

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 13, 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>.

>> This morning or afternoon on the bench, we do have one request for public comment as to item L. Thank you.

>> I hope you also received your updated agenda, December 13, 2011, and it should be, then, by your seat to public comment, we did not receive written comments but we did receive comments on other items on our agenda.

First order of business is approval of our minutes from October 27- 28. I believe those have been distributed to you. They were distributed yesterday. And I would ask if you could discuss it or I could hear a motion.

>> Motion approved.

>> Second.

>> Thank you, Judge Wesley. All in favor of the approval from October, say Aye. Any opposed? Minutes are approved.

On the agenda, then, this brings us to the next item, which is the Chief Justice's report and so I will give you a brief report starting with June. I will say that since seven have approved the budget bill last June, many colleagues on bench and bar, and many of you around this table, have committed ourselves to finding budget solutions to stabilize branch funding. And as I travel around the state with many judges, visiting with judges in bar groups and seeing many of you, a budget is the number one topic I'm asked to address.

At our meeting yesterday, very briefly, the council discussed the potential budget solutions for the courts and context of the state's ongoing fiscal crisis. As you recall our ability to further discuss that was constrained by time and we've continued that matter which was recommendation number one, I believe of four, to discussion on this calendar. What I hope to do is actually take our old business first at Justice Baxter's presentation before we take other matters at the consent agenda in the interest of finishing up the agenda from yesterday before we start today.

On Friday, I taped a video address to the court that outlined a six-point plan you know about what you believe will enable us to return to funding for next year in the longer

term. As you know, we start with the proposal to accept the current year as the minimal funding level. The judicial branch needs to meet the level of services.

This means that the Judicial Branch would absorb \$350 million made in cuts to the courts, but leave the gap of 300 million in ongoing funding needed in order to maintain the fiscal year of 2011-2012 funding level. We have several ideas for meeting that challenge, including some user fees that have been developed in collaboration with judicial branch stakeholders and redirection from other court funds and the use of fund balances for court operations in those courts through 2014 and '15.

The court was developed with many of you in consultation with many, many people in trenches and so far their reaction has been positive. However, like all good plans, it will evolve as the situation changes and this council is aware, we regroup on a moment's notice to respond to changes here in the state, in the legislative branch and executive branch and I appreciate council's support, spreading this information to your colleagues, to the bar and finding solutions.

Relating to legislative priorities, since our last meeting in October, I've had several meals with legislative leaders and representatives from the government, governor's office and I've continued my state-wide listening tour and met with community groups as my schedule will allow and I do thank many of you I see who are leaders in your community continuing to keep the dialogue fresh and open and taking in idea and spreading them and bringing them back to me and council.

In the last week's summary I proposed in Sacramento, and he is the first African American in the history of the branch. I've met with high school students, justice and community groups at a series of events that was organized by Lou, Thomas Rider, and judges who are part of the complex civil litigation who were here for a conference and did return to the court of appeal for a Memorial service for the late presiding Justice Beakon, and that was hosted by the Orange County Bar Association. By teleconference, I popped in the meeting held in Washington, D.C. and conference of chief justices talking about education and language acts as issues going on with the ABA.

I also attended an interview with the United States Supreme Court Justice Breyer when he spoke to Hasting law students and on a two-day exhibit and I thank all of you who were there, especially judge Herman who was helpful and Ron and I had the pleasure of airline odyssey where we couldn't get out and flew to LA and drove the rest of the way and we flew out and flew to San Francisco to make a U-turn in the air to come back because we couldn't land anywhere in San Francisco and to drive to San Francisco.

[Laughing]

>> No more needs be said about that.

>> We make it so you can't get there from here.

>> Thank you.

[Laughing]

>> I'm going to say whenever I fly with Ron, it's always an odyssey. But next item is I presided over the judicial council in Los Angeles and the council met September 2nd, and we've heard reports and a presentation on habeas corpus from a guest speaker, formal attorney general, and he serves as chair of the California Commission on the administration justice and was part of the report on capital appeals and habeas corpus. In many meetings of bar groups, the meetings included recently a keynote address, California 50th annual convention, thank you Mark. Also, after the visits to the courts, I met with bar associations in both of those counties and I also addressed the county bar association of Sacramento and I addressed a Chancery Club and saw many of you, including Ashton, and that was wonderful to see and David, Judge Wesley who are part of judicial council were involved in a high level at the legal community. We also attended the justices, myself, Justice Baxter, Italian American lawyers association at dinner and that was a pleasure. On Friday, I delivered remarks at the annual meeting of defense council of Northern California here in San Francisco. Since our October meeting, I had the pleasure of addressing the international conference of American institute of architects and architecture for justice and this was as important as part of or constriction initiative to hear what they had to say to involve California. At the council in Los Angeles, it was awarded the new courthouse in Hollister. It was in conjunction with the National Association of Women Lawyers. I had the opportunity to speak in Stockton for the Athena awards with Federal Circuit Judge Callahan, and I welcomed panelists on California civil one justice hearings held in the auditorium and I conducted several interviews throughout this period with legal and news media on the budget reductions on the courts and other matters.

And that concludes most activities since October.  
[Laughing]

>> You should be. You were with me on most of this.

>> How is the day job going?  
[Laughing]

>> Late nights. Thank you. At this time, then, we will hear from Ron on the administrative director's report.

>> Thank you. With regard to travel --  
[Laughing]

>> I was snowed in one airport the first month of the chief's services as chief justice and two months later I was tsunamied out of a vacation in Maui and they threatened to never travel with me and did anyway, and I think that's probably it.

You've received weekly reports from me, so I won't repeat those, and I've submitted an interim director's report so I won't repeat those things.

I will add on to Justice Hall's report yesterday from the facilities working group, on the great progress that's happening with the facilities. We had successful bond sales for five projects that are now moving forward with construction. So there are shovels in the ground, the Hollister courthouse, Riverside and the new courthouse and in banning and the largest of the five, which the community of San Bernardino and the New Porterville Courthouse. So those are funded for construction and construction did begin on those. On Friday, Chris Patton and I will be attending a ceremony with Duke to celebrate the installation of the first in that building, the concrete has been laid and the foundation has been laid and so we'll see the first steel beginning to go up and that courthouse, as planned, is moving very quickly in terms of the construction so that is progressing very, very well.

I'll also just mention the project that we've been working on with the due diligence and the eight tracks that Chris reported on yesterday, in yesterday's session, that this is a full-court press or deep dive into that entire subject to see if there are legal, ethical or other issues that we need to address or that are stumbling blocks for us before we get into the gate before we get too deep into the technical review of though thing buzz that is a significant project that's underway and now to able to get you some answers to the questions that you have raised in the process. The administrative director, court chief justice, unless there are questions.

>> I don't see any hands raised. Thank you. Next presentation, Justice Baxter.

>> With the legislature in recess, the policy committee has not met since the last judicial council meeting, at which time we reported the legislative priorities and, of course, that was discussed yesterday and we will continue that discussion today. The legislative proposals are on today's agenda, I believe on the consent agenda. The legislature will reconvene January 4th for the second year of the 2011-2012 session and as it begins its sessions, the policy committee will naturally conduct meetings to keep up with the legislation at issue.

So I will continue to update the council in future meetings as the legislation is introduced and positions are taken and as judicial council sponsored legislation moves through the process and that concludes my report.

>> Thank you, any questions? Thank you. Next, then, we'll hear from Justice Miller.

>> Thank you, Chief Justice. The Executive and Planning Committee has met five times since our October meeting and three were by e-mail and two by telephone. The minutes for those differences are linked to the meeting agenda under internal committee chair presentation and they are publicly posted on the California website and we are, of course, setting the agenda for yesterday and today's meeting and then there was just one other item that I wanted to highlight, E & P has approved solicitation for nominations to fill the upcoming vacancy on Judicial Council due to Judge Klein's retirement effective January 1st, 2012, and we hope to have a new Judicial Council for that position by the January meeting and that is Executive and Planning's report.

>> Thank you, Justice Miller, any questions, comments? Next then?

>> Thank you, good morning. The project committee has met three times since October 28, all by telephone conference call. It met on November 15th to consider five proposals that are coming before the Council today and also reconsidered its dated to two proposals previously considered. It rems approve which are A1, A5, through A6, 11 and D on today's agenda. Since our last meeting considered from the trial court pro-deciding justices and the court executives advisory committee to suspend all noncritical rule and form proposals and those not mandated by statute or case law or deemed urgent and necessary by the Judicial Council.

The committee, I'll pleased to report with much appreciated corporation of the advisory committees rules was able it fulfill that request with a few exceptions. For instance by way of exception you have on -- we have on our agenda is proposed rule, A-6 that allows the Supreme Court and other districts of the court of appeal to establish electronic filing programs such as that authorized as a pilot project in the sixth district. The rule is without any cost to any court except those to that the district chooses to proceed with any filing program. Moreover, there is a significant chance for cross savings if that rule is adopted and it is adopted in the various districts of the court of appeal.

I might --  
(Phone ringing).

>> This is an example of a theme, if you will, that it will be pursuing as we move into the new year, the new calendar year, and that is if not the first question, one of the first questions, it will be ask from those proposing rules whether or not the rule relates to a matter that is required -- that it is required to be the subject of state-wide uniform application versus a rule that would allow for local autonomy. In other words, a rule or an area that will allow individual courts to deal with matters as they see fit and as their local needs and communities require.

So we'll be very sensitive to that particular subject as the new year proceeds. It appreciates the advisory committees and including many priority levels tor rules and forms to be considered in the next year. They are included in the letter approved and addressed to advisory committee chairs concerning forms proposals contained in the advisory committees upcoming agendas in January.

On November 29th, they met to circulate for public comment during the winter circle, two of which they effective January 1st, 2010. Those won't, the wage garnishment forms concerning claims of exception and petitions for recognition of gender change are recommended January 1st to be consistent on that date that were signed by the governor on October 9th of this year.

These proposals are items A2 and A-4 on today's agenda. Following be public circulation, all proposals are expected to come before the Judicial Council at the April 2012 business meeting. They considered its earlier -- reconsidered earlier

recommendation that specific restrictions be on the council's agenda and approve the penalty schedules that they approved on November 15th. On December 5, they met to approve won't rules and form proposals for public comment during the winter cycle, following public circulation and review by the advisory committees, these are expected to come before you before the judicial council at April, 20123 meet and unless there are questions or comments, these the reports.

>> Thank you. I don't see any hands raised. Then we'll hear from Judge Herman. I won't repeat what we discussed yesterday, I will say our committee met since the last October meeting and we've had a weekly meetings within interaction with representatives of A & P as well as executive meeting and a full-day strategy meeting, last Friday on the 9th, to come up with a go-forward plan. One thing that was not discussed yesterday that would be an important issue to go forward is how we work with courts with failing legacy systems.

And working with some of those courts at this point, it's come to us that we really need to develop a policy and that's particularly for courts that are not qualified for emergency funding under our emergency funding policy but nevertheless are caught in a similar situation to what was discussed in building maintenance yesterday, where there's been electronic system and all of a sudden, for one reason or another, that system goes into failure, either the one person that is able to understand the system retires, the county cuts off the core from main-frame service or raises the price so that its otherwise the system itself becomes inadequate and fails.

And so the policy that UP has asked us to prepare that we hope to have done if not the January meeting but February meeting is a policy that would assess what financial criteria we look at in terms of a court applying to the AOC for funding for a failer legacy system. And second, if indeed the AOC does support funding that court, what sort of oversight or interaction should there be between the AOC, ISD division and that court in terms of supporting the court, making sure that the deployment of a new system is one cost effective and two, handled so it has a successful outcome.

>> Thank you, Judge Herman. I thank all the presenters on that. Before we get to the consent agenda, I believe it's important to conclude our business from yesterday. And so if we can, I'd like to take up item 5, Justice Baxter, Judicial Council Legislative priorities that we addressed very briefly yesterday afternoon and would invite Kurt Child. I understand Donna returned yesterday afternoon. Thank you.

>> As I recall we completed the discussion on the budget issue and we're transitioning into the presentation on 12/08 and as I recall, there was a request to handle each recommendation separately.

>> That's correct. I believe they included the language to recommendation number one and unless I hear otherwise, I would assume all council members have that in their Poe section and I wonder as part of recommendation number one, if it's friewlful to discuss

that, whether there's any -- to discuss this that is in lieu of the language now in part in recommendation number one on page 2 of this item in your binder.

>> Just to move it, and I would move we adopt the language and with a second we can go forward with discussion.

>> Thank you.

>> I would second.

>> Thank you. Ms. Masi seconds. In way of background, Chief, as I understand it, the amended language came from the Office of General Council to reconfirm the practice that has been followed in the past.

>> Thank you.

>> And all in favor of the motion made by Judge Merman and seconded by Ms. Massi and all in favor, say Aye and any opposed and recollection number one is approved. Thank you. You can start on number 2.

>> Thank you, Chief. As you all know, AB-1208 is sponsored by the California judges and Charles Cauldron and it's quite a sweeping measure and I know this is certainly not the first time we've had the opportunity to discuss it but it is quite a sweeping measure which the position, I think, previously of the council through the policy committee has been that it intrudes upon the manner of how the judicial branch governs itself and that's essentially the direction that we've taken forward in our communications with the legislature and the committees and with individual members.

The policy committee takes an opposed position to all positions of this bill and it's in the third version as it sits on the assembly floor right now. And it's been authorized previously, the policy committee has taken the position, as we do, in nonjudicial sponsored legislation. However, I think because of the significance of this issue and now the timing, as it works, the policy committee believed it was important to bring the position back to the judicial council with the recommendation that Council actually continue to oppose the legislation, both in it's current form or if the form is substantially similar, if it is amended.

I want to remind Council of a couple of things on legislation. And the first part is a bit of the tortured history, I think, that it's been through, as it was going through the assembly committee process. The bill was introduced very earlier in January without any opportunity or any communication with either the sponsors of legislation or with the author of the legislation. So it was introduced without the opportunity to comment and without efforts to try and without that, the chief justice met with the author, actually, a couple of times before the bill was introduced.

But we had not had an opportunity to see the language. And then, as it started down this course, as you recall, it got referred to the accountability committee which is a select

committee that was not authorized by their own rules to hear bills but once it was referred to that committee, instead of the Judiciary committee, that committee engaged to hear the bill and over the course of a few weeks, as we were having discussions and certainly we were opposed to that bill being diverted through the usual process of going through the Judiciary committee quite late, it was getting close to the bill deadline, the bill was going to be referred to both the accountability committee and Judiciary committee and two years before the bill deadline and hearing it was referred to just the Judiciary committee. Then, the evening before, the bill was heard, it was substantially amended and again, no opportunity to see any amendments and in fact, the amendments that were proposed were draft concept amendments and that's what the judiciary committee actually heard, was comments and in the summary of the bill that we passed out yesterday, essentially the first three provisions were those that ended up in the concept, in the bill as it was drafted. At that point, a number of council members were there and participated in the hearing before the committee and judge freedman testified on behalf of the Council and Edith was there on behalf of Defense Council and others in opposition and in the end, the bill came out to a little differently than was being proposed but with a clutch of those provisions, two and three in the bill.

And another unusual twist in that bill was once it left the Judiciary Committee, what was taken out of the bit, as it was originally introduced and which was considered by the committee got reinserted back into the legislation. Generally, for Council, the comment on those before it happened, generally what happens a policy committee will pull a bill back into the committee to hear those amendments before sending it to be the floor and that did not happen.

The bill, then, moved on to the floor and as you all know, there was significant opposition to the legislation. It was really quite a broad array of opposition, and it included, in this case, the consumer attorneys and California defense council and a letter opposing the chamber C Jack and hundreds of individual judges that had signed on to letters and a number of courts and in the end, as this was eligible to be heard on the floor, it was not taken up by the bill deadline.

We believe the reason it was not taken up was because it didn't have votes to actually get off the floor at that time. And so it was then made a two-year bill. As a two-year bill, it has to move off of the assembly floor by January 31st and from all reports, that we hear, it will be the intent of the sponsors and author to move the bill off of the floor.

I've heard, and again, sort of consistent with the track history of where we've been with this bill, that there will be amendments on the floor to it and we haven't seen those yet and so it could change from the version that I've had it out to all of you.

But we'll have to wait and see. I just wanted to also remind the council members and the materials we handed out yesterday, some of the key amendments put back into the bill and as the bill now reads, the bill would require the council to allocate a hundred percent of the funds appropriated for trial court operation according to each court's share of state-wide operational funding. This was a provision that was expressly rejected by the judiciary committee and did get put back into the bill after it left the committee and that freezes, essentially trial court funding allocations.

It also provides legislature shall specify amounts allocated for any program of state-wide concern from the funds for trial court operation and in other words the legislature would direct any allocation for any trial court dollars that would be used for anything that would be deemed as a state-wide initiative or state-wide program. The other provision that was considered by and included as it came out of the Judiciary Committee would require council to allocate funds in the trial court trust fund for information technology or administrative infrastructure would require a two-thirds consent of proportional representation of the courts determined by the number of judges in the court and so in other words, this would give essentially the veto to two or three courts of any state-wide potentially courts of any state-wide initiative in the bill if the court -- not entirely clear -- but on the number of judges took the position to oppose that.

That, as was presented initially on the Judiciary Committee, had a 75% threshold on that and that's what has dropped down to the two-thirds provision on the bill now and that's one, I think, we have certainly heard a lot about and a lot of opposition was stated, the ability of a couple courts to state-wide expenditures. And it's to express the purpose of promoting state-wide efficiency, taking out that language that that would be the role of the judicial council and eliminates the statutory provision declaring the council retains ultimately responsibility to adopt a budget and allocate funding for trial courts and perform other activities that best assure the ability to carry out the functions, promoting the completion of implementation of site-wide policies and cost savings in order to guarantee equal access.

That provision comes out and that would no longer be a role of the Judicial Council. It eliminates the council to direct increased allocations or to mitigate the impact of budget reductions to under-source cores with fiscal emergencies which council has been engaged in and we will hear more on today with another court. And the bill would eliminate that. And finally would authorize courts, trial courts once there are allocations made to the trial courts, to essentially transfer funds between any of those allocations.

So funds that may be directed for a specific purpose by the council could be moved despite that direction within the trial courts and that there couldn't be any reallocation or direction, redirection without the consent of the court's management.

That's what the bill looks like now as it sits on the floor again. There is the great possibility that there will be amendments that may change the approach that and we will have to wait and see what those look like. I just, also, wanted to make sure that the council was aware of the position that we have been taking on this version ever the bill. First of all, we were clear that the council was strongly opposed to 1208 because it removes from the council its responsibilities and authority to allocate funds to trial courts and in a manner that supports implementation of state-wide policy and initiatives. That secondly, it's inappropriate intrusion into the fundamental governance was the argument going this bill goes far beyond what our basic judicial branch funding issues, which are squarely within the purview of the legislature but moves more into directing how the branch would govern and manage itself.

And that 1208 would eliminate the authority of the council to transfer funding, to finance specific trial court projects or assist cores that are confronting and anticipate budget short-falls or other urgent needs. That again, the one I've mentioned, it takes decision authority for key projects away from council and puts it into the hands for as few as two or three courts to ultimately veto. And that again, the provision that authorizes trial courts to transfer funds allocated between functions, line items, or programs without any oversight or reporting so such things as would permit a court to transfer funds intended for self-help centers, complex litigation, for DV or interpreter programs, all that may be designated to the trial court, the legislation would authorize the correlates to move, trial courts to move those funds between any of those programs to funds any or none of those services.

And finally, that we had continued to advocate this bill was really given or was introduced without giving the chief and the council, particularly the chief, an opportunity to look at and evaluate and improve the position of the branch, all of which I would envision to continue to be the stated position and opposition should the council continue to recommended opposing the bill.

And I've put both of these on your desks, along with the copy of the bill. So we would recommend the adoption of the second recommendation.

>> Any comments?

>> I move number 2.

>> Second.

>> So judge Freeman makes the motion, seconded by Judge Herman and Judge Omalley. Judge Moss.

>> I second also.

>> Any further discussion? Mayorum and judge. Just a couple of questions and then just one brief comment on a particularly part of it. But the version you put in front of us, that's got a February date, is that the version that is on the floor but not the version that went to committee? I understand the committee saw a trimmed down version. What's now on the floor is an expanded version but this one seems to be, perhaps, to both of those or the version on the floor?

>> So what you should have before you is the May 18th, 2011 version?

>> Oh, okay.

>> And that is the version that is on the floor right now, that's correct.

>> And then I know we've received communication from July and it's reflecting support for the bill by a number of trial courts, the plebiscite of the judges social legislation. I

could be wrong, I don't know if you know or others know, but it was my understanding that the version that a number of courts and even CJA have supported was a much more trimmed down version. That many of those courts in CJA actually are troubled by the two-thirds majority vote and I just -- is that assumption correct, but I think we've been told that there is resounding support for the bill, but what the bill is has been such a moving target that I just want to be sure that we're operating from a valid set of assumptions and I think the resounding support for the bill is very different from what's now on the assembly floor. Correct?

>> That's correct. And again, the version that's on the floor that happened very quickly in the committee asserted the two-thirds provision was not the one that was -- largely was not the one that was available at the time that, for example, CJA did it.

>> Really doesn't seem to be what the alliance report talks about. They're talking about a much more trimmed down version even the bill, not what's on the assembly floor.

>> I can't speak to exactly -- as the sponsors of the legislation, I presume they know what their legislation is and which one is on the floor.

>> Right. That was in the document that they supplied all of that.

>> Right.

>> It has a lengthy discussion but it's a lengthy discussion of a very small part of what's on the floor, not all of the expanded provisions that are currently in the bill.

>> Again, I'm not quite sure if they are sort of explaining that way. Again, they know which bill is on the floor and that is the 18th.

>> I think that that may be suggests how they characterize. It may change dramatically and I would hope if and when that happens, we will have a chance to zhaws. In the current reiteration, it's self-evident what's troubling and the documents have recounted that. A piece of it that I just wanted to underscore, the provisions that really make vulnerable some of what is so critical for those in the state who have access to the court system, namely children. Those who are so dependent on some of our equal access self-help program and I think that piece of the current version even the bill that takes those issues out of the judicial council's pursue and puts them at the mercy of the legislature and disables us from doing what we've done in past years, which is really struggle with and ensure that children and others in our community who have the least ability to advocate for themselves before the legislature will still have an accessible system of justice.

I find that incredibly troubling and I know that we've struggled with making ends meet but I think we've always tried to do so without having it come at the expense ever children and others who aren't going to have political clout. So I really worry about and question whether those in the alliance and others who are supported parts of this bill, for whatever reason really would want to see that population potentially dramatically harmed

by that part of the bill. So I just wanted to underscore that as something to keep our eye on.

>> If Coy say, our analysis of the provision that would allow trial court to move funds between for which they're allocated, our analysis would suggest that the allocation for dependency council could be moved into other areas within the court, should the court decide to do that. So despite what might be a council decision in allocating those funds, the trial court would be free to move those between any and all of their trial court funds.

>> Which again, I think, takes an issue that this body has been willing to prioritize and puts it at the mercy of some the things that can happen at other levels of decision-making and that worry me for something we've tried hard through work of the blue ribbon commission.

>> Judge Dablo and Senator Evans.

>> I have a comment, in the written materials that were provided to us, there is a letter that's addressed to justice Baxter dated December 9 from the alliance of California judges that note says council member Korinsky that various trial courts around the state support the legislation and amongst them -- well, there's six of them noted and amongst them are the Sacramento court. As a member of the bench, I would like it known that there was never any formal proposal placed before the Sacramento bench to endorse or sponsor in any form, AB-1208, much less any discussion amongst of judges on that bench and certainly no recorded vote or motion offered to support this legislation. In fact, to the contrary, approximately a third of our bench earlier this year notified the author of the legislation that that was so.

So it's perplexing to see a letter from the directors of the alliance of California judges noting that my particular court supports the legislation.

>> Thank you. Judge Rosenberg.

>> I sit here as a advisory member in my capacity as a presiding judge in my court and chair of the trial court presiding committee and I am confident that I can speak to the sentiments of the majority of pro-deciding judges and I'm confident the majority of judges, trial judges in California, are there issues that concern trial judges with regard to budgets and other matters in this branch? Certainly there are. But I think it's fair to say that the vast majority of judges and trial judges want to give the new chief justice and this new judicial council an opportunity to address these issues.

The new chief justice has been in place less than one year and has set in motion a number of initiatives, including the creation of the SEC, which is evaluating a whole series of matters relating to the AOC and otherwise. So I think in fairness, the majority of trial judges and PJs want to give the new chief justice and the judicial council the opportunity to deal with issues and so, the opposition by this council as to 1208 seems appropriate. I don't know that anything has changed in that regard.

One final comment, the constitution of California does envision a role, an important role for judicial council but also envisions a decentralized system where trial courts retain a measure of independence. That, as I've said before, is in many ways inconsistent and we have to work with that structure. Senator Evans.

>> Just a comment on the process and a question. As everybody knows, the bill is in the assembly at this point. I had heard that there were amendments to it, but nobody seems to know they are and nobody seems to be able to find a copy so I haven't seen them. I'm assuming that -- what I'm hearing is the amendments that were taken out of the judicial committee and assembly but I don't know. I heard there were more recent amendments than that, which would be surprising.

>> I have heard the same thing, that there would be some amendments taken up on the floor.

>> But you don't know what they are either?

>> I don't. It's sort of been the course of this legislation, I'm sorry to say.

>> It's been an interesting route. But anyway, the point I wanted to make is once it gets out of the assembly it comes into the senate and lands in my committee and I don't support the goals of this bill. So that will be interesting to see what form it comes to me but I had been visited very recently by FCIU in my office and they were expressing their support for the bill, which is a new development.

And I'm wondering if you have a list of the supporters of the bill at this point? It would be nice to know who those might be.

>> I do have, as they were included in the assembly Judicial Committee analysis.

>> Apparently, it's picked up support since then.

>> And so I have not seen any new list of support, including when it was in the committee and even on the floor, SCIU had not been listed as a supporter of the bill.

>> And this meeting occurred in November. So this is a new development. But it would be worthwhile exploring who support is coming on.

>> I'm sorry, Senator Evans.  
[Laughing] That's okay.

>> Thank you, I have a question of when SCIU came and indicated its support, were they specific about what it raition of the bill they were in support of?

>> They were in support of the bill as amended and I asked for a copy of the amendments and they didn't have them.

[Laughing]

>> They are in support of something they are not in possession of?

>> Yes. They're in support of the bill as it will be amended.

>> You haven't seen the amended -- and this has to get off the floor by January 31st.

>> Right, and they weren't able to provide me with any of them.

>> I would like to add to the comments very quickly and I appreciate them and I suspect what he says is entirely true, concerning most fair-minded people wanting to give the chief and council an opportunity to address concerns. And I think the thought I would add to that is, if the chief would come in in January and this council for the past year had been going forward on business as usual, there may be cause for criticism, but I think that any fair-minded person listening and watching can tell that this -- that the chief justice and this council sees this as a new day. We're trying to identify the things that need to be changed and make those changes. And I think that we have made good progress within the course of 11 months. I expect that progress to continue and I think that should add to the thought behind Judge Rosenberg's comments.

>> Thank you. I wanted to also follow up on Judge Diablo's comment about the alliance letter it supported CJA and other members of the judicial. However, that survey also indicated that I believe over, I think, over 80% of those who responded to survey felt it needed to be dealt with by the judicial branch and we have been doing that since January 1st. The chief formed the SCC committee, inquired of all the judicial branch of any concerns they had with regards to government and as we all know, we've been meeting a significant number of dates, talking about those exact concerns and dealing with those exact concerns and making significant changes. And you have to listen to our meetings and look at our minutes to see our response to some of those concern and listen this afternoon to a presentation that will be made by the A & E committee. So were there concerns as the judge indicated? Yes. Have we heard those? Yes. Are we make changes within the Judicial branch? Yes. And that's the way it should be done.

>> If there is no further discussion, I believe the motion has been made and seconded three times.

[Laughing]

>> All in favor of recommendation number 2, say aye? Any oppose.

>> Abstain.

>> And the recommendation is approved.

>> That brings us to number 3.

>> Thank you, Chief. The final two in the report in front of you relate to new judgeships in the conversion of vacant SJO positions to judgeships. First, as it relates to the new judgeships, as you're well aware, we have been engaging in repeating and continuing efforts to secure the most critically needed 150 new judgeships. In 2006, the council was successful in having the first 50 judgeships authorized and funded and appointed. And in 2007, the second set of 50 judgeships were authorized and funding was initially provided, but then delayed and now simply not provided.

So the second set of judgeships authorized but not funded and we have continued to, we the council, have continued to pursue legislation to get the third set of 50 judgeships authorized and most recently this year the council sponsored AB-4505 to authorize those judgeships and a decision was made not to move that bill ahead this year but would be eligible to move ahead next year.

As you heard yesterday, in the discussion on new judicial case weights, the California judicial branch currently suffers from significant shortage of a judgeships, more than 345 judges, and despite the recommendation, that the council's primary legislative agenda item this year be the budget, PCLC recommended that the council continue to pursue the creation of the third set of 50 new judgeships in lieu of the magnitude of the problem that we're facing. I'm sure we will have the conversations with the legislature to do that in light of the funding situation as it is in Sacramento but the committee believes it is important to continue to keep the need for new judgeships before the legislature and we'll have the discussion, I think, as a broader part of the budget discussion.

>> Any questions or comment his?

>> I move recommendation number 3.

>> Thank you, Judge Rosenberg and seconded on number 3? All in favor? Aye. And any posed?

>> It is approved.

>> And number 4?

>> So turning now to the issue of conversions of vacant SJO positions, as you know existing allows the conversion of 162 positions to judgeships, CAT did a maximum of 16 per year and so from 2007 and '08 and to '11 council converted the 16 authorized positions each year. So beginning with the 11-12 fiscal year, effective January 1, 2012, council has authorized to don veteran up to an additional 10 positions if the converges result in a judge being I signed to family or juvenile assignment previously, previously being assigned to SJO.

So far for the 11-12 fiscal year, council plus an additional two related to family and juvenile law assignments. So all told, council converted 79 of the 1262 positions authorized for conversion, leaving 83. The committee is recommending that the council once again seek appropriate language in the budget act or separate legislature, whichever

might be appropriate for the conversion of the 16, plus the 10SJO converges for 12-13 year.

>> Thank you, any question or comments? I have a comment.

>> Yes.

>> I want to make a point with regard to the ten with family law is that there's a standard in California that brand new judges not be the ones assigned to family law. My concern is in doing this, the brand new judge is getting assigned no family law night and that is taking the place they can do extra converges and take away people who are experienced which tend to be many of the commissioners around the state.

I want to point out that I would like it to be clear that they're not appointing the brand new judges that just got assigned to these assignments in place of the commissioners that know the assignments.

>> Thank you.

>> Good point.

>> Chief?

>> I would move to adopt the recommendation 4.

>> Second.

>> Second. Any further discussion? Recommendation number 4, all in Favor say aye and any opposed. The recommendation number 4 is approved.

I believe --

>> Chief, as I indicated yesterday, after the policy committee had formulated these recommendations, another very, very important issue has received a great deal of attention. Although it's in a sense, a very moving target at this point, the issue of pension reform, I think, is one that certainly deserves attention ever the policy committee and judicial council and I took the liberty of discussing the matter with Judge Rubin in his capacity as president of CKA and I believe Judge Rubin has a motion to make.

>> Yes?

>> Thanks, Chief. Along with Kurt and CJA's legislative advocate, I launched the frequent committee discussions about pensions back in December. Obviously there was an issue about CJ has interest and I know you have a full plate there with the legislative agenda but if we could add to it the pension proposals as they're moving around, I would like to move that the council authorize to add to legislative agenda a monitoring of pension reform proposals as they impact the judicial branch and appropriate to advocate and coordinate with retention working group and CJA.

>> Second.

>> I would also second.

>> Okay, that's Judge Wesley and second.

>> We've canceled it on the record but I would like it noted thereafter in our minutes and distribution to council members. Any discussion? I realize these are as you describe them, pension proposals.

>> First of all, I thank Judge Rubin as president of CJA and Judge Freeman, also, it's an important function of CJA and I appreciate it.  
Secondly, the -- Dr --

>> You mean judicial recruitment working group.

>> That's an acronym. Has been meeting and discussing the fact, I think there's a meeting tomorrow, so I think between judicial council and CJA, we have a handle on this and we're doing the proper thing to solve these problems.

>> Thank you. Judge Freeman.

>> It's important to see the unity that's expressed in opposition to the idea of extending the pension reform proposals to the judicial branch, especially in light of our discussion of a few recommendations ago with regard to AB-1208, you are bringing that whole matter back up again. One of the many things that is concerning about that legislation is that at a time the branch needs to be fully unified to try to readdress the prospect imposing these measures on the branch, there is division on what I think are extraneous matters by some judges who need to think a little more carefully about what really matters and if the judges of the state, as I believe they do, are rightfully concerned about the idea of pension reform extending to the judicial branch, they might want to express that to the alliance and its friends, that perhaps this is not the best time to divide the branch with their own particular agenda but rather a time to come together to try to protect the interests of all members of the branch. Interestingly to conclude that the alliance, as far as I know, has been silent about the pension reform idea being imposed upon judges. So it makes one wonder where their real priorities lie.

>> Thank you.

>> Just a quick comment. I do want to commend, judge Rubin and CJ for moving forward on this issue, but should not be forgotten in this discussion is that judges for the most part, are under JRS2, which is itself is pension reform plan. It is, in fact, pension reform. And I think the authors of proposed initiatives recognize that in part by not including judges in their proposals.

>> Yes, Judge Herman.

>> I would like to recognize that Judge Rosenberg shares the committee which will be active.

>> I resign --

Laugh lf.

>> Oh, no you don't. GRS-3 is not something --

>> Chief, I would like to make one comment in support of what Judge Rosenberg and Judge Freeman have mentioned, during the entire time I've been on council, I don't think I've ever been in a situation where we've faced a more difficult challenge, especially in terms of the budget. I mean, when we were formulating the priorities, I was very tempted to recommended five priorities, budget, budget, budget, budget, budget. I mean, we are in a very, very difficult situation and my message, especially so the younger judges in the state, is this is the time to be unified. And there is not the time for legislators to hear divergent views on collateral issues. This is the time when it's in our best interest as a judicial branch to speak with one voice.

So, perhaps, some of these other divisive issues could be delayed for some time in the future. All I'm saying is that what's on our plate this legislative session is basically survival as an independent branch of government. Thank you.

>> Thank you. Justice Miller.

>> I just wanted to echo that because I do believe that it's so important that with regards to the five priorities on budget that we do speak as a unified branch. And the other issues, bring them to E & P, let us deal with them through the process of the judicial branch. Seeking input from the branch and resolving them in a way that keeps that governance within the branch. My offer as I go around and speak is the same, if you have a concern, an issue, bring it to us, give us the opportunity to solve it within the judicial branch.

>> Thank you, Ron?

>> Chief, I just wanted to know that Kim Turner and Karl have acted a subcommittee to look at how the proposals would effect the 22,000 court employees out there in addition to the judges and JRS2. It's been stated, there's a reformed plan, but I don't want the court employee listening that they're not being looked after in the process as well in terms of how these proposals would affect them.

>> Thank you, good point. Hearing no further discussion, all in favor of the motion mid by judge Rubin and seconded, say aye.

>> Aye.

>> Any opposition?

>> Recommendation number 5 is approved.

>> Thank you Justice Kerr, Baxter and Donna for your presentation.

Calling your attention to items A-1 through A-14, I understand A-7 has been removed and it's on our discussion later and B through H, I understand but for A-7, the other items remain on consent and those matters are approved. This takes us to item L on our discussion agenda. And actually it's item I on our discussion agenda and after that item I, we're adding an agenda because we think we are a few minutes on time and we're going to ask Justice Lori Zealon to give us a presentation on the one justice theory after item I.

>> We welcome presiding Judge Apple and Mr. Steven Chang.

>> I think we're experiencing technical difficulties.

(Pause)

>> Where did the chief go? I think I'll wait for the chief before I begin.

>> Whenever you're ready.

>> Good morning members of Council. Here to discuss the first request our new format and process for supplemental funding requests submitted. The court is projects to end the current fiscal year with negative fund balance of approximately one million dollars which qualifies them to request supplemental finding and staff reviewed projections and believe they are reasonable based on review of the pertinent information and expenditures. The request is for a 2 million-dollar distribution which would address the one million dollar short-fall and deficiency, as well as provide them a 916,000-dollar operating minimum reserve amount. The court indicated due to severe fiscal crisis, they are unable to request this as a loan and would not be in a position to repay the \$2 million. The reasons provided to us as far as why they're requesting funds relate to two issues. First they say that per the razz that they're all familiar with, they are severely underfunded court as determined of 2005 and 06 and because of the recent budget cuts -- this has brought them to the position they cannot sustain a level operation that their allocations provide.

However, this is not due to any extraordinary or unanticipated costs but merely just an imbalance in the budget brought about by the reductions and their fiscal condition. They've identified a number of consequences if the request is denied of particular note and concern is the access to justice, not all civil matters being addressed in a timely matter and also impacts on traffic processing. If they're not -- if it is not approved, they believe they would have to lay off an additional 17 staff at a minimum and generating a-million dollar savings and an additional courtroom closures, but I think we would note that the proposed impacts in terms of funding would not fully address the one million dollar short-fall so would we stale, if they were not provided funding they do not have a plan to breach the one million dollar gap top bring themes to a positive funds balance.

I think we wanted to provide you information in terms of background on funding, history. They were provided between 5, 6 -- fiscal years 6, 7, 89, \$4.4 millions of equity founding and I think you were familiar as a resource court, they were provided additional resources as part of the opinion they have as part of being identified as an under-resource court provided relief and 8-9 and 9-10 as you can see. With respect to compensation, there is a chart in the report that provides you, I think, four or five years of increased history, what you can note is there was a pay equity adjustment that ranges from 3 to 24% and four out of the last five years, there have been coalesce provided to staff.

They have taken a number of cost containment measures to live within their means and they have impacts on the court. They've closed a branch in Tracy generating \$86,000, as well as the Lodi Branch and in this year, they laid off 42 staff, a substantial reduction of staff generating \$2.2 million and they've instituted four mandatory furlough days generating \$260,000 of savings and so this one million dollar request represents the net impact after they've taken these measures.

So the court has implemented cost containment in an effort to restrain the expenditures in the current year. They have implemented in some cases revenue enhancements related to ability to pay traffic citations. They are currently looking at expanding civil assessment program. There is case-load backlogs as many courts are experiencing now and those are examples the court provided to us.

I recently heard the audit provided, I believe, and the results in October and they have addressed many of those issues and are currently working on addressing then so we go see issues of material change since the October report and if you have further questions, direct. So with the information provided to us, we have presented three different options for your consideration for approval.

First would be to deny the request. We've provided you the impact statements from the court as to what that would mean to them. A second option would be to fund that which would get them to a negative fund balance to a zero fund balance. And the third option to provide them the request as submitted and we would note that would bring their fund balance to a 61 dollars of the council's funds balance policy. So it would not bring them to what would be the council minimum policy on fund balances, but it would provide a 61% number there.

Just for sort of context, it's important to give you comparisons that if you were to look at a number of what was requested, that if you wanted to provide 50% of the funds balance policy, you would be an additional, \$1.83 million approval and 25%, \$1.46 million approval rather than the \$2 million requested.

As similar to what was done with San Francisco, we have a number of terms and conditions to the extent you do move forward providing the court some fiscal relief. There are outlined in the report but they relate to report in the use of funding any or all of anything that you approve can be done as a loan restrictions on the use of the funding, future or unrestricted funds balance and any reports regarding audit findings.

This is our first effort in presenting this information, both in the report and presentation and if there's anything you feel you would like to have from us going forward, please provide us that feedback because we would like this presentation be similar in every step for all courts.

One other thing, we did work with the court with our report. We did provide them a preliminary draft and the report reflects their feedback to us so we go want to provide any inaccurate information. We wanted to make sure we were fair in terms of information and our hope is we presented the facts and the court has done a good job of providing feedback and making sure we didn't misstate anything.

>> Any questions? Judge Rosenberg.

>> Thank you. I wanted to say, you did an excellent job, the staff did an excellent job here. We've certainly learned from the San Francisco experience and made the process much more user-friendly and appropriate, both for the council and for the effective court I just have one question. I think the case has been made to support this and I think a modification of option 3 might be appropriate, particularly to the extent that it sets any press accident. And I'm thinking that the 1.08 million be provided outright, but that the remaining sums, in this case the 916,000, be provided as a with a payback of whatever, 3, 4, 5 years over time.

That would be, I think, an appropriate way to go and would be a good steward of the relatively small amount we have available for this emergency funding. I assume that when a loan is made for a portion of it, and that money is paid back over time, that that money goes back into the emergency fund so it can be reused for another court.

>> It would go back to the improvement fund in available for allocation as we go forward.

>> Very well. So I think in that manner, we help them and yet provide sufficient funding which we can leverage for the benefit of another court.

>> So several things. First, Judge Rosenberg, I recorded that as an option 4.

>> I called it option 3-A but option 4 is good, 108 million and 916,000 dollar loan, details we haven't flushed out, but we do mention three to five repayment periods and I'll have that on the table and at the moment I'll hear from Justice Hall.

>> Thank you, Chief. I have the same point I wanted to speak to and that is whether or not any or all portion of these funds should be a loan. We are all mindful of the situation we had in the request from San Francisco for help and we, as I recall, made that entire A of the loan payable without terms, except payable within five years. And because of that, you know, I do see from the materials that the county cites a severe crisis and they won be in a situation to repay the 2 million-dollar loan but I think we need to be as uniform and fair as to the counties that do come before us for this type of help.

I think that those that are due are in a severe financial crisis. I think that as far as setting precedents, unless, there are really fundamentally.

>> And they wouldn't be in a position to repay the \$2 million loan.

>> And, you know, if we would take it as a loan we would be lying because we would never pay it back to you unless miracles happen in the state we're requesting the full \$3 million contribution for this fiscal year. Failure to allocate the funding will mean an additional 17 layoffs resulting in know small claims hearing. Now I told you previously we would stop small claims and we have found a -- we're doing about half of what we used to do. There's a delay in getting hearing dates but we have still found a way to have small claims. We will not do any small claims. We will close two or three of our five civil departments. We're already down to 250 staff which is less -- we're supposed to have 450. We've never had that many. We're down about a third of our staff. Our funding history is legend by now and I'm not going to repeat it. Our audit which we discussed in October and Zlatko just mentioned revealed ways we could improve our operations but absolutely no mismanagement. And we have fixed every single audit recommendation that was -- that did not require any fiscal outlay on our part. Everything else by now has been completed.

We've detailed our cost-cutting measures in this and past reports to the council. The cuts we've been Forbes to make already impact the public in significant ways. We closed an entire branch in Tracy. We closed one court in Lodi and most courts travel to Stockton to conduct court business. The public is further impacted by very long lines, long phone waits, long waits to have their documents processed. Quite simply San Joaquin county is out of options and this emergency option is our lifeline to provide justice for all kinds of case types. The fund balance which we're asking for -- last year as an example, we had an extraordinary half million dollar expense and that's all we had left in our fund balance and we used it to protect one of our judges because there was a very credible threat on his life as a result of something that was going on in one of his cases. That wiped out our fund balance. We couldn't ask for emergency funding because we did have that half million dollars left but we can't always wait to come to the council when there's an emergency like that.

And any business -- any court knows that you can't run on zero reserves. You have to have something in the bank. And what we're asking for here doesn't get us to the level that we're required to have. It's frankly a drop in the bucket but it is some safety net for our court. And next year is going to be even worse so telling us this is going to be a loan like I said is unrealistic because we're not going to be able to pay it back. So I don't know what else we can tell you, you know, we're not San Francisco, and we need the full \$2 million.

>> Thank you, Justice Hull, Kim Turner and Judge Hough.

>> Judge Amy I appreciate your comments and I must say from the presentation from the comments it's apparent San Joaquin has taken aggressive efforts to try to solve its problem and I think the infusion of funds is appropriate. The only thought that remains, though, on the question of a loan is on this issue -- well, on this types of issues and others we have been careful as a council this year not to make assumptions that go too far down the road and it does occur to me if all or part of these funds were in the form of a loan payable as the court wishes in five years -- if we got to -- if the court got to a position three or four years down the road, we could always -- if you will, to use a term of art, change our minds about that and at least we would maintain some uniformity going forward as to how these funds are treated as we send them to the trial courts who are in need.

>> Kim Turner?

>> Thank you, Chief. I wanted to -- I talked with Zlatko earlier this week to find out if any other courts had made requests to date for the supplemental funding because we did at the last CACI meeting and following the council's meeting in October created a rather aggressive timeline to get requests in to the pipeline so that they could be heard at this meeting. And I'm pleased to report that no other courts have yet come forward. Is that still correct, Zlatko?

>> Correct, yes.

>> And I want to also say to the San Joaquin court that I appreciate that option 2 which get you exactly zero, you know, moths flying out of your pockets at the end of the year is not the optimal place for any court to be that as a CEO none of us would want to be in a position where we're managing our budget to a point of zero on June 30th. So I think option two fails for me because it allows for absolutely no movement, no contingency, no opportunity for one single thing to be different than what your planning is right now. And on the issue of the loan, when Judge Rosenberg mentioned it and I think Justice Hull talked about it also, I was concerned because your funding situation is legendary. And I've been watching it, you know, with some interest for almost a decade now and you've always been a historical underfunded category and so forth and I had concerns about how you might repay such a loan. So I'm wondering if there's another option, you know, maybe an option 5 here which would be that if the council were to fund the 1.08 million which gets you to the zero point and then some amount between 0 and 916,000 but actually created some kind of accountability or feedback to the council as to whether or not you had to dip into additional funds beyond that point of using, you know, the 1.08 million. So to report back to, say, well, yes, we had to use \$200,000 because we had another emergency or, you know, our technology failed or whatever it may be so that, you know, I think one of the things that we're concerned about is accountability for courts coming forward to get supplemental funding and to make sure that we are doing our job to be good stewards of any supplemental funding that we give to courts, I think you've already made your case to the satisfaction of our finance division in a way that the 1.08 is needed but it's the funding beyond that which is sort of, you know, the purpose other than to put it in the bank and have it as an emergency fund is sort of vague. I think it might be

helpful to the council to hear back from the court at the end of the year, did you have to expend any additional funds? And if so, what were those funds expended on? So that's just an alternate idea that I have, that I proposed to make sure that the council gets good feedback from San Joaquin and any other court that comes forward with a supplemental request that wouldn't just bring their fund balance to zero.

>> Thank you. And now Judge Hough and then Judge Wesley.

>> Judge Amy, I'm right here. I have a question that goes for me into the balance of the decision we have to make because nobody wants to have you back here next year asking for additional emergency funding. And so what I'm trying to think about in a more longer term view, what is it that you need so that you can plan for the future, not have to come back next year? And if we do go with option 3 or 4 or 5, how do we know that you're not going to be back here next year?

>> Based on the expectation of the \$4.4 million cut that we've been told we're going to take next year, we'll be back here because we have asked the chief, we have asked Ron, we have asked a lot of you, what else do you think we can do with the limited money that we're getting in this court? I mean, it's, frankly, bizarre what Judge Warner who will be the presiding judge next year is going to have to do if we get those cuts. So if you're asking me well, if you give us this, you won't see me again because you've seen me for the last three months -- three meetings now. It's not going to happen. I mean, next year is bizarre. Everyone says well, how are you going to do that because the plan we have is just is so draconian and it's something that no court has ever done before because no one has ever run on the shoestring they tell us we're going to run on next year because there will be nothing left. But we're going to keep going as long as we can and this money will keep us going for next year. To say well, we're going to stop doing all these different case types now because next year we'll have even less money doesn't make any sense. We'll do it as long as we can do it.

>> Thank you, Judge Rosenberg -- I'm sorry. Judge Wesley.

>> Thank you, Chief. Here's my question I have no doubt in reading the materials that your court is going off-cliff and needs money but my question is this, when we give extra money to put into your reserve, I talked about reserve as being a bridge funding to an action that your court's going to take and I think what you just told me is if we give you extra money it's a bridge to nowhere. And so my question to you is, what is your plan? July is the end of the next budget year. What is your plan after you get this money and we get you to July, what is your plan for next year? Your budget is not going to improve. And so what is your plan but to make changes in court that will get you through the next year. Layoffs, furloughs, what is your plan?

>> We will close every civil -- if we take the \$4.4 million hit next year we will close every civil department. We will stop doing probate. We will stop doing small claims. We will do half as much traffic as we do now and the only family law -- well, anything involving children we will do, custody, support, delinquency, dependency. We will not do anything having to do with property, for example, in family law because I can't tell you how devastating another \$4.4 million will be to our court. And I beg any of you that

has a better idea for our court to tell us how to do it. We've been asking for it. There is no way you can run our court on how many people we'll be down to, 100 --

>> 200.

>> We'll be down to 200 employees by then including our CEO, our secretary, everybody across-the-board. There's nothing else in our budget left to cut. And I don't know how to convince the council and everyone else in the mountains world that's true. We've been really good stewards of our funds and there's just nothing else. You get to a point where you can't do anything more.

>> The same courts are having the same discussion that you're telling me right now and all courts are saying we can't do what we're currently doing with the money we're getting and so the answer is, you can't do what you're currently doing with the money you're getting, you have to have a plan.

>> That's our plan.

>> And the plan can't be to come back to the council every year and say, give me more money. The plan has to be that -- if you give me the money to get to next year, I'm going to figure out how to get -- live within my budget. If you don't do civil, you don't do civil. If you don't do family, you don't do family.

>> That's the plan for next year. No civil, no family law except for custody and support. No probate, half the traffic, no small claims.

>> And if you do that, will you be within your budget?

>> If you cut us \$4.4 million that's what it's going to take to live within our budget, yes.

>> Thank you. Two things, before I hear from Ron and Judge O'Malley, Judge Appel, we know as Kim Turner has indicated it's been a decade of underfunding and we realize that the fiscal crisis on top of the underfunding is beyond draconian. And so what I'm hearing -- in the request for option number 3 is for us to consider as a policy -- instead of a loan, an exception for a loan for those courts that are proven historically underfunded. I mean, I heard you sort of say that. I didn't hear you --

>> I think that's right.

>> Justices like rules. That's what I'm hearing, unlike the policy for San Francisco and other courts, when we are faced with a historically underfunded court and I don't think anyone would disagree that San Joaquin fits that bill, you're asking for an exception from the loan. I realize, too, a separate thought, a new idea, new direction, is that you are still trying to -- you have a plan for next year. All that was asked was a plan. A draconian plan beyond words. We also know that in the interim process, before you get to that planning stage, there will be a trial court budget working group and that will be addressed

again with 15 presiding judges and 15 CEOs and there will probably be at that time I'm imagining -- it's always an evolving picture, unfortunately, of where all courts are and what all courts need and what cuts we face. All of us have plan A, B and C in our pocket but we lead with one plan until we have to go to the next. Is that my understanding of your situation?

>> It's all accurate.

>> Thank you.

>> Thank you, Chief. My comments -- first of all, you know, I think we do have to plan for the worst. I don't think we assume the worst, that 15% is going to be the cut next year and there's no other way out and we're going to concede that. We've heard reports over the last two days of the 6-point plan that the chief incurred and Zlatko and I are suggesting to the legislature and to the governor, that would not have the cuts be it 15%. And we're optimistic that some or all of that can actually happen. So sort of the conclusion that the disaster starts July 1st, I just want to temper that a bit that, you know, we're clearly working on that.

I think the chief's point that distinguishes San Joaquin from San Francisco and some of the other courts is the historical underfunding. And it is legendary. In the early stages of the state appropriations limit, we had an approach that provided additional equity funding to underfunded courts and that included San Joaquin. That was slowly eroded and it was a very small amount. I think it was initially \$12 million statewide. So it was not, you know, a panacea of reaching equity among the courts, but it was an approach.

Ultimately, I think, you know, the addition of new judgeships that comes with staffing and budget and resources will ultimately be the equity process that we're looking for in terms of new judgeships and funding and staffing for central valley courts and for the Inland Empire. And that that will provide the equity, but in the meantime, there was an attempt early on by this council to provide some level of equity of funding in the process. That was slowly eroded and then eliminated with the elimination of SAL.

I think, again, so that -- that's the distinguishing factor, I think, as you try to be equitable with what you've done with San Francisco is that they are two courts coming from very different places. They're both in trouble now, but they have come from very different places, and so from my perspective, the suggestion from Ms. Turner in terms of report-backs and accountability would be appropriate.

>> Thank you. First, Judge Rosenberg then Judge Kaufman then Judge O'Malley.

>> Thank you. I don't mean to ask an uncomfortable question. Perhaps, Zlatko, you're in a position to respond to this, but has anyone calculated the cumulative effect of the COLAs that was given in '06, '07, '08, '09 and '10 and '11 to the employees of the Court?

>> Page 8 of the report -- I'm on the right-hand column, table 3 --

>> I mean, in dollar amounts?

>> Oh, just before we walked in, I wish we would have calculated that value, but we didn't have that. We just thought that might have been good for illustration, even say the last 3%, what it meant in terms of the value in terms of what that might have cost.

>> This just around 600,000 --

>> The last 3%.

>> But the no the cumulative.

>> Not the cumulative.

>> So about, give or take, 600,000.

>> So cumulatively it's millions?

>> Yeah.

>> Okay. Thank you.

>> Personal services --

>> Judge Kaufman?

>> Yeah. Zlatko, we gave -- the judicial council gave San Francisco \$2.5 million and if we did this it would be another approximately \$2 million.

>> Uh-huh.

>> We would have, what, \$5 million left in the fund --

>> I think we have 7.5 million right now.

>> 7.3.

>> It would be down to 5.3.

>> It has to get us for the rest of the year; is that correct?

>> Yeah.

>> Okay. Also I see in your report after you list the options, you have some conditions, which I've just closed. And so if we -- if the council were to give San Joaquin money, what conditions should we be attaching to that? There's like 5 or 6 recommendations. In other words we just give them the money and say do what you want and here's the money

and to paraphrase Judge Wesley, what's the plan to use the money so you don't come back here next year? What do you suggest we do?

>> Well, I think in terms of consistency and the way in which there were terms and conditions with San Francisco, we modeled the terms and potential suggested in the same fashion so in terms of reporting, restrictions on using the funds for nothing but maintaining the court's open so I think generally we wouldn't have put this if we didn't think this would be something you would follow so whatever was enumerated in the report, we would suggest that you follow those conditions in terms of reporting including the audits findings --

>> Let me ask you the next question, so if we gave as Justice Hull, and Judge Rosenberg, if we gave them a million dollars plus of 900,000 as a loan we could track their financial circumstances to determine whether they could or could not pay back the loan or whether they were running the court efficiently so they would --

>> You could direct us to continue monitoring them as we go along. But we would be doing that anyway, it's just part of our service to the court. So it wouldn't be any different than what we were doing. It would just be a matter of maybe we would provide in effect that we do have an action potentially that we would come back and on a more frequent basis provide you a specific update relative to the fiscal health of the Court.

>> I appreciate that. Thank you.

>> Judge O'Malley, then Merriam.

>> I just have a couple of questions, sorry, about the -- about the material that we received. On table '3, which is the COLA in the adjustments I see in the last five years, those adjustments were increased for employee pay 17.1% to 40.3%. And I noticed that in year '09-'10, COLAs were not deferred not in the last year, you know, what was the rationale in deferring and why weren't they deferred this last year?

>> Well, let me first tell you that the reason there were any raises is we did an equity study when we finally got some RAZ money because we knew our staff was stunningly underpaid and I think the adjustments explain just how underpaid the staff was. And they are still below the average, and I think that chart's in here somewhere too. The next page.

>> Page 9.

>> It's still below the state average. The COLAs had been contracted in '08. They deferred it -- I'm sorry.

>> In '07-'08 we had entered into a 3-year contract with our representative employees. The contract was for a 3% COLA adjustment at the beginning of each fiscal year, beginning in '07-'08, so that would have been '07-'08, '08-'09, '09-'10 the last year and '09-'10 we knew we were going to have a deficit. The employees agreed with the union. We agreed to defer the third year of the 3% COLA to the following year, plus, that was

the year of court closures, so not only did we close the courts but the employee took 12 furlough days beginning in July of that fiscal year, '09-'10 but the side letter had expired. And we were not able to negotiate the elimination of the COLA, and so we had to provide the COLA pursuant to our side letter agreement in 10-11.

>> Are there negotiations going on now?

>> No, we are done. We simple -- we had four furlough days for the current fiscal year for 11-12. And we had the layoffs, so we laid off -- initially we laid off 45 people. We have since recalled three people, one came into a grant position. Two, we hired back because we believe we can keep 100,000 of the AB realignment funds and so we have three people that we recalled so a total of 42 people have been laid off.

>> So with the 42 that have been laid off, what's your ratio from staff to judges now?

>> 32 --

>> About 9.9?

>> On one of the charts I ran that number and it came out about 9.9.

>> That's about it.

>> About 10%.

>> 10 is premium?

>> Yeah.

>> And what are you doing to, you know, bring funds -- I noticed that it said you're looking into civil assessment. I know that at the PJ meetings we've been talking about civil assessments for the last three, four years. My court has started that and it's a good revenue base. What are you doing in that regard?

>> We've had a civil assessment program in place since 2002, I believe, 2002-2003. What we are -- where we may be expanding it is on a misdemeanor cases and on failure to pays because initially the statute was only on FTAs.

>> Okay. Right. And what other plan do you have to build up your fund balance? Like again, I'm kind of like Judge Wesley, what do you have to build up a fund balance? What plan?

>> Nothing. Do you have any ideas for us. I keep asking for other people for ideas because we've done everything we think other courts are doing. And we're really open to suggestions and no one ever gives us any.

>> Have you contacted other courts?

>> Rosa has talked to a lot of CEOs.

>> Yes.

>> And have they given you ideas and recommendations for things that you can do to make cuts, get efficiencies and create a fund balance?

>> We've done it all. I have to tell you, it's quite interesting earlier this year there were throughout the CEO network there were several -- one of the CEOs asked a question, what do you do to meet your budget cuts? And all the comments were coming back from CEOs, and I kept saying, we've done that. We've done that. We've done that. We've done it all already. We're ahead of the curve, from all the courts in terms of having to cut back and what we've been able to do.

>> And we've been doing it long before people started to cut back. You know, we've lived with this kind of a budget for so long, that our cuts started years and years ago. You know, this is new for a lot of courts to be 20% underfunded. You know, we've been 20% underfunded forever, so for us it's just a way of life.

>> I know. My court has probably -- we're down 6 staff to each judge, not 9.9, not near 10, and we're still able to keep open small claims and civil and all these divisions. So, you know, I don't know who you're talking to and I don't know -- I've looked at the things that you've done and they are good helpful things. They're not as much as what other courts are doing. And I just think that, you know, how you rearrange your staff and how you do that has got to be better than you're telling me you're going to eliminate your small claims and you are civil division when I've got 6 employees to 10 and you've got 9.9.

>> Send someone to frags and tell us a better way to do that. I mean, that sincerely. I mean, we would welcome any better ideas.

>> All right. I am from San Francisco --

>> I forgot, Merriam and then Judge Jackson. Yeah, I think these were requests this one and the one we had at two meetings ago are probably some of the most difficult decisions that we have to make and I think they frankly underscore Justice's Baxter's comments are what our top five priorities need to be because unless the budget situation changes, this is going to become the norm, meeting after meeting. What I'm struggling with is the extent to which -- and how we avoid sort of reaching a point where at these meetings we very much feel like there's gun to our head. And the trigger is being pulled. Not true perhaps any fault other than a horrible situation, but we're finding ourselves asking these questions at such a late stage where it's hard to know what the alternatives are. And I think the difficulty is to what extent are we facing a situation where in some ways we're almost *de facto* penalizing the courts that have made very tough decisions and put cuts in place up until now. And the courts that have put their own gun to their heads earlier on,

aren't coming to us. So that's what I'm struggling with here, that we are in an era where very difficult and very bleak decisions have to be made. And some are being made by courts that are trying to do three-year, four-year planning that have put in place massive layoffs as I know have been happening in Los Angeles and elsewhere, there haven't been raises and have been making very difficult choices. Some of those are happening outside of our vision. So I guess where that leads me is both -- Zlatko, a couple questions for you and a thought about future requests like this because in some ways we are where we are. And we said that when we saw the San Francisco request, and I hate the fact that we're finding ourselves meeting after meeting where we are without the ability to sort of scroll back and look more comparatively. And so what I guess I'm hoping in future reports -- and this was excellent. I'm not right to criticize the report. I would find it helpful to have a little bit more of a comparative analysis, you know, things like the question Judge O'Malley and others have been asking. How do the steps that the court has taken up until now compare to what other courts have done? How do their staffing ratio -- how do -- and perhaps through, you know, Kim or the trial court presiding judges or the CEOs -- there's a way to identify a series of factors without trying to micromanage courts and I realize a difficult balance but a way to almost have a yardstick to say here are the kind of things, revenue-raising measures, ratios, COLAs, *et cetera*, where perhaps we could look across courts and comparatively be able to support what happens the court done up to now and what has it compared to other furlough days, *et cetera*, just so that we would have a better ability to have a little more of a feeling of comfort that as we're making these tough decisions, we're making them in a context that enables us to better judge, has prudence happened until now and what about looking forward so with that in mind, I guess I am just looking for your answers to two questions specifically, Zlatko. The first is, do you think that practices up until now could have resulted in a different state of affairs? And made it less important because, again, we are where we are and I don't mean to put you on the spot. But looking forward, I've heard very passionately and very appropriately the question of, what else could they do? And do you agree that what's been articulated as to a plan looking forward is the only plan or are there other things that you could recommend? And, again, having phrased that question, "future reports", I guess, I would like a little more about looking forward, are there other cost-cutting or revenue-raising measures that are realistic, not a pipe dream, but realistic that you all could and would recommend so that a court, you know, isn't facing the frustration of not knowing what choice they have but perhaps get some constructive feedback through this process on that as well?

>> Before you answer that, if I could just clear up one thing, the staff to judicial office ratio, 7.5, not 10.

>> Okay.

>> We just did the math.

>> Okay. Thank you.

>> On that point, we should -- we can definitely work on more statewide comparative data so we can get a context. I think in terms of our ability to make qualitative decisions on whether the court has managed is most efficiently, I think we have to really rely and work very close with the PJs and the CEOs in the context of us doing this that we provide them staff work to help -- provide recommendations and help the council make the best decision possible because I don't think, you know, I've been here five months and I'm going to play that as long as I can and I'm trying to learn as much as I can.  
(Laughing.)

>> But certainly --

>> Almost a year.

>> I haven't been in a court thankfully in any bad reason for my life. We don't know the kinds of things you know and I think we will have to work and leverage the knowledge and use the network to provide that kind of context for you. It is important because I think we struggle. We don't know where on that range of action are they extreme, moderate or light? And I think if we develop some sort of checklist -- I know we started to sort of get -- we talked about this when we discussed the criteria before. Do we have this checklist? It's not if they get 7 out of 9 and they're an A and they pass, but at least it gives context. It's not purely for the outright judgment but it does provide a sense of, they are managing proactively and they're aware of all the best practices of their colleagues and, you know, fellow courts. So I think we can definitely work to make this better and I think that's what I started in the beginning.  
If there's something we're not doing, we want to be as helpful to the council, so --

>> Yeah, I'm sorry.

>> And looking forward, though, how about -- I mean, do you think that there are other options that don't require sort of the horrible circumstance that has been suggested in terms of looking to the next year? I mean, do you think that there are other things that could reasonably be put in place?

>> I think I would have to work with our partners to really answer that question in an educated fashion.

>> Okay, Judge Jackson.

>> I am from San Francisco, but San Joaquin is different. And I'm glad we have these guidelines because I remember your speech in January. We're in a new norm, chief justice. It's going to be very difficult and I don't know if we're going to have that assurance next year that San Francisco won't be back. San Joaquin won't be back, Santa Clarita won't be back. Or contra Costa, as great as it is because there's just so many unpredictables. And we have these guidelines and they're there for us and, of course, we're kind of making it up as we go along because this is so different. But we also have to remember that as we -- we sit in our courtrooms and we have the law, we have to apply

it to each case 'cause -- and this is a different case. I've heard from Ms. Turner how they've been sorely underfunded so we can't make the same comparisons. Many of the conditions that we have set forth, they may very well apply to San Joaquin. All of these conditions may apply to San Francisco or whatever, but we have to do it on a case-by-case basis with an overall guideline. So I do support the recommendation by Ms. Turner as it applies to San Joaquin.

>> And let me state before I go to you, Justice Miller, I understand to be option 5, to fund the 1.08 million as an emergency distribution, I understood it to be fund something between 0 and 916,000 with a report back on the amount used and why?

>> Correct.

>> Go ahead.

>> And can I just add -- I think -- and I'm glad we're -- I'm sorry we're here under these circumstances but I'm glad that we're having an opportunity to sort of test-drive our new policy today with respect to how we evaluate these requests. And I think one of the things that this process has kind of highlighted for me is that in addition to having Zlatko's group go in and do the financial analysis, I don't think we can actually ask Zlatko to go in and do an operational analysis of any kind. I don't think that that's really his --

>> Some day.

>> His division's role. Five months, right, Zlatko, that's how long you've been here.

>> But he said in 13 days.

>> So -- but I think it is valuable --

>> Some days.

>> To have some understanding, some increased sort of independent look discussions with the CEO, discussions with the lead management team and the PJ and the assistant PJ to see what measures have been taken so that we can maybe perhaps make this report more rich. And answer some of the questions that came out of today's discussion and not just have it be a solely financial evaluation but an evaluation of the measures that have been taken, historically, last year, the year before, this year, how many furlough days are there? How many this, that and the next things have gone into the calculus that got the court to the point where it is today. And I want to reiterate again what Judge Jackson said, you know, I've been on a trial court budget working group for years and I've certainly been in a position to know that San Joaquin is different as Judge Jackson mentioned. It's in a small group of courts of, you know, 15 or 20 courts that are historically underfunded. There was a time when the council recognized that many years ago and provided additional funding for those courts. So I don't think we can say that every court is the same and every court should receive the same offer of assistance from

the council based on, you know, the circumstances that they bring to the table. So I reiterate that I think my option 5 gives us both accountability but also recognition that this court needs assistance and that it will not be in a position to repay a loan and for that reason, I would like to just reiterate that.

>> Can I clarify before I go to Justice Miller, Kim, that your option number 5 -- the funding between 0 and 916,000 is not a loan?

>> No. It would not be a loan, but it would require -- just like -- and CEOs will know, with grant funding you're often required to report how did you spend the grant money. This is sort of like a grant reporting or claim reporting kind of a process.

>> Okay.

>> And I would also, I guess, just offer that maybe, you know, we can take up a separate time, the idea of having this supplemental request process adds some kind of an operational review component.

>> Thank you. Justice Miller and Mark --

>> Does it have --

>> I'm just right to clarify Kim's proposal. Would it include the terms and conditions as well?

>> Yes, it would.

>> Uh-huh.

>> Thank you.

>> So I know there's others that want to speak but I'd like to make a motion and that is that we adopt recommendation number 5, which has been discussed and that we accept as part of that, their offer to provide assistance and that we ask the regional office to provide that to you, and to work with you to see whether or not there are other alternatives, other plans that can be instituted for this year. And for next year and in the future, and that we work with you in that particular area.

>> Also --

>> Second.

>> I've heard a second but I would like to hear from Mr. Robinson.

>> The only question I had -- I'm not quite clear on how the amount -- the 0 to 916 is going to be decided, when it's going to be decided, who's going to decide it, who you it's going to be decided, *et cetera*?

>> Uh-huh.

>> I mean, maybe you can answer that. I mean, that's my question.

>> Thank you. And Justice Kaufman?

>> Judge Kaufman.

(Laughing.)

>> Sorry. Everyone gets an elevation today.

(Laughing.)

>> The question I have is a little different. And I go back to what Justice Hull and Judge Rosenberg said. I would offer competing -- I don't know if I can do this, Judge Rosenberg, but I would give them the \$1.1 million. I don't have a problem with that. I'd give them the balance of \$900,000 as a loan with the understanding that it's repaid -- that we take a look if they can repay it. And then also I would add Justice Miller's request that we send in the regional officer or somebody to give them a hand and help them to take a look at the way they're doing business and perhaps there's efficiencies and ways we can all work together that six months or a year from now we come back and figure out what's going on and if they are truly underfunded, then we need to deal with that. We need to fix that if we know that the court is running efficiently and effectively and then we can deal with it.

>> Two things, I want to clarify -- it's my understanding based on this, that the AOC -- the regional director has been working with San Joaquin.

>> For years.

>> Yes.

>> And actually, I do want to point out that two years ago we asked them to come in and help us with the re-engineering study on our traffic division. And they did that, and we've implemented nearly all of those recommendations.

>> But I have come to understand in these discussions -- okay, so first, who did I lose track of.

>> Go ahead.

>> First, I did want to comment that I did notice that the -- when the raise issue came up that you're still below the statewide average. And I noted that -- I noted that. But from --

as a member of the Bar on this group, I have concern about the that a court can simply stop doing any particular kind of business.

>> So do we.

>> I'm sure. I have no doubt that any decision to do that comes very -- with great difficulty. But I think that one of the things that we need to do as a group and as a council is to look into that question of when a court is in financial difficulty, can it simply stop handling a particular kind of case and what are the ramifications of doing that? And what kind of decision-making process needs to go into that because that is a very devastating thing to the group that needs a court. You shut down small claims, and you have a group of people who is typically not able to defend themselves or not able to get redress without that system and for them -- while it may not seem a great deal of money to others, to them, that may make a difference that is huge. And so I would like us as a council to address this issue -- we can't do it today, obviously, but I think it's very important as we see courts go into crisis to not have a situation where the use of we're going to shut down this or we're going to shut down that is not examined and looked at in terms of how we allocate court business within the funding that we've got.

>> Chief?

>> May I second Judge Kaufman's report and the six months and the specificity of the \$900,000 salts low for me but a little more appealing for the other motion and I think Judge Rosenberg said we can have up to three motions on the floor?

>> Currently, I show two one shows clarification as I've been whispered in my ear so there's option number 5 that has been moved by Justice Miller, seconded by Judge Jackson. Option number 3 which is a loan of the \$916,000.

>> That's 4.

>> I'm sorry. Option number 3 is the -- Judge Kaufman's motion seconded by Judge Hough but I understand -- is it 4 or 3, Ira?

>> 4?

>> He was moving 4?

>> You're moving 4? Okay.

>> That is -- that is a substitute motion.

>> Okay. Let me get the clarification now from Justice Miller on option number 5. The first motion on the floor.

>> It would be for the figures that are mentioned in the report, and I think Kim Turner mentioned those before I think it's a 1.08 and the 916.

>> That answers Mr. Robin's question it's 916,000, it's not 0 to 9 --

>> Correct, I guess just as a point of clarification, all I was saying is that some amount between 0 and 916 but 916 would be -- I'm comfortable with 916 as long as we attach, you know, some report back and accountability on that 916 --

>> And my motion was for the 916.

>> Thank you.

>> And with the accountability and the basis for that is, that I don't think there's any dispute that facts are clear they're an underfunded court and with my discussions with a number of the AOC directors we've provided support and help and we will continue to that and I believe you're kind of at rock bottom and so that's the basis for it. I think to make it as a loan really isn't going to get us anywhere because they need the money.

>> And that's --

>> Okay.

>> And I think the historical facts are what they are.

>> And so that is a clarification on option number 5. To fund the 1.08 emergency fund. And fund 916,000, not as a loan, with a report back on how it's used and why in addition to the other conditions mentioned under terms and conditions that appears 1 through 5 and then Judge Kaufman's motion seconded by Judge Hough which is option number 4 which is a \$1.08 million distribution, one time emergency with a \$916,000 loan on easy terms as I understood Justice Hull's language on that.

>> The easy terms being, Chief, being defined as basically what we did with San Francisco. It's a five-year payback, when and if -- I shouldn't say if. That's not a loan then, when it's possible and we can always revisit it. And I understood Judge Kaufman's motion to include the other terms and conditions.

>> Yes, yes. Thank you.

>> In essence, Chief, San Joaquin gets the money they want. It's just a question whether or not it's a loan that we talk about later on or they get the money directly and we're done?

>> Correct.

>> I guess my question is, what I hear both of you saying is, loan, loan, loan, but maybe not. And I just feel like it's inappropriate to put them in that position and we've already heard -- we already know and we're probably going to revisit it next year.

>> Justice Miller, I'm not maybe not. I never said that. I just feel -- first, I want to compliment Judge Appel and her court because it is such an unenviable situation to be in. And Judge Appel has actually been so forthright with this council, and she has my deepest sympathies.  
(Laughing.)

>> It's not a fun day for you and I'm so sorry you're here in this situation. It may be that they can pay back the loan, maybe not in five years but longer. They're going to have oversight and assistance from the regional office. They're coming back in six months. And I feel because Judge Appel was so honest who said even if you give us all the money we're still coming back next year, I feel that there's an additional oversight and perhaps additional incentive if we make the last portion a loan because there's just a little bit more accountability, so that's why I would second Judge Kaufman's motion.

>> Judge So?

>> And that's why I support Judge Kaufman's motion as well.

>> Okay.

>> Can I just --

>> Yes, Kim Turner.

>> Continue to beat the drum here. If I were in the position of Rosa and Judge Appel and the decision was to give me a loan that I really had no belief that I could repay, I think it puts them -- I mean, I think they've gone on the record today saying, we can't repay a loan. We don't see any foreseeable way that we will be able to repay a loan unless we reinvent the way, you know, the judicial branch budget is allocated tomorrow and fund us at the same level that other courts are funded. So I think if I were sitting in that chair today, I think it would be hard to accept \$2 million given that condition on the \$2 million and a \$916,000 loan when I say I could pay it when I know in my heart that I cannot pay it, so I just want to add that to the mix.

>> Thank you, Merriam Krinsky?

>> I also want to commend you both for not just coming here but the job you've done in presenting this and dealing with these difficult issues. I guess I have one question in looking at the coming year. Are there pursuant to your contracts other budgeting calculations that you've done in looking to next year -- are there plans to give COLAs?

>> No, no.

>> Okay. All right.

>> Chief, can I ask a question if counsel is looking at these terms and conditions I'm confused and should probably direct this to Zlatko. Number 4 says our remaining fund balance carried over from this fiscal year subject to the following requirements. And then if you look at B, it says the court may not use any of the fund balance except to meet its obligation to adjudicate all matters that come before the court and the necessary expenses that arise. Do you mean the '12-'13 year?

>> You had monies you have bringing in that fiscal year and whatever fund balance year that fund is used that way.

>> And that means the 916,000?

>> And you ended the last fiscal year --

>> You're not talking about the new money --

>> We're making sure you had --

>> From last year?

>> It's what you had brought in --

>> Okay. So we just absorb that into our regular budget now.

>> Sorry, I'm unclear on 4, subdivision B.

>> I thought that was talking about the \$916,000 use of that money.

>> It brought in a fund balance that will be exhausted. I want to make sure it was spent consistently with any of that in this matter.

>> Okay.

>> Taking the motion that was first made on the floor by Justice Miller.

>> Point of order.

>> Yes.

>> Per our rules we need to deal with the substitute motion first. But the suit motion passes, the original motion is moot. If the substitute motion fails, we go to the original motion.

>> Okay. Thank you for that point of clarification. So it's option number 4? You don't need me to repeat that, do you?

(Laughing.)

>> And we're going to do a roll call vote -- well --

>> The loan.

>> That's right. This is option number 4. We'll just call it the loan.

>> The loan.

>> And I think -- we'll first of all try an aye vote and see where we are. All in favor of option number 4, the loan say aye.

>> Aye.

>> Those opposed?

>> No.

>> No.

>> So it sounds like it carries. Yeah, the substitute motion, which is now the loan is approved with the conditions 1 through 5.

>> Correct.

>> Okay.

>> Okay.

>> The original motion becomes moot.

>> Thank you, point of clarification is taken. That's off the table.

>> Thank you.

>> Thank you, Judge Appel, Rosa, Steven and Zlatko.

>> Chief? On the request for the future, one of the things I would be interested in, is there a way to regionalize like the employment expenses and other things as opposed to statewide?

>> Sure, yes.

>> Good suggestion.

>> I'm sorry. We're going to put our heads together and think about what more --

>> We can put in there.

>> In terms of comparative statistics both statewide and regional so there's a better understanding.

>> We're very different from San Francisco.

>> It depends when the next report comes.  
(Laughing.)

>> Gosh, okay, for our record, I need to take a roll call because we have voting members and nonvoting members and it's hard for us to discern. And as you know, we need 11 votes of the voting members, so Ron will go through a roll call vote on it. Go ahead.

>> Okay. So this is option 4, this is the provision that makes the 916 a loan. And with the other provisions. Justice Ashmann-Gerst?

>> Yes.

>> Justice Baxter is absent.

>> Yes.

>> Ms. Davis?

>> Yes.

>> Senator Evans?

>> He left.

>> Judge Herman?

>> Yes

>> Justice Hull?

>> Yes.

>> Ms. Jackson?

>> No.

>> Judge Kaufman?

>> Yes.

>> Ms. Krinsky?

>> Yes.

>> Ms. MATHIS.

>> Yes some

>> Justice Miller.

>> No.

>> Judge O'Malley.

>> Yes.

>> Judge Pines?

>> I don't think he's here --

>> He wasn't on today.

>> He's absent.

>> Mr. Robinson?

>> Yes.

>> Judge so?

>> Yes.

>> That's it. That's 11 --

>> That's 11.

>> Judge Waters?

>> No.

>> Judge Wesley?

>> Yes

>> Judge Yew?

>> Yes.

>> That's all.

>> 13-3.

>> 13 without the two justices.

>> And without Senator Evans. So it carries.

What I'd ask council to do is take a 10-minute recess and return so that we can hear from Justice ZEE on the status matter.

(Recess)

>> Please take your seats. We're here until 4:00.

>> I said oh.

>> What?

>> I said oh, but great.

>> It's a busy time in the branch. Can you tell the folks to get seated. We're going to get started.

>> Justice Zelon, we appreciate you coming here. The floor is yours.

>> Thank you, thank you, Chief. And thank you, council, I know you have an incredibly busy agenda today but I did want to bring this information to you because it is about something exactly about your agenda today.

There have been four hearings -- I would say they are historic hearings that have been held in the last two months. These hearings came together in the fall, and it was the effort of a great number of people but they were hearings sponsored by the chamber of commerce, the state Bar of California and the California commission on access to justice. And before I tell you who our honorary cochairs were, I want to tell you why we had the hearings. The hearings had to do with the situation where at the same time that the court's budget was being cut by an unimaginable amount, the resources available to legal services which helps people come in to court was also being cut by an unimaginable amount. And so at the intersection of those two cuts lies a true crisis for the people of California. And so what these hearings were about was gathering information to make

the legislature understand that when they cut the courts, they're not cutting some ephemeral, imaginary entity. They are cutting the people and the businesses of California. And that's why our cosponsors came together to sponsor these hearings and that's why we had the hearings.

The honorary cochairs of our hearing began with the chief justice, Joe Dunn from the State Bar, the attorney, Senator Evans, John Streeter who's the president of the State Bar and Armand Chemonkk from the law school and it was a very thoughtful group. The people who came were not the usual suspects. This is not the court family and the legal services family talking to each other as we so often do. These were operative lawyers. These were businesses. These were people who use the services of the Court, often who use the self-help services, the people who come in represented by the nonprofits that serve them and people who make it all on their own talking to us about the double whammy that this is about and the message from the hearings was, people need the courts. Business needs the courts. This is not something that is not going to affect the future of California.

I want to tell you some of the stories we heard because the human face of this is what these hearings were all about. And the human face is going to be what we present in the report that is going to be prepared next month. It will be available for this body and will also be available for the legislature because Senator Evans they were involved in the project they will get the report very early and be able to use it hopefully to good advantage in making others understand what this crisis is about.

So some of the stories we heard. Los Angeles County, a motorist has to wait nine months to contest a ticket. And what that uncertainty means is that they may have job problems and they may have other problems because they have traffic matters unresolved and outstanding.

Some counties from large to small are cutting back on court reporters requiring litigants who can barely afford to come in to court to begin with to cover expenses up front for which for many of them is impossible or have no record on which to proceed. Meaning, they have essentially no right of appeal.

Custody battles are now being delayed by four or more months and in one court, custody matters are now being set for 2013. Who this means to our children is really unimaginable. Small claims court affects businesses and small owners and we've just heard about small claims. People are waiting in line, hours and hours and hours, and sometimes an entire day only to be told they need to come back and begin waiting if line the next day which means they've lost a day of work, they've lost a day with their family and they still haven't resolved their issues.

In one case, a man waited in his courthouse because there was a custody battle, and his wife was trying to take the child away, out of the state. And if he didn't get it filed in time, she would leave, and he'd be having to go across the country to get his son back. The security personnel told him to leave the courthouse at 3:30, a half hour before closing time, and at that point it was too late and the matter could not be heard before his wife left the state with his child.

A dad in Placer County was trying to stay current with child support payments but the amount had been set when he made \$60,000 a year. And then he became unemployed and finally found a job that paid less than -- much less than his previous salary. His child support payments has become fully half of his income and when he filed a motion to modify his child support order, he had to wait a couple months before he could get it set at which point he lost his apartment because he was making the payments. He had nowhere to visit his child. It was a special needs child who lives in another county.

Another father was supposed to have a child over Thanksgiving. He came up from school on Friday before Thanksgiving, but the mother decided not to send the child to school so the father couldn't do that. The court was closed, and he lost his visitation with his child because there was no one to hear his *ex parte*.

A limited liability corporation, a small corporation which owns a piece of rental property tried file an unlawful detainer case. When told they needed to have an attorney, they went to get one, but the court was having a closure week so they couldn't process the papers and at best it would be weeks before they could file the unlawful detainer.

On the other side an unlawful detainer defendant was turned away at 4:00 because the staff couldn't handle it; missed his response deadline and was defaulted.

In July, a Vietnamese-speaking woman came in to temporary restraining order clinic because her boyfriend was forcing her to have sex with him over a period of days. The court did not act that day because of calendar problems. She couldn't return to her apartment out of fear. She found shelter for her and her two children over the weekend at a shelter. She missed two days of work. She worked in a nail salon and Saturday and Sunday were her most productive days in a nail salon and she missed those days because she had to protect her children and her boyfriend had taken her car. The court did finally issue the TRO the next Monday and set the permanent restraining order for August. A Vietnamese interpreter was requested. The court didn't get one. The hearing was continued until November. A week before the hearing, they called to confirm the interpreter and was told no one was available. And so the hearing has now been continued until the end of January of next year. This woman still has no peace. She still has no security and our courts have let her down.

Finally, 65% of the legal aid providers told us that they observe negative effects on their clients from the court funding cuts with specific concerns in family law and children services, including increased difficulty in accessing services and substantial delay in getting orders signed.

These are the circumstances that are facing the people and businesses in California that we heard about over the course of four hearings. And these are what we now know is the human effect of the cuts to our courts and to legal services. And I wanted to let council know today what we had found as you are considering matters in front of you and I promise you that this report will include all the stories that we have heard because this is the human story that has been lost in all the budget discussions today.

I'd be happy to answer any questions if you have any at this point.

>> Thank you, Justice. Senator Evans?

>> I don't have a question. I just have a comment, something to add, actually, and thank you very much for the presentation. It's just heartbreaking to hear these stories and it happens every day. But I wanted to mention in the capital in January or February I'm going to do my own hearing on the impact of all of these cuts. And would love to have access to that information which I guess you're going to give me in a report, and that report will be front and center in that hearing. But my hope is to elevate the awareness of all of the details of what is happening in our courts on a day-to-day basis and the impact this is having on the lives of real people so that senators and assembly members will get that message.

>> And Senator Evans, we have transcripts from all of the hearings. All the hearings were reported by a court reporter as well as being videotaped. So if you need information for that report we can get you those transcripts and tapes.

>> Thank you.

>> Justice Miller?

>> I just wanted to commend you and the access commission and especially Justice Robie for undertaking this and the time and effort you put into this.  
(Applause.)

>> Justice, I want to add my respect and admiration for the work you've done on one justice. In addition to knowing of these hearings and being in contact with people who gave testimony and observing them, I think this is the core of the -- of the message that we need to convey. Instead of sounding like -- in terms of closed doors -- instead of sounding like a structure of closed doors and long lines, it's these stories that exemplify the true impact the we serve and the legislature serves and I would love to have a transcript as part of a talking point to bring to the legislature, to bring a human accounting of what this means in terms of the public we all serve. So we'll be in touch with that and I appreciate all of your efforts. Thank you very much.

>> Thank you. And I'll make sure you get that transcript.

>> Thank you.

>> Yes, Justice Baxter.

>> I think the open courts coalition would also find this information extremely useful, a coalition of lawyers throughout the state that will be lobbying on behalf of the judicial branch.

>> I will be happy to serve as a conduit for anyone who wants the information and making sure that it gets to them.

>> Thank you, Justice.

>> We've captured your testimony, Justice, on video and your hours now in terms of your presentation and Ms. Cozack will follow up on some additional clips that we may want to get in, Ms. Holton as well.

>> Thank you. Kim Turner.

>> Yeah, I just wanted to comment that I was a presiding panelist on the San Francisco hearing. And while we didn't have many litigants come to that hearing, only one young woman presented an issue that she had where access was difficult. What we did here was some foundations, who are also struggling with how to fill the gap that, you know, as government backs away from its responsibility to fund equal access programs and the foundations are trying to, you know, to step up to the plate. Their long-term strategy is to spend down all their money in their trust and to essentially put themselves out of business just funding these programs because the need is so great and the number of dollars is shrinking so that was -- that was a very sobering bit of testimony, but in addition to that, we also heard about many innovative sort of multidisciplinary ideas that I think give us reason to hope that with, you know, silo thinking, more interdisciplinary thinking, more good minds coming to the table to try to solve problems from a number of different perspectives, and to really look at the court as being one aspect or one component of the safety net that -- you know, that's underneath the poor, the working poor, those that are vulnerable -- most vulnerable in our society, that we can actually perhaps leverage these other relationships to create a more seamless system and a better system for those litigants. So I just want to say while certainly the news was bleak on the funding front, the ideas are rich. And that, you know, with a little bit of ingenuity of time and attention, we can actually bring these into sharp relief and try to move some of these ideas forward.

>> I think the great concern -- what we heard from a number of people, innovative programs where community foundations, community groups and the courts have been working together through self-help, through specialty courts and other things are the kinds of things that may fall victim to the budget cuts we're looking at next year when a court is forced -- faced with the choice of keeping a criminal courtroom open or keeping open some kind of -- what's viewed as a more ancillary service.

>> Uh-huh.

>> That those innovative ideas be those things that have filled the gap in to some degree are going to be lost and that was a great deal of the fear looking forward.

>> Right.

>> Can I have --

>> Thank you. Judge Rosenberg and then Justice Hull.

>> Thank you very much for that presentation. You know, at the trial court level, of course, we see this sort of thing every day, but I don't think the public and all the members of the executive branch and all the members of the legislative branch truly appreciate the impact -- I mean, it's one thing to talk about furloughs and staff layoffs, but it's a completely different dimension when you understand the impacts upon real people. It's unfortunate to some extent that the members of the press, the judicial press have left the room here at this moment, but I'm sure that this is just the beginning of a sharing of this level of information, not the end. And I really think it's important to share this information. Thank you.

>> Thank you, Chief Justice. I appreciate the very compelling stories that you have brought to us. The thing that I fear, frankly -- and I fervently hope does not come to pass is, for instance, the Vietnamese woman that you refer to, another woman in similar circumstances -- instead of having to live in a shelter we are children for a couple days, indeed, cannot avoid an abusive husband and one that would do violence to her or her children. And I hope as all of us do that with Senator Evans' help, with your help, with assemblyman's help we can get the attention of the legislature and bring to them this type of message in just compelling way so it doesn't take that type of catastrophe to get attention paid to the problems we're facing here. Thank you.

>> Thank you once again -- oh, Judge --

>> Just one final comment. Justice, as a member of the access commission, I really salute you for your leadership within the commission and the good work on this project, which is important in putting a face -- I mean, the commission is the commission on access to justice and to put a face on that access is an important project and we also thank you.

>> Thank you very much.

>> Thank you once again.

>> Thank you.

>> Next on our agenda we'll address item J, the trial court's allocation for special funds for security system replacement and a mandatory valuation report. This is an action item. We welcome Steve Chang and Zlatko Theodorovic.

>> It's still morning. Good morning again. Yes, a couple of issues that we'd like to bring before the council for your consideration and hopeful approval. First, \$1.2 million for two issues, replacement of certain numbers of wireless systems of emergency response that are in need of replacement as well as funding to do a study required per gas by related to post-employee benefits. 61 systems in 25 courts are no longer to be supported

by a major vendor and, therefore, there will be difficulty in getting replacement parts. While the term says upgrade, it's as much of an issue of lack of a support for the major vendors for the system and, therefore, to the extent that there was a system to go down, our ORES folks say that it would be a week or two where there would need to be possible time gap between when the system was to go down and when they could get parts replaced so there's a certain there if we wait there might be problems in terms of getting those systems repaired.

The total cost is almost \$500,000 of which ORES has identified existing resources to offset some of the costs. They're only requesting the gap between what they can fund internally and the total cost of the \$250,000 level.

The next issue is a required report that is necessary to meet gases by 4345 requirements. One concern we have is the number. I know that during the trial court budget working group discussion there was some thought that the number -- the million dollars was high. We have heard that a number of the vendors are not in the business as they were before and, therefore, we might have difficulty in getting someone at the levels that were approved in the past.

There was also discussion as to whether or not courts could work with their local pension board to get these reports done. We felt that might be a difficult and every court would have to go do that on their own behalf and then would have to fund it in their own budget and we will have to fund AOC to go out and do it for the last couple of years. There's a sufficient balance in the improvement front to do this and we'd request your approval. Are there any questions?

>> Any questions or comments. The recommendation is found on page 1 of your binder under item J.

Every Court would have to do that on their behalf and we're asking and they would have to fund it within their own budgets this way we would have an allocation for the AOC to go out and do it as they have done in the last couple years. Those are the two issues. There is a sufficient balance in the improvement front to do this. We request your approval.

>> Any questions or comments? The recommendation is found on page 1 under item J.

>> I move approval.

>> Second.

>> I have a question.

>> So my question is, on the 61 wireless systems, you say update, but they are really losing their vendor?

>> The manufacturer of some of the parts, this is from Malcolm Franklin, some of the manufacturer, some of them no longer support the replacement parts. We cannot bring them within acceptable time frames.

The lack of support of replacement parts, if they don't do it now if we wait until next year the number of parts may be more difficult to get and the time between when the failure occurs and when the replacement can happen --

>> It's not that they are broken it's if they break there is no comparable replacement part.

>> Right.

>> Because that vendor who made them is no longer going to be in business.

>> I think it's one of the systems where they say we're going to cease supporting a particular part and therefore we have to get up into the newer process.

>> All new system.

>> Yes.

>> It's in fact, I think, it's a little bit more efficient because the wireless system has a greater reach so it's going to be, we don't have to have as many repeater booster signals.

>> When is the vendor going to stop?

>> They said they will be completely eliminated by December 31 of next year.

>> so soon.

>> Yes.

>> Thank you.

>> Any other questions or comments the motion then will be I will take the vote all in favor?

>> Aye.

>> Any opposed? Recommendation and motion carried.

>> Thank you and to the extent obviously it's less than a million dollars we would not just use those funds for any other reason. Just to clarify that with a concern.

>> Thank you.

>> Next is item K the blue ribbon commission on children and Foster care. The implementation progress report not an action item. We welcome Justice Huffman.

>> Thank you Chief Justice, members of the Council. Thank you for giving me the opportunity to address you today about an item that the chief has pointed out does not require action on your part. I wanted to speak to you about the commissions report and its efforts to implement the 2008 recommendations that have been reported to the Council. I want to identify some successes we happily obtained and some of the challenges we have in the next steps that the commission proposed to take. I want to thank you Chief Justice for appointing me to replace Justice it's daunting to replace somebody of his stature and I thank you for the challenge. I should also acknowledge we have two old time members of our commission, blue ribbon commission and I wanted to acknowledge their presence. I have to say in the short time I have had the position of Chair I have been moved by the opportunity to work with people around the state who are working very very hard to make the commissions recommendations to improve the outcomes for children in Foster care to become a reality in California. We learned when the commission first took on the task of providing the Council with recommendations, on how the Courts and its partners might improve the dependency system and the child welfare system there is a lot of work to be done before we can ensure the children in our state have both safety and security and, permanency. I'm here today to give a brief outline of -- give you a brief outline of the highlights we have accomplished in the last two and a half years since we made our recommendations. We have chosen to limit the efforts of the commission to certain areas for a couple reasons. First taking advantage of opportunities there has been a strong political will for change. In the dependency system for improvement. The life of our children. We have taken advantage of that where we could for to get legislation and other advances. second, we know that there is a number of, we had a number of recommendations we could implement with limited resources and

God knows we have limited resources in this system and so, we have kept that in mind. There have been also impressive accomplishments in the federal state and local levels that really do significantly advance the goals of changing the way the juvenile Courts do business and to reform the Foster care system. These accomplishments have occurred despite the very serious economic circumstances in which we find ourselves. I believe that continued progress in spite of unprecedented Judicial branch budget cuts and toughest economic times that have existed since the commission began, demonstrate the power of collaboration, a term used a lot in the dependency system for very good reason. Because, at the present time I can say all of the states child welfare partners, the Courts, the social service agencies, education, health, mental health, philanthropic organizations, Casa, tribes various local advisory bodies have taken the challenge to try to make a difference in this system. It's been heartening to see that the collaboration has grown it has become stronger and that I think we are making some accomplishments in the system not withstanding very difficult times.

But there are challenges and I would be remiss if I didn't identify the challenges because despite our best efforts some things are going to be stalled for the lack of resources and the lack of time. First, of course, the horrendous budget cuts that have been visited on the Judicial Branch. Will effect the ability of the dependency Courts -- dependency Courts. The lack of staff, Commissioner layoffs, all of which we fear will likely result in delays, children facing longer times in Foster care because the Court is unable to process the cases in a timely fashion. And secondly, we frankly don't know how to gauge the impact of realignment on the juvenile tendency Court. The shift in funding for wide range of services to the local level could be a benefit, but the legislation is based upon estimated and not actual revenues and the counties are going to have to be cautious as to how they determine to use those funds so until the legislation is fully implemented, we really don't know how this shift is going to affect the commissions recommendations. Particularly, those that deal with the ability to provide reasonable efforts to prevent children from going into Foster care, and to provide reasonable services. The families during their reunification period. They all rely heavily on appropriate and comprehensive services provided at the local level. Some of the highlights of the implementation effort I'm not going to go through all of them. You have a fairly extensive list in your materials and you can certainly we have what we call our implementation tracker. As exhibit A, attachment A to your materials I won't go through all of those. There are a couple of things in this time so I have something to feel good about however temporary that may be in our existence. Last year we reported the number of children in Foster care in California had dropped dramatically the last decade. We attributed that in part to much more intense focus by local and state policymakers by Foster care which in turn have led to significant innovations in the child welfare policies and practices. At the time last year we said the California had seen a 45% drop in its share of children in Foster care which was accomplished and I think significant to think back about my comments about the reduction of the Court resources. That reduction and time in Foster care is based in shortening the time children spend in Foster care. By having reasonable services for reunification, having a Court system that can timely and promptly act on it, faster we do our job the less time these kids spend in the Foster care limbo. The decline was mostly pronounced among black children who have long been overrepresented in the child welfare system. The downward trend continued the data for 2010, indicates that the

state dropped is now 50% of what it had been at the time we began looking at these numbers. The bad news is we're hearing reports of the numbers begins to rise and we're going to need to address the reasons for that apparent increase. As I mentioned earlier, it's going to be the severe budget cuts not only on the Court, but on the service providers are going to make a tremendous difference on how long again children have to be in Foster care and as we know, budget impacts of this type hit the people that need it the most. Who have the because we can't give them the services we end up having to give them the services within the Judicial system because we lack the ability to keep these kids out of the Foster care process altogether. We also know that under the federal Fostering connections to success act, we were able to get an early boost in the implementation efforts. That act increased the support for relative care givers, improved family finding, provided more flexibility there the use of federal funds, and provided support for Foster youth up to the age 21 which is an important issue for the commission and for our society I think. The legislation provides that matching funds to states who opt into its provisions can be provided. California successfully passed legislation Assembly Bills 12 and 212 and the commission along with the AOC at the Council's direction is actively involved in efforts to implement that legislation. We continue to work closely with the child welfare Council which is coChaired by Diana Dooley the secretary of California health and human services agency and presiding Justice Vance Ray. A bunch of folks that are working hard to make this process work. One of the keys is trying to work with the social services agency, to prioritize Foster children in the line for services and benefits. I had the pleasure of meeting with Justice ray last month, to discuss among other things how we can best collaborate between the blue ribbon commission and the child welfare Council. Blue ribbon is on Court based approaches and child welfare a broader more statewide systemic. We're seeking collaboration. I might say behind those two elderly children who neither had gray hair when I first met Justice ray. Is the world's largest house plant.

[LAUGHTER]

>> I think that was given to him when he was young. That plant is enormous. If you ever get to Sacramento, stop in and see the forest in his office. We have one of the great successes and one of the most important aspects of this process has been the local Foster care commissions within the counties. We have now 40 counties with active local Foster care commissions which were either formed or expanded in response to the commission's recommendations. That frankly is very great news. They are working within their communities to identify and resolve local systemic concerns to address the commission's recommendations and more importantly, to build the capacity for continuum of services to children and families in the Foster care system. The AOC at the direction of the Council, is providing ongoing support to the local commissions, through its juvenile Court assistance team. I have had the pleasure of visiting five of those commissions, since I have been appointed Chair of the blue ribbon commission in order to encourage them to continue their collaborative work. I have been very impressed with the enthusiasm, the extent of the collaboration. This is very much about getting the most mileage out of that last quarter we have in our treasury to make this system work better. When I look at the map, before you, indicating the successful local commissions in California, I'm struck by the sweeping reach of those commissions. Although local

efforts still need support and technical assistance their work is really rather amazing. I was in Sacramento a few weeks ago to visit their dependency delinquency standing economy. I'm really impressed by their efforts under the leadership of the Judge. They are really working ahead of everyone else on implementation of AB12 and 212 with regard to the children staying beyond age 18. It's not just a simple matter it's a very complex legislation and that group, if you have been in this business long enough you can see a room full of probation services, education, Judges and they are working together instead of fighting with each other you know how significant this is. Another key recommendation of the commission was, to improve the Indian child welfare through increased collaboration between the state courts and the tribal Courts and with the blue ribbon commission and the tribal Courts forum we already have promising collaborations particularly in imperial and Humboldt counties.

I'm particularly impressed with imperial county where the Judge from the tribal Court they have made great strides in respecting each other's traditions, respecting each other's Court orders, about the Judge and their group I have to share with you, he told me their commission has no fighting over dwindling resources. I say well why is that? he said because when you represent a county with the lowest income and the highest unemployment in the United States you all know there are not enough on the table to fight over and have you no choice, but to work together on behalf of the county's children and families to maximize the reach of those inadequate resource. That's a tremendous can do attitude which I have shared with every commission I have gone to talk to. If folks in that's extremist say we don't have to fight over anything we don't have anything let's get to work a marvelous attitude. We're getting rapidly expanding educational services one of one briefly mentioned to you including state legislative requirements the college campuses in California give priority in housing to current and former Foster youth and that the housing remain open during the breaks just as a side. It's great you're Foster youth you survived you actually got to college isn't that wonderful? And you got housing that's great. Come the holidays they close it and you can live in your car as your Christmas present. Under this legislation these universities are now making housing available which is tremendous break. So, 57 counties are involved in very continuing collaboration on these Foster youth and education task force. Many of the local commissions are also prioritizing educational services. I know you just dealt with San Joaquin county, but I must say for their local commission they are focused very heavily on education. They have the superintendents of all of the school districts on their commission including the community college district and they are focusing heavily on that and they are also focusing very heavily on exchange of information. One of the last items I want to mention to you is, the problem of exchanging information because of the perceived barriers of confidentiality, of the nature of the agencies involved. Often very difficult to have a meaningful exchange of information about these children. If these are the children that we are responsible for in the Court system, we're not very good parents when we don't know where our kids are. We don't know where they go to school, we don't know how they are doing. We don't know what their health issues are. We don't know what treatment they are getting, but otherwise we're right on the edge of things. So, exchanging information is crucial. The commissions cosponsored a Foster care symposium in October on data exchange and had leaders from across the state who came it was funded by the federal government through the department of health and human

services. Also the juvenile dependency Court improvement program and the Stewart foundation. This symposium employed unique facilitation methods used by the stewards for change to try to begin a process of vision and a road map to strengthen the exchange not just through technology, but better cooperation among these agencies. Based upon that the material is being forwarded to the child welfare Council, their data linkage and information sharing Committee and that material is going to be then disseminated to the child welfare agencies as well as the local Court. What are the next steps? The commission met telephonically in November to evaluate its implementation process and make a plan for the coming year. The Commissioners affirm their commitment to seeing that the initial action plan of the commission is followed through, to full implementation, primarily by focusing in the next year on supporting local commissions that is the laboring war is going to be. And to continue their work on information sharing. Both of these are going to be I think very significant areas of positive change. They also, incidentally approved a new recommendation that is to encourage the reunification of families as we have in the area of permanency often focused on adoption and permanent placement.

The legislative societal priority of course, is on reunification. It is a success when you send children back to a stable family and not necessarily a success when you adopt them out. So that was a new change. So finally, I want to leave you with a message from the Chief Justice that I think is, very

moving. Among the greatest responsibilities of any Judge are children who come to Court as victims of child abuse or neglect. Dependents of the Court become our solemn responsibility and they must be assured every protection, opportunity and due process afforded by the law. We have the opportunity through our actions, and in collaboration with child welfare agencies, to lift up every child who comes before us. Thank you for those comments Chief Justice. They are I can't tell you how important it is in this process to have the strong support of the Chief Justice and the Council as we work with our partners. So thank you for giving me this opportunity to report on the blue ribbon commission and its implementation efforts. The work is critical if we're going to ensure a brighter future for the children and families that come to our Courts. Thank you very much.

>> Thank you Justice Huffman for this. Positive focus, collaborative report in difficult times. But most of all, thank you for your heart, your passion to this subject. And lending your expertise to protect the children of California.

>> Thank you.

>> Any questions or comment?

>> I have a comment and I just want to start out by saying thank you so much for the work you have done and the work of the Blue Ribbon Commission it's been extraordinary. I have been one of the proud authors of many the legislation recommended over the last few years. I just want everybody to know that there is a very very strong, very bipartisan commitment to improving Foster care in the state legislature and that has been true since I was elected in 2004. I came in with then assembly member Karen bass who you may know who became the speaker and now is serving in Congress. Foster care was her highest priority. I have been a member since 2005 when she started the select Committee on Foster care. And, this is something that cuts across party lines. It is something that everybody is interested in and you know I have talked to a lot of community groups all of the time and the one thing that everybody cares about it doesn't matter what group it is they all care about Foster care. If I mention it at all I will get a dozen people talking to me later very enthusiastic about the work that is being done. I think California has made great strides in improving our Foster care system with fewer resources and I'm very happy with the work you have done and to be very proud of it.

>> Thank you senator and thank you for your support. I know very clearly how much you have done to make this work and you're part of the way I said we were happy to ride into gaining legislative approval. The public and the legislature really, want to make this work and um, that's what we're relying on and that's why, don't laugh Judge Miller I'm the ambassador of good will. [LAUGHTER]

>> I just was going to say you know that I know you will find this hard to believe, but, thank you for your heart also.  
[LAUGHTER]

>> You really know how to hurt a guy.

>> I would say if Judge O'Malley had her voice she would retract some of her curmudgeon statements.

>> I have passed the torch on.

>> I want to ask thank you Justice Huffman for so wonderfully filling the large shoes that Justice Marino left behind. I think we're truly fortunate to have had in Justice Huffman somebody who is tireless, whose passionate about these issues and always has been. I think many know, but perhaps not everyone knows that Justice Huffman, in his spare time as an Appellate Justice every year takes time to go and actually sit and adjudicate dependency cases. I think that speaks volumes in not just his personal commitment, but his desire to have eyes on the ground and see what is going on with kids and families. I also want to acknowledge because they are here, Diane NUNN for the center of families children and the Court and Chris Cleary. Diane and her staff are the magic behind the curtain. Diane, Chris, and so many others who enable the good work of the Blue Ribbon Commission. Justice Huffman and others to shine. Without the hours and the strategic thinking and the compassion that they bring to every element of this work, and the vision that organizations throughout the nation are looking to for guidance, this work wouldn't be happening. And finally I want to note that as senator Evans mentioned, we've had great support in the legislature and now Karen Bass in Congress, has recently initiated a congressional caucus on Foster care. I want to suggest that we need to start perhaps casting the work of our commission and our eyes to D.C. Because, given now Congresswoman Bass's energy she fully intends to try to move on some of these issues on a federal platform. What we can't do in our state, perhaps we're going to have now a champion and an ability to continue to do as we saw with the Fostering Connections Act nationally. So I think we really might benefit from some strategic thinking around what might be those opportunities nationally to bring about change. Even if there is a limit to what we can do in our own state.

>> Thank you.

>> Justice Hull.

>> Thank you Chief. I would also like to add my congratulations on this very important work. It is in good hands. Not to make light of that, but your reference to Justice Ray's plant in his chambers he has expressed a concern to his colleagues that after some late nights work, we will find him the next morning with a number of its ten drills wrapped tightly around him.

[LAUGHTER]

>> Thank you again Justice Huffman.

>> Thank you.

>> I am going to take the liberty at this time to accommodate the speaker's schedule and plane flights to at this point, take item A7, I'm sorry K was just had, but item L and A7 before lunch so we will take our lunch from 1:00 to 1:30. I would ask the panel then before they come up on item L I would ask, a speaker to this agenda item to please approach. You have up to 5 minutes sir. Thank you. I just want to say, nice to see you again. I remember you in the legislature.

>> Madam Chief Justice members of the Council thank you very much.

Try not to remember me too much as a member of the legislature.

I'm that guy that got the assembly to study dividing California. However, the Senate said that was not a good idea. Remain a state full of challenges that we're attempting to approach now. Let me say this, since I found an escape plan to get out of the California legislature, I got a job as that I have now as President of the California broadcasters association, I really didn't realize at the time even though I came from broadcasting in my previous life, I didn't realize that California was such a huge media state. Now I speak on behalf almost 1,000 radio and television stations in California. Of course, we have a number of priorities our number one priority, is microphones and cameras in the Court room. And I so much appreciate Chief Justice George for putting together the bench bar media economy which did substantial discussion of cameras and microphones in the Court room. In my back pocket I have an iphone that will eventually take the place and already taking the place of microphones and cameras. However in my lifetime those will not disappear and I have to admit as you know as broadcasters we're quite a bit interested in reality television, but we're much more interested in real television to put our eyes and our ears in the Court room without turning into too much reality television or too much Judge Judy because we know there is a difference between a real Court room and Judge Jude 's Court room, but sometimes real Court rooms offer even more news and information. So, as good Americans watching radio and television, please don't ever stop. We want to continue to get in there. I want to mention you in just a few minutes you're going to hear from the President of the California newspaper publishers association, and I have met extensively on this issue and I started out life as a news reader and then left the California, pardon me left a radio station first then a television station, and found myself in the California legislature where I became even more interesting, to report on television, and then to be reported upon as a member of the legislature. It was indeed, a trip. So now that the bench bar media Committee has done its good work Ralph and I representing all of the newspapers, my representing all of the television stations we want to continue to look at media access to the Court room so vital to us all. We're going to do that without expense to the state and, with the thanks and benefit of the Bench-Bar-Media Committee helping us for so long. I just want to tell you that we want our microphones and cameras and newspapers there because I think America is at a point where for a Judge to say you know I really would like to have you in the Court room here is a pad and pencil to report on this. No we want a microphone and a camera, but we do understand the Judge has to have control of his or her Court room. We'll continue to look at this issue, and if you have any questions, I would be happy to answer them now. Thank you Chief Justice.

>> Thank you any questions, comments?

>> Thank you.

>> Thank you.

>> We welcome the Honorable Justice William Murray. The Honorable Justice Steven Perren. Mr. Ralph Alldredge. All three members of the Bench-Bar-Media Committee and Mr. Peter Allen. Thank you.

>> Thank you good morning to you and to the Council. It's my privilege to address you on a tough issue. Who's difficulty was made evident during the vetting process that went out to the various members of the judiciary and the public at large. A little background and, why I'm here. First of all, as was introduced Justice Murray has been on the Committee I think from its inception as has Mr. Alldredge and I like to thank Peter Allen also for the work he has done in giving guidance, direction and assistance to the Committee. The Committee was appointed as was referred to, by Justice George in 2008. And, the entire background of that is not entirely clear to me accept the recognition for the interface between the media, the bench and the bar in conducts the business of the Courts and the openness of the Courts. I learned of it when I was reading a release from the Supreme Court online that said this Committee has existed. Since I was Chair of the Criminal Law Advisory Committee and major issues being discussed directly impacted I thought the Criminal Law itself and the work we did I brazenly called Justice Marino and said hi can I play too? He very kindly contacted the chief, then Chief Justice George, and I was invited, I thought, to be a fly on the wall. And to watch and offer such as I could from my experience as Chair of the Criminal Law Advisory Committee. A day before the meeting occurred I was asked if I would then conduct all of the meetings. So I went from fly on the wall to elephant in the room. And, it became a thrilling, interesting exciting experience. I was greeted with the Committee of in order Natalie talented jurists. Media professionals, attorneys, be administrator, who were concerned with only one thing, that was the most efficient way for the Court to do its business publicly and openly and for the Courts to work with the media in accomplishing our joint objective of letting the public we both have a duty to serve, honestly, clearly and openly, in the best possible way that is the public of the State of California. We set about our business and agenda had been fairly well set and, it became evident that the points that we're going to be of greatest difficulty were the three that really jumped quite out. And that would have been media in the Court room, gag orders, and ceiling orders those are identified in the materials you have been presented. The discussions were open free arranging and I thought, all directed toward how best the Courts could conduct their services, preserving the integrity of the Court process and the discretion of the jurists to control the Court room while at the same time availing maximum to the jury to perform its duty. The difficulties arose with the scope and extent of access by the media and the one key sticking point was the application made to the Courts for media access and the presumption, concerning cameras in the Courts. The existing rule is there is no presumption and the Judge acts in making a decision the rule as proposed would have changed that to a presumption that cameras, subject to the Judge's control, placement in the rules with which we are all familiar would be presumed to be in the Court room or

have a right to be in the Court room and the bench officer would make the appropriate orders concerning the controls of access, in accordance of Court rules.

Also the gag issue, the orders on gag rules and that is pretty much covered by a case that was issued out of the second district. On gag orders and ceiling orders. It was a tremendous concern expressed by the media that they only lately came to the notion some items were being considered and sealed and they never had any information that any requests were being made. How best could it be accomplished to enable the media to know what was being asked for ceiling. How best could the public be made aware of what was actually just going on in the Court room. The reality that presented itself to me as I listened to this give and take going on. I was not a member of the Committee. I was a liaison between the Criminal Law Advisory Committee and the Bench-Bar-Media Committee. What became evident, was everybody there was absolutely dedicated to ensuring that the public got the best information and best possible manner consistent with the Court administering its duty. What I came to realize and I try to put it in the boast way I could, but in a day and age when every lawyer, Litigant, writer, newscaster and Tom, Dick and Mary on the street carries a complete recording studio, camera, and information dissemination station on their hip, to disseminate fact or fancy in a mille second, it became incumbent upon us to do the very best we could to ensure that the information that was going to the public at large, was accurate, prompt, and prepared by the responsible representatives of a public media that was responsible to the public it served. Too late in the day to talk about the numbers of persons on internet and other information medias who seem hell bent to disseminate questionable information. We have a responsible media that is here to present accurate information to the best of their abilities. It is our duty as a Court and our duty to work with the media to ensure that was accomplish its and I think that is the information that is presented to you and how best we can do it and the recommendation that comes from the Committee is to accept the final report, refer to our recommendations and refer these to the individual and responsible Committees for they're vetting so the kind of problem we ran into and Justice Murray will comment on will not reoccur. I find it ironic and interesting that in 1995, Justice Lukas, Chief Justice Lukas, in convening a Committee and issuing I believe was rule 980, discussed filming in the Court room. The sometime of that speaks to how rapidly the environment has changed and the problems have presented themselves in new unique and unforeseen ways that make it absolutely incumbent on us to make rules to the guidance of jurors and the press so we can achieve a maximum dissemination of responsible information to the public, so it, the people we serve, have correct and accurate information upon which they can form the judgments inevitably they will make. Earlier they said the ultimate reality show on television in the world today, really is our Court rooms. The ultimate reality presentation is made to the 5:00 news and the 11:00 news and we have to make sure we get it right and we're fairly presented. I want to turn this over then to Justice Murray who will address the specifics of the areas of concern with which we are concerned and are presented to you. I open myself to any questions you may have at this time please.

>> Thank you.

>> None at this time, but maybe possibly later Justice Perren.

Thank you.

>> Thank you all for your attention.

>> Thank you Justice Perren. Chief Justice, members ever the Council good morning or good afternoon I think. I will be brief because I know you want to get to lunch and because I have a virus that I guess I understand, my colleague also has so my voice isn't 100% today. Let me start off by saying a lot of work and time went into this Committee both by the members of the Committee and by staff. The Committee completed actually completed its final report last December, December 2010 and hasn't been able to get to you to make this presentation because of your other pressing business. There were three major criticisms of the Committee, one the Committee failed to research and analyze the stated problems and there is some truth to that I think we did not look at the 1996 report authored by Justice Huffman. Two the recommendations on Judicial discretion and media interest dominated the Committee. It prompted us to withdraw some of the recommendations and alter others. It's clear they need to be vetted by other folks more appropriate Committees. I do want to address some of the misconceptions I have heard about the Committee and the Committee's work. The recommendations that originally came out of those that you have before you today, were not driven by the AOC. For example, one of the recommendations that received criticism was a recommendation to install a public relations officer in each of the three regional offices staffed by an AOC person with experience, working with the media. That recommendation was made

with the understanding that would be done when funds were available. Actually that was made first by me maybe sitting at this very Chair, one of these Chairs back in April of 2006, during a Judicial Council discussion about public outreach. The Committee's recommendations were actually developed by all 22 members over two year period of lively discussion and respectful debate. The Judicial Branch was represented by six Judicial officers including Justice perren be careful what you ask for Steve and the combined experience of those six individuals was over 145 years as Judicial officers over 100 years as Trial Court Judges and two of us at the time were presiding Judges. We spoke from our experience and brought depth and understanding to the discussions. The controversy though, generated by the recommendations made it clear to us that, the dialog between the bench, the bar and media should continue and we recommended just that. However as the Chief Justice pointed out the fiscal crisis has forced us to curtail very worthwhile projects and therefore the Committee's work was not extended. I will turn this over to Ralph Alldredge, the President of the California newspapers association.

>> Thank you Bill. I can give a little background that I think might be helpful to people here today. As Bill noticed, I represent the California newspaper publishers association. We have 800 members that includes every size of significance in the state. Before that, I spent 40 years as a trial lawyer. I tried my first case in the City Hall Superior Court. I tried my last case in the courthouse across the street in Superior Court here in San Francisco. In 2008. One of the things that I learned from trying cases, is first that we have a wonderful system of Justice. In this state and this country I had the opportunity to try cases outside of California as well. What I saw over and over again is that, people who came to Court as jurors, in particular, had a wonderful experience so they came way with a better understanding of the system of Justice, because of that participate and they had a tremendous respect for that system because of that. We all know that a system of Justice only works in a democracy. If it really has the respect and understanding of the citizens. And, so, when I got into the media business, 15 years ago, I also got a little bit more of appreciation for the role of the media in that. The Courts can't educate people about the system of Justice by themselves. The lawyers I can say as one of them don't have an interest in doing it accept so far as their cases and their client is concerned. The media are the only ones that can really provide that public education and public exposure that convinces the citizenry that they do have a Court system that is open, that is freely available to everyone. That operates well. That is careful about all of the decisions that it makes that takes into consideration all of the facts before making decisions. And, um, so, when about four years ago, the California newspaper publishers association asked me to look into the prospects of having a statewide bench bar media Committee in the state I felt I was suited to take that job on. I did my research. I looked at all of the states around this country I found very few that had any kind of Bench-Bar-Media, but I found one very nearby that had a terrific one that was Washington state. They've had a Bench-Bar-Media Committee for I think thee three decades and have done a wonderful job. That makes their system of Justice work much more effectively than it would without that. So, when I went to Justice George, Chief Justice George and brought Chief Justice Jerry Alexander down here from Washington to talk to him about it and tell him what they have have been able to accomplish in

Washington Chief Justice George shared that perspective as well. That it was very important to have this kind of a Committee on a statewide level to bring these groups together and ensure that the people of this state felt they had complete access to their system of Justice and it they could see it was working properly. So we embarked on that. We brought in everyone that we could think of who would be representative of any of the constituencies, all of the associations, many of the individuals and we ended up with a tremendous roster of talented people, Judges, lawyers and media people and spent a lot of time working hard to try to make reasonable recommendations that took into consideration, every angle, how this would effect the lawyers, how this would effect the Judges and how it would effect the media. I think we came up, with a good set of recommendations. There in front of you, I want to talk as everyone has, just briefly about one that is not in front of you. That is the cameras in the Court room. All I want to do is say a couple of things about that. First it was with drawn not because anybody on the Committee felt it was not a good recommendation. I think we all felt that there was one I think dissenting vote out of everyone on that Committee when we adopted that recommendation. We went back and looked at it in light of all of the criticism that came there was no suggestion it needed to be changed, but there was a decision ultimately that we should withdraw it because we felt perhaps nievely if we had more time to be able to sit down and talk with the people who were opposing it, to show them that it works in other places and Washington state, the rule that we recommended has been in place in Washington state, for 7 years. They have had no problems with cameras in the Court rooms.

All of their Supreme Court proceedings are televised and most of the Trial Court proceedings are televised and there is very very few cases where cameras and other recording devices are not allowed and it has not created any problem at all. So we felt we could convince the people who were concerned about that recommendation, if we had more time. As Justice Murray said, we unfortunately, budgets are a reality of life and we have to accept that. And, so, we need to recognize that if we're going to continue the work of the Bench-Bar-Media Committee we're going to have to do it in some other way. The need for a Bench-Bar-Media Committee has not changed. We need to have some place where those three important constituencies of our system of Justice get together on a regular basis and talk about how all of them can do their jobs better. Because we can really only have the best system of Justice if all of them are doing their jobs as well as they can be done. So, for that reason, Stan and I on behalf of the broadcast media and the news media, have set down and made a commitment we're going to do our best to put together a statewide Bench-Bar-Media that isn't dependent on public financing and brings together all of the associations and the individuals who are interested in serving and we hope that we have a lot of participation from every sector including people who were opposing the recommendations that we had made before. This is not an effort to develop a Committee that will come in and make a recommendation that has been preordained for any kind of change. It is hopefully a Committee where we can sit down and talk about things and arrive at better understanding of each or and develop reasonable recommendations for ways which the process could be changed to make it better for everyone. On the cameras in the Court room I would say two things one there isn't a choice as to whether or not people are going to watch Court room proceedings on

television. The choice is whether they are going to watch real Court room proceedings or dramatizations. The fact is those dramatizations rather than improving the system of Justice and improving the public's conception and understanding are going to do just the opposite. Just like speed good speech driving out bad and is the only way. We have to have the real thing as opposed to the alternative. For entertainment purposes and others that hurts our system right now. The second thing that I would say about the importance of cameras in the Court room is and it's been mentioned before, you cannot ask 21st century journalists to cover something as important as the Courts with 19th century tools. Our audiences won't accept that. If they don't except that our coverage is worthless. So I say this not to change your minds on I don't know if any of you have made up your minds about that, but to explain why this Committee felt it was such an important recommendation and that we felt we could ultimately if we have the time, explain the need for cameras in the Court room to everyone and hopefully, California can once again take the lead and be a pioneer in this field rather than watching states like Washington out there in front and, in the right direction. I would be happy to answer any questions.

But otherwise I would say, I urge the other recommendations to this Committee. Or this Council. They are important, useful recommendations. I don't think any of them are as important as the cameras, but they are important and they are useful and carefully drawn. And I would invite all of you to participate in a new statewide Bench-Bar-Media Committee hopefully that can care consider on the work of the old one. Thank you.

>> Thank you Mr. Alldredge. Any questions or comments?

>> Judge Rosenberg?

>> Thank you this is not a question it's a comment for the Committee. I think the recommendations are fine I think it's appropriate to have various advisory groups look at them and give feedback. I do, I would be remiss if I didn't make a comment on cameras in the Court room on behalf of trial Judges. I don't speak on behalf of the Supreme Court or Appellate Courts I'm sure they are delighted to have cameras in their Courts. As far as trial Judges are concerned I don't think any trial Judge has a problem with cameras in the Court room, but it has got to be a Judge's decision. You cannot impose a additional requirement of making findings of why they shouldn't be there. I know that's not the current recommendation, but I just wanted to share that with you. Trial Judges are already overworked. They already have all kinds of things they've got to do findings they've got to make. An additional finding and requirement is just, an additional honourous level and honourous burden. The trial Judges are concerned about how in many cases cameras will taint a potential jury so defendants don't get a fair trial. They are concerned about the atmosphere created in the Court room where lawyers start playing to the cameras and jurors start getting intimidated and are concerned about who makes the decision of who is the media? Who have the press? We have bloggers on every corner. Some have wide raiding and wide attentions. These are all concerns that are about and I say this with all due respect. Before I went into law I was in journalism. I appreciate the needs of 21st century journalism.

>> There is not a thing you have said that was not thoroughly and exhaustively discussed in and properly so. Your comments are entirely appropriate. Somehow we didn't get across to the community that we were to serve the depth of that discussion. Secondly, I was a trial Judge for 17 years, and, an attorney in the Court room for 12 years before that. I started when I was 8.

[LAUGHTER]

and um, so, your comments certainly fall on receptive ears I'm aware of that and I often had cameras in the Court room and, I found that the press was always receptive to it. The findings, that you're talking about, you know we have that uncomfortable meshing of the right to a public trial and the control of the trial as we do it. Sometimes it's hard.

But, I'm sure you know and the findings that were necessary Tated or the Judge makes are as the recommendations were reasonable. And I think in vetting it with Judges, and with the bar, I think there is a solution to be found E.

>> Could I just make a couple of comments.

>> Yes Mr. Alldredge.

>> First with the respect to the discretion of the Courts, that's why we went to the Washington example because it works. And the difference, the only difference between the current California rule and what Washington does is Washington creates presumption because there is a public right involved there. It requires there be some reason for that case, that would support some restriction upon the cameras in the Court room and the person proposing some restriction has the obligation of proving that. That's why it was important I think for us to be able to say and I checked with the Washington state Judges on this very carefully, they have had no problems whatsoever, with that implementation of that rule in Washington state. The Judges have not felt there was an imposition on their discretion. What we found, in the responses that were submitted, is that under the current California system, which gives Judges complete discretion as to whether to have cameras or not, many of the Judges who responded, said, why they didn't think cameras were ever appropriate in a Court room. So what that means is, there is no discretion in those Courts that is being exercised today. Those people are making their own rule and their rule is no cameras in the Court room. So it's important to change that so we have the same rules in every Court, in California and that those rules do recommend recognize there is a public right and there has to be something about a particular case that overcomes that public rights. Just as if there has to be some reason why you shut the Court room down entirely and keep the public from being in the back of the room. The camera is no different than another member of the public back there. That goes to the third point the witnesses are going to be intimidated by or play to the cameras. What they found in Washington is that is notice a problem at all and the second is, lawyers and witnesses may be intimidated and played to a live audience, but no one would suggest that we ought to take all of the seats out of the Court rooms and not allow any spectators are there? Finally, I think that the best way to look at this situation is to say, there is a public right to recognize there is a public right and recognize that if you don't have a camera in the Court room, the vast majority of the public does not have that right as an

effective matter. There are 20 or 30 seats in the Court rooms in California. There is no way you can have 20 or 30 million people be served by those 20 or 30 seats in every Court room in California. If it's appropriate for anyone who walks in a Court room to sit in one of those seats how to cannot be appropriate for everyone in California to be able to see the same thing they can see from that seat? Thank you.

>> Thank you.

>> Call the motion.

>> Yes. The motion is to recommendations are on page 2 under the appropriate item one and two. Judge Reuben did you wish to be heard?

>> Just briefly.

>> First of all I wanted to thank the Committee for their hard work. This is an important issue obviously I'm President of the California Judge's association. I was a prosecutor for 20 years I had one of my trials done gavel to gavel on Court TV then and I can tell you that the there are solutions here, to be had. I'm in the sure that at least our perception which we outlined on appendix G on page 359 of your report outline some of other concerns. We are gratified that our suggestions found their way into your final report. We had hoped to be part of the discussion earlier. We hope as this goes forward we'll be part of the discussions later. We think that with our experience we have lots of to offer in this area. We agree that the more the public sees about what goes on in our Court rooms the more respect they have and more confidence they will have in the criminal and civil systems and the branch as a whole. The solution I'm not sure is always in the terms of impinging, but there are solutions out there to be had. With that, again, I want to also, suggest that the Judges of this state have been part of a long history protecting the right of the press and in a robust first amendment. My colleagues on the bench, in no way anything I have ever seen have tried to do anything else. So thank you very much chief.

>> Judge O'Malley.

>> Regarding this issue I have gotten a couple of calls several calls from colleagues who at the time were still kind of working to the lengthy report. I thank the commission for a very thorough and long report. What they are concerned about or what the calls that came to me what the colleagues were concerned about is part of the recommendation is asking that these recommendations be dispersed somewhat scattered among many different entities. Such as Advisory Committees, different divisions, and then there is one reference to a vague other entities not quite sure who that would be or what goals or rules or what things they could do or the authority they would have to accomplish these things and that was worry some to some people about what is going to happen with these recommendations and where they are going to go. What is important is that we want to have some say. As you well learned. Judges want to be, have their day and have their feelings and thoughts you know being able to be vetted on this issue because it's close to home and how we work and where we work. So, with regard to any forward movement,

on any of the recommendations there is just some concern about the vagueness of how these are to be scattered and dispersed and what is to happen after that. What they want to make sure is whatever happens through these recommendations before anything goes forward is that they are fully vetted in whatever form, shape they take after they go off to whatever Committees, entities whatever that is, and other organizations.

>> So are you seeking at all to amend recommendation number two?

>> I don't know chief if you want to form some group to oversee this or, if just going to have them scattered amongst different places. There is a concern about how these on a very sensitive issue how these ideas and recommendations are going to be spread out.

>> Hold on one moment. Okay.

>> I would just make a motion to accept, to follow the recommendation we accept the report and we take it to the next step is what they want to do.

>> Could I suggest a friendly amendment to that? To accommodate your concerns, that number two, we just add the words including, but not limited to the Trial Court presiding youngs Advisory Committee and the Court executives Advisory Committee.

>> Is that acceptable?

>> Yes.

>> Then I will second the motion.

[LAUGHTER]

>> Second.

>> Thank you. I believe Judge Herman.

>> I just joined with Judge Rosenberg and my colleague Judge Reuben this from the CJ board's perspective and I'm not speaking on behalf of the Council, but as a member of CJ board, this, the proposals did raise obvious concerns as this indicated by our response. It was one of the biggest kind of, issues that fell in our laps in terms of the concerns of Trial Court Judges and not just based upon the discretion limitations piece personally I was on my local Courts bench bar media Committee and as a trial Judge, I um, fairly routinely grant immediate requests as long as they are timely.

But in addition to the discretion issues there is also you know in the current budget, arena, with all of the work that we have to do as trial Judges and all of the reports that we have to make and forms we have to fill out, there is just a real burden on the courts both trial Judges and staff in terms of some of the original recommendations. I join with my colleagues as well in thanks you for backs off on some of those recommendations so again, we can have the bench bar media dialog which is important and I salute the idea of a statewide Bench-Bar-Media Committee. Bench-Bar-Media Committee in our

community is worked extremely well in terms of smoothing things out and addressing issues amongst Bench-Bar-Media. So thank you for all of your good work.

>> Thank you. So the motion is, as stated in item one, under the recommendation is to receive the final report of the Bench-Bar-Media and two as amended, direct the interim Administrative Director of the Courts to refer the Committee's recommendations to the appropriate Judicial Council Advisory Committees including, but not limited to PCPJAC and CEAC, the administrative office of the Court divisions and our entities for further study and consideration. All in favor of the recommendation say aye. Any opposed? Of the two recommendations as amended item 2 are approved. Thank you for your hard work on this controversial subject.

>> Judge Perren don't leave we're going to take this A7 so you can catch a flight. Criminal Justice realignment abstract forms and action item along with Mr. Arturo Castro.

>> This is what you called me on?

>> Yes. Yes.

>> We wanted you to catch your plane.  
[LAUGHTER]

>> That was yesterday I called you.

>> This is an action item. Go ahead.

>> I actually asked if I could address it. Thank you very much. I can do this very quickly. The realignment legislation, amended Penal Code Sections 1213 and 1213.5 requiring the abstract of Judgements be amended to comply with those Sections. They made recommendations to this Council on changes to the abstract of judgment. It is not that that I brought to the attention of the Judicial Council. What happened is after these changes, were recommended, a series of emails went out around the state and, I received them I think, Mr. Carlson received them also. And, many sheriffs were not requiring the abstract of judgment. These are a lot of work for our staff. So, what, I emailed I think Arturo I emailed you on that also. The discussions that went around the state were as follows, those that said we should still do the abstracted judgments even if the sheriff doesn't want them are saying the DA uses the abstracts to prove up priors. The attorney general's office is interested in the abstracts going to the department of Justice, so they can review our sentences and send us a dummy letter if we screw up. That's the legal term. The sheriffs may want the abstract because, in case the sheriff has to move somebody to the California department of corrections, California department of corrections won't accept the person without an abstract. And, abstracts are a universally accepted and used form that everybody understands. We all know how to read an abstract and use them. On the other side of the scale is the fact that if the counties do not require it, it is a significant reduction in the paperwork for Courts that are now working

short staffed. This is a potential savings and very appealing to Courts that are running with limited staff. My recommendation is we accept the recommendation of the Criminal Law Advisory Committee, but send this back to the Criminal Law Advisory Committee to look at this issue and determine whether or not we should seek a change in the legislation to make this not a mandatory form, but a discretionary form to be used on cases where, it is a felony, but we sentence them to county jail since the sheriffs don't want them.

>> In light of where we stand now, with respect to the implementation of the reorganization, is it your proposal that we not, that you would not adopt the form?

>> I would adopt the form and send it back to the Committee for further study on this issue to see whether or not, it may be we don't want to change it, but I thought I should bring it to the attention of everybody that maybe, we will seek a change in the legislation so it is not mandatory.

>> Chief may I?

>> Yes.

>> I understand what you're saying by I just have a question.

>> Where do we send the abstract that's the receiving agency. How do you prove priors? Your county comes to me and says we send this guy to prison and to county jail our sheriff is the older of the document.

>> That is part of the 969B package could be a minute order and commitment order.

>> You want to change that?

>> Perhaps Mr. Carlson can adjustment that because he was addressing this issue also.

>> Yes Mr. Carlson.

>> I didn't just receive emails from people I instigated the emails.

[LAUGHTER]

>> My staff came to me and said we don't need to do these abstracts the sheriff doesn't want them. Can I look at the statute it's mandatory right now.

>> I heard from 28 Courts so far and every single one said it should be optional. Only four said they will use the abstract. To me it needs to be optional. We need to figure out what is needed for the -- priors, I don't think it has to be the abstract the way it is now. Because we don't use it for the jail commitments, so, that's why we like going

back to the Committee and saying would you please tell us what you really need to prove priors and I suspect, it won't be the abstract.

>> The information, that is on the abstract, fine. But if we can produce that information some other way, cheaper let us do it that way. That's the request that is going on.

>> Judge Rosenberg.

>> One of the many, many issues that will fall out from realignment and all be sorted out and this may be a issue where the PJ's and CEOs disagree. I have heard most of the CO would rather not do it primarily on the basis the abstracts are a lot more work for staff. I don't believe that. I have talked to some staff who do them actually type them, and it is really not a lot more work. The problem we face as Judges, is that the abstract is a clear, universal document, that records certain things. And this particularly comes into play when you are sentencing someone or resentencing someone who has been sentenced out of two or three other Courts. I recently had such a situation where I'm sentencing someone out of my Court who had previously been sentenced in three our Courts. Without the abstracts it would be very difficult to do that, and don't tell me I can use a minute order. The minute order is very, tremendously half the time I can't read the writing.

>> Judge O'Malley.

>> You are proving them for more than just a five year clean period. You're proving them for the actual prior for any. And lots of ways to prove a prior. We're going to have hearings on your minute orders that my Court can't understand that the lawyers are going to dispute. Where as if I had a certified copy of an abstract of judgment and they submit it on that issue without any.

>> Taking to prison, county jail and having to work with the old abstract form there is no question we need this modified abstract for uniformity, throughout the state, various sheriffs staffs or elected officials don't want it there sentencing somebody to county jail to probation or county prison, and then there after imposing a mandatory term of supervision which is box number 12 in the form, if I were a sheriff I would certainly want to know, whether this individual is coming to me on a grant of probation, or a county prison commitment and how much time I'm supposed to keep them there and how much time they will be on this local parole period so to speak.

>> So, I think the form, is a wonderful tool, the committee did a wonderful job and for the sake of uniformity throughout the state, I don't see we have any choice.

>> We have to let go of the paper. It's not the piece of paper we need it's the information on the piece of paper. If we can produce that some other way it's what we need to do. I'm not saying we produce minutes as they all now exist. My point in asking it to go back is to say what information do we need to prove a prior? How can we get that information in a way. We have systems where the sheriff is getting information from the case management system. No piece of paper goes with the body back to the jail. They look in

the case management system that is a shared system. That's the basis on which they hold people now. I can't believe a county Council is going to say that's illegal.

>> There is some tension in the state and, just asking the Committee to look at this and there may -- I just don't want to ignore the problem floating out there. You're you're right. We're going to get a lot of issues out of AB109. It is full of potholes as we do things.

We're still going to have to address them. If we see them we should look at them. It may be as I said the Committee will look at this and say you know what it has been fine using that we're going to stick with that not going to go paperless, but at least we should look at it. That's my recommendation.

>> Judge O'Malley then Miss Mille.

>> The majority of us are not that. We really rely on paper for now until we can get the CCMS. But in the meantime again, uniformity is really important.

>> I would move that we accept the approval in the form of 7 and addition I don't see the harm in sending it back to have it looked at and having it brought back.

>> You're making a recommendation we adopt 1 through 6 out of C.

>> I move that we accept the approval of the form.

>> Yes, these two things. First of all, Arturo is an invaluable asset and I want him recognized for the unbelievable work he does in the preparation of these forms. (Applause).

>> Secondly, it seems to me, we responded to a question and now you're asking us a question never asked. I'm not sure -- if I were to receive the draft from you or the instruction from you, it seems to me the abstract for the design very well serves Purpose B and maybe you really want to look at, is there another more expeditious list document that can be crafted that addresses the issue of priors. I don't know what the question is. So I think in asking my committee to address the question, the -- I would ask you be clear to us, what is the problem we're addressing? Is it administrative, record keeping or new document that we'll facilitate the proof?

>> It's much more than priors. You asked what information do we need? Well, believe it or not, that two-page abstract of judgment and it doesn't have to be a piece of paper, it can be electronic, but that two-page abstract of judgment contains the information I need, information includes what the person was sentenced for, what the case number was, when it happened, what was the sentence? Was it lower base, middle base, upper base? What are the priors? What are the credits? That two-page form contains all the information I need to resentence or sentence that person.

And as Judge O'Malley indicates, when there's a certified copy, there's no controversy, you do it. We need that form, and frankly, just because a bunch of sheriffs are unfamiliar with abstracts of judgment because they never dealt with them before and they haven't sought the advice of their county council, that doesn't mean we have to say, let's make it optional. We have to have an abstractive judgment from a sentencing judge's perspective.

>> Thank you, Chief, I do appreciate the question because in a way, we're talking about sending it back to determine whether or not there should be legislation pursued to make the form optional. If the answer to that is yes, it begs the question if it is optional, is this discussion suggested, what else should there be? There wouldn't be any sentence to say we should pursue that legislation and sending it back and saying okay, if not that, then what, as this demonstrates? So I don't have a solution to motion, but I do think that the question is a fair question to ask.

>> Chief?

>> And as I recall, many, many years ago, this form really starts with the arresting agency and was supposed to trail the inmate or the defendant all along the process and end up with DOJ creating their records. So to say this middle piece, well, we don't want -- the sheriffs don't need I, I think E, F and G and your former colleague was appointed by Ronald Regan, as I recall, to create this form a long time ago.

>> And he sends his regards. [Laughing]

>> Ronald Reagan, I hope.

>> So it sounds to me like the question, number 7, that's been suggested as part of the motion by justice Miller, I'm not sure I've actually heard a substitute motion to clarify that or a friendly amendment or a substitute motion at this time not to study it.

>> Can I make a --

>> Yes.

>> Judge Wesley, I think to take your motion and break it in two, the first motion we accept this for, okay? And the second motion is, we send it back and say, is there a better way to do business in terms of proving priors, et cetera, et cetera? Is that something?

>> That works for me.

>> I don't have a problem with that.

>> So I'll withdraw my motion and I will make a motion that we ignore letter, A-7.

>> A-7 is in your binder, recommendations 1 through 6 and that speaks to the revised form and my thought was yours was to add a seven that doesn't change or nullify one through six. We proceed with one through six, the form and we have consultation with trial courts and criminal law and decide whether or not this works or we can't or what the situation is.

>> I'm okay either way, but I want to make sure that it's clear to you. So maybe it's better to divide it in two and have a separate motion that adopts one through six.

>> I'm just anticipating what I'm going to hear from my committee as it comes back to us. That's my concern.

>> Moving one through six into the motion.

>> So your amendment, Justice Miller is to move to items one through six?

>> Yes.

>> That's a second by Judge Rosenberg and all in favor?

>> Aye.

>> And one through six pass.

>> And I'll make a second motion and that is that the matter of this form be returned to the criminal justice advisory group for them to further study it, to determine whether or not it should be mandatory, optional or if there are other more economical ways for the clerks to deal with the information that's requested.

>> Is there a second to this?

>> And that would be returned --

>> I'll second.

>> Seconded by Judge Wesley.

>> I would like to speak in opposition. I don't think the case has been made to devote resources of an advisory committee to study this. It seems to me that let the counties make the case. Let them explain to us or the advisory committee, the specific problems involved before we start devoting our resources to something that to me, the case hasn't been made. The abstracts have existed for so long just because the county haven't dealt with them in the past, doesn't mean that they shouldn't. Anyway, I speak in opposition to it.

>> Okay, Alan?

>> Can we make that case to the committee, if we adopt a motion and let us make the case to the committee? Think we can make a great case. I don't think it works the way people think it does. It hasn't for years.

>> That is your counter to the opposition? You can make the case to the committee and any further discussion before I call for the vote on recommendation number 7?

>> Which is what, exactly?

>> Return the form to determine if legislation is needed to change the form to make it optional or as Justice Miller said, if not legislation, some other Avenue of change. If you heard the counter to it, all in favor of recommendation number 7, say aye? And all apposed. We need to take a roll call vote.

>> All right. This is on recommendation 7 to return the form to the committee. Judge baker is absent, jus sis backer no, ms Davis, yes, senator Evans --

>> He's out of the room Judge Herman.

>> Yes.

>> Justice Hall?

>> No.

>> Judge Jackson.

>> He's out of the room.

>> Judge Kauffman.

>> No.

>> Ms Krinsky?

>> Stepped out.

>> Ms Mattia?

>> No.

>> Justice Miller?

>> Yes.

>> Judge O'Malley?

>> No.

>> Judge Pines absent.

>> Mr. Ronson?

>> No.

>> Judge Waters?

>> Yes.

>> Judge Wesley?

>> Yes.

>> And Judge U.

>> Yes.

>> I have six yes and without the Chief Justice.

>> And eight no. Even if I did cast, which won't get us -- we need to get the other people.

>> And you still won't get to 1.

>> We could get to 11 if we have Jackson.

>> If they vote the same way and senator Evans is gone.

>> We have six nos.

>> Our rules say -- are we going to vote?  
(Multiple people talking at once).

>> Right now the vote is six to eight.

>> Do you want my vote?

>> No. Judge Jackson, no. And Ms. Krinsky. What's the rearticulation of number seven?

>> To return the form to the Criminal Advisory Committee, to consider whether there are other options in terms of making it voluntary or discretionary versus mandatory form.

>> It's actually to accept the forms.

>> Not one through six. This is seven.

>> Just speaking to that, there was a second piece that Justice Miller added that the first piece is not what I would have voted in favor of, but the second piece of alternatives to get the same information done, listening to Mr. Karpson's discussion of electronic, that serve the same purpose. Is that consistent with the motion?

>> Just in terms of articulating.

>> I would vote yes.

>> Ms Krinsky yes.

>> And that's seven ayes and nine nos and whether I vote or not, doesn't matter and so the motion necessarily fails.

>> The motion does fail, yes.

>> Okay, motion fails.

>> Thank you all for a spirited discussion. Thank you. Thank you Arturo and we'll stand in recess and we'll reconvene at 1:35.

>> Taking up item M so this is item M. We're back in session on our business meeting. This is the Judicial Branch administration report from the Judicial Council Advisory Committee on financial accountability and efish and I this is E and E. This is not an action item and we welcome back Justice Kauffman and Larry as well as Judge Nadler and Judge Buckley.

>> Thank you, Chief Justice. We're here to make a presentation at the direction of the executive planning committee and I'm joined, as you pointed out by judges Nadler, Bickley, when her scooter gets here.

[Laughing]

>> I would also point out that in order to accomplish the work of the committee, the 19 members, we break it down in our various assignments in working groups and in addition to the presenters we had help of Judge Oliver from Fresno who helped us work through this presentation. The charge that was given to the committee, the judicial council requested a structural and fiscal review of AEO divisions, funding levels and sources, staffing levels, collaboration among divisions. If you have nothing to do this evening, we should be able to get through this certainly by tomorrow.

[Laughing]

>> The committee, the A and E exit committee wants to make it clear we're presenting the information gathered as best we can in a neutral fashion. We are not making any recommendations implied or otherwise. We don't perceive that as a role, it's information gathering. And although we have approval from the council to proceed with the division by division review of the AOC in a much more in depth process, that will be for another day.

We are going to in the order of presentations, judge Nadler will go first and he has to leave at the end of his presentation for an important appointment in Sonoma and he tell medicine he declined to have the helicopter take him. He will be followed by justice oa Larry and myself and Judge Buckley.

If you have questions for the presentation of Judge Nadler, you ask before he leaves because neither of us are working specifically on our divisions. There are been, in order to address some of the issues, there's been a number of questions in our discussions about temporary employees or temps, as you will see them on the various items. We have distributed to you a sheet that talks entitled types of temporary staff and we'll be using that information in the presentation of the various divisions. There's one ie up there, the IDIQ classification and we'll leave that for discussion of the OCCM and perhaps the technical areas of the AOC. The term agency temp in the way you see it are employees of an agency who are hired under a contract with that agency for specific purposes. There's a broad range of uses of those employees, ranging from clerical people to facilities administrators, and also in one instance within attorney. And those are people hired under that process we will report them in the head counts as we deal through that. You'll see also the term 909 temporary employees and this is a person hired classically for a specific purpose for a limited period of time, not necessarily or not an authorized budgeted position, but a limited term position. So some of them, for example were grant-funded positions, people who are hired for the period of a grant to work on that particular subject mat or another example, the human resources division does labor negotiations for about half of the trial courts in California, but there remains a question as to whether that is a question the AOC wishes to continue or should continue and as a consequence, staff have left and they have hired people as 909 employees for the specific purpose of doing that. As you see these numbers approval process, agency require of the executive office and 909 employees require first an application by the division drer for exemption and that goes to finance to check the issue of funding availability and then on to the executive office and since 2008 all employees require executive office approval. To give you a brief overview, we're going to be talking about all of the divisions and we start off giving you some overview numbers that maybe will help you with the context of analyzing where the divisions are so you don't have to have your clarity out to ultimately add up the total. We've picked the five-year period in order to do this, to make it doable within our time and our resources. So we started with June 30th, 2006 through a late as we can in 2011 and you'll note on the slide in front of you, just, for example, in 2006, the AOC had 812 authorized positions and 667 total recognize employees, meaning the people aboard, if you will, if you had a hundred FDEs, you might have 105 people doing it because some are working part time but it accumulates to the same amount of person hours and 33 909 employees for a total of 700, not including agency temps.

You can see the high water mark for the AOC staffing authorized positions was 2009 and as of December 2011, we have 788 regular employees and 31 909 for a total head count of employees of 8189. We then turn to the agency temps to add to that number. Now an agency temp is hired under a master contract with the providing agency and are used for, again, this variety of purposes. So what I have or what we have for you here is June 30th, 2007, 39 agency temp and a total expenditure as of 2011 that was June 30th, was 110 and it's down to 92 and you see those numbers

There have been also as part of our process here, incidentally, as we try to report this information to you, it's a moving target. The AAOC is a living organization that is adjusting to the loss of resources and changes in, perhaps, assignments and divisions have been removed and spread out to other places, so making a linear track not the easy end of all assignments.

Also, there have been recent reductions in the authorizes, these are authorized staffing leveling, AOC is reported two of the controller. They have removed 83, as I recall, positions that were authorized by not filled positions which reduces the number. They've also reduced, then, permanently -- well, under the voluntary separation incentive plan 29 positions have been vacated and those positions cannot be filled for a two-year period. If we then look at the expenditures just very briefly, again, this is only an overview, and we're not going to go through all the numbers, but if you take the period of 2006, '7 and I have two slides. One, including OCCM and one excluding it, and we do that simply to assist you in focusing on what is an apparent growth area so you're able to put these numbers in some context.

You can see 20/0/67, you had 412, roughly dollar budget or funding for the AOC and 2010, '11 it's 554.7. If you then exclude the OCCM and we're doing that again only to give you numbers that you can make whatever compare sons you wish to make, 2006, '7, would have been 375.8 million and 2011, 345.5 million, showing that in the growth area is obviously substantial part in the OCCM, which makes sense if you're taking over responsibility for five hundred plus buildings and running a large construction program. Now, before we finish comments, let me say this process has been a lot of work and we have called upon the AOC staff and we've had total cooperation. We've not been refused anything we've asked for and we have imposed heavily on all of them to produce document after document and answer questions and produce materials. You have in your files a substantial volume of material on each of the divisions and we will of course go over that.

I want to specifically note that Althea Thomas and her staff have been exceptionally helpful, working with us through all of these presentations, putting up with us I think is the bigger part of it.

So we are going to then, as we go through the divisions, what we're going to do in a fairly quick fashion is to review the staffing and the mission of those divisions from that period of 2006, as well as their funding and their collaborative efforts. Regarding questions after this and it is a massive material, again, I suggest if you have questions about the

divisions on which judge Nadler reports, you asks him before he leaves. With regard to other questions, our suggestion you are probably better served to wait until the end of the presentation. On the other hand, this is your request, your program and so I will leave it to council to determine how and when to ask questions. So Judge Nadler, we'll go to you first.

>> Thank you, Chief Justice and members of this judicial council for the opportunity to present an overview of certain divisions of the AOC. As a result of our division of responsibility, I will be presenting an overview of the office of governmental affairs, the office of the general council and education division. Starting with office of governmental affairs, the division director is Kurt Childs and it's to promote and relate positive relations with legislative and executive branch and advocate for the judicial council on legislative budget and policy matters that impacts the courts and administration of justice in California.

OGA assists policy coordination and liaison committee and branch committees to analyze those of interest to the judicial branch and this includes gathering information from appropriate committees and reporting based on that information. The OGA tracks approximately 1,000 court related bills each year, which is roughly one-third of all introduced bills. OGA also advocates on behalf of the council with regard to its legislative positions, including helping to develop the council, to develop council sponsored legislation, work with legislators, legislative staff and others to advocate on behalf of the council and in addition, OGA works with the governor's office regarding various issues.

OGA spends considerable time on budget advocacy and works with the Chief Justice, administrative justice and deputy director, and finance division and it represents the branches all budget matters. This includes budget strategy, coordination of legislative committee hearings and presentations and negotiations with the legislative and executive branch. OGA works to maintain positive relationships with the legislative and executive branches, as well as the state bar and other justice system partners. Some examples include the day in the bench program where the legislators spend a day in court with the judges and districts orientations on the judicial branch or new legislators and their staff at the beginning of each new legislative session and bench bar, a state bar of California, enhances between the judicial and state minority and specialty bar and finally OGA presents workshops to present court staff new laws relative to court administration issues and to help with the implementation of mandates of education.

The total budget was 2,000,138, 462 to be exact. Personal services accounted for roughly three-quarters of this budget and operating expenses and equipment accounted for the remainder. Between fiscal year of '06, '07 there has been a slight increase but the budget has been for the most part quite stable. OGA has 13 full time positions, director, assistant director, three attorneys, three governmental affairs analysts, one supervising administrative coordinator and two administrative coordinators and two secretary positions and of these 13 positions, 12 are currently filled. OGA is currently without a

government affairs analysis and the portion of an attorney. We don't know which portion of the attorney that is.

[Laughing]

>> Between fiscal year 2006 and '07, one and two temporary employees were used but have -- have not been used since fiscal year 9-10 and no 909 employees were used except one during '07, '80. The unique issues regarding OGA, we have, of course, our budget crisis, the OGA has directed the majority of it's evidence to defend the branch against budget cuts that threaten the integrity of the judicial system. With respect to the internal issues of the branch, the OGA spending considerable effort trying to come up with a unified message to the legislature which these days is particularly challenging and consumes additional resources of this division.

And term limits, examples to build long-lasting relationships with legislators who understand the working of the judicial branch is challenging, roughly one third turns over every two years and as a result, OGA spends considerable time in resources forming new relationships and educates new members about the branch and its needs.

In addition to the functions of the division, OGA services implementation of the justice realignment and worked with the government's office and legislature on behalf of council and branch and worked with AOC divisions to implement the legislation. It's the poison of all justices regarding legislative issues on requests and provides up to date information on the status of information and that's noted previously, OGA works with lobbyists and council, including California Judges Association to share information and concerns and to coordinate advocacy on issues of mutual interest to the judicial.

With respect to office of General Council, Mary Roberts is the general council and the purpose of the OJC to provide legal advice and services to Chief Justice, the judicial council, putting advisory committees and forces, appellate and trial courts and AOC. Some interesting statistic, since this council established its litigation management program in January of 2000, all of three but 58 file courts had litigation managed by the OGC and extensions to which various courts lies the services varies according to needs of each court. Some examples, this is the largest consumer of management services, with a toll dais load representing 25% of the statewide litigation provided to trial courts. At the same time, LA has its own in-house legal staff which provides that county with its own legal opinions and has only requested such opinions 23 times in the last five years. Smaller correlates have required a greater utilization of OGC services for legal opinions. For example, venture ra has access legal opinion services 82 times in the last five years and Tolari, 94 times in the last five years. Own one trial court Mariposa has not accessed legal opinion services in the last five years. I've tried to exclude Sonoma from this but I can tell you that it's probably right up there with the request for assistance. Over the last five years, OJC received approximately 1500 requests for services involving legal opinions. The primary units of OJC are label and employment unit which provides advice to the courts and AOC averaging 500 advice matter requests per year. The unit assists in drafting and personnel policies, provides annual legal updates for court and HR personnel and represents courts in the AOC and administrative proceedings, employment

hearings and oversees and participates in internal investigations of claims of discrimination against trial and appellate court and by the AOC.

The legal opinion unit provides gains to trial and appellate courts, judicial council, Chief Justice and AOC on court and judicial administration issues. The litigation management is busy, over 200 claims against trial courts resolved each year by this unit, for approximately 250 lawsuits against the trial courts are managed by OJC, approximately 40 employment-related lawsuits. Unit also issues trial employees and judicial officers and responding to an average of 140 subpoenas and 75 attempted disqualifications each year and finally, the unit manages between 10 and 15 lawsuits against the Supreme Court and correlates of appeal respectively each year.

Real estate unit is responsible for the transfer of 451 trial court facilities from 58 counties to state judicial branch responsibility. The transfers were largely completed at the end of 2009. However the unit continues to provide legal advice and transactional oversight over owned and leased facilities and involved with negotiation of drafting of acquisition agreements and instruction agreements, financing agreements and related compliance issues.

As for funding: The budget for fiscal year 2010, 2011, by funding source is as follows sm . a total of 11.8 million, which is a decrease of 6.8% from the preceding year. The general fund, which is a trial court trust fund involves a budget of 8.5 million. The motor vehicle account, 185,000 and this supports staff to the council advisory committee. And the trial improvement, 1.5 million which supports staff in the regional office assistance group, which is eight attorneys and three support staff positions. And the state correlate facilities construction funds of 12.5 million, which supports staff in the real estate and addition funding is \$1.5 million shown in the financial data provided to you as local assistance and these are the costs of various programs for the trial courts that are paid from the trial court improvement fund and MOD funds, formally the judicial administration efficiency modernization fund.

The budget sources for the local assistance includes a litigation management program judicial performance defense insurance, which is the CJP matters, subscription costs for judicial conduct reporter, trial court transactional assistance program and funds such as that.

OGC has 75 authorizes positions as of fiscal their 2010, 2011 and 64 positions are filled and that includes one 909 employee and eight are vacant at 17.1% vacancy rate and uses five agency temporary employees. The data provided tot council shows seven temporary agency workers, three attorneys and four secretaries and since that chart was completed, one of the three attorneys left and one of the four secretaries left, plus there are five agency temporary employees presently.

With respect to the issue of the unique issues of this division, changes were made effective September 2011, the OJC was tasks with providing support for the secretary function and judicial support. Upon the elimination of the executive office program

division. The 2011 criminal justice realignment act has resulted in substantial workload for this division and in addition numerous requests for court records as a result of the application of 10.500 and OGC working with other divisions is responsible for creating and maintaining judicial council forms with much collaboration with other agencies and divisions.

Examples include collaboration with center for children, families and the courts, working for groups such as assumer attorneys of California, California defense council, chamber of commerce on such projects such as the electronic discovery act of 2009, expedited jury trial legislation and rules for management of collection cases

Going to the education division, this is headed by Dr. Diane Cowdrey. The strategic plan goal for the education division is to provide high quality education and professional development in order to enhance the ability of all individuals serving in the judicial branch to achieve high standards of professionalism, ethics and performance. To achieve the stated goats, the education division provides broad access to all judicial branch personnel, to resources and training in many forms and overall education and training increases the abilities of those that are to provide the best possible service to the pub, leading to enhance, trust and confidence in the courts

The division has more than 300 concurrent education projects, including continuing educational programs, research and guide materials. Some examples, one hundred live programs range from a single ethics course to multi-week course events and 75 online videos recorded lectures in studios or lye events and 60 broadcasts, complex and simple, many of which are later available as online video and 25 video conference programs, several webinars and 14 new complex online courses and ten new bench tools, such as short-job aids, two new bench guides and updates for 30 online courses and 40 bench guides, seven bench books and six bench handbooks. This is a lot of publication and takes a lot of work.

The general or most important unit of the education division includes a curriculum and course development unit. The production delivery and education technology unit, which works with the curriculum and course unit to develop the means of delivering educational content, the curriculum and course unit works with various committees to determine what that content is. The publication and resources unit creates and up das publications for judicial officers, including bench guides. The design and consulting unit provides input as to the most effective way to deliver the course content and the administrative services unit prbl for providing infrastructure necessary to provide the education, including conference rooms and handling registration for programs, off-site facility, contracting and negotiation, copy service, et cetera.

I really appreciate going first. I can see this is going be a good discussion. Sorry I have to leave.

We'll go to funding, general funds budget is \$14.4 million. The largest general funds cost areas include the printing of apparent materials, temporary AV technical support staff which supports the lye events and in this instance education programs, equipment purchases, maintenance and repair of equipment, program and office supplies,

communications which include phone lines for technical support staff, lines for satellite broadcasts, et cetera and contract program for faculty and publication writers in state travel for events.

The special funds, the local assistance funds as you see in the budget item, amount to 1.8 million, approximately, and this consists of modernization fund and trial court trust fund and with respect to this division, this special funds pay primarily for lodging and meals, program apparents, faculty costs, satellite network costs, et cetera, and this is for trial courts, only. This funding is for the use of trial courts.

With regard to personnel, the faculty for education are primarily judicial officers who help design, develop and deliver the education and as of November 15th of this year the division had 92.5 authorizes positions, 94 regular and 8909 temporary employees and four agency temporary employees. Now, the types p personnel can be broadly divided into four categories, committee support, education and needs analysis and curriculum and course development and education design and consulting, division operations, project management, faculty support and course delivery logistics and AOC wide administrative services.

To understand the number of employees is sometimes a moving target and difficult, but if I could use the education division as an example, there are 11 909 employees as of November 15th, 2011 that I included in the description of regular positions. But of the 909 employees, they're not full time employees and they're viewed by the division on a sporadic or intermittent basis and the reasoning was that if those edges were used as needed, they would be considered savings overall without having to have regular employees do those same tasks.

So it's a little bit misleading to talk about the 894 regular and 909 employees because of that number, 11 are intermit tent and used when needed. And finally, some unique issues with respect to this division. The education division works closely with larger courts and a support larger courts own internal education and with smaller budgets, they cannot support their own education, they provide education directly no-to-those correlates. It also developed online resource for training coordinators so they can share their courts training materials and classes with one another and, of course, the division provides the required education, new judge education, including new judge orientation and the Wicken Judicial College and judicial officers, court personnel and court administrators. The has worked with various agencies and I won't go through those in any detail, but a lot of the collaboration had to do with working with local colleges and universities to help to develop courses to train court administrators and the like through their programs so that they can come out and provide services to the judicial and it works with agencies such as the national judicial college, worked collaboratively with that to provide courses and as time served as cosponsor of the programs in California with the NJC. So, that being said, if there are any questions, now would be the chance.

>> Any questions for judge Nadler who won't be staying for the remainder?

>> With a broken heart. Thank you very much.

>> Thank you, thank you for your hard efforts.  
(Applause).

>> Chief Justice, remember if it gets tedious at some point in time, talk to Justice Miller. He's the one that asked for it.  
[Laughing]

>> And I was so nice to you earlier.

>> Don't get used to it.

>> Did the sympathy work? I'm reporting on HR finance and OCCM and I'll start with HR. HR provides traditional HR services to the Supreme Courts of appeal, AOC and habeas corpus resource center. It provides to the trial courts if so requested workman's compensation, 56 of the 578 counties, county court systems do use the workman's comp insurance at the AOC. Payroll services are also available for trial courts if they choose to avail themselves and 27 of our courts do use the AOC's HR division and labor negotiations are available if they choose to use them and 31 of the trial courts use the AOC's HR labor negotiators.

In terms of funding, HR is funded by general fund and '06, '07, total funding was 10-1/\$2 million and 9 and a half came from the general fund and today their funding is \$10.8 million and it's about a 2.7% increase in the last five years. Personnel in the employees and temporary in the HR division has been declining but think has leveled out and we started in the fiscal year ending June 30th of '06, where there are 67 authorized positions and 52 filled positions. As of today, there are 51 authorized positions and 38 positions filled. They have one temp employee now, and temps are not traditionally used in HR. They -- given authorized positions 25% vacancy rate.

The issues for HR, the professionals are well trained in the area of expertise and unfortunately, because they are well trained in the area of expertise, they are at a premium and the public employment opportunities for HR professionals are out there and we sometimes lose employees so keeping a stable force -- there are others that have advantages we are not offering.

Because of the vacancies, it's very difficult, even though HR division uses very good personnel practices to cross-train everybody, with that many vacancies, even with everybody cross trained, there are gaps and some courts have to wait until an HR professional can actually deal with their problems. The other thing it does is provide the other courts, appeal and Supreme Court in primary agents and trial courts that avail themselves of resources and changes in employment law and we know that at least every January, there's a number of changes in employment law and I think it's important for the courts to comply with those laws.

So HR does a good job in getting that information out. One of the challenges, again, for HR is that HR issues are unpredictable and sometimes there's an HR crisis or problem that arises that is unanticipated and resources have to be shifted in a very short period of time. That's true with labor negotiations. What appears to be a short labor negotiation could end up in weeks and months. Terms of collaborative efforts, HR works with the office of general council, obviously on employment law issues. They also work with OGC on training and education for the courts to make sure we're in compliance. They work with finance on payroll cost and employee compensation related issues that impact the budget. And they are currently working with state controllers 21st century system to upgrade that system and the AOC has agreed to participate as an early adopter to aid the state controller's office in implementing this state-wide payroll system. The HR division has decreased in size, but apparently not in workload at least as I'm looking. Many of the services they provide are provided at no cost to the user board. For example, labor negotiations, if the court chooses to use a labor negotiator from HR, there is no charge to the court. Of course, they're free to hire they're on HR individuals. A number of trial courts have indicated they would like to work with AOC to develop a extensive performance management system. That is something they haven't been able to do because there weren't the resources. There is a comprehensive HR system that was rolled out to seven courts. Other courts are interested but there is no funding, so they could provide that service if the moneys were available and courts were still interested. I should have the director is Ernesto and the next division is the finance division. I don't know about the rest of you but Vladco will be on a first-name basis. This is the finance division and the finance division is a very interesting division because it seems there are certain aspects of that division that, for example, in explaining their budget, the appellate court security budget is part of the finance division so the finance division is Jack of all trades willing to accept whatever responsibility. They do typical budget management and support and they're the chief had row kits for department of finance, along with chief justice and director of cores when it comes to dealing with the department of finance and the legislature and explaining how money is spent within the judicial branch. They work with the trial courts to develop financial policies and procedures and developed a trial court financial policies and procedures manual being used in the courts now and they provide audit services for the courts. As many of you know, frequently, quarterly, I guess, we look at different courts in the state. Courts are audited every five years and the finance division is the one that is doing the auditing. There will be a new system of audits when the state bureau of audits. That will be different than the internal audits we've been doing and the finance division will work on working with the various cores as the external audit is occurring. This will be a different procedure and done by people who are not as familiar as the operations of the branch as AOC finance department.

The AOC internal audits have been for internal compliance checks, as opposed to external evaluations, I guess, of the process. Funding comes primarily from the general funds for this division in '06, '07, there was a 4 million-dollar budget and 11, the budget is \$21 million and that is a 30% increase from '06, '07, but as I indicated before, such things as appellate security budget, the CHP budget is part of that \$21 million.

In terms of staffing, there are 104 authorized positions with 91 positions currently filled. In 2006, there were 167 positions authorized and 127 positions filled. They had one temporary employee in that -- in '06. As of today, the number of employees is 104,91 and no temporary employees.

So, in a period of '06 to today, they've gone from 167 authorized positions to 104 authorized employees with 89 employees currently working. Their collaborative efforts include working with office of court construction and management on fiscal issues and work with information services division. They support a wide ranging group advisory group, including the trial court budgeting groups. They have in recent years been called upon very short period of time to play different scenarios in terms of how cuts will be allocated and charges could be also indicated to the different courts and much of their time is spent in these little -- I would call them drills, financial drills on how certain cuts would be impacts and how allocation of funds would impact trial cut allocations and they work with the office of governmental affairs and they interface with executive branch specifically of finance.

Challenges that face this division include basically advocating for our budget with the department of finance and legislature and justifying our expenditures.

There also has been a great deal of effort made to support the various advisory committee materials of securing information and comparables from one court to another and from one branch of the government to another branch of the government. Both of their challenges -- the last division is the office of court construction and management. I think this is the division that was not properly named. Think they should be the office of court management and construction because they're doing a lot of management and not much construction.

They are the facility management entity for the judicial branch and also are the construction capital project managers. In terms of management, they manage over 500 facility and I find it somewhat mind boggling, it's 20.8 million square feet. Hard for me to imagine what 21 million square feet would look like. It's my understanding that in terms of what they manage, they are only managing 3 million square feet less than the department general services for the state of California. So we have a lot of square footage in the judicial branch.

One of the other -- their funding sources are the most complicated of any of the divisions and that's because they receive money from the general fund. They receive money from the state court facilities fund and money from the state court facilities of the committee and needs account and from the court facilities trust fund and also receive reimbursements from the county but the county facilities payments, CFPs that come to the office the court construction and management.

In '6, '7, this is a new one and we took over when we became state judicial branch controlled the courthouses and this division was building in '06, '07, they had a 36 million-dollar budget and today it's 29 million-dollar budget. So that is over a 500%

increase since it began that we went from managing zero buildings to 500 buildings. The majority of the buildings were transferred in '09 and that is when the largest increase in staffing within that division occurred.

In terms of temporary employees, this is where the unique employee, the ID-IQ managers come in and those are individuals that are specific architects and other professionals that have unique talents that would not be your typical employee and generally those employees are contracted directly by the management for whatever purpose they're needed. Currently there are 10 such employees. There are 34 apple one typical temp employees, so there's a total right now of 46 temporary employees, and ten of those being the specialized ID-IQ.

>> You said 34 plus 10?

>> No, 34 current temporary filled positions and there are eight authorized by not filled. So 34 existed and ten, so 44.

>> 44, thank you.

>> Justice Larry, just a question, you said that the number of square feet that the branch is now managing is very close to what DJS is managing. Do we know how many employees department GS has? I'm looking for a context how many employees does I take to do their job, versus how many do we have doing this job?

>> What are the comparable positions to the DGS?

>> Apples-to-apples is what we're looking for.

>> We really don't know -- we tried to get some of that information but really don't have detailed information on that.

>> The structure we have is through the maintenance contracts and that's a different structure for DGS so those 2,000 employees are spread all across the state doing building maintenance.

>> I think it would be helpful in terms of us understanding the work because this is -- you know, this is an area, you know, I think perplexing to some of the trial courts and perplexing all the way around so if there was a way to get the information -- I don't know if you can get it from the state budget book as to how many folks or electricians or plumbers and, you know, framers and you have at DGS and the folks we have at our own OCCM that would be helpful.

>> By the way, in their capital division, while at least a couple of years ago, I believe they had 70 project managers, so most of them are still there right now. And now we're doing more in our capital program than they're doing, and we have a total of -- including the IDIQ, we have about 20 project managers.

>> Wow!

>> Doing more work than they are now.

>> Okay. Thank you.

>> Thank you.

>> I'm not trying to slough off work but just the scope -- the scope of what we were asked to do was to find out what each of the division was doing, with a their historical funding was, what the historical staffing was and what their challenges were. We were not asked to do a comparative. That may be something that the council wants us to do it. What does it cost them to do it but I apologize for not -- we only went as far as figuring out what we're doing, what it's costing us to do and how many people it takes to do it and what our challenges are, so --

>> I think that's plenty for now.

>> Yeah.

>> Allen Carlson?

>> Can you along those lines on the accountability because it's not apples-to-apples because the way we're structured but can you turn it to dollars. What dollars per square foot that DGS is doing to spending? I know we're really low as was evidenced with the mouse pad but it would be interesting to see.  
(Laughing)

>> If you can't compare the apples I think we can compare the dollars that are being spent. I think that would be good for us.

>> Lee, do you have something to add to that.

>> We're doing exactly that, Allen. We'll see what they are doing for OCCM and they spend about 1.28 a square foot a month for their OCCM, that includes utilities, all of their staffing, utilities, janitorial and we spend considerably less but we don't do things like janitorial. That's for the courts but we are in the process as we speak to get that comparison of numbers. I do think that we'll be less than them.

>> Thank you, Lee.

Any other questions or comment? Thank you, Justice --

>> Following up on this idea, I think is -- it would be a valuable exercise to actually do that apples-to-apples comparison at some point. I think unlike other divisions of the

AOC where we kind of understand what a finance division does, you know, we have some experience that goes back a long ways. OCCM is one of those areas where we don't have a lot of experience and it would be good to see what's going against OCCM with a comparable agency. I know the numbers are elusive and the staffing is elusive in DGS but presumably all that information -- I think it would really kind of enrich our discussion especially as we come upon a new budget year and, you know, we have to look at all these issues all over again.

>> I think Justice Miller at E & P says if you have a problem question or answer you can refer it into E & P. He knows we're looking at and A & E is doing some further book and I know you will be having some discussion about that and this is just one of those to add to the list to something we could add to the -- refer to A & E for the future.

>> Are you listening, Justice Huffman?  
(Laughing.)

>> Uh-huh?

>> OCCM works with all the courts there, their managing facilities and they work with the AOC, they work with everyone really in the branch. One of the things that I think is interesting -- one of the operations they run is a call center. They have a 24/7 call center that enables any court to contact the AOC facilities division for any facilities need 24/7. They get 8 to 10,000 calls per month and they have 6 staff members that staff it. And most of it is done via email.

The other thing they do is they have developed standards based on the building operations and managers associations, standards on when things should be replaced and when things should be maintained, and they try and apply those industry principles to the entire branch and all of our holdings, so --

Next, I guess, Justice Huffman. I know I'm a tough act to follow.

>> Can I use the scooter?

>> No.

>> Sorry.

>> You can rent it?

>> Yeah, I can't afford it.

Well, thank you. First of all, with regard to the issue that was raised, the executive committee has authorized the A & E to begin the process of divisional reviews more in-depth and comparatively. We have targeted the trial court administrative services division as our starting point simply because it can be directly related to the trial courts.

We can get independent evaluations from court executives and at the starting point we will look to the executive question so the other of executives they want us to look at and we will undertake that as resources are available. I'm here to report on several divisions. First of all, the executive office headed by our interim administrative director Ron Overholt. There has been an reorganization over recent time over the executive office division was removed from the executive office and the executive office for our purposes here really consists of three functional areas. One, the executive office itself, which is headed by the administrative director and performs the constitutional functions of that office working with the judicial council, the chief justice establishing -- assisting in the establishment of grants priorities, also responsible for the development of the AOC programs and the supervision of the entire AOC branch. Its collaborative efforts go through not only the judiciary but the legislature, the executive branch and multiple private entities in addition to that.

The administrative office -- executive office itself is small with six authorized and unfilled positions, the 2010-'11 budget is 1.82 million of which 1.76 are general fund money in the administration of justice fund of \$65,000. The unique issues with regard to that division is what it is. It is the management of the AOC and it's unique in that context.

It has also two functioning units within it. The first one to discuss is the office of emergency response and security, which is headed by the senior manager Malcolm Franklin. That division or unit was created in 2005. It's a small unit within the executive office division. It's responsible for the council's work on ensuring safety and security in the courts and developing emergency and continuity operation plans for times of crisis. It provides specialist advice, expertise and programs and services to the superior and appellate courts and to the judicial council upon request, and areas of physical security, personal security and emergency planning.

As pointed out, their budget does not include the CHP court security program for the appellate courts and the Supreme Court. That is housed elsewhere. Farce personnel of the current time it has nine positions three of the positions are general fund. One is vacant #30E6 I'm sorry. It has 12 funded positions, 11 of which are authorized and 9 are filled. They have one apple 1 temporary position. The unique issues with regard to that division is that it deals mostly with requests with advice and assistance with the trial courts. It administers programs to provide equipment and exclusively through the trial courts and most requests require some travel itself. It works extensively with OCCM, the architects and construction companies on the security planning infrastructure and design and working plans for Capitol building projects underway. It works with the courts, the sheriffs and the probation departments.

With regard to that unit in 2005 when it was created, the budget was -- the general fund budget was \$104,000, trial court improvement fund of \$3 million and facilities, 250,000 are a total budget of 3.7 million. In 2010-'11 with the nine FTEs down with the 10 that were in 2009-'10, they had a personnel budget of 1.34 million. And a lot of these -- each one of these they have an operation and overhead and expense budgets which include rent, the one thing in this process rent for the AOC facilities has consistently gone up each year. Rent is paid to the general services agency. Currently, it's funded with

general fund money, trial court improvement fund facilities trust fund for a total of 3.7 million. It also contains money in that budget for what's called local assistance, \$1.9 million, which is used to provide camera systems, alarm systems, card systems and some screening equipment for the trial courts.

The other unit within the executive office is the office of communications headed by senior manager Peter Allen effective September of 2011, that office was transferred from the executive office programs division and combined with a public information office to become this particular single entity.

The budget for that office, if we can go back and trace it in its earlier iterations in 2006-'07 was 2.6 million -- I'm sorry, 2.06 million in operating personnel expenses which compares in 2009-'10, it had reached 2.29 million and by '10-'11, it is 1.776 million. Staffing has -- again, if basically, as we track it, it had 20 filled positions in 2005-'06. As of -- as of the current time, it has 13 filled positions, three temporary positions. The staffing for that division has stayed fairly steady throughout that particular period of time. Of course, the office of communications works with the chief justice, the judicial council, administrative director. It involves communications throughout the branch, media relations, web selections, video productions and collaboration, fairly active involved division.

It collaborates as I've indicated with a broad range of entities within the branch. Turning then to the -- you'll notice incidentally something I think that's illustrative of our judicial branch, our two trial judges have extensive detailed, very careful organized PowerPoints.  
(Laughing.)

>> The appellate justices on the other hand, are still thinking about it.  
(Laughing.)

>> It's our age.

>> Watch it. I can't take you any place.  
(Laughing.)

>> Turning to the families and children court it was in 2007 with a merger with family Court Services and the center for children in the courts at that particular time. It is a fairly complex division that includes a range of activities including education, training, management analysis, reporting, program evaluations, self-help services. They engage in staffing the family and juvenile advisory committee, such groups as the open task force, the domestic violence task force, the self-represented litigants task force, the blue ribbon commission and a myriad of other activities.

Their budget in 2005-'06, was in the amount of approximately \$65.47 million. However, a good share of that \$49 million in the trust fund was again money for trial court activities. By 2010-'11, their budget is \$95.7 million which includes \$78.7 million of,

quote, local assistance. That is principally in the area of dependency council that either is paid directly by the AOC through the draft representation program or by reimbursement to the trial courts for their actual expenses, independent council representation.

Their current staffing level -- in 2005-'06, was 65, FTEs at the time it was 75.7 FTEs actually working in the CFCC, 3 point working in other decisions and 909 employees. In regard to this division in particular is its funding sources. Of the FTEs only 18 are directly funded by the general fund. And one is funded -- additional one is funded by the general fund through reimbursement having to do with the collection process for the -- for the Court recovery -- cost recovery at the year end.

The remaining are funded by such entities as the arch known foundation, the federal office of violence against women, California endowment. The family law trust fund, federal trust fund and a variety of other activities.

In addition, it administers substantial amount of money paid directly to the trial courts for various activities. Last year they funded -- I'm sorry, they administered \$165 million that was funded for trial court activities, in things such as child support commissioners, family law commissioners, self-help centers, court-appointed and now dependency and a variety of other activities. In collaboration I suspect you would say is the first name of that particular division since it works extensively not only of the AOC divisions, the trial courts, the various task forces that I've identified and almost all aspects of the child welfare process. It is headed by Diane Nunn and I'll turn to the court programs management services division which is the recipient of a substantial portion of the executive office programs division. Again, to make some of these comparative numbers from 2005 to 2011 a little dicey because they took over a substantial portion of the executive office programs. This division as it is now then was formed in December -- in September, 2011, with the merger of the appellate and trial court judicial services division with much of the executive office programs division, which was a merger designed to promote efficiency within the AOC and create a division with a specific and focused mission with serving the direct administrative operational and programmatic needs of the trial and appellate courts.

Again, tracking funding for this becomes a bit of a challenge because it was a small organization as it was. The appellate and trial court divisional services division with 5.1 FTEs and a \$2 million budget. It also at that time administered over \$22 million in the -- as legal assistants which marine mostly the chief justices assigned judge program as administered by that division and the funding is placed in that division for the payment of the assigned judges.

By 2011, the division -- it is now a larger agency attempts with a budget of \$10.3 million and \$26 million in funding for the chief justices assigned judge program. The staffing at this point has changed to the best we can determine 58.6 FTEs of which you have 55.4 regular employees, 3.6909 employees and then in addition to that, there's three agency temps. This division has, of course, the collaborative issues of working with the trial and appellate courts and particularly with the -- and with the chief justice with regard to the

assigned judge program and provides services essentially directly to and for the benefit of the trial and appellate courts.

Lastly, for me, is the trial court administrative services division. And, again, tracking the numbers in your material becomes a little difficult because the Phoenix system, which this entity has, was originally placed in the north central regional office fund. And if you follow the regional offices, you'll see money in that budget that is now not there because that money was transferred to this division and the purpose of the division is to provide pursuant to the judicial council's direction a comprehensive administrative infrastructure services for the trial courts. It manages the Phoenix program which provides transition assistance for trial courts moving away from county stewardship to judicial branch financial and human resources system. It provides day-to-day direct services to the trial courts including accounting, financial services, trust accounting services, centralized treasury, court business analysis, training and support. It designs, deploys and maintains the Phoenix system which enables the courts to produce standardized sets of monthly, quarterly and annual financial statements. Is involved heavily with the trial courts. As of the present time, the budget for the 2010-'11 \$16.2 million of which 5.5 are general fund aids, trial court, and improvement fund and 530,000 of modernization fund. As of October of this year, the division has 95 authorized FTEs and one noncontract temporary employee. But currently 11 vacancies -- I'm sorry, the court, the division has 84 employees including a 909 employee.

The unique issues of the division, of course, is that it provides these daily shared services center for the Phoenix program. It is comprised of -- well, the division also engages, as I say, in the daily activities of working with the trial courts. It provides fiscal advice and assistance, accounting advice, the Phoenix system stabilization, bank account consolidation and a myriad of other activities done by this particular division, so --

>> Who's in charge with the trial court --

>> Oh, you want to know that too? Curt Soderlund is the director of the division. Let's turn to judge Buckley for a much more organized presentation.  
(Laughing.)

>> Good afternoon, everyone. As I look out, I'm reliving my 32nd DUI trial where an officer is testifying for blood-alcohol content and sort of glazing over.  
(Laughing.)

>> I'm very lucky to do a lot of teaching, judicial teaching with the talented people at CJRK and I show a lot of movies where I teach and my kids who are in college are amazed, dad, you show movies? And I said, yes, to break it up and so forth. I think you all would love on my cousin vinnie excerpt right now, all right. Yeah, don't be so enthusiastic I'm talking about the regional office, information services division and something called CCMS.  
(Laughing.)

>> Not only do they give the new kid on the block the last spot but they gave me CCMS. Let's talk about the regional office. I want to echo Justice Huffman's comments that the directors were just fabulous in providing support starting with Jodi, calls while they're calling, emails at night and calls at 7:30 in the morning so I really appreciate that.

The general purpose is to provide support services for the courts in that region, improve access and responsiveness. Here's a visual presentation I'm sure you've seen it that breaks down where each of the three offices cover and they're referred to as northern central or Sacramento. Probably -- I'll talk about more where they are located. Within each regional office we have the administrative director, the court staff, special program units which I'll talk about very briefly, other AOC division staff and then also staff and contractors working on statewide initiatives.

I should comment that with the change of the regional office this year, there is now only one regional administrative director rather than one for each of the three offices. And with that, we get a reduction of two people and the cost-savings there.

In looking at the special program unit for safety of time, you pretty much look at the names it describes it. The Community Corrections program in San Francisco is mostly fairly funded. The unit in Sacramento is looking at ways of best practices. The enhanced collection unit in Burbank spends a fair amount of time trying to enhance -- the name, the collections through the criminal system.

After the staffing, I understand that y'all received a PDF file that if you look at the top left corner it's 343 pages. So for the final exam, this is on Page 131.

(Laughing.)

>> But in all seriousness I think it gives a good breakdown if you can't read it quite well there. I did emphasize what this staff really does is bring a generalist approach to the -- many of the divisions. They have a special team. They stay with it. These people have a wide range of experience in training and Court Services, finance? Legal facilities? H.R., emergency response, security and courts. And when you go into the body of the material provided to you it is very enlightening as to what great services they provide to many of the courts throughout their regions. In 2008 the CEO requested some help on the integration of their new criminal justice management system because it was not able to integrate with the justice partners so they went out and really served as a consultant and so instead of the court having to pay a fair amount of the consulting fees, the regional office provided that through no cost to the court.

>> In looking at the special program units, you can look at the name and it describes it, the corrections program and San Francisco is mostly federally funded and the engineering unit in Sacramento is looking at ways of best practices. The enhanced collection spends much time -- the collections through the criminal system. As of the staffing, this is on page 1.31, think gifts a good breakdown and if you can't read it there, I would emphasize with this staff does is bring in a generalist approach to the many other divisions have a specialty and stay with it and these people have a wide range of experience in training and court services, finance, legal, facilities, HR, emergency response, security and court. And when you go into the body of the material provided to you, it is very enlightening as to what great services they provide to many of the courts throughout their regions. Just to

give you a few examples, some of which you well know since you may have been involved in authorizing it, Hombolt in 2008, the CEO requested some health on integration of their new criminal justice management system because it was not able to integrate with the justice partners. So the regional director, so instead of the court having to pay fees the regional office provided that at no cost to the court.

In Sacramento, through its judge, asked for assistance with a CEO issue and the regional director became the temporary interim CEO for three months and for awhile, they were on fiscal ultra-site and for the help regional office got out. CR County has used the regional office for courthouse proposals. Santa Barbara allows competency hearings to be conducted through the state hospital.

We could go on a long, long time but we don't want to glaze you any more but it is providing excellent service to many of the courts within each of the regions. The other users, if this helps at all, all three of the regions we have the office of council, the finance HR, security, office of emergency response and office of court construction and management, in each of the three office and I'll give you more mental picture of what that means.

In Sacramento, in addition to trial court services division, housed in that office, and then in Burbank, CCS and we'll talk about the TMO is there. So again, quite a bit of use of those offices. This is my request of Jodie and let me get a better picture and if I walk you through it, when you look at the location of San Francisco, there's 618 people that work within that region office, physically work in that space and four of them are staff members, and two are the special projects so second to last column, number of staff in the San Francisco office that actually work for the Revenue office include special project are six people under 1% and therefore are actually working for the regional office in San Francisco.

I know 187 people in Sacramento and Burbank, out of 61, ten or 16.3%. Again, quick mental picture here for you, in Sacramento, as far as the space, including the conference center and the special units, but 11.6% of the total space a used by people working for the regional office and only 1% in San Francisco and keep in mind San Francisco does not have a conference center space and Burbank, 26.5%. So if square footage is used by people working there.

And Justice Kauffman explained with the Pheonix project there are historical funding issues for the regional offices that make it difficult to compare five years ago to now. So through 2007 and 2008, it was located and funded through that office and then up to this year, 2011, '11, CCMS was funded and run through the southern region.

So again, I don't know if this helps, let me give you a chart that walks you through it. As to the San Francisco and Northern California, if you look at -- again for the final exam, page 13 # of the PDF file, the number, therefore, that San Francisco office is 1.348 million for the fiscal year 2011, 2011 and if we take out the program that's housed there, the committee corrections, the budget we have for that office is 850,000.

In Sacramento, we have two things to look at. Starting with \$1.7 million budget, \$90,000 is budgeted for the reengineering of that specifically for that region. There's also approximately \$2,000, the best estimate that they could give me, as to AOC utilizing those people in that facility for AOC reengineering. So that's about roughly \$2,890,000. And then the Nevada County I mentioned a moment ago was in their budget for \$675,000, so approximately the budget specifically for Sacramento is \$800,000. And southern division break-out for the program is 1.1 million.

We'll move on to information services. Again, we have overlap so it makes it difficult to point this something specific to certain items but nonetheless, it provides application services, infrastructure, technology expertise, full life services of the cycle of technology and the operational of core services. If you look at starting page 238, where it talks about organizational structure, they give great example and to give you a mental picture, reference to case management systems, and one example is ACCMS, the appellate court case management system which therefore run for stream court and all appellate systems in ten locations.

As to the enterprise resource planning, that includes work being done by AISD for the Phoenix project and also connected to justice talked about with respect to the management of the construction facilities, this is a software that covers 533 buildings, web-based application used by everyone that when you make 8 to 10,000 calls a month. CCMS deployment, self-explanatory and under technical infrastructure and user support, hardware operating system and software, for the Supreme Court, District Courts, AOC and the Judicial Council.

Also the program, which is a network infrastructure, 53 out of 58 courts use that and as far as 55 out of 58 courts use it. I'm sure you're familiar with the centralized data center and I'm sure you heard quite a bit about that. As to staffing, it comes to 133 authorized positions. Again, as judge talked about I can't answer 1.2 missing person but 1.088 are filled and the -- there are eight agency temps and also 87 contractors and I'll show that to you in a moment and then as of September 30th, there were 14 agency temps and now down to eight.

Here is a list, I won't read them all for you, I'm not going to describe much of them but gifts you a quick mental picture of the contractors of the 87. You'll see quite a few on this slide or with CCMS including deployment, V2, V3, et cetera and the next slide, things such as protective order registering and the bottom one enterprised methodology, you get numbers where these contractors are. And this slide ends with the most being seven for sustained which is individual courts.

Here is a quick look at the finance again with keeping in mind CCMS works through this budget as well as others. You cannot get a good historical picture, but I did include on the right column a quick reference where pretty much every line item has gone down since 0/9/10 with respect to '10, '11 fiscal year.

Moving on to CCMS, I don't need to talk about purpose. Focus on policeman, management office, what's responsible for, day-to-day management of CCMS, application development, et cetera, as to the maintenance; support and hosting of CCMS but also service staff to the executive committee and three advisory committees relating to CCMS.

Here is a break-down over the personnel of the PMO, project management office, they are authorized spots. As we speak ten are vacant and ten temporary staff are being used and I'll show you a quick reference and 18 contractors are being used in addition. This slide, again, page 166, for the people that are looking at it, if look at the red lines, those are the vacant spots so you can see that they are in the development unit, the project management unit and trial court services unit as to the ten vacant spots. Of the temporary staff, at page 9 of the PDF file is the human resources matrix summary, just for your information. That provides 30 positions for PMO and breaks down what those are to be, three administrative staff, et cetera. Of those 30 positions, ten are concurrently being filled and there are three administrative staff, several product testers and I can give you specific number and descriptions if you wish, later on.

As to the contractors, here on this slide, so there are two this the manager position and seven in testing resources and this pretty much coincides with the Deloitte. Moving on, transport position, support to AOC and it's anticipating this contracting approach will say 5.3 million through 2013, 2014. If you look at the budget for CCMS, keeping in mind it comes in various spots, the bottom line number for 2011 is 62.2 million and keep in mind -- I can say this my college roommate was a accountant and my wife is CPA -- do you know the definition of outgoing, looks at your feet not his or her feet. So looking at this number, I know it's there, but look at the number in three different ways. As far as the funding by division, about 11 million is through the seven offices Burbank and 29.4, through PMO office and information services has 21.6 in its budget that adds up to 62.2. Another way of looking at that same number as to the program you by fund, and you can see here the general fund is .5 and a majority is in the trial court trust fund, adding up to 62.2 and by program area, this is in the break-down provided in the material, it provides how the project costs versus the interim case management systems because there is a distinction with the people involved in this B2 and B3 and a certain approach of accounting and you know this probably better than I do, versus the ongoing development and deployment.

Look at the second line, the CCMS development of V4 of 20.7 million, if you want to break down of that, it's provided on this slide, among hosting, professional services, trial courts, a staff and governance and back to that other slide, as to deployment of the past year of CCMS of 13.5 million and the break down and professional trial courts and stuff.

>> My questions or comments?

>> Yes?

>> Yes, Justice Hall.

>> My question is directed to Justice Kauffman. Do part of the committee's charge in this effort to look at the AOC from a strict organizational standpoint, in other words, what I learned many years ago and most of which I have for gotten organizational theory, one organization A has a certain purpose and organization B has another purpose. A is organized this way skids efficient and B is very efficient and it's very efficient but if they had -- if that was crossed, they would be very inefficient and I'm wondering whether or not that's anything that your committee has looked into. I know this is an interim report or will look into, as I say, under the heading of organizational theory.

>> It can be done better. I think without tying it to organizational theory, as such, our charge, of course, this charge was simply to gather information and present it and we've attempted to do that without drawing inference as to whether something is good or bad but rather it is what it is.

We interpret our charges was we begin, we have two projects that was illustrated, that A and P looks at all non-construction contracts, consulting agreements, methodology for issuance and approval and a group that is working through that and we'll come back to council through A and P and make recommendations to any and from the standpoint, again, of the accountability and financial efficiency of that process.

The next step in our charge as we believe it is to look at ultimately all of the divisions of the AOC from the standpoint, again, of financial efficiency and accountability. Are we accountable for what we're doing? Two, is this a financially efficient way of doing business? We've tried to stay out of what we think is the area of the strategic evaluation committee that's going to be making a report, which we think we understand will be more focused organizationally, governance-wise and perhaps from a policy perspective. Our charge, whatever your structure is, is to look at it and say, do we think from a fiscal efficiency perspective, this works, doesn't work or we may make comparisons, for example, if and when we are asked to look at the OCCM side of building maintenance, for example or those costs. We may have to and find out what general services does, what federal does and what others do, to try to see if we can draw any inferences which we would then bring to you. That's a long answer to your question.

>> I appreciate it very much. Thank you, Chief.

>> Thank you. Judge Herman. This is the 2010, 2011 so the 62 million is not the 14 million that was authorized by the council for this fiscal year and you saw in there 21 tester positions, as well as one additional tester position and those positions are obviously gone from CCMS at this point, since we've reached the product development phases is over. And those were temporary employees that existed throughout the four-year development of V4 down in the orange county office on a daily basis, testing various aspects of the csm CMS product, so --

>> Thank you.

>> But I think, the full CCMS budget includes V3, V2, maintenance and operation and other aspects, not just the 14 million-dollar deployment aspect to it.

>> Correct, which goes to that last slide that broke that out, yes.

>> Thank you. Any other, Justice Miller?

>> And you know how hard this is for me to say, justice Kauffman, but thank you.  
[Laughing]

>> I'm not going to like it, but thank you. You should be commended and you're committee should be commended and it worked exactly as it intended and you provided an excellent overview of the AOC and different divisions and the work that they do and we sincerely appreciate it. It was excellent presentation.

>> Thank you, very much.

>> Here here.  
(Applause).

>> And I want to just add with all joking aside, we realize it was a huge assignment and maybe more collateral assignments will result from it, but it's important to know how valuable it for all of us to have this information and for it to be public record because as dry as it may seem, it is essential for us in order to make informed decisions later on. So we thank you for your efforts and your work product. Thank you very much.

>> Thank you, Chief Justice and the laboring has been heavily with Judges Nadler and Buckley and in addition to all the directors of the divisions helping us out, I neglected to say, particularly HR and finance have do help us through the overarching view of all of this, not just their divisions but everyone else and so we've had all the cooperation we would asks for and if we have to, we'll go back and asks for me, as you asks us to do that. Thank you.

>> Thank you very much. I believe this concludes our ambitious two-day business meeting agenda or day and a half, so before we close, I do want to mention, I received from Watco, earlier before or at our lunch break, a letter from December 13th, today, that hereby reduces as of January 1st, 2012, reduces the following expenditures. These are the intended trigger cuts and it's a four-page letter with attachments available for all of you. Think it's being distributed now after copies were made. We are not on the list now, but it's important information as we make decisions moving forward. Thank you.

Once this is passed out to all members, I'd like to conclude the meeting as we do in brief remembrance of colleagues who have recently passed on. I also want to make a point of saying that some of us learned that our colleague and fellow judicial council member, judge baker, lost his mother yesterday. And it explains, of course, his absence but I want to say I know our thoughts are wish judge baker and his family during this time.

So of our recently retired judicial colleagues, they are Judge Robert Conyers, Superior Court of California, County of San Diego, Judge Hilary Cook, California County of Alpine. Judge Barnet Cooperman, County of Los Angeles, Judge Keith Groneman, county of Los Angeles, Judge Sullivan, county of Imperial. All were retired from the bench and we honor them for their service to the cause of justice in California.

It is also, however, with a tremendous sense of loss that we mark the passing last week of Loren Miller, an assigned judge in Los Angeles and with some of you I had the honor of presenting an award for legal services in honor of his father at the state bar meeting last fall. And I understand that Judge Miller was presiding in traffic court a month ago and so we would close with him and any of Los Angeles judges or attorneys would like to say a few words about Judge Miller before we conclude? Judge Wesley?

>> I had the privilege of appearing before Judge Miller, I can't even count the number of occasions because he -- he you wanted to go into his court because he was a wonderful man and very understanding of the plight of a young public defender and what an asset to our court.

He worked just about every assignment on the court and every assignment he worked, he worked with great pleasure and never complained about an assignment, ever. He was just a wonderful man. He has a son that's a lawyer that appears in our courts and I hope that his son follows in his father's footsteps because he was such an asset to the Lee community in Los Angeles? Thank you.

>> Yes, I was personal friends from the early 1970's. I followed him at the attorney general's office and he was just a big, huge wonderful bear of a man and a great loss to the court.

>> Thank you for those kind words.

>> We stand adjourned and as you know, Nancy Spiral will have announcements for travel arrangements.

>> Chief, circle of life is interesting. I just want to mention my seat mate here next to me just became a grandfather about 45 minutes ago.

(Applause).

>> Congratulations, Mark.

>> Still don't know her name, though. I know it's a girl.

[Laughing]

>> That's a good start. Thank you. Thank you, we stand adjourned.



