, the fact that the inventory of these cases has increased so sharply further suggests that a new backlog may be building.

Table 12: Number of cases pending at each stage (next hearing set)
 New structure cases - Summary

Date	Number of cases	first arraign.	pre-preliminary motions	felony settlement conference	preliminary hearing	Info. arraign.	post-preliminary motions	trial readiness conference	jury trial set
3/17/08	4,085	498	66	2,009	800	254	370	23	65
6/30/08	4,375	429	332	1,883	574	218	144	361	434
3/17/09	4,489	371	273	1,526	521	182	216	600	800

Another answer may be that the cases were going through the system faster but not resolving faster or in larger percentages. Aggressive prosecution charging policies leave defense attorneys and their clients reluctant to resolve some categories of cases by plea. Since those policies did not change when the Court introduced its new approach, many cases still require trials, resulting in an increased number of cases waiting longer to be disposed. As noted above in connection with Table 10, the percentage of pending New Structure cases in the “most violent” (homicides and forcible rapes) and “other violent” (kidnap, assault, robbery and sex offense) categories) have increased, while property, drug and other cases represent a reduced portion of the pending inventory.

Table 13 indicates the number of cases pending at each stage older than one year. It clearly shows the older cases are stacking up at the TRC/jury trial stages in March, 2009. This is a matter of great significance for Court leaders concerned about the ongoing potential for successful implementation of the new criminal caseflow management model. If it becomes evident that cases are once again languishing at the TRC/trial stage, attorneys will feel less and less pressure to be prepared for court events before trial and at the initial trial settings.

Table 13: Number of New Structure felony cases pending at each stage older than one year
Summary

Dates	Number of cases	first arraign.	pre-preliminary motions	felony settlement conference	preliminary hearing	Info. arraign.	post-preliminary motions	TRC	jury trial set
3/17/2008	520	1	23	150	140	52	112	12	30
6/30/2008	543	6	65	161	85	28	36	74	88
3/17/2009	840	1	82	100	55	24	86	183	309

One source of motions and continuances may be delays associated with whether early and complete discovery has been provided. This is an area that should remain an important focus for the Court in its efforts to manage the progress of cases. From

Court data, some information is available about the kinds of motions in these cases, but this information does not show clearly what portion of the motions has to do with discovery issues.

Table 14: Type of Motion for Defendants in Custody 3/17/09

Hearing Type	Region			Total
	Western	Mid-County	Desert	
Pre-preliminary Hearing Motions				
Drug court progress hearing	29	2	22	53
Motion hearing	45	28	47	120
Motion hearing - bail review	3	0	5	8
Motion hearing - probable cause	1	0	0	1
Motion hearing - search	4	4	12	20
Probation hearing	8	1	3	12
Return of Dr's report hearing	19	16	13	48
Sentence hearing	0	0	1	1
Other	5	5	4	14
Total	114	56	107	277
Post-preliminary Hearing Motions				
Drug court progress hearing	9	1	2	12
Motion hearing	121	44	55	220
Motion hearing - bail review	6	2	0	8
Motion hearing - probable cause	9	3	10	22
Motion hearing - search	7	2	4	13
Probation hearing	3	3	2	8
Return of Dr's report hearing	6	3	2	11
Sentence hearing	2	0	1	3
Other	0	0	3	3
Total	163	58	79	300

5. Assignment of criminal case coordinators to support caseflow and calendar management in the three major court locations. The criminal case coordinators have proven very effective in keeping Master Calendar judges advised of open courtrooms, not only in the three major locations, but in smaller courthouses such as Banning, Palm Springs, and Blythe as well. They receive updates during the course

of the day from the courtroom assistants and continually update the Trial Status Report (TSR) to indicate when courtrooms will become open.

6 and 7. Limiting continuances at all stages of the process and early and complete discovery. These two principles are discussed together because they are inextricably linked. Statements by judges, prosecutors, and defense counsel suggest that the process for requesting continuances has become more formal (i.e., submission of a Rule 1050 form stating “good cause”); that when a continuance is approved, the period to the next setting had become shorter; that counsel are frequently subjected to admonitions from the bench to be ready to proceed at that setting; and that there are fewer “touches” per case both before and after the preliminary hearing. As one lawyer put it, judges no longer tolerate “drips and drabs continuances.”

However, despite these improvements, the general view was that once a reason for a continuance is offered, it is rare for the court to deny the request. In part, the frequency with which continuances are still granted may be related to two common bases cited by judges, prosecutors, and defense counsel: (1) that one or both attorneys are engaged in a trial; and (2) that discovery is either incomplete or was just provided to opposing counsel.

Data collected by the AOC indicate that continuances remain frequent and the number of “touches” per case have not decreased significantly. Data was collected by the AOC’s consultant on continuances granted at preliminary hearings and felony settlement conferences for the first seven months of the new process. The data for the last month of that period showed that 53% of preliminary hearings and 64% of felony settlement conferences were continued. A number of the continuances were based on stipulation between the attorneys. Observations in the courtrooms at that time showed that cases were frequently continued to provide the attorneys with a further opportunity to discuss settlement, to give the attorneys time to investigate their own cases, to give defense counsel time to consult with their clients, or to account for the absence of witnesses or the lack of attorney preparation for the hearing.

When the NCSC assessment team observed VCD proceedings late in the evaluation period, there were few agreed upon continuances and discovery or unavailability of counsel were cited as the most frequent bases for delays.

The observation that incomplete or late discovery is one of the primary bases for continuances in Riverside County was supported by anecdotes from defense counsel and judges of requested discoverable materials being turned over just before or during the course of a preliminary hearing or trial. It was also consistent with comments by prosecutors that they turn over everything in their possession early in the process but often do not request additional materials from their investigators or law enforcement agencies until the eve of trial. Line prosecutors are also often not fully familiar with all the cases assigned to them until trial is imminent because of their relatively frequent reassignments. Thus, they are not always aware of what has been turned over to the defense and what discoverable material remains undisclosed. On the other hand, the NCSC assessment team heard stories of blanket, boilerplate discovery requests from defense counsel that were not tailored to the nature and circumstances of the case.

Under California Penal Code section 1054.7, disclosure of discoverable material is to take place no less than 30 days prior to trial in most circumstances. However, there is no stricture on earlier disclosure of discoverable material. Indeed, the preamble to the chapter lists saving the court time in trial and avoiding the necessity for frequent interruptions and postponements, as one of the purposes of the discovery provisions.¹¹

Discovery issues occur most frequently in the more serious cases. Early discovery takes on added importance for the early disposition of these cases in Riverside County because of California Penal Code section 1192.7. That provision prohibits plea bargaining by the prosecution following indictment or information when the defendant is charged with a serious felony unless:

- There is insufficient evidence to prove the people's case.
- The testimony of a material witness cannot be obtained.
- Reduction or dismissal would not result in a substantial change in sentence.

¹¹ Cal. Penal Code §1054.

These exceptions are defined very narrowly by the Riverside County District Attorney's Office so that unless a plea agreement is reached prior to the preliminary hearing, the defendant is locked into going to trial or pleading to the charges as listed in the information (pleading to the sheet).

The opportunity for meaningful discussion of an appropriate disposition is severely circumscribed when neither side has the information necessary to assess the strength of their own and their opponent's case. Given Penal Code section 1192.7 and its interpretation, the limited nature of early discovery has the effect of restricting early dispositions and forcing cases on to the trial track. While jousting over discovery is a common feature in many jurisdictions in and out of California, in those jurisdictions in which the court has made clear that it will enforce discovery deadlines for both parties and impose sanctions when warranted, these routine disputes do not prolong the litigation process and timely and adequate discovery is a standard feature of the criminal case process.

The Court has recently taken two initiatives to reduce discovery caused delays. First, Assistant District Attorneys now turn over the initial discovery package to defense counsel directly rather than filing it with the Court which then turns it over to the defense. The package is turned over at initial arraignment and the transfer is noted on the record. Second, the Court has developed a discovery script for judges with a check-off list of the usual types of discoverable materials. It is intended for use by VCD judges, who will use the list to see what items are relevant to the particular case, what has been turned over and what has not, and to set a date for transfer. Both changes in process are just now going into effect. Therefore, their impact is not yet known.

One new cause for continuances was identified during the follow-up visit. When attorneys in the Master Calendar courts in Indio and Murrieta who are about to be sent to the HOJ or another location learn that a courtroom in the local courthouse will be available for a trial the next day, they will ask that the case be trailed an additional day so that they, the defendant, and the witnesses do not have to travel. Master Calendar judges have been accommodating these requests. While these continuances do add to

the total, they do not have a significant impact on the date to disposition and may reduce disposition times overall, since having the Assistant District Attorneys and Public Defenders or conflict attorneys at their home courthouse enables them to take care of short matters during the course of the trial. Moreover, these continuances reduce the travel costs for the County and trial participants.

8. Limiting time waivers for preliminary hearings. Waivers of the time deadline for preliminary hearings were common at the introduction of the new criminal caseflow management model, and it appears from NCSC interviews and observations that they remain common. Table 15 presents average times from first arraignment to preliminary hearing for cases pending on March 17, 2008, June 30, 2008 and March 17, 2009. The average time for New Structure cases was seven and a half months in March 2008 cases. Within three months, the average age had dropped by six weeks. Over the remainder of the evaluation period, the time to the preliminary dropped another two weeks to just over five and a half months, still well over the 90 day standard but a significant improvement. The routine requests for a waiver appear to be a by-product of requests for discovery-related continuances. Even when the new date is not beyond the statutory limit, a waiver is obtained to protect the record.

Table 15: Average age of cases pending at each stage (next hearing set)

		New structure cases		
	Region	Number of cases	first arraignment	preliminary hearing
3/17/08	Western	2,087	6	276
	Mid-County	1,071	3	173
	Desert	927	7	201
	Total	4,085	5	225
6/30/08	Western	2,290	18	183
	Mid-County	1,077	0	128
	Desert	1,008	2	263
	Total	4,375	11	184
3/17/09	Western	2,396	8	175
	Mid-County	1,077	6	147
	Desert	1,016	1	179
	Total	4,489	6	168

9. Establishment of Vertical Calendar Departments (VCDs) in each major court location to preside over all calendar appearances before the parties have stated that they are ready for trial. As indicated above, the VCD Courts are operating smoothly in each court location. They are praised as a substantial improvement over the former process in which all pre- and post-preliminary hearing calendar matters were heard in a single courtroom. Although the shift to multiple courtrooms created staffing issues for the District Attorney’s Office, the Public Defender’s Office, and the contract defense lawyers, each saw the VCD courts as beneficial. For the attorneys, spreading the caseload among courtrooms resulted in less waiting time to have their cases called and greater opportunity to discuss their cases with opposing counsel and the judge. Also, having the preliminary hearings begin promptly at 8:30 a.m. means that law enforcement officers serving as witnesses know

that they must be at the courthouse on time, and concomitantly, that they will be able to leave promptly.

The willingness of VCD judges to provide indicated sentences is generally seen as useful. The concern expressed during the NCSC team's September 2008 visit about the Master Calendar judge and trial judges not honoring the indicated sentence offered by the VCD judge had dissipated by March 2009. While the indicated sentence is not formally noted in the record, there appear to be few disputes when counsel are subsequently asked about the terms indicated. This is important, for if subsequent judges do not rely on the initial indicated sentence, defendants could be tempted to delay entering a plea in hopes of a lesser sentence.

The number of VCD courts in each location has varied. Initially, there were two general VCD courts in both Murrieta and Indio and three at the HOJ plus specialized VCD courts for drug cases and, at the HOJ, for domestic violence cases as well. Following the demise of the PPCD courts, an additional general VCD court was created in each location, but soon dropped to the original complement. Both prosecutors and defense lawyers questioned whether given the limited room for negotiation of serious cases under the District Attorney's Office current policies, additional VCD courts would, in fact, lead to an increase in early dispositions. The view expressed was that most of the cases that could settle did settle. Prosecutors favored having more courts available for trials especially for misdemeanors, although they recognized, when pressed, that there was little likelihood of gaining sufficient judges and courtrooms to try all the pending cases.

Regardless of the number of calendar courtrooms, judges, Assistant District Attorneys, and defense counsel all agreed that it is absolutely essential to have highly experienced judges assigned to the VCD court. To be effective, these courtrooms require judges who are committed to the case management principles underlying the new structure, understand the processing of criminal cases, and willing to exercise their judicial authority in an even-handed and consistent manner.

Tables 16 and 17 show the average age and number of cases in each of the felony VCD courts on June 30, 2008 and March 17, 2009. (The March 2008 database did not include this information.) The most striking feature is the variation among and within court locations. By the end of the evaluation period, the number of cases among the VCD courts had evened out within each courthouse, although the caseload among the Western VCD judges was still one and a half times larger than that of their colleagues in the Desert and Mid-County locations. The average age at preliminary hearing had dropped in all but one of the VCD courtrooms, but had increased at the trial readiness conference stage in six out of the seven courtrooms. Given the larger caseload, it is not surprising that the average age of cases at the preliminary hearing stage was five to seven weeks longer in Western VCD courtrooms than in the other two locations. The age discrepancy had shrunk to about four and a half weeks by the trial readiness conference stage, but while the Western VCD courtrooms averaged 81 cases at this stage and the Desert VCD's 91 cases, it is clear that the VCD judges in Murrieta eschew the use of TRC's averaging only 17. Given the differing patterns, it may be useful for the Court to compare the practices of the VCD judges at each stage of the process to document and encourage the use of the practices that facilitate the movement and disposition of cases.

Average in Days								
Department	Number of cases	first arraign.	pre-preliminary motions	felony settlement conference	preliminary hearing	Info. arraign.	post-preliminary motions	trial readiness conference
3N-desert	370	0	181	96	262	170	118	207
3P-desert	264	1	369	79	275	52	184	273
41-western	403	1	497	120	196	113	401	267
42-western	442	20	288	105	193	221	208	256
51-western	638	41	330	146	198	410	702	275
S201-mid county	358	0	343	50	105	161	216	205
S202-mid-county	376	0	302	68	116	182	243	216
Total	2,851	16	331	105	189	212	306	247
Number of Cases								
3N-desert	370	12	22	191	51	14	6	74
3P-desert	264	21	12	116	44	14	7	47
41-western	403	26	24	170	67	27	12	15
42-western	442	30	17	239	60	24	3	27
51-western	638	67	13	314	77	36	9	81
S201-mid county	358	30	20	114	55	24	16	12
S202-mid-county	376	29	23	122	59	21	15	17
Total	2,851	215	131	1,266	413	160	68	273

Table 17: Cases pending in VCD Courtrooms
New structure cases
3/17/09

Age in Days	Number of cases	first arraign.	pre-preliminary motions	felony settlement conference	preliminary hearing	Info. arraign.	post-preliminary motions	trial readiness conference
Department								
3N-desert	320	1	352	92	95	110	326	336
3P-desert	332	2	133	152	137	79	282	228
41-western	476	0	260	94	149	218	258	301
42-western	453	0	365	141	172	157	273	318
51-western	552	2	405	123	172	292	497	325
S201-mid county	343	10	521	58	149	145	546	254
S202-mid-county	341	6	315	56	110	113	183	318
Total	2,817	3	318	107	144	169	350	304
Number of Cases								
3N-desert	320	21	13	121	37	11	13	101
3P-desert	332	27	17	109	41	21	28	82
41-western	476	31	21	216	52	24	13	68
42-western	453	27	17	187	58	14	12	70
51-western	552	25	16	223	60	23	30	106
S201-mid county	343	27	9	113	40	10	10	8
S202-mid-county	341	22	23	98	47	18	12	27
Total	2,817	180	116	1,067	335	121	118	462

Two VCD courtrooms in Mid-County and Desert appear to be sufficient to provide an opportunity for meaningful discussion and conduct preliminary hearings. However, because of the greater volume of cases in Riverside (Western), the NCSC assessment team heard comments that it is sometimes difficult for the VCD judges to conduct longer preliminary hearings and still complete their VCD calendar in an effective manner. Thus, longer preliminary hearings are shuffled to other judges to the extent possible, forcing lawyers to go to other courtrooms and creating coordination issues. This issue plus the significantly longer time to Preliminary Hearing suggests that the establishment of a fourth VCD courtroom at the HOJ may help to move cases more quickly through the initial stages of the felony process at this location. During the

interim before a decision is made on whether to assign an additional judge to a felony VCD in the Western location, judges with long trials could be asked to devote a morning each week to conducting preliminary hearings expected to last an hour or two.

The creation of VCD courtrooms also affected staffing for the Probation Department, which was less successful in obtaining the additional staff resources required. Apart from the strain on staff of multiple courtrooms, the reaction of probation officers to the VCDs was mixed. In part, this reflected the differences in the involvement of probation personnel in the various court locations. Only at the Southwest Justice Center in Murrieta, did probation officers appear to be routinely involved in defining sentencing options during plea negotiations. In the other locations, probation officers saw themselves viewed as outsiders and their roles ill-defined. In all three locations, because hearings on violations of probation were heard whenever they could be fit in, rather than in a specified time slot, the probation officers found that the VCDs generated more waiting time for more probation personnel than had been encountered before the new structure.

10. Establishment of a “Pre-Preliminary Hearing Conference Department” (PPCD) in each major court location to enable experienced counsel and an experienced judicial officer, who will not be involved in further proceedings, to discuss just resolution of a felony matter referred to the PPCD. Although there was initial hope that the PPCDs would lead to more early case settlements when the improvement plan was originally conceived, the restrictions subsequently imposed on the types of cases that could be referred to the PPCD courts undercut their potential usefulness. The cases that were eligible for consideration by the PPCD judges were those that were likely to settle quickly without judicial attention. Thus, there was a sense that the PPCD calendars were not an effective use of limited court and attorney resources and little regret about their demise. The VCD courts absorbed the PPCD cases and are viewed to have been able to facilitate resolution of these cases effectively without compromising the rest of the caseload.

11. Provision of opportunities for defense attorneys to meet with their clients to discuss settlement offers sufficiently before the proceeding at which the decision must be announced to permit the clients to consider the offer. Both prosecutors and defense attorneys spend a substantial portion of their working time in and around the courtroom. The prosecutors do not have the opportunity to review the files of upcoming cases until the day of or day before those cases will be coming to court in order to determine and transmit their offers. Defense attorneys, as a consequence, have at best an evening and more likely moments in between their cases in the courtroom to confer with their clients. Because most offers are made at the initial felony status conference one week after the initial arraignment, defense counsel have scant opportunity to develop a trust relationship with their clients. Thus, the probability of obtaining an agreement at this early stage is diminished.

Even if a defense attorney has time to visit with clients, it is not physically easy to do so either at the courthouse or at a detention facility. The NCSC assessment team was told that there are limited visiting areas both within the courthouses and at the jails, and that moving detainees from their cells to the visiting area is time-consuming because of the security precautions that are taken. In addition, Riverside County is a geographically large jurisdiction with several detention facilities spread across its area. Because of the large number of detainees and the population caps that have been imposed, detainees are not always housed at the detention facility closest to the courthouse at which their court proceedings are scheduled and their attorneys work. It is also common for a detainee to be moved among the various detention facilities. It is sometimes difficult for an attorney to determine where clients are being housed and to travel to see them. Thus, it is difficult for attorneys to see multiple clients within a brief time period and with the frequency needed to gain their trust.

The difficulty has eased a bit in Riverside because of changes in scheduling within the Public Defender's Office and the greater availability of visits in the holding area at the HOJ when a defendant is brought to court. But, in Murrieta, a side effect of the recent practice by the Court of conducting a 10:00 a.m. calendar for FSC's as well

as a 1:30 p.m. FSC docket in order to reduce courtroom downtime, has substantially reduced the opportunity for defense attorneys to talk with their clients with some degree of privacy.

12. Preparation of pre-plea probation reports prior to sentencing if requested by a judge. Requests for preparation of a pre-plea probation report by a judge *sua sponte* or at the behest of counsel occur rarely – only a few each month. Generally, they are sought only in cases in which the line between custodial and community sanctions is unclear. Judges and defense counsel are also sensitive to the limited capacity of the County Probation Office to produce such reports in addition to their other duties.

13. Enhanced communication among the master calendar judges in each major court location who are responsible for assigning trial ready felony and misdemeanor cases to courtrooms. The close communication among the Master Calendar judges in Riverside, Murrieta, and Indio has become a hallmark of the system. The three Master Calendar judges confer via conference call at 9:30 each morning to discuss trial assignments. Through the efforts of the three criminal case coordinators, they know the status of each courtroom in real time. Judges and attorneys alike advised the NCSC assessment team that it is not unusual for attorneys to be sent to a courtroom for initiation of a trial at the time a judge is concluding a trial. The Master Calendar judges also commented on the cooperativeness of their trial colleagues in alerting them directly when they are able to squeeze in a preliminary hearing or bench trial if there is a brief hiatus in a trial.

One significant change in process between the initial and follow-up visits of the NCSC assessment team was making available space at the Murrieta and Indio courthouses for prosecutors and defense attorneys with cases in the Master Calendar courtroom at the HOJ to meet and communicate with the Riverside Master Calendar judge by telephone until after the 9:30 a.m. coordination call on day ten of the trial trailing period. This has enabled the judge to remain in contact with the attorneys; permits counsel to confer with each other and the judge about a negotiated settlement

if that is possible; and most importantly makes it possible for the attorneys to discuss other cases with other attorneys and handle FSC's, preliminary hearings, TRC's and other brief matters on-site during days eight and nine rather than waiting at the HOJ. Judges, prosecutors, and defense counsel all suggested that this change has reduced the number of continuances because of the unavailability of counsel and facilitated the movement of cases not immediately facing the trial deadline. It also has reduced the burden of travel on counsel, defendants and witnesses and saved the County money.

14. Ensuring that calendar proceedings do not interfere with attorneys' trial obligations. Trial commitments clearly take precedence over calendar proceedings in all three major court locations. As noted earlier, unavailability of counsel because of trials is perceived as the leading cause of continuances in the VCD courtrooms though the NCSC assessment team was not able to confirm this with data. Occasionally, a VCD judge will ask a trial judge to schedule the start of the trial day for 10:00 a.m. so that an attorney may participate in a pending preliminary hearing. These requests are generally honored. In addition, in order to increase attorney availability for trial, the conflict attorney panel in Riverside agreed to a ten percent reduction in their fee rate to enable the hiring of five additional panel attorneys.

15. Establishing a process for pre-screening jurors at the request of a judge. Pre-screening of jurors occurs, if at all, only in high-publicity cases or cases in which there is expected to be a trial lasting six weeks or more. Riverside County judges prefer to make their own assessments of hardship.

C. Additional Issues

1. Decrease the number of defendants in custody. Although it is not one of the matters that fell directly within the scope of the issues that the NCSC was directed to explore, it is important to note that the number of felony cases in which one or more defendants were in custody dropped from 2,694 to 2,317, or 14% between June 30, 2008 and March 17, 2009.

Table 18a: Is defendant in custody
6/30/08

Charge	Cases		Percent	
	No	Yes	No	Yes
Homicide	10	292	3%	97%
Forcible rape	69	101	41	59
Kidnap	27	54	33	67
Assault	562	648	46	54
Robbery	98	280	26	74
Sex offense	188	111	63	37
Burglary	334	208	62	38
Property	484	173	74	26
Theft	180	66	73	27
Drug	822	398	67	33
Vehicle	171	110	61	39
Threat	59	50	54	46
Weapons	64	54	54	46
Other	139	145	49	51
Missing	1	4	20	80
Total	3,208	2,694	54%	46%

Table 18b: Is defendant in custody
3/17/09

Charge	Cases		Percent	
	No	Yes	No	Yes
Homicide	10	285	3%	97%
Forcible rape	101	136	43	57
Kidnap	16	53	23	77
Assault	461	535	46	54
Robbery	99	231	30	70
Sex offense	182	103	64	36
Burglary	267	184	59	41
Property	422	127	77	23
Theft	178	58	75	25
Drug	688	309	69	31
Vehicle	154	74	68	32
Threat	60	34	64	36
Weapons	133	77	63	37
Other	123	109	53	47
Missing	8	2	80	20
Total	2,902	2,317	56%	44%

Based on current cost estimates of \$110 per day for each occupied jail bed, if the reduction in the number of pretrial detainees were maintained for a year, Riverside County would realize approximately \$15 million in savings. This reduction in the number of detainees cannot be attributed directly to the improvements in case processing. It is likely the result of a combination of factors including the decrease in the number of filings and possible changes in detention policies and practices, as well as the more rapid disposition of cases.

2. Institutionalizing the focus on case management. As discussed above, the Riverside Court has implemented most of the elements of the New Structure. In addition to impact on operating efficiency and productivity, it is clear that the expectations of the judges and the bar regarding how cases are handled is shifting. This is critically important, because it is these expectations that will drive and preserve the new case management system. The comments of both prosecutors and defense counsel reflected that they now accept, welcome, and expect the Court to assert control over the flow of cases. The current leadership of the Court and the current set of VCD and Master Calendar judges supported by the Court's new Executive Officer support the changes that have been made and are pushing to further the spirit as well as the letter of the new policies.

However, this new court culture is still fragile. It remains dependent on the commitment of the judicial leadership of the Court. It is not as yet the assumed way that "things are done" in Riverside County. The Court has embarked on a number of initiatives to institutionalize the new processes and enhance the momentum of change. These include:

- A new set of case management reports and measures for both felonies and misdemeanors to track dispositions and types of dispositions by case type and by VCD; age of cases overall and by stage for the court; number of appearances; and number of cases set for trial. These monthly reports will provide the Presiding Judge and the Court Executive a much clearer picture of how the Court and calendar courtrooms are performing.

- Orienting and mentoring new and less experienced judges regarding how to manage their dockets effectively.
- Careful attention to the assignment of judges, especially to the key VCD and Master Calendar courtrooms.
- Exploring methods for improving the management of the jury selection process and the trial management process to reduce the length of trials, in order to increase the capacity to try cases without an increase in the number of judicial officers.

3. Facilitating the disposition of misdemeanor cases. As the number of New Structure felony cases nearing trial readiness continues to build, there is a surfeit of unresolved misdemeanor cases clogging the trial calendar. This has led to dismissals of misdemeanors because they cannot be tried in accord with the prescribed time limits, and at least a temptation for defense counsel to string out these cases in the hope that they will be dismissed. While both Assistant District Attorneys and defense counsel indicated a willingness to stipulate to having a Court Commissioner conduct misdemeanor trials, the current fiscal crisis has limited the possibility of having the Court seek Judicial Council approval to hire additional commissioners. Accordingly, one of the recently appointed judges is being assigned to try only misdemeanor cases in order to alleviate the logjam and encourage both parties to evaluate their cases promptly and reach a fair and just agreement.

V. CONCLUSION

The intervention to address the significant backlog of criminal cases in Riverside County Superior Court has produced some significant changes in attitude and process, but the hope that a large enough proportion of felony cases could be resolved and disposed of before the preliminary or shortly after the information arraignment in order to avoid creation of a new backlog has not yet been realized. The basic findings of this assessment are that:

- Most of the elements of the plan developed to improve case processing and reduce the backlog of criminal cases in the Riverside County Superior Court have been implemented.
- Moving criminal cases through the initial stages of the process is now a priority for the Riverside County Superior Court and that both defense counsel and prosecutors welcome judges taking an assertive role in bringing criminal cases to a fair conclusion.
- Although during the evaluation period the overall number of pending felony cases has declined almost 17%, the median age of pending cases has decreased 11%, and routine felony cases are moving significantly more quickly through the initial stages of the criminal process, a new backlog appears to be building.

Creating a more expeditious criminal justice process is not a zero-sum game between the prosecution and defense. It can benefit both sides. Most importantly, the public benefits by enhancing safety and reducing the costs. A 1979 study of continuances in Allegheny County (Pittsburgh), Pennsylvania, determined that each continuance cost the criminal justice system \$79 dollars in terms of the salary and fringe benefits of the participants, equipment (e.g., sheriff's vans) and facilities used.¹² Updated to 2009 dollars using the increase in the Consumer Price Index, the cost is now the equivalent of about \$232 per continuance. If there were an average of three continuances in each of the more than 8,000 felony cases likely to be filed in 2009, the additional cost to the county and state taxpayers will be approximately \$5 million. While some continuances may be needed and some do contribute to disposition and avoidance of trial, eliminating the unnecessary "touches" can result in a substantial saving.

In order to achieve these savings and continue to improve the timeliness and efficiency of the criminal justice process in Riverside County while preserving fairness and justice, more closely aligning the justice system resources available in Riverside County to the County's population and caseload will be necessary as budgets permit in the future. But even more important than increased capacity will be the continued

¹² Samuel Conti, William Popp and Don Hardenburgh, *Finances and Operating Costs in Pennsylvania's Courts of Common Pleas* (North Andover, MA: NCSC, 1980), pp. 66-81.

attention, energy, imagination, and cooperation of the Court, District Attorney's Office, defense bar, and other components of the Riverside County criminal justice system.

Appendix A

INTERVIEW PROTOCOL – Initial Site Visit

INTERVIEW PROTOCOL – RIVERSIDE COUNTY SUPERIOR COURT

[Prosecutors, Public Defenders, Private Defense Counsel, Court Staff,
Non-calendar Management Judges]

Group Interviewed _____ Date _____

NCSC Interviewer _____

- =====
1. a. How have your/your office's policies and practices changed since the new structure was adopted?
b. Were the changes made in anticipation of or in response to adoption of the new structure?
c. What actions were taken to facilitate understanding and successful implementation of the new structure?
 2. According to the data, the backlog and age of cases has decreased since adoption of the new structure. From your perspective, what changes have led to these decreases?
 3. a. What caseflow information/reports do you receive? Is it helpful? How do you use it?
b. What, if any, additional caseflow information would be of assistance?
 4. (Depending on the group, a, b, or c may not be appropriate.)
 - a. I understand that the PPCDs (pre-preliminary hearing conference departments) have been discontinued. From your perspective, why were the PPCD's not effective?
 - b. How has the creation of the Vertical Calendar Departments (VCDs) changed the process? How have the VCDs affected your work?
 - c. How has the creation of the Master Calendar Departments changed the process? How have the Master Calendar Departments affected your work?
 5. a. What is the plea bargaining process here?
b. When is the initial offer made?
c. When do you receive the police report?
 6. I notice from the data, that there are usually multiple appearances at each stage of the process. Why does each case have to be set so many times?
 7. Does the process differ for different classes of cases? For example,
 - a. Felonies and misdemeanors
 - b. Homicides
 - c. Drug offenses (felony and misdemeanor)
 - d. Domestic violence offenses (felony and misdemeanor)
 - e. Property offenses (felony and misdemeanor)
 - f. Non-homicide, non-domestic violence, violent offenses (felony and misdemeanor)
 8. What changes, if any, would you like to see in the policies and procedures for criminal cases here?

Appendix B

INTERVIEW PROTOCOL – Follow-up Site Visit

INTERVIEW PROTOCOL – RIVERSIDE COUNTY SUPERIOR COURT Follow-up Visit

1. Is the Task Force still meeting?
 - a. What are the issues being discussed?
 - b. Are the meetings productive?

2. Have the practices here in _____ changed since Sept.? If so, how? Do they differ in the other locations?
 - a. What is the current number/proportion of backlog cases vs. new structure cases?
 - b. What about changes in how misdemeanors are being handled?
 - c. Any changes in the roles of the criminal case coordinators? If so, what has been the impact?
 - d. Any changes in how the VCD's are operating (pre-ph, post-ph?)
 - e. Is there now a way to have the indicated sentences on the record? If so, how has this affected pleas in the Master Calendar and trial courts?
 - f. How many VCD's at each location?
 - g. In what percentage of cases are time waivers sought for PH's? In what percentage are they granted? Has the frequency of requests? acceptances? changed?

3. Has there been any change in when cases are being resolved (pre-PH? post-PH?)
 - a. Any changes in the DA's charging policies or plea policies?
 - b. Have the number of touches increased or decreased (pre-PH/post-PH)?
 - c. Why does it take 3-6 weeks to hold the Info Arraignment after an information is filed?
 - d. Are cases that used to churn before the PH now churning after arraignment on the information?
 - e. Describe the post-PH process – types of motions, number of TRC's, what goes on at TRC's, spacing between TRC's?
 - f. Can Penal Code Sec. 1049.5 be used to set a firm trial date at arraignment?

4. Any change in the ease or difficulty in obtaining a continuance?
 - a. Does this vary among the VCD judges?
 - b. Does it vary pre-PH v. post-PH?
 - c. What currently are the primary reasons given for requesting a continuance? (Check on attorney conflicts)
 - d. Why do CDL and private attorneys request more continuances than PDs?

5. Any changes in the way the Master Calendar court operates?
 - a. What has been the impact of allowing attorneys in Indio and Murrieta to participate from those locations rather than coming to the HOJ?
 - b. Have there been any changes in the level and nature of communication among the MC judges? Between the HOJ MC judge and trial judges?

- c. Are VCD judges' indicated sentences now noted in the file? Has this affected pleas in the MC court?
6. Any changes in discovery policy/practices/enforcement? What has been the impact?
7. In what proportion of cases are pre-plea probation reports being sought? In what types of cases are they sought? At what stage of the process are they being sought? How long do they take to produce? Have there been any changes since September?
8. Any changes in the ease/difficulty of defense attorneys meeting with clients to discuss plea offers? Does this vary by location?
9. Are you getting any kind of case management reports or performance data that you were not receiving before Sept.? Is this useful? How are you using it.
10. How frequently do judges request pre-screening of jurors? In what circumstances is this needed? How does it work?
11. After a year's experience with the "new structure", what would you change? What would you do differently if you were starting over?

Appendix C

DESCRIPTION OF DATA AVAILABILITY AND QUALITY ISSUES

The MIS staff of the Riverside Superior Court have made considerable improvements in the content and quality of the data maintained, analyzed, and reported by the Court. These improvements facilitate the ability of the NCSC team to conduct the analyses necessary for this evaluation. However, there are still important areas that need further development. This appendix identifies several data-related issues that should be a priority for the Court. In most instances, court administrative staff members are aware of key gaps in the data and are currently working to close them.

Originally, the study proposed to evaluate the new approach to criminal caseflow management using multiple, integrated measures of case processing effectiveness. The proposed framework drew on widely recognized measures of performance that pertain most closely to case management.

- Clearance rate
- Time to disposition
- Age of pending caseload
- Trial date certainty

Issue 1: Because systematic disposition data was not included in the databases received from the Riverside Court due to the concerns of the Court's IT staff regarding its accuracy, the clearance rate and time to disposition cannot be accurately calculated. Improving the quality of the disposition data is a top priority for the Court's IT staff since accurate reports on dispositions would enable the Court to gain a clearer picture of its productivity and the impact on the backlog.

Issue 2: Trial date certainty, referring to the ability of the Court to hold trials on the first day they are scheduled to be heard, is not possible to calculate because the history of trial date settings cannot be automatically generated from the court's automated data system.¹³

Issue 3: A key question facing the Court is whether the new structure is successful in limiting the number of continuance at all stages of criminal proceedings. In particular, hearing date certainty in the Vertical Calendar Departments is of critical

¹³ These data are only obtainable through a search of individual case records.

importance in assessing the success of the new case management approach. However, current data on the number of continuances cannot be automatically generated from the Court's automated data system. Continuance data was collected independently by the AOC consultant during the first seven months of the new case management system. The NCSC assessment team inquired whether it would be possible for the Court's IT staff to compute the numbers of hearings set per case at various stages in the life of the case. While it is possible to assemble this information, it would require too significant an investment of time and resources for purposes of this project and with the concurrence of the AOC, the request was not pursued.

As a consequence, basic data limitations mean that the focus of the empirical evaluation of felony case processing in Riverside is restricted to the number and age of the pending caseload.

Issue 4: There is a choice to be made in determining how "age of pending caseload" will be calculated. The ABA time standards suggest that time be measured beginning at arrest. The date of arrest data cannot be generated automatically from the court's database. Another approach is to measure age of pending cases beginning at the filing date (age in days from filing) as this is when the case first comes under court control. A third option is to measure age of pending in days from first arraignment (age in days from arraignment on the complaint). The California judicial Branch Statistical Information System standards require the use of the third measure.

Issue 5: The Court's case management information system does not have the capability to exclude time periods during which cases are outside the Court's control (for instance, periods during which the defendant has absconded or is receiving a mental examination or mental commitment). The MIS department is currently working with the CMS vendor to resolve a number of programming issues that will allow an accurate means to remove out of court control time from the calculation.

Issue 6: It is not currently possible to measure interim time periods involving key events occurring between the information arraignment and the trial set date because the dates for completed motion hearings and trial readiness conferences cannot be generated automatically from the court's database. Incorporating the actual

occurrence date for TRCs would provide important management information for assessing ongoing court operations.

Issue 7: Currently, the case-level data set contains very detailed information on the type of criminal case and on the type of hearing scheduled as the next event in the life of the case. To be useful for analysis, the large number of case and hearing types should be sorted and combined into meaningful summary categories. The tables prepared by the NCSC assessment team show one possible way to classify case types and hearing types. It would be helpful if Court staff members would review the complete list of criminal case types and hearing types and determine how best to classify them into summary categories.



REPORT OF THE PRESIDING JUDGE
SUPERIOR COURT, COUNTY OF RIVERSIDE

TO: Hon. Ronald M. George, Chief Justice
Hon. Richard D. Huffman, Chair, Executive and Planning Committee
Honorable Members of the Judicial Council

FROM: Thomas H. Cahraman, Presiding Judge
Riverside Superior Court

DATE: September 30, 2009

Chief Justice George, Justice Huffman, and Honorable Members of the Council:

It has been my privilege to serve as Presiding Judge of Riverside Superior Court since January of this year. I appreciate the continued interest of the Judicial Council in the Riverside court, and I am especially grateful for the judicial resources allocated by the Assigned Judges Program.

The retired judges who serve at the Hawthorne and Autry courts have aided our progress in civil case management, and the availability of assigned judges for criminal trials has been critical to our steady progress in reducing the inventory of criminal cases. We remain with only 3.6 judicial positions per 100,000 population, while the statewide average is approximately 5.2, so this assistance is much needed.

The report by the National Center for State Courts offers some helpful information but in certain respects is incomplete. Attached is a report by our court CEO and her staff setting forth additional data and statistical analysis.

In addition, allow me to offer certain observations as to the NCSC report, and as to the current state of the Riverside County court.

On page 16 of the report (Part 2), the NCSC acknowledges “recent anecdotal information that trial-ready cases are not having to be dismissed for lack of available courtrooms and that at least some cases are assigned out for trial early in the trailing period (e.g., Day 2 rather than Day 9 or 10)....” In fact, **we have not dismissed one criminal case for lack of a courtroom since June 9, 2009.** We are still at risk of doing so, but things have gotten better, and frequently we send cases out on day 1 or day 2 of the trailing period.

On page two of the report (Part 2) the NCSC states that “The total number of pending felony cases declined almost 17% during the evaluation period, from 6,280 to 5,219.” Actually, we have tracked defendants, not cases, and I believe that is what NCSC meant to say. Further, as of September 11, 2009 that number is down to 5,067, representing a reduction of 19.3%. When the Strike Force left on June 30, 2008, we had 5,900 felony defendants, so 69% of that progress has been attained since that program ended.

We have tried 745 criminal cases to a jury in the first eight months of this year. Thus, we are on track to try 1,118 such cases in 2009. This compares to our previous record of 1,009 for 2008. Most courts our size would be handling 250-300 jury trials per year. After sending a jury out to deliberate, our judges routinely commence a new trial within 30 minutes, even if it is late on a Thursday or Friday afternoon.

Our early-disposition program for criminal cases is working well, and for that I credit the courage and energy of the judges in the VCD courts (where preliminary hearings and felony settlement conferences are conducted). These judges are giving fair and appropriate indicated sentences in order to resolve cases. The cases that cannot be settled are then advanced to prelim promptly so they can get up to master calendar and then out to trial.

We have made this progress in criminal case management while simultaneously opening more courtrooms to civil trials. At the start of the year we had five departments devoted to civil trials: three at Hawthorne, one at Autry, and also Department 7 of the Historic Courthouse. By April we had restored three more courtrooms to handling civil trials, so now we have eight. I have asked the civil master calendar judge to set 40 civil jury trials each Monday, on the principle that nothing settles a civil case like an open courtroom. We have also expanded and refined our civil mediation program, gaining assistance from outstanding members of the bar, and we are settling a great many civil cases.

As a result, civil cases now go to trial on the date scheduled, or at worst trail for a week. Further, civil cases are sent to trial whenever they are ready—there is presently no need to “age” a civil case in order to get a trial date in Riverside County. We have tried 186 civil cases in the first eight months of this year, of which 66 were tried to a jury and another 48 were multi-day court trials. We may set a record for civil cases tried this year.

I have recently formed a committee for orientation of assigned judges. One of our judges will greet the assigned judge on the first day, and offer a packet of materials with regard to our practices and expectations. The greeter will also emphasize a few points, for instance, that any requests for trial continuance—civil or criminal—need to be sent back to master calendar (where the continuance was probably denied a few minutes earlier).

Our excellent new court executive, Sherri Carter, has been on the job now for a full year. Sherri and I have completely revised our case management statistical reports. Our IT department is programming the new reports now, and within the next few months the quality of our information will be greatly enhanced. We want to find out right away if cases are starting to age in any particular calendar.

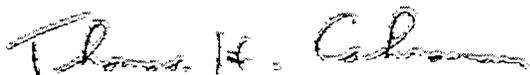
Challenges remain, largely because we have 49 pending death penalty cases, involving 61 defendants. (That includes several cases that are presently in trial, and a few cases in which the trial is over but an *Atkins* hearing remains.) Most counties our size have five to ten pending death penalty cases. We are not letting these cases lag—we will try about ten of them this calendar year. Capital cases tend to displace other important work that the court could be doing. At present we're getting it all done anyway, but to do so requires extraordinary effort and long hours by our judges and commissioners. As mentioned above, we remain at risk of dismissing criminal cases, though we have not done so since June 9.

We have innovated this year in other areas, particularly juvenile, probate, traffic, and unlawful detainer, but those programs go beyond the scope of this report.

The community has recognized these achievements. On September 9 the Riverside Press-Enterprise ran an article entitled, "County's Courts Get a Handle on Caseload." Several members of the Board of Supervisors have thanked me because their constituents are happy to get their civil trials out. Similarly, civil attorneys stop me in the hallway and thank me for the progress we have made. I'm gratified by their praise but always remind them that the court as a whole is working very hard, and that I stand on the shoulders of the dedicated presiding judges who preceded me.

Case management is quantitative—and it is entirely appropriate to chart trials, settlements, and the age of cases. As can be seen above, and in the staff report attached, we are productive and efficient despite limited resources. What cannot be measured or charted is judicial care, wisdom, or courage; but anyone who knows this court can affirm that this is where we really shine. Both with regard to measurable output, and the quality of justice provided, I could not be any more proud of the staff, the judges, and the commissioners of Riverside Superior Court.

Chief Justice George, Justice Huffman, and honorable colleagues of the Judicial Council, thank you again for your interest in our court, and thank you for allowing me to share these perspectives. If I may provide additional information, please do not hesitate to inquire.



Thomas H. Cahraman
Presiding Judge—County of Riverside

DATA ANALYSIS

The National Center for State Courts ("NCSC") recently prepared its *Independent Assessment of the Criminal Case Management Improvement Program in the Superior Court of Riverside County, California*. That document was presented in two parts: Part 1, *Synopsis of Findings* ("Summary"), and Part 2, *Findings, Data, and Analysis* ("Report").

The Report and Summary cover the period from March 17, 2008 to March 17, 2009; except for a few data elements which extend through June 30. These documents therefore do not discuss the substantial progress made subsequently. Even using those dates, however, the analysis and data exclude critical factors that are necessary to understand the progress attained and the challenges that remain for the future.

1) The impact of capital cases on case resolution.

During the report period of March 17, 2008 to March 17, 2009, five capital cases were concluded. This represents approximately .05% of the 914 criminal trials that were conducted during this period; however, over 3% of the judicial resources were required, displacing over 3% of the court's capacity to handle other felony trials.

Table 1: Impact of Capital Cases on Case Resolution

Capital case trial days during report period:	
Case INF032917	35
Case RIF111846	27
Case RIF125661	20
Case RIF127731	35
Case RIF133032	32
Total trial days	149
Average trial days per non-capital Criminal trial	5
Non-capital trials displaced by capital case trials	30
Percentage of total non-capital trials	3.3%
Non-trial case dispositions displaced by Capital cases	750
Total Criminal case dispositions displaced by capital cases	780

The Riverside Superior Court currently has 49 capital cases pending. These cases will significantly impact the court's ability to process the other felony cases in the future.

2) The impact of newly arrested warrant cases on the New Structure and Backlog Track cases.

As of March 17, 2008, when the new criminal caseflow management model was implemented, 2,237 backlog track felony defendants and 4,043 new structure felony defendants were identified as pending. During the report period of March 17, 2008 to March 17, 2009, 1,354¹ felony defendants that were in warrant status became active (defendant was arrested), and became part of the court's pending felony workload. These additional cases are not reflected as new felony filings although they immediately increased the number of cases requiring judicial resources. Of these 1,354 defendants, 1,186 (87%) have been disposed.

3) Additional demands on the court, and limited judicial resources.

Although the Report and Summary focus primarily on felony criminal cases, the impact of the court's misdemeanor workload is important to consider. Using the same points in time as the NCSC, there was a 2% increase in misdemeanor filings from March, 2008 to March 2009, and there was a 13% increase in misdemeanor dispositions during this same period.

Table 2: Criminal Misdemeanor Filings and Dispositions

Month	Criminal Misdemeanor Filings	Criminal Misdemeanor Dispositions
March 2008	5,246	4,258
March 2009	5,345	4,810
Percentage Increase	2%	13%

An increase in limited and unlimited civil cases has also placed demands on the court's judicial resources. As reflected below, there was a 38% and 28% increase, respectively. In addition to its felony and misdemeanor caseload, the court has worked very hard to process its civil cases. During this same report period, the court disposed of 11% of the limited and 55% of the unlimited civil cases.

¹ Although the Report reflects that no new cases could be added to the backlog track (page 12), over 300 cases were added to the 2,237 backlog track after March 17, 2008, primarily because the cases had reached the information arraignment stage before the defendant's failure to appear and subsequent arrest.

Table 3: Civil Limited and Unlimited Filings and Dispositions

Month	Civil Limited		Civil Unlimited	
	Filings	Dispositions	Filings	Dispositions
March 2008	3,334	3,511	1,055	854
March 2009	4,600	3,884	1,352	1,327
Percentage Increase	38%	11%	28%	55%

As noted on page 2 of the Report, a total of 20 new judicial positions were authorized for Riverside County, but only seven have been funded. The Judicial Council has been very supportive in providing the Strike Force and assigned judges to assist Riverside County. As reflected in Table 4, judicial vacancies and assigned judges have had a significant impact on the amount of judicial resources available. Continued funding for the assigned judges is critical to the on-going success of the criminal case management of Riverside County.

Table 4: Criminal Judicial Resources

	Mar 2009	Feb 2009	Jan 2009	Dec 2008	Nov 2008	Oct 2008	Sep 2008	Aug 2008	Jul 2008	Jun 2008	May 2008	Apr 2008	Mar 2008
Criminal Judicial Resources													
Sitting Judges	29.3	30.3	30.3	28.8	28.8	28.8	28.1	28.1	27.0	26.3	26.3	26.3	26.3
Assigned Judges	14.0	15.0	13.9	13.0	12.2	12.6	9.5	11.9	10.1	10.3	10.5	9.0	11.0
Strike Team Judges	-	-	-	-	-	-	-	-	-	5.4	5.3	5.6	2.4
Judicial Resources Subtotal	43.3	45.3	44.2	41.9	41.1	41.4	37.5	39.9	37.2	42.0	42.1	41.0	39.7
Less:													
Judicial Vacancies (Vacancies due to retirement or resignation)	3.0	3.0	3.0	5.0	5.0	4.0	4.0	5.0	6.0	5.0	5.0	5.0	4.0
Adjusted Criminal Judicial Resources	40.3	42.3	41.2	36.9	36.1	37.4	33.5	34.9	31.2	37.0	37.1	36.0	35.7

4) Understanding the cases at the Trial Readiness Conference and Jury Trial stage.

The Report confirms what the court has observed in practice; specifically, that cases are moving more quickly through the early stages of the felony case process (Report pages 16 and 25). However, the Report includes concerns about cases pending at the trial readiness conference and jury trial stage, and concludes that a new backlog appears to be building (Report page 45). The court believes there are reasons for this possible build-up of cases that need to be clearly identified.

- a) The court is trying cases at its maximum capacity. During the report period of March 2008 to March 2009, the court tried 284 misdemeanor and 732 felony cases. Without additional judicial resources or a change in felony settlement practice by the District Attorney's office (Report page 27), the court's capacity to try cases will not improve, which is inconsistent with page 13 of the Report.
- b) There are not nearly enough publicly funded defense attorneys within Riverside County. Judge Edward Webster, who handles criminal master calendar, reports that the deputy public defenders and conflict attorneys who try felonies are almost always in trial. This is confirmed by the data under section 5, below, showing that the primary reason for continuance (at the TRC or trial stage) is that an attorney is already engaged in another trial.
- c) As noted in the Report (page 21), the proportion of the new structure caseload involving serious violent crime has increased by 38% as of March 17, 2009. These cases take longer to handle pretrial due to multiple motions, they do not tend to settle, and they require more trial days.

5) Merely counting continuances does not accurately evaluate case management practices.

The Report states that data collected by the AOC consultant indicate that continuances remain frequent and the number of "touches" have not decreased significantly (Report page 29). Unfortunately, this data is based on a seven month period with no research into the reasons for the continuances, whether these continuances resulted in settled cases, or if there has been any change following this seven month period.

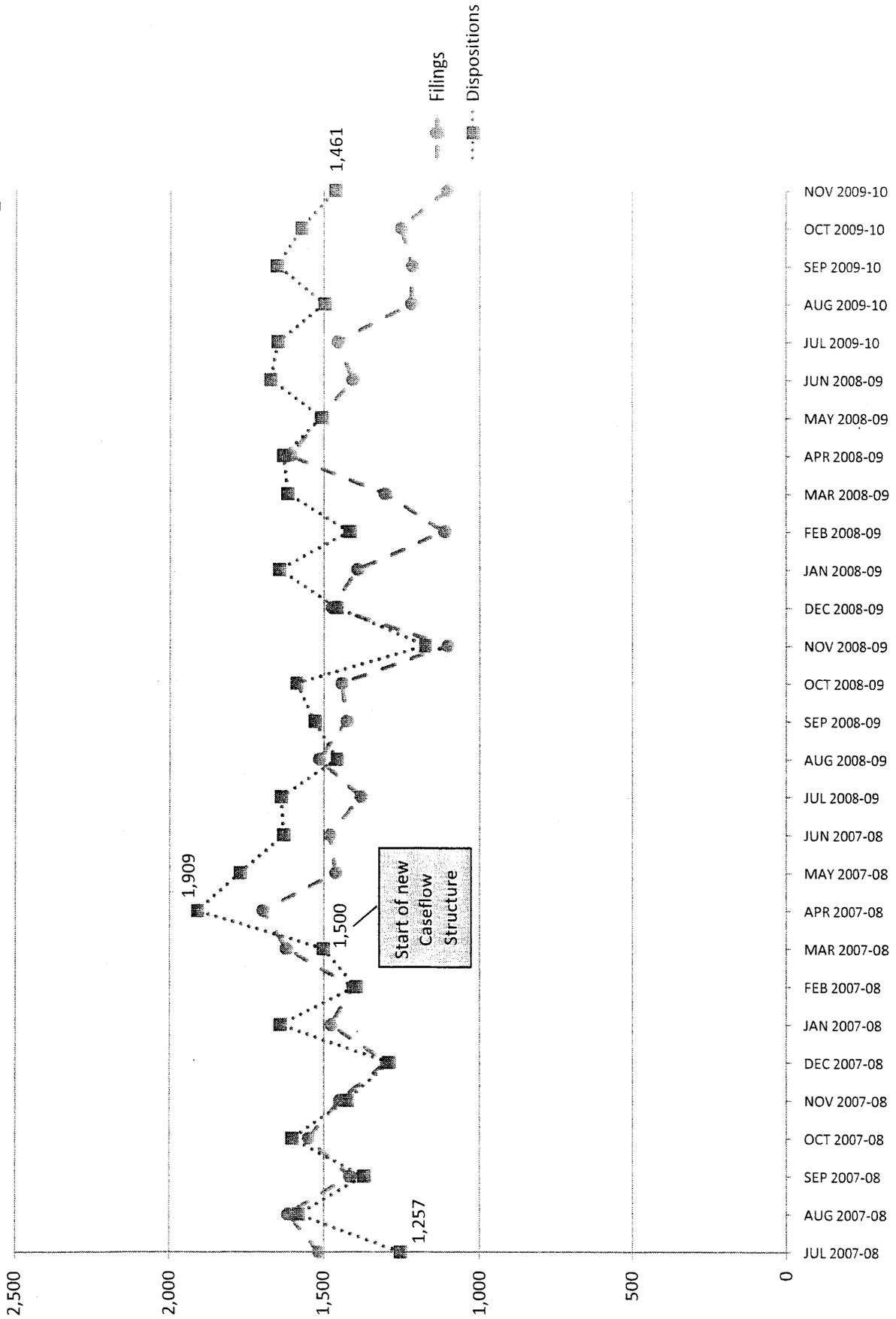
The NCSC team personally observed that late or incomplete discovery and unavailability of counsel were cited as the most frequent bases for delays (Report page 30). The court has been very concerned with continuances and identifying the reasons for the requests. In July, 2009, the court implemented Form 1050RC which requires the parties to indicate the reason for the request for the continuance. New computer codes were also developed and recently implemented. This type of data will be beneficial to the court in the future in determining the reasons for the continuances. Although the

data sample is small, from September 2, 2009 to September 15, 2009, there were 779 Form 1050RC's filed in both felony and misdemeanor cases. Of this number, 105 forms (13%) were filed at the trial readiness and jury trial stage. It is interesting to note that of these 105 requests to continue, the primary reason (40%) was due to "attorney currently in trial on other matter."

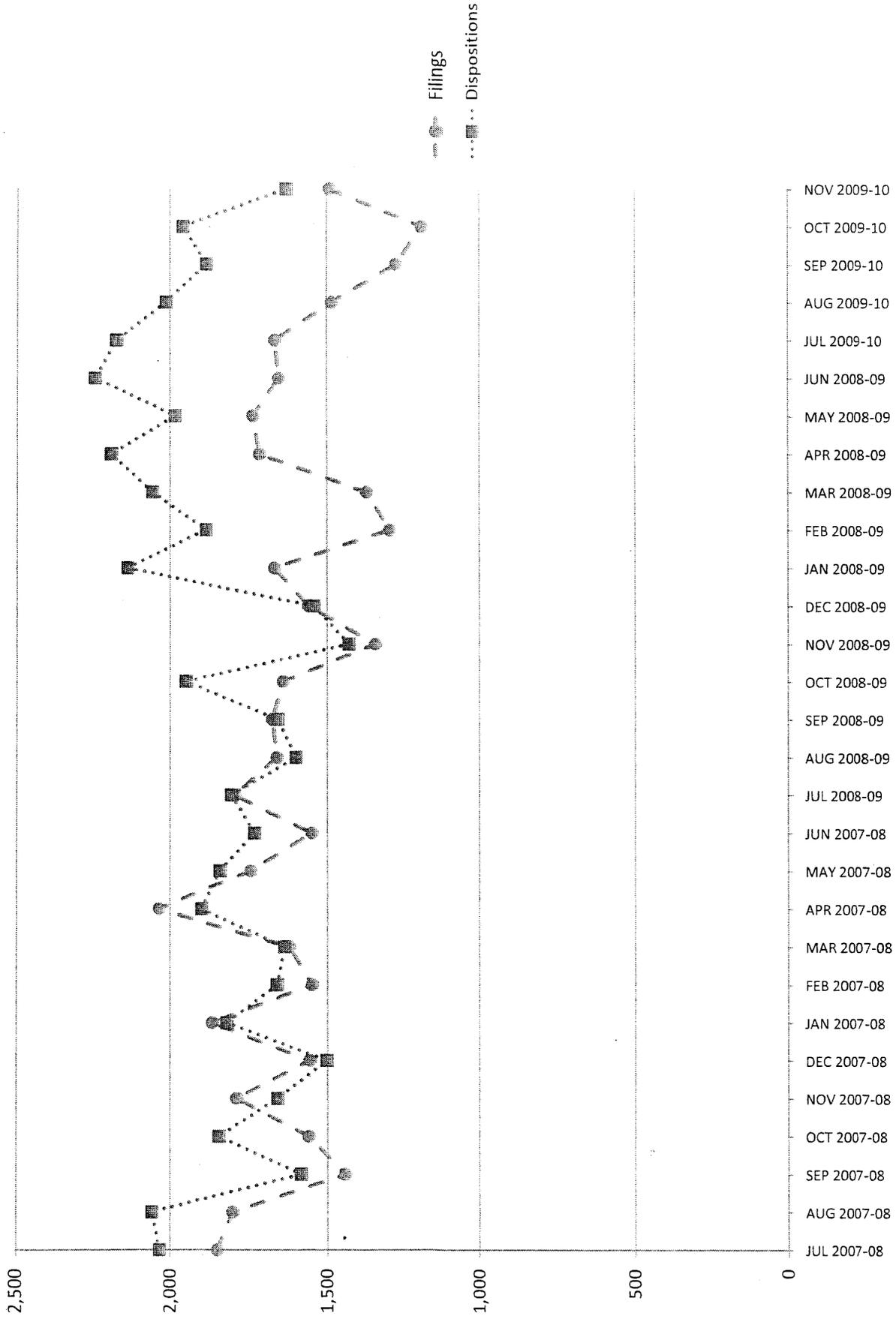
6) Understanding the court's automated program.

The Report includes concerns regarding the court's automated program and the difficulty in obtaining meaningful data. It is important to note that all elements outlined throughout the Report and in Appendix C are available through various programming from the court's automated system. As noted in the Report and Summary, new criminal (and civil) case management reports have been developed.

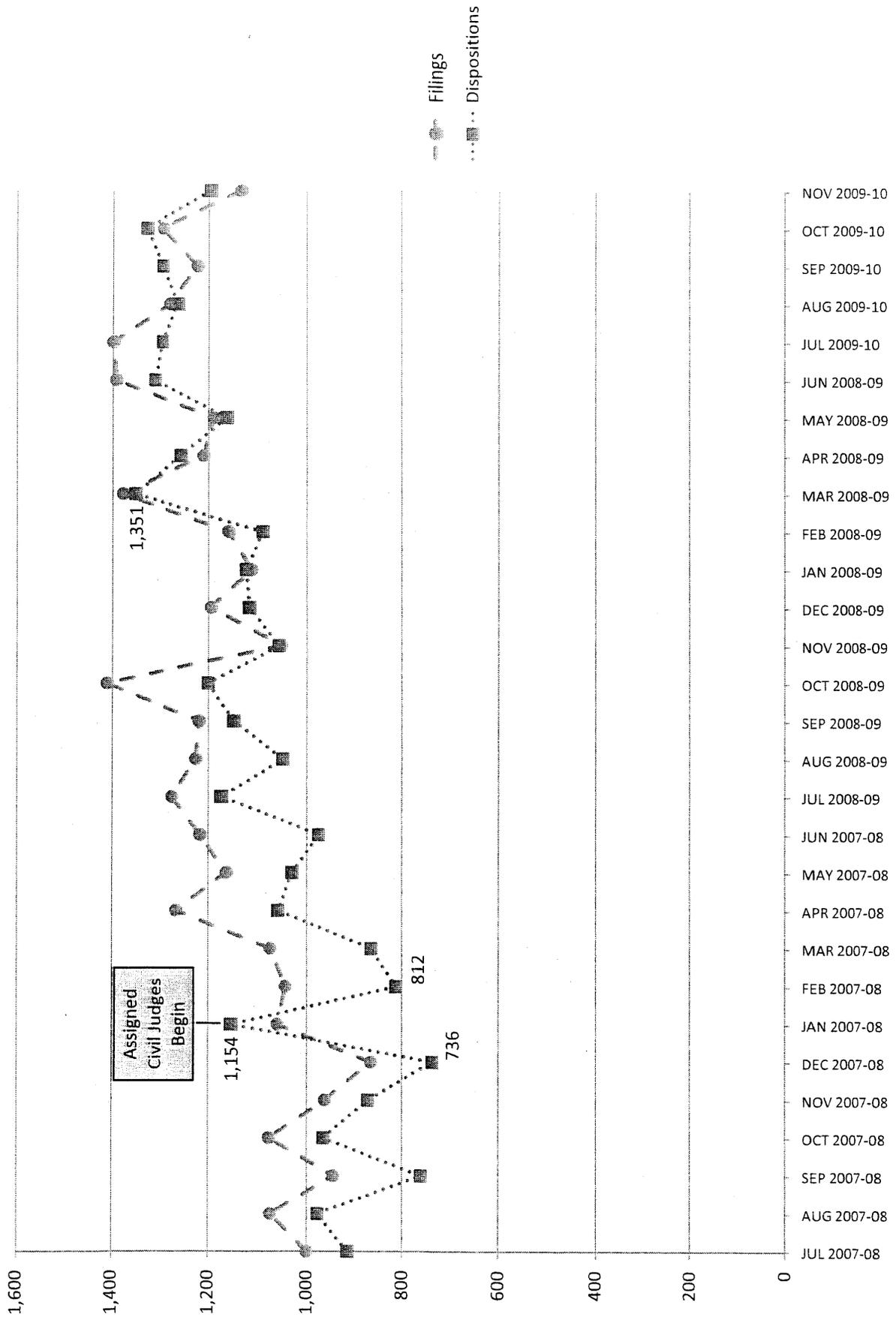
Riverside Felony Filings and Dispositions



Riverside Non-Traffic Misdemeanor Filings and Dispositions



Riverside Unlimited Civil Filings and Dispositions



Judicial Council of California
Executive and Planning Committee
February 10, 2010
Proposal Circulated by E-mail on February 8, 2010

Members Voting: Justice Richard D. Huffman; Judges, Mary Ann O'Malley, Lee Smalley Edmon, Winifred Younge Smith, and James Michael Welch; and Mr. Frederick K. Ohlrich, Mr. James N. Penrod, and Mr. Michael M. Roddy

Members Not Voting: Judge Kenneth K. So

Staff Participating: Ms. Nancy E. Spero

Conversion of Subordinate Judicial Officer Positions (SJO)

The committee reviewed and approved the staff recommendations confirming the conversion of two SJO positions, one in the Superior Court of Alameda County and one in the Superior Court of Fresno County, effective July 1, 2010, or the date of legislative ratification of the authority to convert positions in Fiscal Year 2010–2011, whichever is later. The committee authorized each court to fill the converted positions, if desired, with a retired commissioner, pending the passage of the Budget Act for Fiscal Year 2010–2011 and until a judge is appointed and sworn for each position.

Respectfully submitted,



Kenneth L. Kann
Director, Executive Office Programs Division

**JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE**

**In-Person Meeting
December 14, 2009 – 3:00 p.m.**

Summary Minutes of Meeting

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. Brad R. Hill, Vice-Chair; Hon. Terry B. Friedman; Hon. Sharon J. Waters; Mr. Anthony P. Capozzi; Mr. Joel S. Miliband; and Mr. Michael D. Planet.

Policy Coordination and Liaison Committee members absent: Hon. Michael P. Vicencia.

OGA staff present: Mr. Curtis Child and Ms. Donna S. Hershkowitz.

ACTION ITEMS

1. Approval of minutes

None.

2. Consent Item

None.

3. Discussion Items

Proposal for Judicial Council-sponsored Legislation

a) 2010 Judicial Council Legislative Priority

Confirm priority of Judicial Council to advocate to secure a budget that permits courts to be open and operating every court day.

PCLC Action: Recommend Judicial Council sponsorship as a legislative priority.

OTHER BUSINESS

Confirm next PCLC conference call:

Proposed date: TBD

Respectfully submitted,

Curtis L. Child, Director
Office of Governmental Affairs

**JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE**

**Conference Call Meeting
November 12, 2009 – 4:30 p.m.**

Summary Minutes of Meeting

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. Brad R. Hill, Vice-Chair; Hon. Sharon J. Waters; Mr. Anthony P. Capozzi; Mr. Joel S. Miliband; and Mr. Michael D. Planet.

Policy Coordination and Liaison Committee members absent: Hon. Terry B. Friedman and Hon. Michael P. Vicencia.

OGA staff present: Mr. Curtis Child, Ms. Donna S. Hershkowitz, Mr. Daniel Pone, Ms. Tracy Kenny, and Ms. Yvette Trevino.

Other AOC Staff Present: Ms. Jody Patel, Mr. Patrick O'Donnell, Ms. Pam Reynolds, Mr. Michael Fischer, Mr. Michael Giden, and Mr. Chris Belolli.

ACTION ITEMS

1. Approval of minutes

The minutes of the October 23, 2009, conference call were approved as submitted.

2. Consent Item

Proposal for Judicial Council-sponsored Legislation

- a) Modernizing the Management of Trial Court Records
Modernizes the statutes on the management of court records so that the courts will be able to operate in a more effective, cost-efficient manner using contemporary technology.
PCLC Action: Recommend Judicial Council sponsorship.

- b) Protective Orders
Creates greater consistency in procedures and practices, eliminates unnecessary statutory differences, fills in procedural gaps, clarifies uncertain matters, and generally improves the statutes that relate to protective orders.
PCLC Action: Recommend Judicial Council sponsorship.

3. Discussion Items

Proposal for Judicial Council-sponsored Legislation

- a) Filing and Service of Documents
Authorizes electronic service by providing notice and a hyperlink as well as by the electronic transmission of a document.
PCLC Action: Recommend Judicial Council sponsorship.

4. Informational Items

a) SB 11 Draft Report

Jody Patel reported on the draft Report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and the Senate and Assembly Committees on Judiciary.

PCLC Action: No action required.

OTHER BUSINESS

Confirm next PCLC conference call:

Proposed date: TBD

Respectfully submitted,

Curtis L. Child, Director
Office of Governmental Affairs

Judicial Council of California
Executive and Planning Committee
January 26, 2010
Proposal Circulated by E-mail on January 22, 2010

Members Voting: Justice Richard D. Huffman; Judges, Mary Ann O'Malley, Lee Smalley Edmon, Winifred Younge Smith, and Kenneth K. So; and Mr. Frederick K. Ohlrich, Mr. James N. Penrod, and Mr. Michael M. Roddy

Members Not Voting: Judge James Michael Welch

Staff Participating: Ms. Nancy E. Spero

Conversion of Subordinate Judicial Officer Positions (SJO)

The committee reviewed and approved the staff recommendations confirming the conversion of two SJO positions in the Superior Court of Los Angeles County effective immediately for the position left vacant on January 4, 2010, and effective March 4, 2010, for the position that will become vacant on that date. The committee also approved the court's request not to convert the third commissioner vacancy which will occur on April 5, 2010. The committee authorized the court to fill each converted position, if desired, with a retired commissioner, until a judge is appointed and sworn for that position.

The committee also reviewed and approved the staff recommendations confirming the conversion of two vacant positions in the Superior Courts of Imperial and Orange Counties effective July 1, 2010, or the date of legislative ratification of the authority to convert the positions in fiscal year 2010–2011, whichever is later. The committee authorized the courts to fill each position, if desired, with a retired commissioner, until the finalization of the Budget Act for Fiscal Year 2010–2011 and until a judge is appointed and sworn for that position.

Respectfully submitted,



Kenneth L. Kann
Director, Executive Office Programs Division