

The Judicial Council of California is the constitutionally created policymaking body of the California courts. The council meets at least six times a year for business meetings that are open to the public and audiocast live via the California Courts Web site. What follows is a formatted and unedited transcript of the meeting of December 12, 2011. The official record of each meeting, the meeting minutes, are usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts Website at <http://www.courts.ca.gov>.

>> Good afternoon. This is the business meeting of the Judicial Council of California, of December 12th, 2011. The meeting is now in session. We have six items on our agenda this afternoon. Three of which require action by Council before the last item today, and that is the presentation of the 2011 Distinguished Service Awards, we will break and we will move to the Milton Mark Conference Center Auditorium on the lower level.  
(Laughing)

>> Speak up, Chief.

>> I will. Thank you. Tomorrow at 8:30 AM we will reconvene here in the board room to continue with the agenda for the December meetings. I realize it is unusual for Council to split the business meeting agenda between two days. This is due to the complexity of the issues before us, for this last meeting of 2011, and also to the increased time we now allow for comment and discussion at all of our sessions.

In addition to the members here in the board room, I believe we've heard evidence two council members joining by teleconference. Judge Sharon Waters, Superior Court of Riverside County and Judge Burt Pines of Superior Court. We know at our last meeting that Judge Pines is retiring at the bench, that this would be his last meeting as a council member. He assures you he will be back at a future meeting so that we can congratulate him and thank him for his service. Our business meeting is webcast, portions of the meetings also are routinely videotaped for later broadcast on California Court and news or CCN.

For some of our meetings we've had several hundred online visitors and even greater numbers of listeners for the archived audiocasts and video reports. And so for their benefit I remind counsel to speak into the microphone, address each other by name so audio listeners and real time captioners can follow the discussion.

Today and tomorrow we have several distinguished colleagues and visitors at this session who will be presenting items on the agenda. We will introduce them individually when those items are called. And we have one request for public comment at this session for item number 4, the report from the court facilities working group. The speaker will be called forward as the item is presented. This concludes my opening remarks for this business and the start of the afternoon business session.

Item 1 is the California Case Management System's status report on due diligence, the process for the CCMS Collaborative Project. This is a no action item. There are no materials for this item. I also want to thank the public and Council for being patient since we are getting started a half hour past our expected time. Judge Herman?

>> Good afternoon, Chief. I'm speaking on behalf of the Council's CCMS Internal Committee and its members as well as the staff that have supported us since the last Council meeting. The agenda item today is an agenda item dealing with the progress and the setting up of due diligence relative to the potential relationship with the Soon-Siong nomination. We have agreed to meet biweekly, and we are in the progress of the due diligence investigation that is preceding on a number of fronts. And in addition, and I will say that I will not repeat this during my report to the Council on other issues involving the CCMS internal tomorrow, but in addition to meeting biweekly, which we will continue to do for at least a period of time during due diligence to see how the effort progresses, a subgroup or steering committee has been formed consisting of myself as chair, Justice Ashmann-Gerst as a cochair and Ira Kauffman as a former chair. Also Kim Turner representing the CEOs and as part of this steering committee, we also meet with Justice Bruniers as well as Mark Moore and Curt Child and in addition we meet with Justice Miller who appears as the chair of EMP, and those meetings have been productive in terms of us being able to follow along as it evolves. The progress of the due diligence effort.

In addition to monitoring due diligence which at this point consists of a track that is eight separate tracks involving various elements of the Judicial AOC which will be developed further in discussions by the panel, we also -- one of our primary interests is to obtain a comprehensive financial analysis of the cost of these deployment alternative to be proposed to aid the budgeting and planning that is necessary for days ahead it will be in addition to Grant Thornton supplement report that they presented last February and Ron Overholt is going to discuss Grant Thornton's charge in some detail so the council are aware of where we are progressing.

In some ways the due diligence effort as far as the Soon-Siong Foundation is one elementary but the broader view is the view that will be encompassed by the Grant Thornton report assisting the council to go forward with the important issues that face us relative to the direction that we will move in terms of the deployment of CCMS and other alternatives that we can look upon and decide as a council. So with that I think we are going to get an introduction to what the eight separate tracks are and the staffers who are in charge of each track and what those tracks involve. I would like to express my thanks to the internal committee which has worked particularly hard on this project over -- since our last council meeting and will continue to do so until the due diligence effort is completed. I'd also like to express my thanks to Justice Bruniers, Ronald Overholt, Chris Patton and Mark Moore who have also done quite an effort along with Curt Child and the other heads of the eight tracks to stand up this process in such a short period of time. Thank you, Ron.

>> Thank you, Judge. So just to sort of set the context, we have two separate projects essentially going on in parallel status with each other, both related to CCMS. One, Judge Herman mentioned was our contract that we have with Grant Thornton and that's on a track to be able to look at costs and deployment of CCMS irregardless of whether we have a partnership in going forward in the process. So we know that we want -- have asked them to look at the cost estimates for the early adopter courts to be able to break out for us in more detail exactly what the costs are, what costs are identified as sort of front-end costs that wouldn't be repeated with later deployments as we go forward, and which are actual costs to deploy the early adopter courts. And to be able to help us with a presentation of that. And so costs going forward is

always key component of the Grant Thornton process. We've also asked them to help us with deployment scenarios, different deployment options. We've asked them to look at various scenarios including deployment to ten additional courts following the early adopter courts and to look at methods of deploying CCMS, whether it's a component deployment option for certain case types as courts need it or whether it's full deployment in the process but one of the key elements in the review of Grant Thornton is sort of the receptiveness of the Court's to having CCMS being deployed in their course. That's a key element that we think is going to be helpful in terms of going forward with the deployment. So delivering a product to a court that needs this -- that needs the product and needs it in a specific area.

The time frame is that Grant Thornton will be prepared to provide a presentation to you at your February meeting. They will continue to do the drafting of their ultimate report that will be ready on March 21st so that will come a little after your February meeting but they will attend and present to you at your February meeting their recommendations and findings.

So that process is ongoing and for those of you who may be new to the Council, this is a continuation of a project or a contract that we've had with Grant Thornton. As you recall, they did a large amount of work last year and presented last February on their cost benefit analysis that was done and so there's a lot of information in that report from last year that I think will be helpful particularly for newer council members in terms of asking the question of, if we don't have CCMS, what are we going to have? What would it cost if we didn't have a statewide system, if we were doing one-off or off the shelf kind of replacement of systems. And so that was -- those are some sort of threshold questions, I think, that the council has been asking going forward here as to whether or not CCMS should continue or not. And many of those questions are referenced in the first part of their report. So I would commend that to you.

The other parallel track that we're on is the due diligence on --

>> If you don't mind, before we go beyond the Grant Thornton, my understanding is that part of their task is going to be an independent review and evaluation of the cost models that we have been looking at regarding the early adopter courts?

>> That's correct.

>> So this will be another set of eyes that are essentially looking on the -- looking at the costs that have been attached to the deployment of the two early adopters or potentially three early adopters?

>> That's right. And, you know, working with Mark Moore and the team, there's been discussion that we believe the initial cost estimates need to be -- to be brought down at the same time that we sort of break out the various components so that we can see why it cost "X" number of dollars for a deployment of a system.

>> And then the second piece as I understand it -- the second deliverable that they're going to provide, they're going to -- after doing analysis of courts first based upon need, that is those courts that have immediately failing legacy systems as well as those courts that have perhaps the resources to assist in the deployment, they're going to give us is list of ten courts that they

recommend that we would proceed with post-deployment of the early adopter courts. Is that within their charge?

>> That's right. So we know that there are -- you know, we've had conversations very recently about existing legacy systems that are failing and need to replace those systems, and so Grant Thornton's process will be to identify where do we have courts that have an identified need in the short term and in the medium term and, you know, what courts have the capability to actually participate in a deployment of the system.

>> Are there any courts out there that we've identified at this point or is that mainly the --

>> No, we have information on the legacy systems and where there are failing systems and where we believe systems will need to be replaced. And we'll be following up with the conversations that they had with those courts last year. And get more detail on those.

>> And as I understand it, they're also looking at court size? There's a balance in court sizes that are served by their recommended deployment?

>> Yes.

>> So the other project that's being worked on in tandem to the Grant Thornton is the due diligence of the potential partnership that Judge Herman talked about. As he mentioned, we have weekly meetings of a steering committee, of the council. There's a steering committee of the internal CCMS committee that staff present an update and field questions from that steering committee and then the full CCMS internal committee meets biweekly by phone to stay on top of what's happening on this due diligence as well as Grant Thornton and all other aspects of case management. Chris Patton is the person coordinating the eight tracks and will -- I'll ask Chris to go over what those eight tracks are. With a focus I'll mention up front that we're really putting a strong effort into the legal and ethical parts of the tracks going forward since those were the issues that had been raised up front as causing the most concern or having the most questions. So we want to make sure that those are addressed or looked at as thoroughly as possible before we go into the more technical aspects of it.

>> Before we start, I wanted to acknowledge the project management office of CCMS, on coordinating the eight tracks but they are doing the legwork and all the background work that needs to be done to keep the project moving and in a very high level project management mode. So we're all working together. It's very interdivisional here at the AOC and so we have almost every division -- almost every division working together here.

So I'm just going to go over these. There's four on this slide and four on the next slide. And as Ron mentioned we are putting our emphasis in the early part of the due diligence on the legal questions because as we listen to you in the last judicial council meeting and the steering committee and the internal CCMS committee, these are the issues that are -- that really need to be dealt with first and answers first before we move into the more resource heavy and driven technical aspects of any kind of relationship we go into with the foundation and/or the Bar -- and the Bar. So what we have, we have the legal track which Mary Robertson, and Evan Garber are

heading. They are dealing with the ethics questions, the conflicts questions, the Soon-Siong business entities. Doing a deep dive on those and after I go through the eight tracks I'm going to hand it over to Mary who's going to go into detail on the legal part here. And whether this is a grant, if it's a gift. What does that mean? And some other issues that we've all raised.

The next track, financial are obviously the working on cost estimates right now, not only of the -- on the entire deployment, all the way out to, obviously, Grant Thornton is going to be key in that but also cost estimating of this due diligent effort. We need to get a handle there. We have some of the figures. We don't have them all today.

Procurement issues. What does this mean if it looks like it's a grant that then becomes a procurement. Are there issues there? Budget model, project budget administration and even just getting our contracts together that we need from the outside council or outside entities. And Zlatko is working on that. But right now we're on hold with those. Meeting the technical interfaces we might have with the foundation folks, we're holding those until we get these other answers done.

We are moving ahead with deployment planning, and this is Renee Hatcher is in charge of this group. We've already started with Fresno, the assessment began in December and completion schedule in February. This would be -- Fresno is the third early adopter court that would happen under this theoretical plan that if we were able to get to an agreement with the foundation -- if we move forward, we would have the funding at least under our plan right now to have a third early adopter court and Fresno has been the one that we're looking at so that has started.

We also started the blueprinting and configuration for the other courts in the early adopter, San Luis Obispo and Ventura. There are four project management, of course, the whole due diligence needs to be managed and Robin Harris is managing that for us. And that's also budget estimate for due diligence including hard costs and costs for AOC staff and we're working on that, and he should with have that fairly soon. These -- and between judicial council meetings -- because the next council meeting is not till January, this is how we reporting and I will be reporting to the steering committee for the reporting of the tracks. And once we get the budget we'll be giving it to the steering committee.

Governance is something we're also putting a little bit at the end because if we do go forward we do figure that we will be forming a steering committee and that would be with the Bar and with the foundation or whatever entity we go into and Soon-Siong and the judicial -- the council. Peter Allen strategy for internal and external entities and we have a collaborative team -- they've already met once actually with all three entities. And then very important is governmental affairs, Curt Child is working on that. He's already had several of those communications and preparation for hearings which we know are coming in January/February so we will have materials ready for that.

So those are the eight tracks that are all moving forward in different varieties and where we need the emphasis is where they are at any individual time and we will be reporting those out to the CCMS internal committee.

If there's no -- are there any questions on the general eight tracks? I'm going to hand it over to Mary to give you some specifics on the legal track.

>> Good afternoon, as a reminder the intent was authorized by the Judicial Council at its last meeting on October 28th. It was promptly signed on behalf of the administrative office of the courts and then the final signature was obtained on November 28th thus kicking off the start of the 12-week period that we refer to as the due diligence period. And that 12-week period will go through February 20th of 2012.

That period of time described as a period of discussion, information exchange and planning with the purpose being to determine whether the parties are willing and able to enter into a collaborative relationship to deploy CCMS and engage in other technology-related activities. The desired outcome of this 12-week period is for the staff to be able to come back to the council with specific proposals for the council to consider with regard to this potential engagement. So the due diligence, as Chris said, has been focusing primarily on the legal issues because they are threshold issues. So a quick overview of what we've done since the -- or actually before the final execution of the letter of intent. We assembled our legal team. We have already engaged in discussions and meetings with both the state Bar and its legal team and after the final execution of the letter of intent, we expanded those meetings to include Dr. Soon-Siong's legal counsel. Following that meeting we sent a formal request for Dr. Soon-Siong with the information necessary for us to do the investigation required to do the due diligence. We will be meeting with the legal folks again this week to follow up on the specifics of the request and get a timetable for when we can anticipate getting the actual information and materials that we've asked for.

We're also in the process of selecting a nonlegal firm to do the actual investigative work that needs to be done. We hope to conclude those activities within the next week to 10 days. The precise timeline for getting the information together in order to present it coherently to the council we don't know yet because of the ongoing discussions but work is very much underway. In addition to that specific work, we're also trying to get background information about the history, if you will, of the California Judicial Branch in terms of its receipt of grants and gifts from nongovernmental entities. We know, for example, that the AOC has in most recent years has received about \$500,000 on an annual basis from nongovernmental entities, significantly more from governmental state and federal funding sources to the tune of about \$70 million a year in contrast to the much lesser amount from nongovernmental entities. But we want to get that information -- not just about California but we've also reached out to our sister AOCs in the other states through the national center for state courts to find out what other states' history and experience, if any, are about receiving monies from private foundations to assist in judicial branch activities. So our to-do list is long and getting longer but we are looking to the January 24th meeting as the next opportunity to come back to the council with what we expect will be much more substantive information about the results of some of those efforts that I've just described. Any questions about where we are?

>> Justice Bruniers?

>> My original task here this morning was to discuss our legislative update on both CCMS and Phoenix. And, unfortunately, we're a little behind schedule on that. We had hoped to have that completed and distributed to everyone on Friday, but as of Friday afternoon we were still doing editorial changes and Ron can probably address a little better where we stand on that as of -- as of this morning. But we should have that completed shortly.

With respect to CCMS, as we reported last time we have now successfully completed our product development. We do have some ongoing activities he we have a zero-sum work that Deloitte agreed to perform which was technically beyond the contract scope but they agreed to perform it, no additional fee or charge to the court. That work has been completed and successfully tested. We're currently in the middle of a testing program with our various justice partners. That's going to take place over approximately the next six weeks. The data exchanges are currently being tested, no issues identified so far. We are continuing to work with judicial officers on performance testing of the product. We have judicial officer testing scheduled for later this week on December 15th.

As you heard Mark Moore and his staff are working on the blueprinting for the early adopter reports and Mark and his team are onsite at San Luis Obispo working with that court. The deployment release of the product what we referred to as release Number 1 will have to include at minimum the legislative changes that have been effectuated. We think we have about 86 legislative changes that need to be implemented in the release 1 for the approval of the release. We have K3 associates who did the code analysis for the product. We had asked them to help us prepare the action plan on the gaps identified both at Deloitte and in our processes. The action plan has been prepared. We have K3 doing a status report for us on implementation of the action plan. We should be able to have that status report to the council at the January meeting. But almost all of the action plan items have already been implemented certainly on our end and at the -- at Deloitte. Again, this is a process, not a static measurement but nevertheless I think we're on track with that.

Additionally, since the last meeting, I have signed off on the product acceptance. We signed the product acceptance letter on November 28th. That means Deloitte had employed its contractual obligations and we have all the Deloitte obligations. And that contract has been signed. We have product acceptance on the product warranty. The contract as associated currently provides for an eight-month time frame from product acceptance for the warranty to commence. That would take us into July of 2012. And a 12-month warranty period thereafter. That schedule was realistic when the contract was negotiated. It does not fit well with our current deployment plans.

We have had discussions with Deloitte on modification of that -- those warranty terms. I think they certainly understand the change circumstances that we now face. I think they are certainly receptive to making some adjustments to that schedule. I know Ron has been in discussions with senior management at Deloitte on that issue and can probably speak to that as well. We plan on attempting to negotiate that as part of our ongoing maintenance and support contract with Deloitte. It's a little difficult to get to a specific term on that at the moment since our deployment plans are so fluid at this time. But I'm confident we will be able to reach some agreement with

Deloitte on a modification of the warranty schedule that will fit better with our deployment plan, whatever that ultimately may be. Ron?

>> Thank you. And so we're on item 2 now of the agenda. And when we finish this, we'll certainly take questions on item 1 or item 2 or any comments that you may have.

Item 2 was an information item on a status report to the legislature on CCMS. And as Justice Bruniers indicated, that report is still in progress of being written with the flurry of activity that we've had ongoing around CCMS, we wanted it to be as current as possible when we do submit it to the legislature. So Curt Child and his team are in ongoing contact with the legislature to make sure they understand that we are preparing this and want it to be again as current as possible going forward. So we'll bring that back to you at a future meeting so that you'll be able to see what that -- what that report is. But essentially the status is as reported by Justice Bruniers.

We're happy to take any questions or comments on item 1 or 2.

>> I would say I don't see any hands raised but I would point out for the otherwise silent record, that as part of our closed session when the council is discussing some planning committees much on the due diligence that CCMS has provided and council had a discussion on the planning aspect that is covered by the closed session rule and that is in part why we were a little delayed in starting our afternoon session. So I don't want you to take the dearth of questions so far to be a sign of anything that we've discussed this.

>> I certainly know there are plenty of questions that need to be answered going forward.

>> Anything further at this time? On either items 1 or 2? Thank you. Thank you, Justice Bruniers, Judge Herman, Ron, Chris and Mary.

Item number 3 is the Judicial workload, I would ask the panel as you speak to please introduce yourselves, thank you and welcome.

>> Good afternoon. Good afternoon, Chief Justice, and good afternoon members of Council. I'm Dag MacLeod. I'm from the office of the Court Research here at the Administrative Office of the Courts. I'm very excited to be here with Judge Stock, representative of the S.B.56 working group, Leah Rose-Goodwin, directly to my left who is the lead and project manager of the judicial workload assessment update and Deanna Piazza supervising for the families and the courts. This is a collaboration between the trial courts and the AOC. In my office we can crunch numbers until we're blue in the face. But those numbers won't be very useful and they won't be very meaningful unless we have the raw material that give them meaning and make them valid and that raw material is data and data is never cheap to get. It takes a lot of work and the only way we can get it is by relying on the trial courts, the judges who participate in this study. Leah is going to talk about how many judges but I will say at the outset, a lot of judges and a lot of courts took a lot of time to participate in this study in order to make sure we have meaningful numbers that we can use when we talk to the legislature about the needs in the courts.



I like to believe that the reason so many courts participate in this study that they saw the importance of this study. To a large degree what this study does it translates the experience, the experience of try to judges into the language of the department of finance and the legislature. It helps them understand in terms of that they work with, what the dire and critical need is for new judgeships in the superior courts. And if as is most likely we're not in a position of getting new resources, it can also be used defensively to demonstrate the important and -- the important work that the courts are doing and the dire and critical need for resources in the courts. So as a defensive measure to demonstrate to the legislature that we have a tremendous need for resources in the courts and we are not in a position to receive more cuts.

One point that I want to make at the outset before turning it over to Judge Stock, one additional thing that the Judicial workload assessment does is it takes the politics out of the creation and allocation of new judgeships. In 2006, when the legislature created 50 new judgeships it did something that was almost as important if not more important which is that it put into statute the fact that the judicial council will become responsible for telling the legislature where and how many judgeships are needed. In S.B.56 the legislature says, yes, we're going to create 50 new judgeships and, no, we're not ceding the responsibility for those new judgeships but it is using a model based on the methodology based on the methodology we used in creating the new case weights that are coming your way today.

The final point I wanted to make was just a clarification to the update that we're presenting today and previous updates that we've done. In the past we've come before the council updating the model and those do it have been exclusively on the basis of new filings data and by that what I mean is that there are really two big components of the judicial workload assessment. We take filings data and we plug those filings numbers into workload assessments. By statute we're required to update the model every two years and we've come to the council on a number of occasions before updating the model using the new filings data. What's fundamentally different about this model is we've gone back and reassessed the amount of work required on average for each of those filings so that the underlying weighting is what's in this model today and why it's taken so much work and we've had so much tremendous support in the trial courts in updating the model.

So with that I'm going to turn it over to Judge Stock and --

>> Thank you, Dag. Chief and members of the Council, thanks for having us here this afternoon. I'm Judge Nancy Stock, Orange County Superior Court. I think I was appointed to the working group for the judicial case weights and resource allocation because I've done some hard time on the trial court group and I was presiding judge with the PJ executive advisory committee and just completed a task force where we are in the implementation phase. I think you're going to find that the product that is before you today represents a much more sophisticated and intuitive way of measuring judicial output and what is actually needed for judges to do the work in the particular types of cases that are involved. This working group was formed in August of 2009 and looking around the table at that time, I can say everybody brought their heavyweights. There were presiding judges, court executive officers, pretty much the A team. This was an important enterprise and it had interesting implications for everybody, both external to our branch and internal that we properly allocate and understand what it means to

have judges do work based upon case filings, and what the staffing component would also be. Today we're here just on the judicial workload portion of it, resource allocation is a separate stage.

We had judicial officers and court executives from 15 counties representing both small and large courts from all regions of the state.

At the first meeting, the overall research agenda was developed that centered on updating the judge and staff workload models and as Dag mentioned, they were quite out of date, particularly, in certain types of case filings, and we'll hear a little bit about that today particularly in the family and juvenile area.

We all agreed that new time studies should be conducted to update the estimates of time required and these studies are done at the desk, in chambers, on the bench, actual judicial time spent. There are important limitations to tracking what judges do in the moment in their current environment. However, under-resourced that may be. And so we felt that a time study alone would not be sufficient to accurately capture the need for judicial resources to be explained to the legislature. And so we took a couple of additional steps, but simply the working group was committed to not just measuring a standard of mediocrity that would be perpetuated if, in fact, we did not have adequate resources but we needed to take an additional step. So in addition to measuring the judges' outputs on the bench in whatever fashion judges worked on certain kinds of cases, we took a couple of additional steps to adjust the time study estimates to make them more relevant.

First, we took the same judicial officers in the study courts and had them complete a survey to assess where more time might be needed to improve on the quality of justice. Now, 175 judicial officers participated in this and it was kind of a menu of activities. Do you need more case prep time, do you need more time to explain things to the litigants? Do you need more time after a judgment is entered? Where do you need the time that you don't have now? And we saw some interesting differences between felony trial judges and family law judges, for example, in what they felt they were clearly lacking on the job.

The second thing we did was we went to a different set of judges and we consulted Delphi sessions which were feedback sessions and I know we sent from our court people who we felt were bringing their A game, our best judges who practiced at the height of their area in family, juvenile and criminal and civil so that they would have the right kind of feedback to provide if given a wish list of additional resources that they could use to do the job.

So these case waits, how many judges might spend on a particular file over time, was tested and talked about by these Delphi session judges who then critiqued them. We had 44 judges in the room from 19 different courts on all different case types doing that.

One example of the type of information that came from this second tier process where we put actual judges on the data to tell us if it really sung or did not sing. We found that 14 out of 24 judges who hold family law assignments indicated that they thought that more time was needed to conduct settlement conferences and to hold hearings. The idea that they would need more time to hold hearings is somewhat amazing perhaps but not when you consider some of the

recommendations coming up out of the Elkins family law task force calling for more oral testimony, more in-court time and more evidence-taking in critical family matters, particularly, in child custody.

Significantly, our family law judges also reported that they felt that needed more time to prepare. They didn't have the time on file that they needed and they felt that they were kind of too much in the moment on the bench on these important matters.

In the criminal area our Delphi judges are experienced judges told us that they needed additional time with post-disposition activity, violation probation hearings, mandatory check-ins for drug court, restitution hearings and other after-action activity, if you will, were absolutely necessary to keep people on the straight and narrow and that's where they felt they were shorted. We convened this last fall to review the draft judicial case waits after this feedback came about and we approved the new case waits as indicated in your materials. We did have a series of conference calls in the late September period with resource staff so we could all comment on the new case waits.

Some of the materials in your report today, including the new case waits and the implications of using these case waits were presented to the presiding judges advisory committee and court executives. I think it's meaningful to note that our working group sent out a recommendation that the case waits be reviewed by those two bodies before they went any further because of the value of the kind of feedback we get from those organizations.

So in short, we had about 23 courts participating. We had hundreds of judges providing direct feedback in the form of participating in the study, participating in a Delphi group or participating after the study. I think what we have today is a more sophisticated and realistic assessment of what it takes to do a particular job in regard to taking a felony case from beginning to end or a juvenile case from beginning to end.

There are other aspects of judicial work as it relates to different things that happened in different parts of the state, and so as we discussed various issues such as asbestos lawsuits or even the current iteration on criminal justice realignment or some of the reforms in Elkins family law or any other changes that have occurred in the last 10 years, we feel that this model can kind of grow with those changes and will serve to give us is stronger anchor in terms of assessing not only what we're going to ask the legislature for but also what we need to do internally with our own leadership in terms of how we allocate resources in our court.

>> Thank you, Judge Stock. And good afternoon, Chief and Members of the Council. As Judge Stock said, we had 23 participating courts in the judicial assessment. 15 in the study itself and 8 additional courts that participated either as members of the S.B.56 working group or in the Delphi session. And just to reiterate something Judge Stock said, this is a study -- or the results of this study only pertain to the judicial workload side. We do have the staff workload study update which was conducted right along the same time as the judicial workload assessment, but those results won't be presented until early spring of next year.

I have a chart here that shows some comparative participation data between the 2001 and 2011 studies. We partnered with the national center for state courts on the time study data collection and for this study we were able supplement the team with AOC staff in order to increase the number of courts that were able to participate in the study through -- or training support and study support. Yet, it doubled over the number of judges participating in this study, 337 for a total of 533 judicial officers that include subordinate judicial officers, pro tems and even assigned judges that were working in the study courts at the time of the time study. For the time study itself, judicial officers were asked to record their daily activities over a four-week period and it's a tracking system that many judges likened to keeping track of billable hours.

Because there were so many participants, we collected a substantial number of time study minutes, over 37 million minutes of data and over the next few slides I'll illustrate why that quantity of data is important. The time study was conducted over four-week period. It was late May, early June, 2010, and I've represented that here on this slide in this Redbox and we have very few cases that begin and end in a four-week period corresponding with those time study -- with that time study collection period so we can't really capture the totality of actions in a single case. So instead what we do we study each case that the judicial officer works on during the study period. So if you imagine on this slide that each line represents the duration of a case and each dot represents an event in a case, our study captures study on the events and the activities that happen during the study period which are marked here in blue, again, the dots in the red box. We may collect information about the arraignment in one days and post-judgment review in another. And if we have a large-enough sample then we get a good representation of the casework that napped in a case. And we take the time in the red box and we divide that about the average violations. We use a four-year average of filings which helps smooth a year-to-year variation that is we tend to see mostly in the smaller volumes, high case -- high wait type cases like juvenile or probate. The case would show the average and time of minutes per filing that it takes judicial officers to process cases. For example our case wait is 177 minutes. Meaning on average, a felony case takes that much judge time through post-judgment activity. Wait a minute, I just came from a six week trial and there's no way it took 177 minutes. It was much more than that. There's a tendency to recollect those egregious cases, the ones that took the longest time but there's a very small portion of cases that actually go to trial, somewhere in the range of 2 to 3%. The majority are resolving much earlier in the process. The time study captures that full range of case activity from the long trial that on this chart would be on the far right to cases that are filed and are resolved in just one or two hearings.

Attachment A of the report shows the case types and case weights that we've collected data on. We have 18 in this study and they have two criteria. One we have to have filings data to back the case waits up because filings are our workload driver. Secondly, the case types reflect meaningful differences in workload. For example, it's clear that a felony case takes more time to resolve than an infractions case. We study that workload separately and assign them different waits accordingly. The case waits that we're currently using to assess judicial workload are 10 years old. And we know that in the intervening decade that there have been improvements in court technology, case management practices. There have been changes in law and rules of court that may increase or decrease the amount of time judicial officers need. For example, the case wait for felony declined about 10% from the previous study and with criminal being the largest

workload driver in the courts, the working group felt that felony appears to take less time because there's more case management practices applied to those cases. And also the data for the previous study was collected in 1999, which was just after unification. There was a period of time when many courts may have still been doing bindovers and other practices that have since been phased out.

The dissolution cases and case waits was attributed to the increases of proligants and more procedural litigants since the previous study. Now, the case waits are most meaningful in the context of how many and where judges are needed. We use the three most recent data which would be fiscal year '06, '07 up to '09. In this table the first row of data shows the need using the old case waits. The state wide need for judges of 2,351. The next row shows the judicial need using the 2011 draft case waits there's a statewide need of 267. And since we used the same year of data of case waits, the change in need is entirely different than the change waits. At the state level, new case waits show a minimal change of district need 4.1 statewide. Nevertheless, the need for judges is severe. Using the new case wait statewide need is 445 positions above what is currently authorized.

An attachment to the report we show the need for judicial officers by court and case type. This is the document we shared with the courts in late September as Judge Stock mentioned. Because courts have different case mixes, with some having a greater proportion of criminal cases than others, courts may see a change in their judicial need numbers. Nevertheless, the new case waits still support a high overall need for judges statewide particularly in the central valley and the Inland Empire.

We have three recommendations for the judicial council to consider today. The S.B.56 working group recommends that the new case waits -- the new 2011 judicial officer case waits be approved. And they also are recommending cleanup legislation to make it clear that judicial needs should be calculated based on the updated case waits. And the third recommendation is that -- is a recommendation by AOC staff that the special assessment of the need for new judgeships in family and juvenile be approved for transmittal to the legislature. And so now Dena PIAZZA will talk about the special assessment and how it was integrated into the workload study.

>> Thank you, Leah. Good afternoon, Chief and Members of the Council. So folded into this overall workload study was a special assessment for the need for new judgeships in family and law in code 69614. The full report is attached to the report as an appendix.

Looking at the legislative history, the assessment was required in response to concerns that past studies have undercounted to properly hand family and juvenile lawmakers. So if the time was being undercounted, then it seemed like there could be the possibility for underestimating the resource needs and I think the advisory body such as the blue ribbon commission on children in foster care and Elkins family law task force have also expressed a concern about underjudging in those areas.

So one of the ways that we help to fulfill the requirement of this code section was to extensively involve court and AOC subject matter experts in the study design so designing the time study,

looking at the -- at the questions that were asked and making sure that they were kind of appropriate for the nonlitigation models that are employed in juvenile and family law. They were also involved in the quality judgment process that Judge Stock just described and the review of the results.

Our subject matter experts had extensive knowledge of both current court operations and policy and practice directions in family and juvenile law and they included several advisory bodies that have been working in the areas on an ongoing basis such as again the Elkins Family Law Task Force, the Blue Ribbon Commission on children in foster care, the Juvenile Delinquency Court assessment working group and the Family and Juvenile Law Advisory Committee. We also involved judicial officers who had extensive family and juvenile law experience but who might have been outside of those bodies as well as AOC staff from the center for families children and the courts, staff, many of the working groups that were involved.

Some of the special focus on family and juvenile included modifying some of the reporting categories to better reflect that many dispositions are reached not as trial and a lot of the post-disposition activity which also as Judge Stock mentioned which is increasing in criminal case types as well. The quality adjustments factored in recommendations of the advisory bodies so they made upward adjustments in a time required, for example, to hear family law cases because of the requirement for more live testimony pursuant to Elkins.

Additionally, with the inclusion of more courts in the study we should generally improve our measurement of the workload involved in family and juvenile law because it should be a better representation of a wider variety of practices in these areas. And what the special assessment found briefly was that the time required to handle family and juvenile cases has increased since the last study so the case waits have increased pretty much across-the-board. Courts reported needing more time to review files and prepare for hearings, to conduct hearings and taking -- including taking more testimony from the parties and to make an planned and findings and orders. And those factors varied a bit across family and juvenile but those were kind of the common threads that led to the increases in time.

And the other major finding is that family and juvenile law remains significantly under-resourced. As an adjunct to the time study we conducted a Census of judicial officer allocation in the middle of 2010 and it showed that there are far fewer judges than needed currently assigned to family and juvenile law and I'll show some of the details on the next slide. So you can see the family law had about 140 fewer judicial officers per the 2010 Census than the implied need suggested by the new study. Basically, family and delinquency needed about 60% more judicial officers than they currently had to meet the need and dependency needs 80% more. And I wanted to note this is statewide. The degree of under-resourcing may vary from court to court depending on their mix of filings and how they've chosen their judicial officers. The judicial officers Census is a year and a half. We're not sure how the assignments may have changed since then. We do know some courts are losing commissioners and may need to shift assignments around. Additionally, the implied need will be recalculated with newer filings data after -- assuming they're approved today, so the numbers in either of these columns could change but this should just give you a general flavor for the degree of under-resourcing in these areas.

I also wanted to note that although this particular special assessment focuses on family and juvenile and the resource needs there, we do see resource needs in other case types as well as we saw the 345 needed statewide, that's spread across a variety of case types.

I think with that we can open it up for discussion.

>> So we can open it up for discussion or we can return to the recommendation.

>> Okay.

>> Thank you, Chief, I just wanted to note I'm slightly familiar with the motion and workload studies and as I read the materials, the work and the thought and the effort that went into this were truly commendable. I think it's -- it is excellent work but as you noted, the raw material, of course, is the data and the difficulty of obtaining the data. What you've done has led to some very -- in my view very sophisticated estimates but estimates nonetheless. I don't really have a question. It's more in the nature of a musing. I did wonder whether or not as we go forward in the future whether or not you could -- we as a branch could find some way for real time capture of the amount of time that judges use through some -- some use of CCMS. I'll say not when and if it's deployed, but when it's deployed, whether or not judges and such could report the time they spend and so you wouldn't have to depend on sampling. It's well beyond our discussion here today and I'm not familiar enough with the software to know if it could do that or if it could be revised to do that. We've lost Justice Bruniers. We still have Judge Herman and Ron here. And I'm not asking for a discussion on that, but it's perhaps it's another way where we, the branch, would not have to the next time around depend on samplings but could depend on real time reporting of all courts throughout the state. I might add, I can understand the resistance that was referred to by some judges in reference to time sheets having spent 16 years of my life with time sheets.

(Laughing)

>> I can appreciate that as perhaps a bit of a roadblock but it's just something that I think maybe as the branch goes forward, maybe we can work on something along those lines.

>> Judge Wesley and then Judge Turner.

>> I actually have I didn't have enough time to really review this as much time as I really would have liked but I would ask -- it's listed on my Page 834, it's attachment F. I'm trying to understand what this tells me in light of what I just heard you talk about. At the bottom it has totals and it says that with respect to family law, statewide, there's a minus 62.9. I guess that's positions or minus 2.8%. What does that mean? I'm going to tell you what it means and Dena can talk details. What it means in 2001, when we created the case waits, we were not able to disentangle does this tell you we hope have we have too many judges and so many Courts were reporting those two categories in the same area we had to combine them and create a mashup case way. Civil petitions it should have had. The difference between those and the numbers in the time study.

>> Practical experience tells me this isn't accurate.

>> Let me actually take that one too before we get the detail. We would allocate. We would have all of the Judges we needed. If we had all of those Judgeships, than there would be allocated in this way, this is showing the difference between what the previous model estimated, where they would go and what our current numbers would show they would go. The previous model and the current model not a comparison in actual Judicial resources to the model.

>> The previous model if you compare it, your 2011 model says for example, does your 2011 model say we have 62, too many Judges assigned to family is that what it says?

>> No.

>> It's a model.

>> What does this model tell me?

>> It tells us that we need over 300 more Judgeships than we need statewide. It allocates those by case types. The reason is different cases take different amounts of time. We're documenting the different amounts of time. What the previous model said, based on a data error was that Family Law needed the number of Judicial offers we show in the column for the previous model. This is comparing the current model to the previous model. By subtracting the 62 previous Judgeships it is saying we need 62 fewer than the previous model would have shown.

>> Can you show, do you have that slide that shows the comparison? It is in the attachment you can look at what the actual comparison is the comparison of the actuals to the current.

>> An attachment yeah.

>> Using our draft case weights question would need 377 Judicial officers in the Family Law area. We don't have that many in Family Law.

>> It was 444. Now it is well minus 62.9.

>> 377.

>> 377.

>> That's on the back.

>> Do we need fewer than we needed before, but we still need more than we currently have is the bottom line. By about 140 Judicial officers so there are approximately, according to the 2010 census, about 240 Judicial officers assigned to Family Law and this model says we need about 380. So this is basically saying we have a deficit of 140 Judicial officers statewide in Family Law. Okay I think that's what it says.

>> Kim and then Judge Rosenberg.



>> I just wanted to make a comment on Justice Hall's remarks that it's unfortunate we don't have a way to collect realtime data. I'm a member of the working group we have many discussions about this early on how we were going to collect reliable data and so forth. I think the really telling part of the analysis here is this 33 or 35 million minutes, something, some astronomical number of minutes I can hardly wrap my head around. From my old days you know statistics 101 and the work I do in the Court I will tell you as you start to collect more data, the data becomes more reliable because, you are basically washing out, a lot of the outlyres and collecting a large volume of data. Where as in 2001 we collected something like 5 million minutes now we collected 35 million minutes. I think the integrity of the data goes up with the higher data collection activity. So, I gist wanted to say that while, you know obviously in a perfect world we would collect information realtime and all the time and so forth, I think it would be hard to do that in any case management system, but I am, pretty darn impressed with how much data we did get out of the SB56 study and so, just wanted to add that little bit of perspective. I also wanted to ask I know, I can't remember if it's part of this government code Section, related to the Family Law special assessment requirements, but I know there is consideration given to Courts who convert Commissioner positions to Family Law Judgeships. And so I'm wondering if you can talk a little bit about how successful that has been, how many of those Judgeships have been created as a result of this?

>> I think it is SB405 that makes the conversion of subordinate Judicial officers to full Judgeships. And that becomes effective on January 1. We have converted two positions under that new provision in this fiscal year. They will become effective January 1 when the law becomes effective.

>> Judge Rosenberg.

>> Thank you very much. Particularly Judge our all-purpose workhorse on so many projects. I have one question then one thought. The question is, did this study encompass time spent by Judges on management, administration, continuing education, conferences, things of that nature was that part of the study?

>> It's part of the assumed amount of time that Judges need to spend doing things.

>> What does that mean assumed amount of time.

>> You need to assume there is a certain amount of minutes available to do work. You can't come up with an estimate for how long it takes until you said here's how many minutes are available. The remaining two hours in an 8 hour day are devoted to any range of other things. It's not two hours in every day.

>> Let me stop you there. You assume trial judges spend six hours in their Court room work?

>> That's what the model, that's the underlying parameter of the estimate.

>> The model is defective from the get go. I start my day at 7:00. I mean, Judges don't spend six hours on Court room work. They spend a lot more than that. I would like to meet the Judge

that spends six hours on Court room work. Did you consider realignment and the effect of realignment?

>> We've had a couple of conversations about realignment. We couldn't measure realignment because it hadn't occurred. We have \$17 million the legislature has already provided with dealing with some of the immediate impact of realignment. What we're hopeful of doing is going forward being able to keep the model updated by looking at realignment. This is honest right now something we need to reconsider in the next update of the model. But for the immediate purposes we don't have realignment built into it.

>> I just had a follow-up comment on Judge Rosenberg's comment relative to the Judicial day. Many of us debated exactly what you had just mentioned that our work day, particularly these days is far greater than six hours and divided in different segments including maybe some time at home in front of the fireplace with a glass of Chardonnay, but that's different. The question is did we want to build a model that assumed a ten hour work day. Is that the model we wanted to build? Even though many of us are putting in a ten hour Judicial day it wasn't the model we wanted to create. A number of people around suggested we spend a lot more time on that. There was a suggestion as to what other models look like bench time and this coincided with that. That gave us some comfort we weren't outlyres or underlyres. The question was did we want to build a ten to twelve hour model and reduce the Judgeships that might come to us.

>> I understand you don't want to build a ten our twelve hour model, but six hours why question that. Also, you know the work you're doing is important and necessary and required under SB56. But, it is all hollow to be honest with you. Unless, the legislature and the Governor provides the funding. I mean we had 50 new Judgeships created in 2008. And here we are about to enter into 2012 and still not funded. That's just the first 50. So, we're building up a deficit over time, of Judicial officers which will be very hard to fill five years from now.

>> Your honor just point of correction, the first 50 were funded. We got 50 Judgeships funded.

>> I'm talking about the 50 still out there not funded.

>> This question, Deanna, is for you on the dependency part of the Family Dependency Delinquency. I didn't see it in here and I'm just wondering if I missed it or if similar to realignment it is there, but no way for us to say anything about it which is to what extent you try to factor in the change in the law that is going to phase in over time more Judicial hours by virtue of the fact we're going to continue hopefully, in growing numbers to supervise youth in Foster care up to age 21. So, we know that we're going to have this growing population of youth that are going to remain on the Judicial case loads longer and in the system longer. That is a good thing in terms of the youth, but it's going to put an enhanced work load pressure. If it wasn't considered because similar to realignment we can't capture it yet. I'm wondering whether on both of those issues there is a way to plant a footnote or sort of ring a little warning bell saying we realize it is what it is right now, but there are a couple of these things that are going to have a huge impact in the coming years and here's what they are.

>> I would say that's actually something that came up of course, we couldn't measure it in the time study, but it is something that came up during the Delphi groups and to the extent that the Judicial officers who participated in those groups could anticipate what the impact would be, it actually did increase the case weight at that point. It was in the quality adjustment process. I do think it's one of those things that we're going to have to be mindful of along with realignment. You know we're really only estimating what the additional impact can be and in future time studies, we may see it as it becomes more institutionalized.

>> So, on all of those I think Elkins is another one of those areas is there any thought in putting whatever documents these provide that we're fully aware there are a couple things down the track that are going to have an influence and we're just going to keep watching them over time. Here's what they are, realignment Elkins recommendations and you know, increasing supervision of youth up to age 21. Those are out there clearly going to have consequences we're well aware of them and they just need to be watched over time.

>> Yeah. I think that's something we can certainly add as a footnote to the report we submit to the legislature just sort of future developments that could impact the need.

>> Judge Yew then Carlson.

>> As one of those that had to do the time sheets in 2010 and used the old information, it is so nice to see this report. Because, those little incremental things we made show a bigger picture. Like any study or report, it's a snapshot in time. It can encompass, but it's a good job so thank you so much.

>> Two points, in the report on the family and juvenile there is a continual reference back to how many Judges we should have verses how many we actually have. And, that is a legitimate number, the problem I have is that nobody has as many Judges we're supposed to have so the implication that we have shorted family more in other places you can't tell when you use the number of what we should have verses what we actually have. Somehow you need to have a paragraph that says okay we're 80% of what we should have so what would 80% of family Courts share be and where is that relative to what we actually got. I suspect it's far off. That is more important to me than to say some day we got all of the ones we wanted. Where should we be?

>> If you look at figure 3, the middle bar is I'm in the sure what page it is, I just have it as a stand alone.

>> 20.

>> Page 20.

>> Page 20s. Okay. So this actually shows the middle bar the red bar. Shows what the expected allocation would be if we applied it to the current number of Judgeships that we have. So, proportionally it looks like 16% of Judicial officers should be assigned to Family Law. If we applied the 16% to the number we currently have, we would expect 319 Judicial officers.

>> Yeah. That to me is the more bother some number right now. The 378 is kind of out there. The second point is, I always say this with the case load the reason we can't answer the questions with the other ones the basic model we use can't do that. We need to find a model that can. I think those models exist. I just keep saying that it doesn't work for us when we want to make projections. There are models that could. We ought to be looking at that. Particularly now when we aren't getting any Judgeships we have a little hiatus to do some work to find a model that would allow us to do projections in that sense.

>> Thank you Kim Turner.

>> I want to go back to the comment Judge Rosenberg made about the six hours in a Judge's day. I'm remembering from early conversations in SB56 the way we determined a six hour work day in vetting that against the national center data we looked at the number of minutes in a Judicial year am I getting this right and we actually said in a Judicial year there are so many hours of minutes and of those minutes, Judges are entitled to 28 vacation days a year and so those minutes were deducted and Judges go to X number of conference days a year and training days a year and so forth. What you get then is you start with the total number, you reduce it by these other days and spread that over the entire remaining number of days that's how you get to that six hours. It's not implying two other hours you're just sitting around with nothing to do it's that your number of actual productive minutes in a Judicial year are actually fewer than 8 hours a day, five days a week 52 weeks a year. Am I right about that? Okay. I just didn't want that impression to be hanging out there that you know that number was sort of plucked out of the air I think there was some science behind it.

>> Justice Baxter?

>> I do think um, perhaps, this report could find its greatest benefit, in the Governor's office. If used to establish the point that attorneys in the Family Law field are really, underrepresented in terms of Judicial appointments. I know when I first started practicing law, the Family Law Judge was always the rookie. He may have been the greatest trial attorney in the county, but since he or she usually he at that time was the rookie, became the Family Law Judge didn't know the first thing about it and had to learn on the job and was so anxious to get out of that assignment, to do general civil trials. I'm not so sure Governors appreciate the fact that the case load in our current Courts is as heavy as it is in the Family Law and dependency and related areas. And I think that's important information for someone to communicate to the appointing authority. Not only in terms of the recruitment process, but also in terms of the appointment process. So much focus in the appointment process is based on well gee how many jury trials has this person had? You know as a DA or public defender or as a civil litigator generally speaking, those who have not had that jury trial experience don't fair as well as those that do. I'm not sure it's the Judicial Council to make that case, but perhaps this report could be made available to those that would advocate on behalf of Family Law lawyers. Both in the recruitment and the appointment process. I think it may be more helpful in that area than in terms of immediately getting a lot of new appointments. A lot of new Judgeships.

>> If I could just comment Justice Baxter. All trial Judges are rookies when they are first appointed they are never appointed in their area of expertise. So we could be appointing a lot of family lawyers and they are going to wind up doing probate or criminal you know as a civil practitioner it was a great shock to me to get on the bench and immediately get a criminal calendar, but that's just the way it goes.

>> Anymore questions or comments? I'm going to call the question. I think that's the right procedure?

>> What is the motion?

>> Do I hear a motion on the recommendation made? Judge O'Malley.

>> I would move to adopt the three recommendations that we see on page 2 of the report.

>> Thank you.

>> Second.

>> Judge second. Any further discussion? All in favor?

>> Aye.

>> Any opposed. Matter carries. Thank you Judge Wiebenstock. Thank you all of you. I know you didn't all introduce yourself. Incredible help. A useful tool for the Judicial Branch to move forward. A complicated matter. Thank you.

>> Thank you Council.

>> Calling the next matter on the business agenda is item number 4, in this matter we have two speakers who wish to make a public comment on the subject. What I would do at this time however is before I have the speakers come up, I would invite the presenters.

>> As you get situated I would like to welcome on crutches Justice Brad Hill. I'm glad you could be here Justice Hill.

>> Thank you, good to be here.

>> We also have Judge Patricia Lucas present. Thank you.

>> And a broken arm we're quite a group.

[laughter]

>> Are these construction injuries?

[laughter]

>> It's a tough Committee.

>> it's a tough meeting.

>> Judge Highberger is here in good spirits and appears well.

>> Be careful Judge.

>> And Judge David Power good afternoon. Welcome Judge Lucas.

>> Before the presentation we do have two people who wish to make public comment. I will call them in order of having signed up. That is Jennifer M. Gates, Field Service Director affiliated with the California Preservation. Please come forward.

>> Thank you for this opportunity to comment on this item today. We're dedicated to providing statewide leadership, advocacy and education to ensure the diverse cultural heritage and historic places. CPS has been tracking the courthouse projects throughout the state after concerns were raised in Nevada City regarding the future of their historic courthouse. Since then CPS has begun to review all projects and a number of concerns including the environmental and economic impacts.

CPS believes the highest and best use of California historic courthouses is their historic uses and the AOC should review how to maintain their continued use through compatible additions and additional structures. Of the original 41 courthouse projects being discussed, 27 of them involve courthouses over 50 years old and potentially eligible. We'll be giving back to the county some with plans for reuse, but many with no known plan. CPS recognizes that there are a number of issues with these courthouses. If the goal is to first provide a safe, secure and accessible courthouse, those courthouses without need for more Court rooms should be reassessed for how they can address their immediate needs. Within their existing facilities. Currently the AOC is completing environmental documents for new courthouses before a project architect is hired to address the feasibility of adoptably reusing the courthouse. Address sustainability and wastefulness. We're also building structures to last 50 years. 100 years with periodic renewal and ongoing upkeep. What it does not address is the sustainability and wastefulness of the present.

The courthouses of the past were designed to last and many have lasted over 100 years and continue to function as courthouses or serve Court functions. However the Court cannot continue to defer costs. Without knowing when there will be additional funds for operations and maintenance immediate concerns should be addressed for within the existing facilities. This idea was considered by the working group it was rejected because the use would delay the program. CPS believes many of the concerns with the courthouses and construction program could be alleviated if was considered verses abandoning them and constructing new facilities. It would leave buildings empty or subject to demolition. It fills our landfills and eliminates energy and resources used to erect them.

If they truly cannot continue to function as a courthouse plans should be developed and alternatives explored and included as part of these projects. Many communities have housed these county courthouses for over 100 years and the current decision is being

made regarding courthouses has a district impact economically and emotionally. Some buildings may find new uses while others fall into disrepair. Many of these communities also have strong economic ties to the county courthouse in the downtown with significant downtown office for attorneys, vibrant restaurants and businesses supported by the Court related activities. If they are relocated there will be a impact to the community economic sustainability. With the number of courthouses being proposed CPS is concerned about the impact with the historic communities they are located in. Attention must be paid first to the immediate accessibility concerns. Many of these communities want to work with the AOC to see their community landmark preserved and continue to function and support their local economy. Thank you for your time.

>> Thank you miss gates we appreciate your comments.

>> Next we have Sherry Oliver from the Art Deco Society.

>> Good afternoon. Thanks for welcoming me. Thank you for your work. It is appreciated. We recognize there are a lot of issues here that need to be balanced. And very much appreciated. A change, a solution. We move this the courthouse from this construction project. This would result in immediate savings of \$108 million almost 35% of a \$310 million in Court construction cuts recently mandated by the legislature.

[ inaudible ]

>> The Art deco Society of California they have asked me to speak for them today. Art deco refers to that period of American descendents in the 20s, 30s and 40s. The architecture of this era is beautiful and it is inspirational. It kind of, incorporates the feelings of progressiveness and power and hope for the future. And, that's one of the many reasons that I particularly enjoy that type of work and I think many people do respond to it. In 1986, the art deco society gave the Nevada county courthouse its art deco preservation award. Just last weekend we saw renewed appreciation for it at the art deco weekend attended by thousands. The art deco is spectacular and inspirational. A famous symbol of the town of Nevada City. It crowns the hillside, buildings that personify the earliest history of the State of California the Gold Rush of 1849. It dominates its setting. Californians value their history. The Nevada County Courthouse is living history. In 2008 the State of California passed SB1407 creating the courthouse construction project to spend \$5 billion on courthouse upgrades. The 2008 fact sheet on the project states AOC is moving forward to seize the opportunities created by the current economic climate. Talk about climate change. The rosy financial forecast that made this expenditure feasible in 2008 soon faded. Many plans before the crash of '08 had to be dropped or modified. I think the same should be done with this project. The financing requires higher fees and debt service and Court service costs already harming overstretched California public. In Nevada county the economic harm would be magnified as a history tourism upon many businesses depend would be curtailed while the project is underway. The possible harm such as the library and the historic fabric of the courthouse itself could be irreparable. We strongly concur with your draft that the building's demolition would constitute, "Significant and unavoidable damage" to Nevada city and the gold country. This finding requires development of alternative plans. We need a new plan. One that uses restoration and adaptive reuse of the courthouse. The annex behind it and other nearby properties, some controlled by local entities. We feel the current Nevada county plan goes far beyond the idea of

upgrade that was sold to the public. That demolition is unnecessary and counterproductive and that significant harms would result from it. Californians key values have been down played or ignored in some of these project drafts I'm afraid. Values historical, architectural, economic and environmental. As Jennifer just remarked in an era we're told to recycle every use of paper, adaptive reuse of historic buildings makes far more sense than old bricks and mortar in a landfill. For all of the reasons above we ask you to reconsider the Nevada county courthouse plan to develop a new restoration based alternative proposal as required. To give the Nevada county courthouse project more study with a view to achieving safety with a more realistic budget. We hope when you pass the groups today you will exempt Nevada county from that approval. Thank you for the opportunity to speak.

>> Thank you, Miss Oliver. I will turn it over to the panel.

>> Thank you very much Chief and Members of the Council. It's a great pleasure to be with all of you this afternoon. Initially I would like to thank the speakers who joined us today. It's not an easy task sometimes for speakers who are interested in issues to make the trek here to San Francisco to make their voice heard. Hi a chance to chat with them a little bit in the audience. I know Mr. Gibbons who has addressed the Council before is also here and interested as well in the Nevada city issue. I would just say to you and to them, although we are moving forward and making recommendation, to move forward with respect to the Nevada city site, we have not recommended nor has a site selection been made or a determination that any courthouse is going to be torn down. That decision has yet to be made and will be made sometime early next year. We appreciate them coming here and, voicing their concerns and it's an important part of the process. We do have a number of items to discuss today with respect to our recommendations, but at the outset, I would like to recognize OCCM staff. They have done a truly outstanding job during this process. To say that we had a difficult task, is so somewhat of an understatement. We could not have done what we did without the superb staff work. I wish you could have been around the table at our two day meeting when person after person on that Committee commended the staff and said quite frankly what we did during those two days could not have been doing without that superb staff work. Thank you very much. There are many of you here I don't want to recognize all of you, but they did a wonderful job. Our working group is made of Judges across the state from Courts, large and small as well as Court execs. Local government officials, attorneys and architects from outside of the branch. We had and continue to have a very daunting task. We all realize in this economic climate our efforts demonstrate we can build safe, efficient and cost affect everybody courthouses designed to last for generations to come. You have our written report I won't go into great detail as to each and every recommendation in our report we presented other than to say tough decisions were made and will continue to be made to ensure that the program moves forward in a cost effective manner. One example is our recommendation to eliminate \$50 million in funding for the Alpine and Sierra courthouses. This is not to say those courthouses are adequate for the citizens of those communities. They are not, but in this economic environment when we look at the case loads and other factors it did not support moving ahead with those projects, but we're willing to work with those communities and Courts to see what we can do to modify the facility so they can be accessible and, courthouses that are safe, for those citizens. In addition, we have created a courthouse cost reduction subCommittee Chaired by Jeff Johnson. Justice from the Court of Appeal in Los Angeles. The name of this



Committee, really says it all. It's not the cost review subCommittee, or the cost analysis subCommittee, it's the courthouse cost reduction subCommittee. That is their man Tate and we expect to see significant savings over the coming months and years. Another important component of OCCM's work is courthouse maintenance. Judges power and Highberger will be talking to you about this important area in the current funding shortfall. Our ultimate goal is to decentralize maintenance responsibilities so the extent our local Courts can receive proper funding to do the jobs themselves. If a local Court is equipped and willing to handle their own maintenance they should be able to do so. Ultimately, no Court will have to take on these responsibilities however, many may want to take charge of part or all of their own maintenance.

There is currently a pilot project about to begin to identify how this ultimately might be done. Chaired by Sherry Carter Court from Riverside and we'll be reporting to you soon on its progress. There is another issue we would like to raise with respect to courthouse maintenance. There has been a great deal of focus on the list of maintenance projects across the state. This includes thousands I think it's about 4,000 requests for maintenance at courthouses in every area of the State of California. However, the problem is, although this courthouse maintenance list is a fine internal document, and people within OCCM people around this table know exactly what it means it was confusing to the public and turned out to be very confusing to media who try to discern the status of any particular item on that list. There are no \$2,500 closets being painted or in the works or, there never will be quite frankly at \$2,500 paint job on a closet. This placeholder list, the maintenance list I'm referring to with the default cost amount inserted instead of saying simply cost to be determined, gave the impression that perhaps there were such closets being painted. It's resulted in confusion and led to undue criticism of the program. The public deserves a clear and concise list and to that end I'm recommending it be revamped and resubmitted to the Judicial Council. OCCM I chatted with the folks at OCCM. They understand that in this day and age with the internet and the capability and the fact that some people want to access that internet and go through 4,000 projects they should have the right to look at those projects and understand each and every project and what it means. We intend to recommend just that. Our working group believes strongly our courthouse construction project must continue moving forward across the state. Safe, efficient and accessible courthouses are simply not a luxury. We thank you very much for the opportunity to work with all of you on this important effort. Now at this time, I would like to introduce Judge pat Lucas the vice Chair of the Committee to talk about another important effort to ensure this courthouse construction program is operated in an efficient and cost effective manner. Pat.

>> Good afternoon. Since I have two good ankles I will stand at the podium. I'm honored to be working with Justice hill. He has asked me to organize a subgroup tasked with selecting and working with a outside oversight consultant. The purpose of this consultant, is to provide an opportunity for visibility into the stewardship of OCCM with respect to the entire courthouse construction program. The consultant will be tasked at looking at all aspects ever the courthouse program, and giving us feedback on a realtime basis. So, there would be an opportunity to provide course correction to the program if that's determined to be appropriate. The review will include both completed projects, and those that are still in progress and it will address all aspects of those projects. Timeliness, efficiency and the value for the dollar that we spend. The consultant will be asked to report on a ongoing basis to our working group. The status is the proposals have been published and

expected back this week and we expect to be able to select the consultant in January. The selection Committee, consists of three Judicial officers, including myself and Judge Power who is here today. As well as, a very experienced professional architect and experienced developer. The work of the consultant is expected to get underway in February. We are going to request a 90 day feedback with respect to an entire assessment of the construction program and recommendations to our working group as well as, longer term, to receive timely comments with respect to the AOC report to the Joint Legislative Committee which is due in January of 2013. So if there are no questions, I yield to my colleague Judge power.

>> Thank you. Thank you Judge Lucas and I thank the chief for allowing us to address the Judicial Council today. Preliminarily I would like to thank Justice Brad hill for including our working group presentation. What is needed to keep a roof over our heads as part of the working groups report to the Judicial Council this afternoon. I would also like to thank Judge William Highberger with me today and pat Mcgraph for their effort in prepares, editing and finalizing the slides that will be presented shortly. As many of you recall, the facility modification working group is made of four Superior Court Judges and three executive officers from throughout the state who review, prioritize and fund facility modifications. We meet eight times per year. The ultimate decision, of what facility modifications to approve and fund, for the 500 Court facilities, statewide, is with the members of our working group. As a brief recap, the Judicial Council by action taken on August 26, 2011, approved the facility modification budget for fiscal year 11-12 at \$30 million. At that level of funding only priority one emergencies and the most urgent priority 2 necessary projects, are able to be funded. I'm here today with Judge Highberger again to report to the Council that the current operations and maintenance budget and the facility modification budget are insufficient to ensure adequate court facilities now and in the future. Maintaining our infrastructure involves various types of overlapping work. The most basic janitorial. A local responsibility, such as general cleaning of Court facilities. Operation and maintenance includes routine repairs and preventative maintenance such as cutting the grass and adjusting Court room and chambers temperatures. Adjusting of Court room and chambers temperatures is a common call for service in the operations and maintenance area. Court facility modifications are essentially the rehabilitation, renovation, and improvement of a Court facility. These projects typically involve additions of new systems, equipment or other components not otherwise existing, common example of the facility modifications include a roof replacement, elevator upgrades and replacement. Heating, air conditioning as some examples. Currently the largest facility modification ever funded is taking place at the Criminal Courts Building in Los Angeles. Over \$5 million project to upgrade the 21 elevators of that courthouse. The current condition of many of our courthouses is still below standards due to the condition of the facilities at the time of transfer and marginal funding since that time. Many courthouses have systems or components that are unreliable or routinely fail. Common complaint areas include roofing, eating, air conditioning, and plumbing. Both operations and maintenance and facility modifications need to have adequate and stable funding. Inadequate funding creates long-term problems that increase the facility modification costs an example is helpful there was a facility modification at the Pasadena courthouse which clearly exemplifies the problem here. Sometime between Friday October 28 and October 31, 2011, a braided steel hot water supply line broke in the women's public rest room, under the sink, on the second floor. Water leaked from the second floor down to the first floor. The total cost to mitigate the emergency condition and complete

cleanup and all needed repairs totaled \$106,600. If a strong preventative maintenance program had been in place the faulty condition may have been caught and addressed before the waterline failed, but due to budget constraints a minimum reactive preventative maintenance program is all that is possible. Clearly preventative maintenance is much cheaper than expensive work done on emergency basis. It works in the other direction as well. Might impact on operations and maintenance costs. A common example, when we cannot afford to replace a outdated air conditioning system that needs replacing the result is quite predictable. The unit is subject to frequent breakdown requiring expensive and frequent calls for maintenance. Why should we be concerned about facility modifications? There are other worthy Court programs that deserve Judicial Council funding and support. However even with all of the new construction projects coming online, the reality is that five or six years from now once all of the planned new construction is complete, approximately 90% of our Court space in use today will still be in use. Adequate funding for operations and maintenance and facility modifications is and will continue to be a critical issue for the branch. The working group strongly supports recommendation number 9 contained in the executive summary and I request its adoption by the Council this afternoon. Now Judge Highberger will walk us through the slides he has prepared. Thank you.

>> Thank you Brad. Thank you David for the chance to be with you. Obviously members of the Council. We're just in business suits this afternoon as is appropriate for people that go to Court, but really where you members of the Council are in current reality you should be dressed in surgical scrubs because basically you're triage nurses. Triage nurses have one of the hardest jobs because of the moral responsibility that falls on a triage nurse. You have to decide how to allocate between worthy projects whether new construction, new computer infrastructure, self-help centers all of the different proper requests made of our branch to serve the public. As triage nurses I'm here to beg of you you need to give more money to this category. I'm not naive I know we're short of money. Many of you know Judge Carolyn Cool is my wife. She and Judge Wesley and Judge Edmond are engaging in contingency planning right now just like the horrible things Judge Feinstein it to look at. If we have to close all of the civil operations. I know that times are very tough and yet I'm here to ask you to find some way, to put more money in the budget as soon as possible and I guess that means the next fiscal year for operations and maintenance and facilities MOD. You need some of each. If you put it in one and not the other it's better than nothing, but you need to put some in each. Am I ere on a fool's errand? I don't intend for it to be a fool's errand. I care some about it. I used my own money for these mouse pads. Judge KUHLE and I have spend our money to get this to you. This is our take away message I want you to have on your desk in January when you're talking about the budget and in May when you're having the really heavy discussions about the budget and in June and July and August when the really really serious discussions about the budget come forward, so you are reminded, of what the problem is. I am going to come back to this to explain the particulars, but that's why you have it. Discount mugs.com if I want your own mouse pads for presentation one day that's where you get them. I care enough about it I really think it's important. We need to put in two thirds more money for operations and maintenance facilities MOD compared to what we have been doing in this fiscal year. We need to put in \$50 million in dollar terms. The funds that are used for these purposes have historically, that's the mouse pad we're going to come back to. The funds that go under these different buckets come from different sources in simplest of terms your operations and maintenance are primarily funded by the county facility payments they pay in lieu of running the courthouses. They are capped at too low of a number. As we go

forward if there is any inflation or rise the county facility payments are far from adequate to cover the burdens that have been put upon them. They come out of SB1407 money and they have strings attached, but basically, that's a different source of funds that that comes from. You, you know we saw in the last fiscal year how the legislature was willing to pay around with the money and I hope with the good advice you can figure out how to do it in the next fiscal period. As David said in a perfect world it would do things like buy energy efficiency upgrades. Fire life safety improvements ADA access. Building out existing space or recon figuring roughed in space for self-help or more Court rooms. We're in position to do hardly any of that instead fixing broken elevator, fixing broken sewer pipes, dealing with water leaks. We don't have the money to do what in a perfect world we would do. In a perfect world we would have a new self-help center, a new green energy system. That doesn't happen. Dave has made the point why a stitch in time receives nine. What are some of the key facts about the budget. We're spending less money that we used to that's not a good sign and spend only 60% of what we ought to. The red line on the right hand side of the chart shows that in dollar terms we're at the moment spending \$2.57 a square foot where as the industry standard would tell us you ought to spend \$4.27. This is routine maintenance. This is essentially changing the oil in your car. The air filter in your air conditioning system. Walking around looking for frayed plumbing lines. Unclogging the sewer lines where the tree roots get into them. You don't have a new air conditioning system when you are done, but you have a working courthouse that is safe and people can use. The O and M which comes from the county facilities payments and a little other money first gets gobbled up by utilities. You can ignore repairing your car, but you can't ignore sending your money to the utility district. Whatever the utility meter comes up with on a bill we have to send that in if we don't want the lights turned off. That's the purple line here. We spend more money now in this fiscal year on our utility bill than we do on routine maintenance of the courthouse. That's the red bar. We also spend money on leases. I for example work in central civil west. I used to be in deplorable condition closed for two months due to electrical failure red tagged by the building department. That landlord has slowly over three years put the money into the building and brought it back. You can see what happens. You can if you work at it bring a building back from death's door step by slowly doing the kind of deferred maintenance you have to. The one other thing that is interesting is the blue line for insurance that is in the middle there. See how small that is. The answer is, as this typical of large governments the U.S. government helping like this we self-ensure. We don't send a premium check.

When we have a real calamity of a flood, we're doing it with our own folks. We don't have anything that. Last fiscal year at \$50 million it was probably enough. This fiscal year at \$30 million which is 40% less is not enough. How have we spent our remarkably how much facility modification money have we had over time? The red line shows you how much we've had in actual fact. Last year when we had \$3.09 it was almost what the industry standard told us. The yellow line is what you have to spend to bring that asset back. My Court room did do the elevator overhaul. Updated the electrical system and had people cleaning the ducts last weekend. Kmart and sears merged, but if you took over somebody else's real estate you have to ask what is the budget. It takes that kind ever budget if you want to bring your assets back up to proper condition. The county didn't maintain a lot of the buildings as well. The counties knew they would get out of the business of maintaining the building. It was the classic time to just put scotch tape and bailing wire on a problem. By the time we actually got the transfers of the

building they were in worse ship than they historically were which was not good in the first place. As a result of not having enough money for facilities modification the emergencies are the red portion of the bar, so, we do keep responding to emergencies. The yellow is the semi-emergencies, but we have an example in the airport in Los Angeles, we have four elevators in the high rise courthouse serving the jurors, witnesses out of custodies and the public and the lawyers when, two of the four elevators went down, we were able to fund repairing one of those dead elevators as an emergency, but not the second. So we had to wait and make a P2 out of the last elevator, but frankly when you have a busy high rise courthouse you need all four you don't need three or two elevators. We were only able to buy one as an emergency and the other became a P2. We have nothing in the black category, that will probably last another year. And so, we would just, we're basically not putting oil in the motor. There have been efforts made in the past. The efforts in the past to try to get more money haven't been successful. So I'm here to say please. We need to do something more to get more money in this category. Because if we don't, um, it's going to be we're basically going to have people out on the street. There is a great picture in a prior annual report from I think it was in both the AOC had it, and my wife had it in a card table holding a hearing in a class action because the building was red tagged. They were holding Court out on its street. That's where Court had to be. We don't accomplish anything if we avoid laying off staff, but have to red tag our buildings. We don't accomplish anything if all we do is build new construction, but red tag too much of our current infrastructure. It's not saying we don't need to build new buildings. We do need new construction. It's not a message we should ignore. So we're 40% underfunded on that. Again, as I said earlier you have to come up with a balance sense of how to allocate scarce resources. That's why you're engaged in triage. This slide that you have there, shows how customers and users of courthouses get snarky with you're facilities and things start to fall apart. That has various itemizations of the inadequate maintenance. This is what happens when you have a shortfall of the facility modifications money which does the big ticket items. More detail than you need in some ways. So, what happens? David summarized it well. Basically for want of advanced attention to problems you have more expensive problems and Court closures and other interruptions. I was just told the courthouse in Pixley when assessed by the outside assessor two years ago, three years ago they said the boiler is going to fail in this building. It got put on our list as a priority 5 because it was working. It got older and apparently last summer got moved up to be a priority 3 then eventually priority 2, but because you had to get the county to do the buy in it was a priority 2 now it failed. Now it will be finished as a priority 1 and that could have been done in the summer. If you waited and planned ahead you don't need heat in July, but you need heat in January. Now they will be closed five days because they didn't get around to fix it. Frankly it's easier to get somebody to fix it in July than when it's an emergency and everyone is waiting for you to get it done so you can reopen the courthouse. What is it you're supposed to know when somebody sees the mouse pad on your desk and says what is that all about? The green shows you what our actual O and M budget has been. That's the lighter shade of green and what our actual facilities modification budget has been at various times.

Above it the red is the amount of money we need for operations and maintenance to avoid being the shortfall situation. Then the purple called FM1 is the amount of money you need if you were going to fund the facilities modification just to the keep even basis. Then the gold or yellow color is what you would need to put in the facilities modification bucket if you actually hope to bring back our temples of Justice and make them worthy of continuing use for 20 or 30 or 40

years or longer. The state repaired the capital. The capitol was in atrocious shape when they fixed it. Harvard and Stanford they have old buildings, but you have an old building you want to fix up you can do it. We have historic courthouses some are only 50 years old that are restored. Maintaining them is cheaper than replacing them. When we took baby steps in having the courthouses under branch control we had enough money for O and M and facilities MOD. No problem, but no square footage. 07 -- '08. The problem is not very extreme. The problem first hit in '08 and '09 because we got a lot of square footage. As soon as we had a lot of square footage we had a problem. Look how big that red bar is of the shortfall of routine maintenance money. Look how big the purple block is of the shortfall in the facilities modification money for major maintenance essentially. Take another fiscal year the O and M got bigger. The facilities MOD got better, but didn't disappear. We aren't doing anything to work off the deferred maintenance backlog. Last fiscal year we almost had enough money to stay even last year. That was at the level of \$50 million. We've never had enough for routine maintenance. The general fund is not supplemented and we are just running on empty when it comes to routine maintenance. It's the same thing just taking your fleet trucks or cruisers whatever it is you operate on the road and not bothering to put oil in the motor. We're just going along without doing routine maintenance. Let's take it to the current fiscal year. \$41 million is available for repairs routine maintenance. \$30 million available for facilities modification. \$71 million. We really need another \$27 million for routine maintenance. That's what the 27 is there for. We need 21 million on top of that for facilities modification. Add them together, \$48 million. Rounded \$50 million. You really need to get \$50 million into these budgets ASAP, certainly in the next fiscal year. That is essentially two thirds of what we actually fund. If you think of it in another way I thought of getting this is the cooking season because of the holidays you will be in the kitchen making cookies, bourbon balls, martinis. We're two thirds short of what we ought to be doing. Yes in truth in a perfect world we would go into the \$98 million. Again I realize as we're looking to close Court rooms and trying to keep a new construction budget alive worried about the I.T. infrastructure we're not going to get the \$98 million soon, but if we don't start putting the money in somewhere sometime, you're never going to get buildings to be in the kind of quality the space we're in now.

So that's the real message and that's why I went to the trouble of getting the mouse pads again not bought at public expense, but, there are more. Nancy has a stash I hope frankly the Court execs and the presiding Judges will each get one because I think they are the ones that listen to what you do about resources and they are the ones worried about closing the Court rooms. I want them basically to understand if you will put some money in this category, why they shouldn't kick you in the shins for sharing some of our scarce resources to try to keep the buildings open and safe. We need to do it to make delegation work. Brad mentioned at the beginning one of the things that is dearly desired is to take advantage of the opportunity to have local control of maintenance.

But, unless we have enough money in the budget, for people to actually do it with a reasonable budget you're sending somebody out on a fool's errand. If you give somebody you know, 53 cents to do a dollar's worth of work, you're fooling them basically. And, you know a few counties may do it for whatever reasons they have reserves and are just desperate to do it, but you cannot do a dollar's worth for 53 cents. You might be able to do a dollar's worth for 90 cents, but not with 53 cents. So I guess the one other thing is, frankly by showing the public

we're going to take care of the buildings we have, is the best argument for the public and the legislatures to give us money for new construction. By showing we can be responsible stewards of what we have and we frankly need to take the choke-hold off of these funds if we're going to make the branch control of our courthouses a success which it can be and it ought to be. The OCCM staff are remarkably professional and organized. They have gone about it in a very nonpartisan nonpolitical analytical way. They have an outside vendor that has done a good job going through the courthouses once they transfer over and looking for the big and medium size problems so we can know what our problems are, but with just have to fund it adequately. With that I think Brad has the final comments.

>> Thank you Bill. Thank you Pat and thank you Dave. We just want to assure you that we intend for this to be Judicial oversight at its best. We will do our very best to monitor not only the maintenance, that Bill and Dave talked about, but also the new construction so we can proceed as we have before, on this very important task. We have said it before and will say it again, both of these efforts are extremely important. Access to our courthouses, safe courthouses are not something we can fund just in good times as our former chief and current chief are fond of saying. It is important we move forward and we're entitled to those buildings, the public is entitled to those buildings they need safe and secure courthouses and we intend to move in that direction. Thank you very much we stand open for any questions.

>> Thank you very impressive, important presentation. Any questions or comments there are ten recommendations ahead of you Commissioner Alexander.

>> I just had a question about if money was put into maintenance and rehab what would that do to the construction projects?

>> We're not taking from one and putting it in the other. No both programs need funding in our estimation. We will be finding hopefully some cost savings over time. In the Court construction program. There may be some of those funds that can be transferred and so, but since Justice Johnson was just appointed and hasn't yet had a Committee meeting yet I don't want to promise the millions he is going to save, but once he does I'm sure that Judge power and Judge Highberger will be there suggesting where that money might go.

>> Judge Wesley.

>> There is no plan to take any money 1407 construction or 1732 construction money and take any portion of that for maintenance at the present time to enhance the amount presently given for maintenance?

>> That is not part of our current recommendation.

>> But it is a need?

>> It's an absolute need. We have a dual need. The need for the new construction to move forward with those projects. Also the maintenance is an important need as well.

>> Are we putting new construction ahead of maintenance of our current buildings?

>> No we're not. No.

>> We're not, but we're not going to take any money out of new construction to help us maintain our buildings.

>> Well as I said we're going to hopefully, save some money. The reason we appointed that courthouse cost reduction Sub-Committee is to come up with what we think will be tens of millions if not more in savings on a yearly basis. Once we do that those funds will be available. Dave I think that is something we can look forward to in terms of moving forward. We did not want to cancel any projects to refund some maintenance projects. Both are extraordinarily important. Certainly a decision that the Council can look to in terms of where they need to fund its project. At least our recommendation is, we need those Court construction projects to move forward, and we wanted to highlight today for you, something that probably hasn't been highlighted enough. That is, the maintenance side of the business.

>> If there is a savings then is it your recommendation the savings go into maintenance?

>> We would think that would be a perfectly appropriate place to put it yes.

>> Judge Herman.

>> I'm just wondering and this is a, the pilot program that you have to relocate maintenance oversight and maintenance and maintenance facilities that is important because that is something that rubs a lot of local Judges raw they don't understand why for example, it takes an out of county trip for it to come in and fix what they perceive as a minor problem. I commend the Committee on that because I think that is going to gain us a lot of credibility with our colleagues on these issues.

>> Jim that is extremely important. I have had Judges up and down the state talk about the fact they would like to do that. I also have had Judges tell me that they are simply, not necessarily wanting to get into that business. They think the AOC has been doing a great job and would like to maintain the status quo. That is fine. We're not going to force them or recommend they be forced at any particular model. If a Court is capable of doing it. If we can fund it properly and they would look to do it, we think that is a model that should be pursued.

>> Have you looked at any model in terms of what kind of cost savings there might be by relocating maintenance to a local level?

>> We anticipate there will be cost savings. I think the pilot project will highlight those. I might be getting ahead of myself if I predict what the pilot project might demonstrate, but I think it will demonstrate and I think anecdotally from what we have heard from our colleagues in many of the local projects and the small maintenance projects, just by maintaining that kind of local control, you can keep costs down. I think that that is what we'll find in the project.

>> Justice Miller.



>> I just wanted to go back to the two speakers and what their recommendation is with regards to the Nevada Courthouse. In the table it says proceed with site acquisition, but I understand it is something different than that?

>> At this point we haven't decided or at least there has not been a decision made as to the site. Whether it is the existing site where that art deco courthouse is currently placed or whether it is another site. There are several other sites being considered. My point on that was we're looking at all of that. We as a Committee may well be making recommendations. There may be cost variations between the two sites that would involve a recommendation from us and so we're prepared to make that and, that would probably be made in early next year.

>> All right. And then, the second was, with regards to the modification list and that would be one of the recommendations that we should add to your report today to have you reevaluate that and come up with a new list in that regards and it would be given to E and P to review to bring it to the Council?

>> I think that would be a good idea. I feel in terms of clarity, for the public and transparency, we should have that kind of a list that is useful not only to us, but to folks outside of the branch and we would be happy to monitor that. I know that staff has indicated a great willingness to do just that. We will have that back to you get that as a recommendation within a month.

>> All right so, just one last one, number ten is dealing with technical changes and the authority being delegated to the AOC office of Court construction in that regards. One other assignment we had given you through the Council and E and P is to look at a broader picture as to what the Council's role should with be regard to the oversight of the facilities. I know that is something we're working on and will get back to us.

>> We are. We obviously have a number of Sub-Committees and there has been some discussion that perhaps we can all report through the Court facilities working group because we're working the same direction we'll obviously have different Committees, but might not be a bad idea to have one group making the ultimate recommendation.

>> Thank you.

>> Judge Rosenberg then Justice Baxter.

>> Thank you for that report and your hard work. I have heard a number of presiding Judges who are quite satisfied with the maintenance services being provided currently. But I also have heard from a number of presiding Judges who would like the ability to as you say decentralize. To have that choice. So I really, commend you for that recommendation. Also, I'm pleased to see we're moving ahead on behalf of the presiding Judges. On the projects under 1407. I would say the vast majority of Judges want us to move ahead on that. We run the risk in the future if we don't move ahead now. I certainly support these recommendations.

>> My comments are probably repetitive of Judge Rosenberg's. I want to commend the working group for what you're doing. As to the list that has been misconstrued and has been the result of

bad publicity, I really do think that that is a very critical issue. And, whether that means, you end up with two separate lists, one a wish list from the county, and the second, a list that is actually approved renovations or, extensive maintenance or whatever it might be. I think that is a very important step. The other thing, as well, is the decentralization for maintenance, minor renovation, things that the Trial Courts could do. Things that can be done locally without having to engage the bureaucracy of the AOC I think is really important. And, it gives the locals a sense of responsibility and, authority to handle some of these more routine projects. Now how the funding is handled of course that's going to be a challenge, but, I think you're going in the right direction and I commend you for that.

>> Thank you.

>> There are ten recommendations before you. Sounds like there is an 11th. I think the way I understood you Justice Hill a recommendation to resubmit the maintenance request list to Judicial Council for approval.

>> Yes.

>> I'm just going to put that as recommendation 11. I'm going to first ask if there is a motion as to recommendations one through four and we'll take the ears a little -- others a little separately. Do I hear a motion regarding recommendations one through four found on page two of the report.

>> I will second it.

>> Thank you. Moved seconded by Judge Rosenberg and Judge O'Malley. If there is no further discussion I will call for the vote. In favor. Opposed? Recommendations one through four pass. I took recommendations five and six separately because, they are a little more extensive. They are demonstrated in column C and D in the attachment of table one. Regarding recommendations five and six, do I hear a motion?

>> So moved.

>> Second.

>> Thank you Judge O'Malley and Judge SOH seconded. Any opposed. Recommendations five and six pass. As for recommendations seven through ten, and recommendation number 11, as announced in artfully by me do I hear a motion?

>> So moved.

>> Adopt 7 through 11.

>> Judge O'Malley seconded by Justice Baxter. Any further discussion in all in favor of seven through 11?

>> Aye.

>> Any opposed?

>> Those recommendations are approved. And, once again, I join in the chorus of gratitude for the presentation of the numbers, the need, the hard work. And that you took a collaborative approach involving the Courts to find a way to continue to move forward. Find cost reductions where we can and come back to us with further information. Thank you for all of your time.

>> Thank you very much. We look forward to it.  
[ Applause ]

>> I will ask Council members we'll be recessing at 3:45 to move to the lower level to conduct our distinguished services award. I'm wondering if you have the patience to start presentation item number 5 and continue with it until tomorrow we'll put it on the agenda, but we'll only go today until for another 20 minutes or so.

>> I'm seeing nodding that's all I'm seeing. We'll go forward with Justice Baxter's report number 5. Item 5.

>> Thank you chief and members of the Council. We're here to recommend to the Council, legislative priorities for 2012. The policy Committee, met on October 27 and voted unanimously to recommend these legislative priorities that you see in the report before you. It should come as no surprise that as we did last year the policy Committee is once again recommending that the Council's legislative priorities focus first and foremost on the budget and on budget related matters. This legislative priority includes advocating for a package of solutions to provide much needed support to the branch. From general fund restoration to the use of existing revenue. Including fund balances to sponsoring legislation to implement cost savings and operational efficiencies. Next, in order of priority the policy Committee recommends the Council act as a body to continue the Council's opposition to Assembly Bill 1208, Trial Court rights act, whether in that bill form or, another. Next, the policy Committee recommends that the Judicial Council continue with its sponsored legislation for the third set of 50 new Judgeships and advocate for the full allotment of conversions of vacant SJO positions to Judgeships a total of 26 conversions for fiscal year 2012 -- 13. An issue that has surfaced and has received a great deal of attention, after the recommendations were made, is the issue of pension reform pertaining to Judicial officers and employees of the Judicial Branch. And I think that is an issue that I strongly recommend be added to the issues that deserve legislative priority. During the course of the year. We don't have specifics on that particular issue.

But as those specifics are provided, the policy Committee should be authorized to evaluate and to take action. In that regard. I did take the initiative to discuss the issue with Judge Reuben in his capacity as President of the California Judge's association and, I believe he strongly recommends that action as well. It's an issue --

>> I will at the right time make a motion to add that.

>> All right. It's an issue that certainly affects the recruitment and retention of Judicial officers and employees within the branch. So at this point, I will turn the presentation over to Curt Child and Donna Hershkowitz from the AOC office of governmental affairs to provide some additional background on each of these proposals. Curt.

>> Thank you Justice Baxter. As you all know, after successive years of baseline reductions to the Judicial Branch budget, and Trial Courts and Appellate Courts are being forced right now to limit Californians access to Justice and we're shuttering Court rooms right now and reducing and limiting services. And, with those reductions the Judicial Branch will really be unable to sustain further operational cuts in the upcoming year the 12-13 budget year or even absorb the existing ongoing reductions that we've seen thus far in the branch and certainly not in a way that we can continue to keep Courts open and timely adjudicate cases both in our civil Courts and our criminal Courts. Therefore, it is essential that the Judicial Branch funding be stabilized in order to keep our Court rooms open and serve the public. It's for that reason that PCLC recommends the Judicial Council adopt its top legislative priority for 2012, advocating for a combination of solutions for the branch budget and, that combination of solutions as you know, is we're looking at general fund restoration, as difficult as that might be, in this year, that is important to continue to have that conversation after a \$350 million reduction in the branch budget this year. We need to look toward legislation to implement some new revenues, cost savings and operational efficiencies. We would include as well as part of a solution, looking to existing revenue and including Trial Court fund balances. To help with bridge funding over the next year. All of which, we need to be able to get in place to keep our Courts open and functioning and available to the public. And I know you all are very familiar, but I want to say it again because I think it bears repeating, again, that over the past four years, the Judicial Branches experienced accumulative reduction of \$653 million. Of that amount, \$606 million has been reduced from the Trial Courts another \$47 million from the Supreme Court the Courts of Appeal and the Judicial Council AOC. And, putting that in some perspective, in 11-12 the Judicial Branch budget \$3.1 billion. So, in the current year, current fiscal year alone with the \$350 million in cuts imposed, and as you recall, within the facility program, that you just had the opportunity of getting extended report on, that there was taking of those 1407 revenues and directing them to the general fund this year as well as a number of loans made to the general fund out of the construction fund so you total all of those reductions this year, those redirections, and loans and the Judicial Branch contribution to budget solution, this year, was \$1.1 billion. So not at all, insignificant in the overall scope. Looking at our overall \$3.1 billion budget, and a contribution of \$1.1 billion in solutions, to the overall general fund, budget this year. Now fortunately, and I think in fairness, the Judicial Council through both legislation and through the allocations that you have made, in the past and this year have been able to mitigate some of those reductions through reductions from other funds. To the Trial Courts specifically with about over \$300 million of one time transfers going to the Trial Courts. Coming from a lot of that coming from Court facilities, some facility maintenance, to Judge William Highberger took his mouse pad and left. That including, from facility maintenance dollars all contributing to that solution, contributions from CCMS, to help fill those gaps and, in a bit of in some respect, I think we are a bit of victims of our own successes on being able to be creative and looking to solutions and importantly, with the Council taking I would suggest great care in making its determinations on balancing all of the needs that the Council has to balance for the branch between technology, facilities, and Court operations.

But, with that, the reduction of the Judicial Branch budget is not really sustainable any longer. So, even without any additional reductions, Trial Courts will still face more than \$600 million in reductions. Plus I might add that there is a sunset coming up on that \$70 million in new fees that were increased the year before last. I guess, that would put additional pressure if the sunset is not lifted on those fees. And, um, the Supreme Court the Courts of Appeal, the Judicial Council, AOC would face additional reductions of \$47 million if there aren't any revenue solutions in this next fiscal year. So again these amounts really have a devastating impact you all know better than I on that in the Courts and we'll stand in our way of ultimately meeting our constitutional and statutory obligations of keeping Courts open.

So again, additional reductions would be catastrophic if put on top of ongoing reductions without additional solutions and, so we do need and, our motion will ultimately suggest that the direction on ongoing reductions restoration of to cover a portion of the ongoing reductions legislation for implements cost savings and operational efficiencies new revenues, and I will just add here that the AOC has received I think a myriad of recommendations, suggestions from PJ's from Court execs, for legislative proposals that would provide some relief all of which that we would hope to be able to either through budget trailer bills or through stand alone legislation be able to move along with a budget solution this year. And, so finally, PCLC is recommending the Council delegate to PCLC the possibility for sponsoring any such legislation on the Council's behalf. If prompt action is required, and we suspect as these issues are being developed, over the course of this year and through budget hearings there will be a need and I think potential opportunities to move on those very quickly. To the extent that there will be an opportunity for sponsored legislation we will make sure and bring those back to the Judicial Council. So that's what we have on the budget issues. Chief if that is a breaking point that makes some sense or, if you want to move ahead for a few more minutes?

>> I think regarding the recommendations maybe it's a good idea to take them one by one or group them and I hate to get into one and have to break and start up and waste time by repeating what we said today, tomorrow. So, regarding recommendation number one, any questions, comments, discussions? Judge Jackson.

>> Maybe we should deal with it tomorrow, but, I heard you mention there [indiscernible]

>> Could you give us a little specifics here of some of the ideas you're thinking?

>> There is Alan smiling.  
[Laughter]

>> I'm just, it's very generic. It's a little frustrating.

>> Uh-huh. Uh-huh.

>> Not frustrating I would like more specifics. Anybody want to jump in?

>> I will take that Judge Jackson thank you very much. The reason it's not specific is because the staff level and working with the relevant Advisory Committees with the Court execs we need to pour through those and get consensus on which ones are more likely to be viable than others. There were a variety of suggestions that were posed. I like to use actually one of Alan Carlson's as an example. Alan had raised an issue with exhibits and death penalty cases. As we all know most defendants are not dying by execution, but rather natural causes. Orange county has a host of exhibits sitting there with a deceased defendant and no statutory authority though get rid of them. Something like that together you put together these kinds of proposals they create cost savings, they create efficiencies there are a variety of proposals we have received with regard to searches for a \$10 fee for a search for, for not the first, but, subsequent --

>> It's prior.

>> Subsequent priors. Doesn't seem to make a lot of sense. We've had that one suggested by a number of individuals. Now we're asking the Council delegate the authority to sponsor those pieces of legislation as we vet them and decide which ones are more likely to be viable. I do believe and I have told a lot of Court executives that this is the year where there are going to be entire years. The assessment that is not viable. Some of those I think we'll be more likely to say it's time to put them on the table. We have to tackle some of those issues. Things that hadn't been viable in the past aren't worthy of discussion we need to push the envelope on those. That's what will be considered as part of those proposals.

>> Chief?

>> Yes.

>> The issue of delegation to the policy Committee, specific language has been discussed with Judge Friedman and Judge Herman which would serve as an amendment to the recommendation as to the first recommendation. So I might suggest that that amended language be part of the motion as to recommendation.

>> What I would suggest is hear the amended language, but table the vote until tomorrow.

>> All right.

>> So in case there is further discussion because I have some questions as well, but maybe the language will clear it up.

>> And perhaps, just so we can all get copies and have it for us for those that don't have, does everyone have the amended language?

>> No.

>> It's probably worth handing it out.

>> You know what I would suggest is handing it out, having Council have it today, tonight, this evening, and then tomorrow morning, when we take up the matter, as to recommendation number one, find out if the amendment is still in its current form and move forward with it then. So we'll have it passed around. Please do not recess to the lower level until you get your copy of the amended language. You will read closely tonight and, we will we're in recess to adjourn at --

>> One more thing one more thing.

>> I'm not going to, but the lower level, is our name for the basement at 4:00 we'll be starting the ceremony Justice Miller.

>> One more thing about dinner we now have 25 coming bring \$40. You have to have \$40 in cash.

>> Cash?

>> Euros?  
[laughter]

>> Not that Chinese dollar you tried to give me last night. Last time I'm going to say anything.  
[Laughter]

>> Thank you. And Nancy will we have a copy of the amended language?

>> Thank you.