

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 captured live captioning, formatted and unedited, of the meeting of December 14, 2012. 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 is the business may of their digital Council of California, our 12th meeting of this year. The meeting is now in session. As you know this is the continuation of the two-day today Council session that began yesterday with the presentation of the councils 2012 distinguished services award and the Benjamin Aranda a third access to justice award. The latter award cosponsored with the California judges Association, the State Bar and the California commission on access to justice.

It is always a pleasure to be able to recognize outstanding jurists, administrators and lawyers for their unique talents and ongoing dedication to public service. In the case of this year's awards, it was also a great and sobering opportunity to be able to recognize those who would be special posthumous Stanley Marks defender of justice award to Captain Matthew Patrick Manoukian and all those who have made the ultimate sacrifice for the rule of law, those who serve in our armed services.

A few housekeeping matters, I do remind council that our meetings are audio cast live with realtime captioning on the California courts website for the benefit of Council members joining us by phone, Judge alliance and the online audience, please speak into your microphone and it dressed each other by name clearly so that listeners and realtime captioning readers can follow our discussions. Portions of these meetings are also routinely videotape for later viewing and broadcast on the California courts website.

Good morning Judge Elias.

Marty, sorry I can't be there. We had a big reception for Judge Edmund yesterday that I had to go to that I am here by phone.

We thank you for attending by phone. I also understand we may have Senator Noreen Evans as one of our two representatives from our judicial branch of the legislature. I also wanted to acknowledge former assembly member Mike you're the termed out of his assembly seat I believe last week or this month and therefore the judicial Council. We also want to thank him him for his contributions to the work of this counsel and his advocacy on behalf of of all Californians on the issues and bills he worked on and what was involved with leading to equal access to justice. He like Senator Evans is a former honoree of the Stanley Mosk defender of justice award and M r. Fuhrer has served on on the Council since 2008. We wish

them well in his future endeavors and we look forward to welcoming a new member of our counsel nominated by the state assembly to fill that position.

The first matter on our agenda is the approval of minutes from our October 25/26 meeting. Do I hear any amendments or a motion?

Judge O'Malley comes a second, second by George Rosenberg any discussion. Hearing none all in favor of approving the minutes please say I.

IIRCA.

Apposed? Matter passes.

Next come a series of reports before we hear public comments. I start with the chief justice's report. That is a report of Council of engagement and ongoing outreach activities and our last meeting. Since our October meeting, I have continued to advocate for judicial council number one goal of equal justice for all Californians and our priority of adequate funding for our judicial branch. Doing so through a series of meetings and speaking opportunities opportunities with our sister branches of government, justice system partners in the media. Apart from so being responsive to general media inquiries on topics of importance that come up from time to time to our brand and issuing statement on budget issues, had the opportunity to participate into media relations activities during this period. One with the local media here that is the editorial board meeting with the California lawyer magazine where we discussed funding an access issue. We also discussed potential topics for California lawyer. I do invite Judicial Council Members or others who believe there is an important topic for California lawyer might consider, please let me know and I will be happy to pass on your ideas Lumley be with the editorial board.

The other opportunity was a national press conference with the conference of chief Justices where I had the opportunity to go to Washington DC with Judge Sharp and also president of the State Bar, Patrick Kelly, along with the president of the -- copresident of the open courts coalition and that is Paul Kienzle. I participated at the national press club through a series of conversations with a few a few other cheese and legislator about the national crisis and the solutions to the national crisis underfunding the judiciary.

It was heartening, but also discouraging come I have to say to share our stories with our sister states about access to justice. I've also continue to participate in what has been a very satisfying and I think effective collaboration and partnership with bar associations and attorney organizations. To name a few, I had the opportunity to participate with the West Hawaii Bar Association, the California chapter of the American Board of trial and that, Mark Robinson I met with him in Hawaii to talk about the advocacy and think think about a for the work they have done on behalf of courts and and Judiciary and the funny. The Asian American Bar Association, the Chancery club of Los Angeles a lot of Los Angeles a lot with my fair Justices last week and also participating in the Sacramento Bar Association earlier this week.

And all of these events I see many of you and have the opportunity to share perspectives from the pension from counsel, the board room, engage others with raising awareness of the impact of five years of cumulative cuts to the branch. I also had the opportunity recently to have regular contacts with our colleagues in the executive and legislative branches. During this period I had a meeting with the governor attending with me were just as Baxter and Judge Jahr and on-call on call for any detailed information we had Cory Jaspersen our new -- director as well as . We also will have an update later on that on the judicial branch budget. I had the opportunity of administering the oath of office to Senator Evans new colleague in the California state Senate meeting with editors cyber. Administering the oath through this time of year has given me an opportunity to think clearly deeply about those roles and as judges and professionals who take the oath to uphold the Constitution California Constitution and the United States. This includes my report, I will turn it over now for the report from Judge Hon. Steven Jahr.

Thank you and good morning members of the Council. There is a fairly lengthy report that summarizes the activity of the administrative office under my name in your materials. I would like to provide some highlights, some of which don't appear in the report. First off, I would like to renew my delight at having now on both -- are barred our new -- director along with our new assistant director of the office of governmental of stairs to reset Carroll each newly appointed as of December 3, although they both began before they came on the payroll as everyone knows, given the of pressing issues of the day that arose in recent weeks.

Collectively, Cory and Teresa have more than three decades of experience working in the capital, in each of the two chambers of the legislative branch and in other endeavors as well, which I think uniquely suit them to serve as our legislative advocates in times to come. We are fortunate to have their expertise and also fortunate to have had such splendid assistance from justice Baxter who chaired the search committee and Judge Rosenberg who among your number was a member of that committee to achieve such an outstanding and successful result. We are grateful to each of you and your colleagues on the search committee.

As far as the ongoing administrative office restructuring activities are concerned, a couple of quick highlights. Curt Soderlund our chief administrative officer and Curt Child are chief operating officer have collaborated together in the continued process of defining the roles of the real estate and facilities side of what formerly was the office of court construction and management and the capital programs side, which is a concern of course with new construction.

They are working closely with -- who has responsibility for the real estate facilities and maintenance activities and with Lee Willoughby remains responsible for facilities construction activity. The efforts are working smoothly as I understand it. There are still a, necessary points of intersection, of course, between the two offices. In respect to the programs that will continue to exist, but this logical separation of the two functions of construction and management is moving ahead appropriately.

In addition, as you are aware, the court facilities working group shared ably by Justice Hill who's group was in session as yesterday and the modification group headed by Judge power

continue to provide oversight, one is the subject of your directive in today's meeting. A couple of highlights from the written report, Shelley Curran who is managing our court criminal justice office, which itself has reorganized to address generally criminal law matters and specifically the challenges associated with realignment, has prepared a summary of the most recent reporting requirements for all post alignment dispositions for inclusion in the individual criminal history reports. Recently enacted changes to parole and felonies and the laws has created considerable confusion about disposition information that courts should report to the Department of Justice. The memorandum that Shelley's office is responsible for uniformly communicated their requirements trial courts including the reporting preferences that were revised over time.

The grant funded deployments of deployment of the California courts protective order registry an award-winning program, which is currently in use in 21 court jurisdictions and five tribal courts, continues to improve the certainty that the existence of orders is well published and retrievable by any and all police officers who require them for discharging their duties. 10 additional courts would apply to the registry by June of this year under a grant funded program by the California Department of Justice.

Also noted in your materials is the existence of a new online publication on the subject of truancy and school discipline. Intended as a resource for all our courts and working with justice partners and other stakeholders to develop collaborative solutions to these issues and their communities, a briefing site key statistics in research on the intersection with juvenile justice and child welfare systems and identifies principles and strategies for addressing the problem. According to the state Department of Education more than 400,000 California students were suspended in the 10/11 school year. So more than once for a total of 750,000 suspensions.

School suspensions are one of the leading indicators of whether the child will drop out of school and dropping out of school of course increases the risks of incarceration. This is an issue on which as everyone here knows that she has focused attention on creating partnerships needed to return these children to their schools and to become productive members of society.

Earlier this week, the chief provided a letter of support for the United States Senate Judiciary committee members, Senator Dick Durbin, chair of the subcommittee on the Constitution civil rights and human rights for a hearing reconvened this past Wednesday dealing with the topic of what often is referred to as ending the school to prison pipeline.

That concludes my report, chief.

Thank you, Hon. Steven Jahr. See no questions or comments, we will send this over for the judicial town the committee presentation beginning with justice Baxter for the policy coronation and liaison committee.

Thank you Keith and good morning members of the Council. I would like to welcome Cory and Teresa on board. They found out very quickly there was no honeymoon period involved, here. I would also like to thank Curt and Donna for assisting in the transition of -- I'm

confident, very confident that Cory and Teresa will do an outstanding job on behalf of the judicial council and on behalf of the judicial branch. Welcome aboard.

The policy committee has met twice since the last Council meeting, focused on our discussion on the October meeting on Council sponsored legislation. Specifically, the chief added November meeting recommended Council sponsorship of a legislative proposal focusing on clean up of the newly enacted \$30 court reporter fee. Enacted by the 2012 public safety budget trailer Bill.

On November 29th, the policy committee met to consider sponsorship of a proposal to establish a pilot project authorizing trial courts to conduct remote video trials in cases involving traffic infractions and violations of the law on compulsory school attendance. As you know, the reason for this legislation is because of court closures in the rural areas of our counties, where access to justice is nothing more than 80 fiction.

The legislative proposal relating to the court reporter -- the court reporter fee and other items recommended by the policy committee for Council sponsorship our items F-H on today's consent agenda and item R on the consent agenda. The legislative proposal about remote video trials would be considered at a later judicial council meeting. At the November 15th meeting, the policy committee was also briefed on fiscal impact of legislation and status on proposals for efficiencies, cost savings, and new revenue. The committee also met yesterday in person primarily to meet and greet our new director and assistant director but we also had the opportunity to be briefed on budget related issues. The legislature reconvened on December 3rd for the swearing-in of newly elected members and they will reconvene the first week of January.

I will update the counseling future meetings as legislature is introduced, positions are taken, and Council sponsored legislation moves through the process. Thank you very much.

Thank you, Justice Baxter. C-note transfer comments or questions we will hear from -- honorable Douglas P. Miller for the executive planning committee.

The executive and planning committee has met seven times in the council last minute, by e-mail four times, by telephone twice, and that I believe in for the first time ever jointly with yesterday. In the course of those meetings, the committee set the agenda for Council meeting today and as part of that agenda setting, the committee held a consultation with those Judicial Council Members who served on the strategic evaluation committee to receive their assessment of the reports for this meeting documenting the implementation of the judicial Council directive regarding AOC restructuring. Those reports which are on our agenda for today our items U you on retaining the office of security, information item one on a is the implementation of judicial Council directives on restructuring and then as a result of our meeting, E&P and consultation with the three other council members added a new consent item for today's meeting regarding the AOC policy on working remotely.

On behalf of the Council, the committee acted on three separate requests for Superior Court of San Diego, San Mateo, and Los Angeles, regarding the conversion of subordinate judicial

officer positions to judgeships. Although one of the requests was to approve an exception to converting a position eligible to become a judgeship. E&P yesterday joined group grow any meeting to review our current structure of existing judicial council advisory bodies including advisory committees, task forces, working groups and subcommittees. This is a part of our ongoing Council initiative with regards to governance and evaluating the opportunities for consolidating committee activities, strengthening Council oversight, reducing the cost associated with committee function and also making sure that they are aligned with our core functions as a judicial council.

Regarding the status of progress made on the 145 judicial Council directives regarding AOC restructuring, this is the second report from E&P on the AOC's implementation efforts. I'm going to apologize right now for the length of this, but I think it is important that I review those. The last report was as you know provided to us at the October Council meeting. Item information one included with your agenda today contains my detailed and EMT's detailed report and status report implementation efforts of the administrative director of the courts and AOC in implementing the recommendations since the October meeting. In summary, AOC offices continue to make progress on the implementation of the AOC restructuring directives in accordance with the timelines for implementation approved by the judicial Council.

Highlighted in my report are four sets of directives raised for attention because they resulted in some modification in AOC implementation. Those four are, first, erection to the AOC to return to this meeting with recommendations for conducting cost-benefit analysis to determine the types of training and education provided for new judicial officers and others. The center for judicial education and research and education program, directive 86. Procedure staff is actively working on developing these recommendations and will provide the recommendations to the Council at the January 2013 meeting with the final report at the April 2013 meeting.

Number two, two directives related to financial practices for which the AOC requested permission at the October meeting to return to the Council at this meeting with a request to modify implementation and this is again erected 40 and 42, E&P approves of the rationale and proposal for modifying the implementation approach for each of these two directives.

One of these directives concerns the conditions for presenting requests for additional resources to the Council, directive 40. AOC agrees with the value of performing the cost-benefit analysis for funding augmentation request for new or expanded programs and services and for large-scale projects. However, the AOC fiscal services office has indicated that a cost-benefit analysis may not be practical for every loop request for grant funding, especially where the funding requests are for costs associated with health and retirement expenses, rent increases, or legislative mandated services.

Additionally, the AOC has indicated that this directive will be part of a broader review and policy discussion, along with other restructuring directives. Seven through 13, 21, 41, 91, and 45, relating to the development cost-benefit analysis proposal for the AOC which is scheduled for Council review at a later date. The second directive concerns compliance with time requirements in the state budget process and the presentation of fiscal information to the

Council. That is directive 42. AOC fiscal services office supports this directive and indicates that generally, reported budget numbers will not change unless such changes are dictated by state fiscal reporting guidelines. Some flexibility may be warranted for those reporting provisions included in the state fiscal reporting requirements. In addition, the administrative director of the courts will propose a brief calendar to provide the judicial Council of any adjustments to previously reported numbers submitted by the AOC as part of the state budget development and fiscal reporting process. Three, the council's directive to analyze and define the necessary emergency response and security functions for the branch and to prepare a recommendation on the organizational plan for Council approval, directive 125, will be taken up in our discussion of item U on the agenda for today's meeting. For the council's directive to assure compliance with the AOC's telecommunication policy and return with recommendations that the policy of this meeting directive 26 is also recommended for modification. E&P is proposing on today's consent agenda to expand the directive, in other words expand what we approved previously, to include the question of whether its telecommute program should remain in force at the AOC at all.

This issue will be deferred for discussion by the Council at the February 2013 meeting. Finally, as I noted at the October Council meeting, the administrative director sees a need and has requested that council's formal directive to take steps to ensure that AOC's policies and procedures are uniform, current and accessible in an AOC policy and procedure manual as a consequence of restructuring activities. E&P has provided this direction and given a proposed timeline of October 2013 for the administrative director of the courts to report back on these activities.

Also, at our recent meeting, when we met with the Judicial Council Members that had previously been on the SEC committee meeting, we settled it necessary to establish a review policy so that we can document and ensure that the various implementation policies are moving smoothly and can be implemented. That she's has I believe signed as of today the order with regards to your assignment as judicial council member liaisons to AOC departments. E&P has graciously added another responsibility on your many others in performing those duties.

But we will do as we and consultation with the Judicial Council Members from the SEC committee review the various directives and what their implementation and their completion, we're going to ask you as judicial council liaison members to the different AOC committees, that when one of those directives concerns a division or department that you are involved in, we are going to ask you to further look and talk with them to document and ensure it a very unobtrusive manner, that that has been a comp list and then report back to us. We feel that is important. That is a natural and logical part of the process to make sure that the directives are completed.

I do want to say, in conclusion, though, in that regard, as the chair of the E&P I had the opportunity to work almost daily, sometimes Saturday and Sunday, with the E&P staff that you are all familiar with, but also on a much broader context with almost every other division and every person here at the AOC, and at least what I personally witnessed is that they have great industry, integrity, they have been selfless in their public and spirited service to the

AOC. They have done and always do a wonderful job and will continue to do that. I want to personally thank them, the E&P staff and the AOC staff for the process that we are going through and their willingness to ensure that we have a great structure and a great system. Thank you very much.

That is my report.

Thank you Justice Miller, I join in Accra attitude and I don't see any hands rate for comments or question, we will hear now from Justice Harry Hall, tears of rules and productivity.

Thank you, chief, good morning ladies and him and. The rules and projects committee has met four times by telephone conference call and is considered by e-mail one proposal since the July judicial Council meeting on October 25th and 26, in addition met in person in the joint meeting with E&P to which Justice Miller referred a moment ago.

Trend six -- RUPRO met on October 19th to review -- RUPRO recommends approval of this proposal which is item A1 on today's consent agenda. On November 29, RUPRO met to review three rules and forms proposal. RUPRO writ recommends for Council adoption effective January 1st 2013. They are items A2 through a four on today's consent agenda. Two of the consent or puzzles automated traffic enforcement system notice to appear and civil forms applications for notice of stay and early evaluation conferences in construction related accessibility clients are recommended for adoption effective January 1st to be consistent with statutory changes effective on that date though the proposals have not yet circulated for public comment.

RUPRO approved the two proposals to circulate for public comment during the winter cycle after their adoption. Following public circulation and further review by the advisory committees and and RUPRO the two proposals are expected to come before the judicial council at the April 20 -- 2013 business meeting. The third proposal is also required to conform to nude legislation. It involves only technical and minor substantive changes and therefore under rule 10.22 subdivision D subdivision two, RUPRO represents its adoption without circulation for public comment. On December 4th, RUPRO met to review a proposal for a pilot project for remote video trials in traffic in compulsory school attendance cases, because of various issues raised during the course of the comment period and afterwards changes are being made to the proposal which is now expected to come before the digital Council for consideration at our January meeting next year.

RUPRO met on December the seventh to review 11 proposal to circulate for comment during the winter cycle, and approvals are required to comply with our implement the recent legislation or two be consistent with recent case law. Following public circulation and further review by the advisory committees in RUPRO, the proposals are expected to come before the judicial council at Epi April 2013 business meeting. In addition on November 26, I e-mailed RUPRO for approval the 2013 uniform -- penalty schedules which is item A5 on today's consent agenda. I would like to add also that the combined meeting with Justice Miller referred to yesterday will be an ongoing effort so between RUPRO and EMP and we expect to continue that course. That is my report, chief, thank you Ray much.



Thank you Justice Paul not seeing any entries for comment or question we will hear from Judge Herman that chairman of the technology committee.

Thank you to to think good morning ladies and him and. Since the last judicial Council meeting, the technology committee and its individual members have been busy. [ Indiscernible - Static ] September technology Summit as well as follow-up meetings after the summit, with input from Court administrator, judges, CIOs as well is in pack from SeaTac and branch technology staff, particularly with input from the California technology agency as verified that the courts are looking for or anxious for InLight of the current economy improved technology solutions to support more cost effective business practices given our current economic situation.

It is equally clear that technology funding sources are critically limited both at the branch and in the court level and of course will become even more limited as fund balances both at the branch level and trial court level are reduced to 2% or 1% respectively.

Moreover, the California technology agency has emphasized that the executive branch will not entertain funding request for technology without a technology plan tie to a governance structure with the cost-benefit assessment. Accordingly, court and stakeholder collaboration, court and stakeholder collaboration on development of that plan is critical and that plan including the update of existing technology, strategic and tactical plans must be our primary focus within our committee in line with with the councils George.

Our committee activities since our last meeting have included biweekly technical meetings for core technology committee members to further clarify issues raised by the technology agency and to address specific ongoing projects. The technology committee continues to work to develop a unified long-term plan to achieve funding for core technology and this and other activities are enlightenment with counsel direction as the SEC recommendations. On November 13th, 2012 the committee met again with Mary Wigley of the California technology agency as a follow-up to the technology Summit and two -- and the course and pass forward.

This meeting included small groups selected from the judicial branch, technology working group, judged by Judge Moss and included judicial officers, Court Executive Officer's, court information technology officers, and CTAC representatives to further the development of the planning process and to design a purchase of the group. The technology committee met on November 26th on the topic of that meeting included a request by the -- Superior Court on supplemental critical need funding to replace its failing case management system.

Both staff and the chair have worked closely with Kings and the technology committee has requested that Kings strengthen its business case and present to the capital that at its January meeting. The status of the California court protective order which is already been addressed by Judge Jahr is part of ours discussions. The mandatory rules on eve filing that are being developed IV [ Indiscernible ] working group were also eight topic of discussion. There

revision and roadmap document from the work stream of the judicial branch technology initiatives working group is also a document that we spent some time discussing. It includes and is in alignment with the survey to the trial court and their technology needs as well as the SEC recommendations.

The working group as previously reported to the Council has assisted and advise the Tech committee on various short-term technology issues as well as the roadmap document. The roadmap document and the other work streams developed by the working group will be key contributions to the technology planning efforts. I might add that Judge Moss can verify this is a very active group. The various work stream components meet almost weekly as well as the steering committee of the group itself. I much appreciate Judge Moss assistance and contribution to that effort.

The chair participated in the court technology advisory committee specialty meeting teleconference on November 27th, 2012. During the meeting voting members of that committee voted and approved two items on the recommendation that the Council adopt the remote video pilot project, which was addressed by Judge Baxter, also went through PCLC and RUPRO. At RUPRO direction, the project will be limited to traffic and a number of procedural alterations will be incorporated. Incorporated in the project will come back for the Council in 2013.

They also approve the recommendation to circulate the invitation to comment amending Rules of Court and to adopt forms to implement the mandatory e-filing -- project and the target for the implementation date for rules and forms is an effective date of July 2013 which I might add is a very accelerated effort. Tom because the legislature gave us 18 months to complete the rules and forms and report back to the legislature. There is a lot of anxiousness in the trial courts to move forward with mandatory e-filing because of its cost effectiveness as far as the operations are considered. My compliments to the 8023 committee for the accelerated efforts they have made in that regard.

Additionally, the CTAC committee provided updates regarding the drafting of their annual agenda which will be subject to the Tech committee's review and oversight in January. The Council may recall we authorize funding for replacement of San Luis Obispo's family case management system. They have entered into a contract with Tyler technologies for that system. That was fine November 19th of 2012. Tyler Tech is one of two vendors that reply to their RFP. This will be the first Tyler Tech project in California and we reported last time on the universal RFP that has been developed. Tyler Tech is a vendor that is very interested in providing case management systems in California and we will all keep and I am this project. We will see how it moves forward. The anticipated deployment date for the Tyler Tech program in San Luis Obispo is the end of 2013 or early 2014.

E-COURT is another vendor interested in [ Indiscernible - Static ] -based [ Indiscernible - Static ] management system. Sonoma, Santa Barbara ancillary are in the process of transitioning up from the current justice addition to the E-letter court and will provide e-filing capability. Santa Barbara is scheduled to go live with the 108 -- [ Indiscernible ] as a go live date for the traffic component. Santa Barbara [ Indiscernible ] are planning on deploying

out case types. There is a sustained court consortium if you will, user group, this group meets biweekly to discuss issues of all of the sustained courts. This is actually in line and one of the suggestions from the California technology agency and that is post- CCMS that courts work together to create consortiums to use various vendor technologies in terms of e-filing case management and document management.

[ Silence ]

We also reviewed the progress of the courts protective order registry which again has been covered. That concludes the technology committee's report.

Thank you Judge Herman come I see no hands raised. I take recovered in that of all the reports given us for and regularly, and those that are given by all all the tears, that only the technology committee chair, Judge Herman does it from a computer. the rest of us rely heavily on our paper at this point. So we know that a culture change is definitely an order in the next few years. Thank you.

It is paperless.

We initially had requests for public comment, I am informed we now have to. As you know, we will have these two public comments in a moment, but all the comments that you will hear the next few minutes are for today's general comments and consent agenda related comment. We have received no requests, no public comment requests to speak to specific items on our discussion agenda. Also, as you know, we generally reserve this time before we actually enter into our agenda items for public comment. Consent items and we reserve time these forced this specific items for comment. Further we also receive written materials that we distribute Council related to any issues and those are posted on the website as well. We have two speakers, we will call them up in a moment. Each has five minutes, time will be cap by Justice Miller. I would like to invite to the podium now Mr. Albert Cordova, attorney for the law offices of Albert E-letter Cordova. Good morning are welcome.

Good morning Chief Justice and members of the Council thank you for the opportunity. I am not familiar with the procedure, I will keep my comments close, but I wasn't any to address one specific item on the consent calendar which is case E-letter 4 17. If I may am not sure whether that is appropriate.

Please proceed. I am here because the issue I understand will be revisited I the IV counsel for which we are grateful. But due to the matter of such urgency I wanted to perhaps give some substance to why we consider it so urgent and to suggest perhaps one relatively minor modifications to the instruction as approved that might serve as a stopgap to address better urgency.

The law as it relates to the fiduciary duty of a real estate broker is in great confusion. The confusion is such that it has prompted perhaps the leading legal treatise in this field, Miller and start to conclude that the duty of a real estate broker includes the duty to give legal advice

and that, that duty is nondelegable. While strike one, we can at least argue that that is simply the opinion of one author. But then we have the current language of case C4 one oh seven it is the duty of the real estate worker to investigate and advise as to all matters that may impact the transaction.

If you couple that language which gives no guidance about what kind of advice and what areas of expertise the broker is to have, with the language of Miller and Star that says it may even include legal advice, strike two. Then we have the language which is removed from the of forties in case 4107 which of the language in the recent case of Lien that says the fiduciary duty is not a matter of contract. Strike three, now, I want to draw a very important distinction. I am not suggesting that fiduciary duty should be limited by contract, but what is fiduciary duty? The duty is the same that applies to a lawyer or to a trustee.

It is the duty of good faith and honesty and no self-dealings. What I am talking about is the scope of the services to be rendered by that fiduciary or trustee. In the same way that I as a lawyer may say to decline, I agree to take on this case, but I have no expertise in tax, I cannot advise you with that. There is a benefit to the client, there is a benefit to me. I understand what I am undertaking to do and the client understands if they want that advice, they need to go somewhere else.

The point of my presentation is simply number one, please, we welcome the opportunity to address this more fully. And secondly, if we could at least have a reference in the nearly to be issued 4107, a reference to Carlton versus. Said, because Carlton is an important case that holds and I think this is undisputed that an agent has the right and the ability and perhaps the duty to limit the scope of the services to be rendered by contract that would give some guidance to the trial court and allow us to argue for a more fair interpretation of what a real estate broker is supposed to do.

I hope I'm under five minutes and thank you very much for listening.

Thank you Mr. Cordova. Next we will hear from Ms. Annabel the way, field representative for California Federation of interpreters.

[ Silence ]

Good morning, my name is Annabel -- I am a representative for the California Federation of interpreters. Honorable Chief Justice and honored members of the judicial council, I would like to take this opportunity to first thank the Chief Justice and the AOC leadership for meeting with the California Federation of interpreters last month. I think the meeting was a moment to step toward addressing our mutual concerns with regards to providing meaningful language access in the California judicial system.

As we mentioned during the meeting, we wanted to present to you with letters signed by our members come I have them here, there are more than 300 of them, these letters urge the council to ensure that California residents of limited English proficiency have a competent,

qualified interpreter, when they turn to the courts for justice. Regardless of the preceding or event. Census figures show nearly 7 million California residents have limited English proficiency and our state has a link with this diversity that few other states have experienced.

Federal and state laws require language services for these residents. We are here to let you know that the members of the California Federation of interpreters can help meet this obligation. We are a stable, professional workforce that is already in place. We are qualified and committed to be the linchpin in this state plan to provide interpreter services in the courts and all events ancillary to court proceedings.

We all share the common goal of assuring every California resident has equal access to justice. Lastly, we urge you to properly allocate the monies needed, including the interpreter funding reserves, to provide for interpreters to carry out this vital work in California courts.

Thank you. We appreciate all the comments made here today. That concludes our request for public comments. We turn out on our agenda to the consent items. First a brief explanation about our consent agenda. As you know the executive and planning committee laces item on the consent agenda in consideration of Council meeting time and also to ensure that the work of Council and its many advisory committees can be as effective as possible in setting policy as implementing solutions to issues facing the courts and our overall system. Placement on the consent agenda, however, in no way reflects the significance of the proposal and prior to any Council meeting, any member may request that an item be removed from the consent agenda consent agenda to the discussion agenda.

I also want to take this opportunity in our year-end meeting to acknowledge all the judicial officers, justice system partners come, and the AOC staff that work on all the consent items that appear on our judicial Council meeting agendas. For this meeting alone, we have had -- we have 22 items and 65 our colleagues were prepared to come here today to present to us on these items and answer our questions. These consent items also reflect the depth and breath and continuing issues that counsel and its committees address on behalf of all Californians throughout the state and the issues they face relating to the diverse matters as reflective in the consent agenda. Spinning having had no request from Council members to move an item from consent to discussion, on your amended agenda, we approved these proposals and recommendations.

We now turn to our discussion agenda, which begins with the judicial branch update, this is not an action item, there are no materials, it is a presentation by Judge Jahr, Judge Earl, Mr. Alan Carlson, and Mr. Curt -- you may proceed.

Thank you, Keith. As you know, the governors annual budget message to the Legislature, with -- which this year is due on or about generate 10 embraces not only the executive office and apartment of budgets, but also of the judicial branch. Customarily, our branch engages in discussions by way of it judicial council with the governor's office and the Department of finance in advance of the publication of that budget message and an effort to ensure that the efforts of the branch are well met. [ Indiscernible - Static ]

The discussions concerning the upcoming fiscal 13/14-year have been ongoing for a time. As you may remember, in fact last summer, when the 12 Ft./13 budget was concluded by agreement between the executive and legislative branches, our ranch was not actually included in the negotiations that led to the agreement. In an effort to improve our dialogue with communication with and regular relations with the executive branch, Jody Patel, then serving as your interim administrative director established a monthly business meeting relationship with the Department of finance which has been ongoing for some time, now.

As you are aware, during the course of conversations with the Department of finance on a regarding the upcoming budget, the treatment of trial court fund balances arose to our surprise in that discussion process. The budget agreement that was reached last July between the Legislature and the executive branch contained trailer Bill language the plain meaning of which to us and two the stakeholders who spoke on our behalf in the budget process last year, enabled the trial courts on an individual basis, using their best business judgment, to address individual challenges and concerns, to fulfill. Years both 12/13 and 13 Ft./14 to pay down their fund balances to 1% of budget as a glidepath or question against the reduced support from the general fund for our courts.

So, that an orderly reduction in services could be accomplished without dramatic dislocation to our general public. The recent communication from the Department of finance that we received, however, as you know from the e-mail that I ultimately distributed, indicated its view that the fund balances were subject to being utilized in the actual general fund restoration process for fiscal 13 Ft./14. There are competitions associated with the budgeting process, but the net effect of that different understanding that the understanding we had is a \$200 excuse me \$200 million additional reduction in the aggregate state support of court operations for fiscal 13/14 which would have of course a catastrophic impact on not just the courts but the plans they have made to scale down services to the general public.

As a consequence of that communication, we scheduled an appointment with the director of finance to seek to iron it out and during the course of that meeting, it was confirmed that, indeed, it was the understanding of the Department of finance that the agreement they had with the governor's office struck with the Legislature last year enabled that approach. A duty arose in my judgment that this new information, immediately be conveyed, not simply to the judicial council, but two the trial court, which led to the e-mail that everyone has received. I will tell you that I did inform the director of finance at the conclusion of our meeting that in my view that was required.

The executive office and the Chief continuing dialogue with the Department of finance and with the governor's office regarding this and other budget issues. It has been constructive dialogue, in my view. Those conversations continue this week as the Chief has indicated in a lengthy meeting that she and Governor Brown had previously planned, but what was taken up all 1.5 hours of it is essentially by the current budget circumstance and this new issue relative to fund balances.

You should be aware that the governor and the Chief were engaged throughout the entirety of the discussion. The governor was obviously inquisitive, attentive, and concerned and I believe it is reasonable to say that we should have optimism in his interest in scrutinizing this dire circumstance and assisting the branch in solving the problems that lie ahead.

A number of our branch members and stakeholders stand ready to assist in the advocacy that will begin after the governor's budget proposal is published on January 10th. We look forward to going forward, once we see what the proposal is. It is our fervent hope that the proposal will be much more hopeful to the judicial branch than when it was first published.

We recognize, I think all of us, that even with the passage of proposition 30, the Department of finance and the governor have a substantial challenge facing them in balancing the state entire budget for fiscal 13/14. I think we also all recognize that while our branch absorbs less than 1% of general fund dollars in the budgeting process, even such a comparatively small segment of government such as ours, must be scrutinized in the process. That said, the effectiveness of all government operations and all government programs depend on civil order and on the maintenance of public peace. Which in turn flow from the administration of the rule of law, in other words, the functions entrusted to us in the judicial branch are vital to all other government activities. At present, we receive almost daily reports of curtailment of court services in order for courts to balance budgets as they continue this glidepath down to a most unwelcome reset level.

Bear in mind, these reports are the result of business plans that were put in effect long before the \$200 million fund balance issue arose. There are many examples. I will just select at random one that we all saw arise this week and on which presiding judge -- of the San Bernardino County Superior Court and Stephen Nash for very able Court executive and executives and former finance officer of the administrative office reported. Previously, San Bernardino Superior Court which of court provide service over a geographical territory that is larger than most of the states in the union, I announced the closure of its keynote courthouse due to budget problems.

We just now learned this week that in addition, three more court facilities will be closed including the facility in Barstow, which houses for houses for court his apartment, and has 22 staff members, loyally serving the citizens in that remote area of the county. The community is not a wealthy one. It has, to say the least, limited public transportation. What that translates into is, I'm informed, is something on the order for many of the citizens in that portion of San Bernardino County, a one-way trip to the nearest court of something on the order of 175 miles. That is something like three hours each way. What does that mean?

For small businesses, which have routinely, as an unwanted but real part of their businesses, commercial disputes of a very routine nature, they no longer have a forum in which to resolve those disputes. Of course, there is the following concern that they have about engaging in new transactions with people when it is recognized that the rule of law will be withdrawn in substance and effect from their activities.

What do we say to the tenant who has dealings with a landlord that are sharp practices and is looking to be evicted? That tenant will be unlikely to receive relief or scrutiny by a court over the dispute. The other side of the coin is the small landlord who is perhaps having his or her tendency abused or degraded by tenant who is violating the contract between them. How will that tenant be dispossessed, so the landlord can't retake possession of the premises without adjacency of the court of law?

We then begin to think in terms of the domestic violence restraining orders that are sought and required, usually on very short notice. Of custody and visitation disputes which at routinely occur in our society and concerning which are court provide structure for peaceable organization as families adjusted change and most importantly as children's needs are placed first.

What of the police officers who issue traffic citations and have to travel three hours to give 10 minutes of testimony and in traffic trial? These examples, of course, are but a few of the many that come to mind when in substance and effect the withdrawal of the additional branch from a geographical area is contemplated. It is obviously our hope that this may 13 implementation plan can be interrupted by a change in the circumstances in our budget, but plainly it is not to be undervalued.

We know Fresno County, for example, has taken similar steps and the people who are served in the dash area on the west side of the valley are as a consequence without the services of the court. Los Angeles as reported and eight attended reorganization plan which due to its sheer size and complexity will go into place in July of this year. It is plain what that means for virtually all unlimited civil cases other than complex litigation. These are some of the challenges that we face. Bear in mind that these activities altered place before we learned of the so-called \$200 million fund balance difference of opinion.

We continue to work with the governor to encourage a fresh examination of the services we provide, which I think we can very comfortably submit RA foundation piece for the successful society that we have all enjoyed and perhaps many of us, in our communities have taken for granted. We are very fortunate to have defined assistance of the presiding judges through our standing advisory committee chaired by Judge Earl and simultaneously the assistance of our court executives organized by Alan Carlson's court executives advisory committee. Though not noted in the agenda, by Judge Hardcastle and the California judges Association, which is already made note its concerns in this significant event that popped up in the last two weeks. With that, Judge Earl?

Thank you Judge Jahr, as you mentioned, the result of reduced funding to the judicial branch over the last five years or so has had significant impact upon the trial courts. In response, trial courts have had to reduce their operating expenses to adjust to this decrease in funding. Trial courts have always used their fund balances to mitigate the reduction in cost that have been imposed upon us. Largely fund balances have been used to address cash flow issues that might arise throughout the year and page -- pay for large infrastructure projects that courts have including case management systems that are desperately needed in each county.



Beginning on July 1st, of this year with the governor's trailer Bill language that trial courts would no longer be permitted to carry over fund balances yearly, and that taking place beginning in fiscal year 2014, courts have had to accelerate the mitigation of these expenses and the use of their fund balances to offset those. You can understand that when you're announcement came that there may be a change and those fund balances would actually not be permitted to be carried over after the end of this fiscal year, there was some heightened concern from the trial courts that they would now have to rapidly change the budget plans they had made over the last year or so to accommodate this.

One of the reactions of the trial court in the presiding judge committee has been to address and prepare information about what the trial courts have been doing, how they've been using their fund balances, what their budget plans have been, and also to explain what the impacts of those have had upon the courts. You have alluded to a few impacts throughout the state including San Bernardino, but there are studies -- stories like that in almost every county of services or programs that have had to be a limited. It is not limited to large courts, it is across the state, Frankie.

We have rallied so to speak to portray what further budget cut -- cuts would mean. But it would mean if we were to lose our reserves at the end of this year as opposed to the end of the following fiscal year as everyone has plan. We are here to do whatever else you need to send it message and demonstrate that we believe we have been fiscally responsible, which is why we accumulate reserves to begin with. Anything else you need us to do, we are happy to do.

Thank you Judge Earl. I also want to welcome to the the panel as previously alluded to but not mentioned, that is the president of -- Judge Alan Hardcastle. Debt Hardcastle?

Thank you, Chief and good morning. I want to welcome my friend and State Senator, Noreen Evans who just joined us this morning. Good morning.

It to be here.

I do want to say that after we receive the announcement, we at CJA received Judge Doris announcement, I immediately convened a conference call with the past five presidents of CJA to include Judge Coffman and all those five of five may that we needed to take some immediate action. I then convened a conference call with my executive committee and they seconded that we move forward. That led to the letter that I sent to the governor's office, which expressed our disagreement with the understanding of the Department of finance and ask that the plain language of the statute be addressed, once again, I will read it small portion of that letter.

I wrote trial courts did not and do not like the elimination of fund balances as is well-known, these accounts allow bridge finance necessary to keep judicial branch business going. That money is used to pay bills, salaries, and to fund essential services used by the judiciary to provide access to justice for Californians citizens. The compromise reached with your office of the Legislature earlier this year allowing the branch two years to spend down its balances was necessary to avert catastrophic consequences of a one-year elimination plan. As

we pointed out during the negotiations of this year's budget, one-year did not give not give court sufficient time to adequately prepare for the change without drastically affecting the ability of courts to carry out their functions. Nothing has changed in the last six months and CJA remains unclear as to the sudden change proposed by your office elimination of fund balances as you now propose will cripple branch operations.

We believe that this group puts us on the precipice of a constitutional crisis. We understand the need to wait and see what the official rollout will be on January 10th, but we pledge to all the judges on behalf of all the judges to let you know that we are ready to assist in any legislative or executive branch lobbying that needs to take place and the educational programs, anything we can do to assist to make sure that this branch is adequately funded. Thank you.

Thank you Judge Hardcastle. Mr. Carlson?

Thank you Chief. Member's of the Council, I think it is important to remember also that the reserves that the courts had were not just serving a cash flow function which is very important and significant and allowing us a glide down. It also provided a pool of that people could use in courts to spend money to save money, so to speak. Once that is fully eliminated, we have lost the opportunity to do that. In order to do something in the future, we would have to not hire people, lay off people, or do something to be able to accumulate funds to be able to implement some sort of savings elsewhere.

That, unfortunately, a lot of courts have taken a pretty good advantage of what we've had to do the last couple of years to become more electronic, get more electronic records, e-filing, and dealing with other programs. It is difficult to do once the reserves are gone and we are stuck with 1% at the local level.

I also want to acknowledge, we do a lot of advance planning in the courts and we appreciate the knowledge that this might happen to allow us to begin planning in the eventuality that it does. I understand we are in negotiation period, but it helps to have as much knowledge as possible about what the options might be or what the outcomes might be to plan ahead. We are down to nickels and dimes and really being very careful about doing things.

In terms of the impacts of this, I think basically, what Judge Jahr and others have mentioned about what might happen, is going to happen on a wider scale and it is going to be accelerated if further cuts happen in the budget. In discussions with my colleagues over the last week, it is horrifying to hear what kind of things we have to start doing, much sooner if this happens. So, everyone is happening it doesn't at some level. Thank you.

Judge Earl?

One thing I should also mention is that the unintended consequence of this is trial courts throughout the state are having to determine what our core functions are? When we mandated to do? If we are not mandated, anything that is not a core function, we have to eliminate, because we have to prioritize our service. The impact of that however is to reduce or eliminate very important programs like self-help centers or attorney referral services. Things

that are desperately needed by the litigants throughout the state come and that should not go unnoticed.

Also things you describe that Alan Carlson just that, that is things we spend money to save money to provide access. We mean meaningful access to folks who are not able to hire counsel which is the vast majority of people in courts these days. Thank you Alan, also we will hear from Kurt --

One other piece of information was on November 4th we met face-to-face with the Department of finance at the same meeting where the PJs NCLs from Los Angeles [ Indiscernible ] pardon me. The meeting lasted for 2.5 hours. The primary purpose was to talk about the cash flow issues, but it did eventually morph over into fund balance issues, also.

We believe the opportunity was provided for each of the courts to make a short presentation to the Department of finance detailing problems that were going to occur at the local level given this current set of circumstances. My sense and I would ask of Judge Earl and Judge Rosenberg and others that were there, was the fact that there was at least some acknowledgment by finance. Definitely, there are cash flow issues and there would be an opportunity to get back and have further discussions with the Department of finance of what remedies might be made available to the branch.

Thank you. Judge Earl?

I think it was a good discussion. I think there was a point in time however we had to make the distinction between a resource issue and a cash flow issue and make sure they understood the difference. I hope that we got there.

Judge Rosenberg?

We did limit as best we could our discussion just to cash flow issues which are huge. It is huge for the trial courts. I for one believe that the representatives of the Department of finance who are there got it, you have to get it. Facts are facts, the cash flow issues are serious. We conveyed that and, assuming they get it and that it is passed along to their superiors, I am hopeful that we can find a solution.

Thank you. Any comments? This isn't an action item, but it is certainly one for comment and questions. Judge your?

Just as a perspective and following on what Alan Carlson who was also there then recalls, when the trial court funding law the -- law was passed on which we both among many worked, the concept of fund balances was viewed as a demonstration of progressivity in government budgeting. Up to that point in time, the horror stories had to do with agencies or entities discovering they had a few dollars left in the pot at the end of the year and so spent them rather than having them slip back.

The use of fund balances discourages that sort of behavior, but it also encourages long-term planning. Because as Alan indicated notwithstanding the crucial cash flow component of the maintenance of fund balances, one actually can through accumulated savings launch projects which save more and or enhance the access that the public receives, sometimes simply with programs that are put in place at the public counter. Each of us has examples. I know that one of the examples that was given at the meeting to which Curt Soderlund referred was an example by the Court Executive Officer of my former court, which embarked early on a very progressive collection program. Having taken that responsibility from our County that funding went into place. It has become a collector now for six other courts and charges a reasonable fee for collection and has enhanced dramatically the collections that those courts previous experience.

Not one general fund dollar is bent on our collections operation. It operates and the people who serve in that office based on vague fee that is charged with other courts these, that program, Heaven for bid it goes away would be among the first to go away for the reason that Judge Earl indicated. We cannot prioritize and the branch. Like the University of California and the state university systems, we cannot simply turn away admissions. We have to take all the business that comes in the door and we have no control over the volumes. Nor do we have control of the case type sub toward Gore is because the district attorney may file one way in one County and another district attorney may file another way in another county. Ready you when you have to cut?

Collections. For heaven sakes, you have a cascade of revenue reduction associated with cuts that are among the very first that you have to make. These of course are revenues that just don't get generated for the courts by any means. They go by law and I might add, by the most complicated of loss that I've ever come across in 25 years of service in the branch to states coffers, two county County coffers, two city coffers. The last number that I got is that our collections activities statewide aggregate to \$1.7 billion. Those of the first thing that our risk.

The last thing we can afford to have that risk is the first thing we must put risk. I certainly support Alan Carlson's point, but it cannot be underemphasized how important the cash flow side of reserve maintenance is. We have very significant programs associated with family, A.B. 1058 commissioner is a huge advancement in family law protection of children who are in circumstances of financial need. That is a grant funded program and it begins at the federal government level. Is the courts have to front the cost of paying the Commissioner and the staff and have the lights turned out the department and so forth, then they wait for months to be reimbursed, those fund balances cover that cash flow problem.

So, when it comes to the issue of making payroll with a 1% fund balance, Heaven help us. Thank you.

Senator Evans?

Thank you Chief just to. Just a little bit of legislative perfect -- perspective if I I might weigh in. There are two-point I would to make. The first point being and you have probably heard

me say this many times, the fiscal and financial landscape of the state has really changed over the last five years. Every state agency has had to make -- go through the same analysis and same struggle that you are all doing right now. A lot of times, decisions that we have had to make have been a toys among in the way of bad decision. Many of them very similar to what you have just discussed.

They are decisions that in the long-term and even sometimes in the short-term are not cost effective. That is just to bring a little bit of perspective to say that, schools for the last three to four to five years have been struggling with the same decisions that you are. Reserves have been swept, there have not been enough funds to go around. There haven't been the ability to make decisions that make some common sense. That is not to give anybody any comfort, but just to say that putting it in perspective, all of us have been struggling with the same kinds of decisions over the last several years.

I think this year we have actually hit bottom and now we are starting on the upward swing. So, this is going to be a tough year and there's a lot of difficult decisions to be made. I do think in the next year to two years we are going to start to look at it better fiscal picture. The judicial branch included. [ Indiscernible ]

I often feel like I'm speaking only to myself.

The second point I want to make is that while there is cause for alarm, I don't think there is a time to panic, quite yet. The word that you've been getting is from the Department of finance only. The Department of finance is stepping out a bit ahead of everybody else. That actually is their role. This proposal has not yet been vetted by the governor's office, nor has it been vetted by the legislature. So, the governor will not be actually bringing forth his -- excuse me, his proposal for this coming year until January. It is a little bit premature at this point.

I would recommend and I know you are already in the process of trying to do this, making sure that every single judge in the state contacts his or her assembly member or Senator and tell them specifically and I have letters from all of my courts, my superior courts are ready, telling them specifically exactly what this will do to their financial picture and what this will do to their services in the coming year.

I can't stress enough how important that is, because ultimately the negotiations are going to happen between the legislature and the governor. Is absolutely essential that your representatives in the legislature understand what this means.

Thank you Senator Evans. Always appreciative of your insight and share your comments with us. Thank you very much. Justice Miller?

I appreciate that last comment, because I wanted to commend the three of you. I was on many of the phone calls over the last week. You are diligently getting the information out to all of those different constituents that you represent. You are putting in the process of gathering the exact information that Senator Evans has indicated and you are ready to activate your

constituents to make this content. You should all be commended. I know you are long on the telephone, long in discussions, many days and evenings. I wanted to commend you for that.

I want to say one thing, also, and make the point that sometimes seems to be less -- be overlooked in the process of why one of the reasons the judicial branch is so different from the other funded entities. That is because we do enforce the laws that are passed by the legislature, well the governor, signed into law by the governor. In our meeting with the governor, it was pointed out as we have said throughout the state that we as, Steve said, do not control our caseload. Many important substantive, civil and criminal laws come out of the legislature that seek to protect Californians. Those are enforced in the court. In our discussions with the governor, I raised the fact that a very substantive and important critical piece of legislation was passed and signed into law that is the homeowners all of rights. It creates over 40 different private causes of action. It is all important and necessary to support and that is a person's home. At the same time we know those causes of action will likely be pursued in the courts of the most impoverished counties in the state. Those counties, those courts in those counties are least equipped financially to be able to absorb new causes of action in a timely way in order to provide any type of Solis or relief to those homeowners who will be out of their homes with their families.

We are different because though we have been cut 30 in the last five years, our caseload continue to be robust and grope as a result of important laws that need to be enforced.

[ Captioners Transitioning ]

The right to go to court to protect their rights and utilize and enforce the important laws our legislature passes and the governor signs into law but the judicial branches unable to holdup its mandate, if we're not adequately funded to enforce these important rights. Civil and criminal, but I am so exceptionally worried about what's happening to civil where most of the private rights are enforced and protected in terms of individual citizens. So this is an ongoing dialogue we have to have and we stand poised to influence if we can the governors budget before January 2013, January 10 and thereafter, Senator Evans you'll be seeing us many times in office.

[LAUGHTER].

Thank you.

It will be a pleasure.

Thank you.

Anymore discussion before we move on? Yes, Ms. Davis?

Some of the feedback that those of us who participated with the coalition over the years have gotten from the legislature is that when we do go to Sacramento to advocate for funding issue which is in the past have not been as serious as what potentially faces us on January tenth,

one thing that we have been told is how as Senator Evans was just saying the legislature and governors office are forced to make impossible decisions and between other social services and children and public schools and it has occurred to me and indeed some of the members of legislature have told us that with some of these issues it would be valuable to have people from outside the judiciary and even outside our partners in the legal profession participate in the advocacy efforts and particularly I think with the civil litigation, there are going to be HIV positive workers who are laid off, who are going to be unable to have their day in court to sue for unequal treatment, children with special education needs are going to be unable to have their parents get readdressed in the courts, the countless victims of elder abuse and fraud, many of which go to the civil justice system and there are non-profit organizations, there are ways of reaching out to non-attorneys, non-judges who can tell their stories and I think this time around it might be important to do that.

Thank you, Angela. Justice Baxter?

Yes, one source for that would be CSAC, because I know in those counties like Fresno and I'm sure other counties as well, when the court made the decision to close all of the rural courts, the members of the Board of supervisors that lost courts in their districts resulting in their constituents having to drive for hours in order to adjudicate either a civil or a criminal issue, it was, there was a lot of political pushback from the supervisors, so I think that's a good example of another organization that would be very helpful in making the case on behalf of the citizens within the County.

Thank you, Judge Rosenberg?

Just wanted to reemphasize one point and that is the impact on law enforcement, police, Sheriffs, CHP. When situations are delayed, for example, in traffic court, if there are delays which there will be, if people have to travel long distances which is happening, then law enforcement personnel just can't attend, they can't be sitting there in a lobby for three or four hours after driving for an hour and a half and basically wasting an entire day waiting for a case to be called and so we've already seen some of this. They just don't attend and so the case is dismissed, so pretty soon people get the notion that well, I'm going to contest this, I'm going to demand a trial knowing that ultimately the case will be dismissed and so how does that aid justice? There are many things wrong with that scenario.

Thank you. Ms. Davis?

Another comment about the advocacy piece. There's a parallel crisis happening in non-profit organizations right now that are struggling for funding and one of the things, one of the discussions that I've heard several times is how people do remember the stories of the individuals. Many of us remember years ago there was a child who fell down some well and it was on national television, primetime, one child who fell down a well and could she be rescued and could her life be saved and many people if given the opportunity would have sent money, would have done anything to save that one child and in the meantime, there are millions of children in Africa and other places in the world that are dying because there aren't enough mosquito nets to cover them and protect them from Malaria. What I'm suggesting is

that as part of this advocacy effort both from the courts and also if we enlist the support of non-profit organizations, if people could try to tell one specific story and maybe get individuals to tell their stories in some type of media format, I think it might make for a more compelling presentation if we can do that and then say this is just one example of the 50,000 cases in this County that have been delayed for one year or more.

Thank you, Angela. Justice Whole.

Thank you, Chief. All of the concerns expressed are obviously legitimate but I think that in addition to those and our focus on those who cannot afford representation, those unfortunates who need the courts to protect them, that we also need to recognize that especially with the closure of the civil courts which is taking place, that this potentially and I think predictable may have a long term effect on the health of the economy in California in that when we think of access to justice, which is one of the primary subjects of the trial court funding work group that I'm a member of, oftentimes we forget that access to justice is also necessary for business and private interest to settle their business disputes in the State, for individuals and private enterprise to settle their Real Estate disputes in the State, and all of the broad range of matters that affect the attractiveness of the State as a place to live and do business. There was a very compelling Op Ed piece and I know many of us have seen by the President of the Los Angeles County Bar Association recently where he pointed out those very great concerns that also need to be taken into account in any long range planning that affects the ability of the courts to resolve the broader range of disputes that arise daily in this vast State, and so access to justice means access to justice for everybody up and down the spectrum including access to justice for business and private enterprise, Winston Churchill once described private enterprise as the horse that pulls the cart and I'm not singling them out, private enterprise for any special treatment but I'm trying to convey the sense that access to justice is a concept that is critical to the long term health of the State and the well being of the citizens of the State.

Eddie?

Just to follow-up on that briefly, when the open court coalition held a rally in downtown Los Angeles, one of the most powerful statements was made by the Head of A construction workers union who had a situation in which there was about to be a very problematic labor issue on a construction job and as a result of the ability of the union to get the redress of the courts promptly, that was diffused and his description of the and this was not a polite dispute. Threats were made, physical violence that his description made sound quite real and so we often hear the stories of the families that are affected if they can't get to court or the individuals but as Justice Hall commented, it is also important to the businesses of our State that when they need to stop a situation that could have easily gotten completely out of hand, there is a court to issue the order that can make that happen.

Thank you. Judge Ellsworth?

Welcoming from riverside County, I think I can speak not in anticipation but having lived through an era where we completely shut down civil and I can tell you what it does to a court, what it does to a community, what it does to an entire County, not only is there a change in



the balance that we so carefully work towards between Litigants, plaintiffs, defendant, it's all out of whack when we take away the right to come to court to be able to get their cases heard promptly. There are horror stories that are true horror stories about medical malpractice cases where children have been left in a situation where they are now being cared for by parents and there's no reprieve financially for them to care for their child. There are construction cases such as you had spoken of. There are businesses that shut down. There are individuals held hostage because defense knows that they don't have to go to trial, won't go to trial, and there's no open door, so we've lived through it and it's taken us all of this time to start to dig out of it, spoon full by spoon full, not only financially but I would say to the Court the morale of an entire County when processes aren't put in place to be able to utilize courts. We are not a State agency. We are a served branch of government and when we effectively close our doors to an entire population, civil for example, like we had to do, we are a broken branch. We are not a broken State agency or an underfunded State agency. We are a branch that is not able to effectively do what we are entitled to do.

I know this is an ongoing subject. We appreciate all of the comments and the work that's being done and will continue to be done. Thank you for presenting today.

Perfect timing.

[LAUGHTER]

We'll now hear Item R on the agenda. The judicial council legislative priorities for 2013. This is an action item, and I invite Corey and Theresa and Donna to the panel to be lead by Justice Baxter.

The background information and the recommendations are set forth at Item R of your binders. I'm not sure Judge Herman, whether that's Item R on your computer.

[LAUGHTER]

It is.

But as far as the binders are concerned it's Item R.

It's virtually yours, Justice Baxter.

[LAUGHTER]

The policy committees recommendations for legislative priorities this year as in the past few years remain focused mostly, though not entirely, on budget and budget-related issues. I'd like to say that the first three priorities are budget, budget, budget.

[LAUGHTER]

To put it in context, the current year budget reduced State general fund support for the judicial branch by \$544 million, coupled with yearly reductions starting in the 2008, 2009 Fiscal Year, budget branch cuts total more than \$1.2 billion and that's with a B. Despite the passage of Prop 30, the judicial branch still had the trigger pulled through the increased cuts we sustained in the May revision, which was a 125 million ongoing reduction, and using \$50 million in construction revenue to offset that 125 million reduction continues to decimate the branches already underfunded construction program. So with no additional reductions in trial court funding, assuming that, we will nevertheless be facing \$475 million in permanent ongoing reductions in Fiscal Year 2013/14.

If the \$200 million unbalances are swept as proposed by the State Department of Finance, the budget hit in Fiscal Year 2013/14 would grow to \$675 million, so we do have a very serious issue as we all recognize. So our recommendation is to advocate for budget stability within the branch, including opposing any further budget reduction as well as advocating for sufficient resources to reopen closed courts and restore critical programs and services that have been reduced or eliminated in the past several years, and consultation with the Chief Justice, a small planning group has been formed to assist the Chief Justice and to assist Judge Jar on very short notice regarding the budget issues currently facing the judicial branch. I've been asked to join as a member of that planning group which will be Chaired by the Chief Justice and others who have been asked and who have agreed to serve our Justice Miller, Judge Earl--

The following participant enters the conference, not available.

[LAUGHTER].

Judge Artcastle, Judge O' Mallee, Mark Robinson, and David Yamasaki. Representing the AOC, of course Judge Jar, Curt Sutherland, Vlatko Theortobic, and Corey jasperson. So this will be a group that will be assisting the Chief justice, assisting Judge Jar in coordinating the effort to advocate aggressively but to do so in a way where you don't burn bridges. And I think the Senator made reference to that in her comments earlier, so timing is very important. What we do today may be very different from what is recommended after January 10 so we have to be very discrete in the manner in which the advocacy takes place. I'll now turn the mic over to Corey who will be talking about the trial court efficiencies, cost savings, and new revenue issues.

Thank you, Madam Chief Justice and members, as Justice Baxter stated budget remains the top priority. PCLC further recommends continuing efforts for the enactment of legislation implementing the 17 operational efficiencies, cost savings and new revenue proposals, approved for judicial council sponsorship earlier this year. In addition the PJCEox trial court efficiencies working group has reevaluated proposals for trial court efficiencies that had been examined in Spring of 2012 but not included in the list of 17. The working group has recommended several additional proposals for further consideration. The ad hoc advisory committee met in late November and early December to review the working groups proposals and the recommendations of both groups are scheduled to be presented to PCLC in January and subsequently brought to the judicial council, most likely in February.

Theresa?

Good afternoon, Madam Chief Justice and council members. I'm speaking on the issue of judgeships and SJO conversions. The PCLC continues to recommend seeking legislation for new judgeships to meet the significant and critical need for judgeships in the Superior Court consistent with the most recent judicial needs assessment. PCLC again recommended that the judicial council sponsor legislation for 50 new judgeships. PCLC also recommends advocacy for the legislature to ratify the judicial council's authority to convert 16 subordinate judicial officer positions in eligible courts to judgeships, as has been the case in the past five years. In addition, PCLC recommends that the judicial council sponsor legislation to expedite these conversions by adding 10 additional family or juvenile assignment conversions in the upcoming year.

And Chief that does compliment our report, if there are any questions?

Thank you, Judge Ellsworth.

I have a question. I applaud and thank you for looking for new judgeships. Is there any work being done on funding those that have already been authorized and not yet funded?

Perhaps Donna can address that.

Yes, thank you. Yes, Judge Ellsworth. PCLC did consider whether part of the recommendations to the council should be continuing once again the advocacy for the funding for the second set of judgeships which were authorized in 2007 but never funded. During that discussion, the conclusion was that there was greater likelihood of success in authorizing the third set of 50 judgeships and that as part of the focused budget advocacy that needs to be done to deal with the closures that the courts have been dealing with, the fund balances all of these issues that we needed to focus on those issues and throwing into that mix the question of funding those second set of 50 judgeships probably would not further that advocacy.

Chief?

Judge Rosenberg.

Yes, I disagree with that. You know, that's like showing a starving man a picture of a steak rather than giving him a steak, you know? We have these judgeships that have been created by the governor and the legislature what five years ago that have never been funded. We need those judgeships and to walk away from that is just wrong. I think we need to advocate the funding of the judgeships, creating another saying authorization the other 50 but don't fund them, that's the picture of the steak.

What I would suggest, let PCLC revisit that issue and bring it before the council in February.

Okay.

Okay, great.

Any other comments or questions before we take a motion on the three recommendations found on Page 2 under that Item R?

What would be two?

Page 2 of Item R.

Two items.

I'm sorry. I understand there are three recommendations. Well on my agenda, under recommendations there are three.

Right. Chief Justice, I would move to recommend that we adopt Item Number 1 & 3 and put on hold Number 2 for PCLC to further discuss how we want to deal with the issue of funding and/or sponsoring an additional 50 judgeships or advocating for funds for the judgeships that have already been approved so I would move to recommend Item Number 1 & 3 of the recommendations.

Thank you.

Judge O' Mallee makes the motion, Judge Coffman seconds. Any further discussion on this matter? Seeing no hands raised, all-in favor of the motion, say Aye?

Aye.

Any opposed? Not hearing any opposed, Items 1 & 3 of the recommendations are adopted and two is put off for further discussion so PCLC may further consider that with the addition of advocating for funding for the already approved judgeships. Thank you.

Thank you.

Thank you, Corey, Theresa, and Donna.

We understand that the presenters for the next item may be in another meeting [INAUDIBLE] so you know it's ahead of our schedule to take our 15 minute break now, so I show it to be approximately 10:25, we'll come back at 10:40, thank you.

Thank you.

Good morning. Again let's get seated so we can get on with our agenda. That means all of the folks in the back please take your seats so we can get on with our agenda. Thank you. This is Item F on the court facilities trial court facility modification working group charge. This is an action item. We have Judge Highburger I believe instead of Judge Power today presenting

with Curt Sutherland. I received my gift again, it's non-reportable because I don't think it's over \$50.

Having personal expense of \$2.10.

[LAUGHTER].

Thank you.

Judge Cool and I paid for it, nobody else.

Thank you. You may proceed Judge Highburger.

Thank you, Madam Chief Justice, Judge Jar. I was back East for a business in complex courts conference earlier this week as it happened so I drove by the pentagon, and when you see the pentagon I was reminded that we and the California State branch have in the last few years taken over square footage that are not equal to the size of the pentagon or twice the size of the pentagon but three times the size of the pentagon, in all the courthouses where there are two courthouses somewhere or a hundred courtrooms in downtown LA. Three times the size of the pentagon and frankly if it was the Department of Defense or its contractor and had to maintain the pentagon all-in one lek that would be a heck of a lot easier job than if you told me I'm going to cut it up into hundreds of different locations and spreading it out over the roads and freeways of California but that's what we have and we're making good progress in making this a success, but one of the things, so most of you have been on the council a year ago, I was here literally a year ago today but since Judge Jar is with us and I figured the Chief deserves a new one but if others want them, there are two left, because the real point is how short our funding is for what is called facilities modifications, it's like a big rehab of a building. New elevators, you refresh your elevators, refresh your HVAC, but frankly what's called O&M, operations and maintenance jargon for what it takes to keep the lights on and run your building in the ordinary course. It's not janitorial, but if you go from there, cleaning the toilet, changing the light bulb, replacing a filter, paying the utility Bill, insuring the buildings that have to be insured, leases like in the building I'm in because I'm in commercial space leased by the County of LA, now leased by the branch all those expenses aggregate to O&M, that also includes unclogging the toilet, change a light bulb, do the boiler tests that are required and there's just not enough money for it and that's a problem for Jerry Fab and his team and supervising the exercise but that's for another day.

You had your child court facilities modification working group where I've been honored to serve as a member and now Vice Chair for several years. We have reviewed and prioritized and professionally today you'll see staff on occasion about what kind of major rehab should go forward where and we looked at some things that weren't getting such high attention and we have put the breaks on other projections or raised questions in order to make policy judgments, but I think in talking to Doug Miller and others it has become clear that it would benefit the council if you have somebody whose watching part of the operation too, because the O&M up until now had proceeded with such governance as you've been providing over the last few years or per chance not much governance at all as the case may be but as we

modify the charge we do plan because it's a natural growth on what we've been doing, the same vendor, the same AOC staff, it's the same kind of problem. Just sort of the more ordinary routine things but they are big policy judgers, how you buy your services. Frankly, we don't wash the outside of the windows anymore. The O& M judge" is so tight, and washing that is O& M, it's a statewide policy we do not wash the exterior windows of the courthouses. Until there's more money, that will probably be the judgment. So how often do you cut the grass or change the oil in your car, how much to maintain the machinery so that's what the charges intend to do. My perception is with the constraints we're operating under, the O& M operation under the facilities under Curt and Patricia Field and Jerry Fab is being run prudently and on a cost effective basis so you aren't getting oversight added because it's a problem to be rooted out. You're getting oversight added because it's good to have somebody sort of tending to this on your behalf and reporting to you which would be the purpose of this. The recent restructuring of the AOC staff seems to move very smoothly. I think from everything I've seen its gone well. We had a good meeting with Curt a week ago, Dave Power in person, the rest of us by phone, and so we think that things are going well. We plan to have a longer meeting in January of our group to begin to figure out how to address the policy questions that are embedded and how a scarce O& M budget is allocated and so we hope you'll entrust us with this expanded charge.

Thank you. Any questions or Curt did you want to add anything before we take questions?

I'll just add that I would agree that the bifurcation has gone well since the council's decision in August and more or less Curt Child and I have been joined at the hip in terms of working both with the facilities working group and the facilities modification working group too so we're moving along the a smooth pace and things are going well.

Thank you. Any questions or comments on the presentation by Judge Highburger or Curt? Justice Miller?

I guess I need to say something. I've been working closely with you and the committee over the last many many months so again I just want to commend you for taking on this task. It is a difficult task. It is a task that takes a lot of time so I just want to commend you and your committees. It's a great job and a very needed job.

Judge Alaska attend today?

He's on the line.

Just make sure my boss judge knows that it's okay that I take the time.

[LAUGHTER]

Any questions or comments, if not motion or any motions?

I'll make a motion to approve the item F.

Second.

Second by Justice Hull and I believe thank you, Judge Branland. Not hearing any further comment or discussion all-in favor say Aye?

Aye.

Any opposed?

I abstain.

Thank you, matter Carries, thank you for taking on this important and detailed policy review.

Thank you for the trust. I'll leave the mouse pads here for those who haven't gotten them in the past.

[LAUGHTER]

Next, on our agenda, Item T, court security. Final report of the court emergency response and security Task Force, this is an action item .

The following participant enters the conference.

Emily Elias.

Oh, you just missed.

Judge Elias, we approved Item S, so Judge Highburger will have new responsibilities and he wanted you to know that in case he might be otherwise using his time for statewide add money it separation and policy.

[LAUGHTER] okay thank you.

Thank you. As I was saying Mr. Mike Rotty, member of the security Task Force is presenting, welcome back, Mike.

Good morning, Chief Justice how are you?

Well.

I think its been a couple years since I've been back and I feel a bit like Captain Kirk reporting on the end of our five year journey. To seek out new security life forms and new security civilizations but I'm here today to report on the final report of the court, emergency response and security Task Force. Chief Justice and members of the council, I'm Mike Rotty, the executive officer in San Diego and a member of the Task Force as I come upon my 16th year of working on court security issues, remember back in the day when I was in a different court

talking about the costs and impacts of court security and the former administrative Director said that I think we have a Task Force for that.

[LAUGHTER]

With me today is million come Franklin whose the Manager of the Office of court security here at the AOC. Malcolm?

This Task Force by the way is Chaired by Judge Fred Horn from the Orange County Superior Court who could not be with us today. The Task Force was created in August of 2007 by Chief Justice Ronald George and it essentially was put together, Malcolm, with two charges, two basic charges. The first was to evaluate court security, including emergency planning, continuity of operations and personal security for judges and court staff. Second it was charged with developing recommendations and let's remember this was back in 2007 when security was a major part of the court budget. It was charged with developing recommendations for the council to manage, maintain, and enhance security in the courts through statewide systems and progressive initiatives to increase efficiency, effectiveness, and cost saving measures here in California, so there's a clear direction to try and work on the rapidly escalating costs of court security within the branch budget. In the original charge, we were to report back to the council at 18 months and we did so, and our final report was to be delivered to the council in 2010, but as I'll detail in just a moment there were a few twists along the way that necessitated extensions first into December of 2011 and finally, into June of this year and ultimately I come before you today with the culmination of over five years worth of effort on behalf of the committee.

As the Task Force began meeting, we formed two subcommittees, and we looked at first of all the first subcommittee was looking at threat assessments and emergency planning, both here at the State level and for individual trial courts to provide guidance, templates, and assistance in these areas. The second subcommittee that was established by the Task Force was to look at security standards, facility standards, education, and in the course of that work, there were numerous other advisory committees and groups that had been established, some internal to the branch, some included Sheriffs, representatives of law enforcement, labor associations and those kinds of things so the committee felt we needed to take a rather broad look at the issues involved in standards, guidelines, facilities issues, and so forth. We were looking at security for judicial officers in that subcommittee, security standards for court operations, perimeter screening, entrance requirements, holding cells and those kinds of things. Security issues related to the facilities, design, layout, ways we could improve security for the safety, for the public and for the judges, and of course training and education. How all this is detailed in your reports I'm not going to spend too much time on that but just to give you a broad overview of the committees work.

In June of 2009, the committee concluded that in order to most effectively deal with its work, that we needed the assistance of a judicial administration professionals who could advise us on the practice thinks of other jurisdictions and across the country and to perform this work we contracted through the AOC with the National Center for State Courts. They have services and have done a tremendous amount of work with the Federal Courts and with numerous



states and local courts on court security issues. We were looking at four areas of study back in 2009. We were looking at models for providing court aid security in an economical and efficient environment. We were looking at the development of threat and incident reporting systems as we'll talk about in just a minute, California doesn't have a statewide threat and incident reporting system and we're going to actually that will be part of the recommendations that we're making here today. The report was to look at standards and classifications for court staffing. Notice we look across California at one point, there were over 23 different classifications of law enforcement personnel providing court security in the trial courts, and we were looking at methods for increasing trial court compliance with the statutory and rule requirements for the submission of court security plans. These were relatively new obligations for the courts and we were looking at ways that other states might have addressed these issues.

Well, here is the first twist that hit us. In 2011 as we were working with the national center, there was a significant event that would seriously and dramatically impact the work of the Task Force. The governor proposed in 2011 as part of realignment and the shifting of funds between the State and the counties that realignment would include court security funding. At that point, in 2011, the annual propages for court security within the branch was approximately \$500 million a year. Two assembly bills were subsequently enacted and signed by the governor which essentially realigned these dollars out of the courts budget, out of the branch budget and backed directly to the counties threw a mechanism where the funds go directly into County coughers and directly into the budgets for the Sheriffs.

Although the realignment was not intended to affect the provision of court security services to the trial courts in fact it is a significant change. We have seen a significant change in that regard. Although PJs are still required to work in conjunction with their Sheriff or in the case of two counties their marshall to prepare court security plans, and the court is still required to enter into a memorandum of understanding practically speaking, the shift lessened the Superior Courts leverage in negotiating cost and scope of services with the Sheriffs.

Secondly, with the changes brought about by realignment, the Task Force was concerned that maybe this had changed the nature of the report and recommendations we wanted to make to the council so we asked for one of those extensions in order to evaluate that work and the other outgrowth of the realignment was the fact from our perspective this realignment may limit the role of the council in the Superior Courts in governing court security and we wanted to better study that before coming to you with the final recommendations.

Another turn in the road came with the SEC report and recommendations in that report for the restructuring of court security within the AOC. As we were completing our report in May of 2012, with the SEC report, the committee again felt it was important to step back and first of all comment on that report and secondly to determine whether the contents of the recommendations might alter our final report to the judicial council. In May of 2012, we submitted a letter to Justice Miller, Chair of the executive and planning committee and to the council where we suggested that Malcolm, next page, that contrary to the recommendations of the SEC report which essentially looked to reduce, reassign and refocus the functions of the Office of security that in the judgment of the Task Force that we felt it was important that this

function be maintained as an identifiable part of the judicial council agenda, that it required staff who have special training and expertise, and that these functions are best maintained in a separate office.

So we have before you today after nearly five years of work and a few twists along the way and a very different security court security environment than we had in 2007, the final report and five recommendations for council consideration. The first of course is that you receive the final report of the Task Force. The second is that you maintain the Office of court security and we have detailed in our report I think a very detailed explanation of the need for that maintaining that office. Number three that we create a standing court security advisory committee to continue the work in this area to oversee the Office of security and to report back to the judicial council on issues of concern both to judges, to trial courts, court employees and the public in this very important area. If the council adopts those recommendations and we establish this advisory committee, we are recommending a charge for that committee. First, that they perform the duties and responsibilities identified in Rule 10.34 and I actually had to look that one up because I haven't seen that one in awhile and that's really the rule that establishes the duties and responsibilities for all advisory committees relative to the council. Number two, that the task for the advisory committee be charged with reviewing and continuing to review the Office of Security and to make the appropriate recommendations in this area back to the council, that we review options for threat and assessment reporting systems from a statewide perspective, and when we go to articulate to local and State authorities the impact on judges and court operations of threats and incidents because we have no database with which to comply across the State of California. Anecdotally we know in my own court we had one yesterday and we all heard we had an attorney who was slashed across the cheek near the end of a rather lengthy complex criminal trial, but we have no way of collecting, reporting on, disseminating, best practices from a statewide perspective and of many of the issues confronting the committee this is one that we feel is very important. We've looked at models in other states that have such systems and they've proven very effective at articulating branch wide needs in this area. That the committee be charged with reviewing the usefulness of court security classifications and staffing guidelines in spite of the current situation where we see the court security is frankly no longer a direct part of the courts budgets but an awful lot of work has gone into this area. With would hate to loss this effort and if we ever come out of the other side of this and need to consider different models we want to be prepared to address that. The other idea is that we may be able to work with courts and local Sheriffs in that regard. And finally, that the committee be charged with the process for working with courts to prepare and submit court security plans, and again you may say well court security is no longer a direct part of the court but we do think it's incumbent that the courts continue to work with their local security provider to maintain and implement and update security plans as conditions change, as needs change, as facilities change, so that we can insure that we're providing safe facilities for our judges, our employees and for the public. And that effort does take some work but it becomes very helpful when you're looking at a situation like we had in our court yesterday or heaven forbid we have a significant break in operations through some natural disaster or something of that sort.

And five, our fifth recommendation to the council is that we direct the Office of Security to continue frankly to educate judges and judicial branch staff about emergency planning tools,

programs and assistance, and that we direct the security office to develop emergency planning tools for the trial courts. Again, it's an area that can be supported by trained professionals who have security and law enforcement technique experience and that often is either non-existent or difficult to obtain in the trial court level. Many courts turn to the Office of security for consulting assistance and we think that maintaining that infrastructure really would benefit the branch as we move forward in this area and with that I will stop and see if there are questions of the council.

Any questions or comments? Mary Beth Todd?

A quick question. Perhaps I missed it. In the charge you address the Office of court securities role in reviewing courthouse plans, designs and plans, because they have been very active in that and I think that is a very important role and they provide a great service there.

I think the broad rubric of supporting local try courts and their planning efforts would fall within that, but if we move forward with the advisory committee and keeping the office open and I understand that's the next item on your council agenda is a recommendation in that regard, I think that would be very important to keep within the charge because I agree they've been very important.

I think they are probably promising practices and nationwide that committee could be looking at maybe making recommendations in how the Office of court security could continue to provide those services.

Even as and I know as we're working on a facility as well they're bringing the experiences from other buildings currently under design and development, even here in California so even in that very narrow focus of expertise with how to design holding cells and transportation patterns and what are the standards with respect to finding adequate holding they've been very valuable.

Okay, thank you.

Yes, Judge Jacobson.

Thank you. Do we have any estimate on what the cost would be to establishing a new standing security advisory committee?

We have not done that analysis, no.

Can I answer somewhat that? When ENP discussed Item T, one of the concerns we had is that you had a number of recommendations. We wanted it to be understood that Item T was just receiving your report and then there are a number of other items in there which we need to deal with. One which is the standing committee and as you can see you as a separate item which is retaining the AOC Office of Security but the meeting that ENP had yesterday and the review of the committees included this and were in that process and are going to meet again in January and we will have Malcolm there to answer a lot of our questions and one of

those will be if it fits within our core function, one of those will be whether or not what the costs are and if we have that availability and what type of committee we should ultimately recommend.

I'm also interested what are our alternatives to overseeing this other than the standing advisory committee.

That would be part of our discussion with Malcolm.

So can I for clarification, they're still on the table today for council to consider all five recommendations or just to receive the report and consider the other four?

We certainly could do those. I'm recommending that Item T be limited just receiving the report and then U is a separate item and then the standing committee will be something that we continue to deal with through RUPROX and ANP's evaluation of all of the committees.

If I could make a motion Chief that would do just that. One the motion is just to receive the final report of the Task Force and to hold off on the other recommendations for further consideration by ENP and RUPRO as to whether or not there should be a standing committee or some sort of committee and holding off on other directives until we get to you but right now I would so move only to accept the final report.

Received.

I'll second that.

Okay.

Second by Judge Coffman, second by Judge Rosenberg, second by Judge Jacobson, and Judge Moss. Any further discussion or questions? All-in favor?

Aye.

Any opposed? Motion carried. Thank you, Mike. Thank you.

Can you make sure that you thank Judge Horn.

Yes, we join in that.

And the committee members.

And Judge Riamblin.

Thank you.

Thank you.

Next on our agenda is Item U. Also action item and related, that's the judicial branch administration retaining the AOC Office of security and presenting is Judge Jar and Curt Childs.

And I'll hand things off to caught Child who has been responsible for and following in driving this issue forward since inception.

Thank you, Judge. Good morning, Chief and members. This issue is really to look at now moving forward on what were the recommendations from ENP as reviewed on the SEC recommendation, so as you'll recall at the August 31 meeting, ENP presented its recommendations on SEC report which at times adopted the new organizational structure and included in the SEC report that was being considered were questions about the necessity of security services continuing to be performed in the Office of security or whether they could be absorbed in other AOC offices. So at that time, the council directed the administrative Director to return with some recommendations on an organizational plan for court security, so meanwhile, as you've just heard from Mr. Roddy, there was the court emergency response and security Task Force opportunity to complete their report and make some recommendations that you've just heard about for moving forward on what we would do with court security so I think now with the action that was taken to receive the report and have ENP look at in the future the possibility of doing the advisory committee report, our advisory committee to advise on an Office of Security that meanwhile, what we we go ahead and do is maintain the Office of Security court security essentially at the level that we have right now, currently Malcolm has working with him for security coordinators, two analysts, and an administrative Secretary. They continue providing the existing program and services that are outlined in the committee report if you lack at Page 3 & 4 you'll see the bulleted items. Meanwhile as we get together and have the advisory committee we would fully envision that the advisory committee would then look at the functions of should it be established, and from that point the administrative Director could look at the staffing needs of the office in light of those functions. So part of this and the timeline looking sort of doing this maybe in the six months so the timeline of course will be dependent upon ENP action on establishing the advisory committee and then getting back the recommendations on the functions of the office. And I think we were and again I think Justice Miller is sort of depending on the timing that that works out but if indeed council moves forward with the advisory committee, we could be looking at getting that in place, getting recommendations and looking probably toward the July meeting to bring back the structure, the functions, and the staffing.

Thank you, Curt. Judge Branlin.

First the disclosure, as you know I was a member of the Task Force and I've got about 35 plus years directly involved in court security as a deputy Sheriff, as the chair of the judges security committee of the LA Superior Court, as the former chair of the court security education committee procedure, I'm an instructor procedure, I teach at the judicial college on subjects dealing with court security, personal security and privacy protection, and I also served as the vice chair of the California public safety officials home protection act and went through the Task Force and actually wrote the Task Force report to the legislature, so I have a lot of

specialized training in personal and court security and I have to tell you that the Office of court security that we have serves a very vital public safety service. It's a specialized service. It's something that can not be performed by others and our Task Force spent about five years studying the types of law enforcement and court security services that are available around the country and let me tell you that I think we're blessed here in our Office of court security. I think that they are a leader in the nation. There are a number of referrals I've seen from the national center through our Office of security asking for advice for other sister states that want their assistance and their advice on security related issues. The emergency planning is critical, threat assessment and mitigation is critical for safety, and I want to frame this appropriately. This is not an SEC versus AOC issue. This is not a big court versus little court issue. This is not an appellate court versus a trial court issue. This is a public safety issue. This is key to access to justice. If people are afraid to come to our courthouses because they are afraid of violence, they won't come. They won't be presiding over those matters. The services that our Office of court security provides that I've mentioned are critical for our core mission. I also want to point out that they are the leader in the nation dealing with privacy protection for judicial officers and the judicial internet opt out program and I want to recognize an individual whose here in the judicial council chambers and a member of the judicial council, because that person in 2005 is the one who championed our cause, and then assembly member Noreen Evans who drafted that legislation that gave us the tools in order to help scrub home address and telephone information from internet data vendors that was available online. What I'd like to say though is that I know we're dealing with underfunded programs throughout the judicial branch. When we have a problem with reduction in the services and education, the cost of the system and the impact is we have a greater reversal rate. We have more complaints to the Commission on judicial performance. We have a reduction to services and administration or facilities, we have delayed justice, and restrictions on access to justice and we have a reduction in services to court security, we have injuries. We have potential for loss of life. I just want to say I hope that I never see in my lifetime another video tape of a Judge on a Gurney being taken to an ambulance after being slashed in a courtroom by a felony suspect and part of those issues dealt with design. We're talking about building courthouses and spending potentially hundreds of millions of dollars and without the expertise of the Office of court security and providing advice, in line of sight and in passageway issues as far as people going in and out of the court and how it should intersect, how to establish Bollards, what the blast, you know, depth is, when you're constructing these buildings, how to set up weapon screening and surveillance programs. They perform a vital function and the one thing I wanted to say before I turn it over is that when you look at our Task Force report and you look at that e-mail memorandum from Chief John Muffler on the importance of Office of court security and having individuals who are trained and threat assessment and threat mitigation and security, this is not something that we can simply give over to somebody else. It's critical that we keep this in house.

Judge O' Mallee?

So a couple of things. First I agree that court security is very important. It can be and has been a matter of life or death. My father-in-law, who was a judge in family law for many years, has had shootings inside the courtroom, shooting outside the courtroom, and a shooting on the courthouse steps, so all that ended in fatalities, so that was before perimeter screening and

we've come a long way but court security is a matter of life and death and it's something that needs to be looked at in advance and not something that is decided after the fact of loss of life. It's just sad that it came to that, but now we have an opportunity to be ahead of the game and to make sure that not only staff judges but the public are safe in our courthouses. So I agree, and I take it Judge Jar that by Mr. Childs presentation of a separate committee that you concur with all this realignment. When we talked about this a meeting or so ago, we wanted to leave to the discretion of the incoming administrative Director their feeling about whether or not this should be a separate entity of the AOC and I take it by Mr. Childs presentation that you agree with your vision of the realignment this in fact should be a separate office within the restructuring of the AOC.

Thank you, Judge. Em fat beingly so. I have the good fortune of serving along with Judge brandland for most of the life of the emergency response and security Task Force worked with Mr. Franklin who manages the office, and could not say more emphatically or well what Judge Brandland has said, so that's my response to your inquiry.

Thank you, and I'm in full agreement with that and think that there's the need and it's so vitally important that this should be something that is part of our structure of the AOC. I have one question. With regard to a standing committee, and again this is something that RUPRox and ANP is looking at every single committee, I know that it hasn't been formed yet but what we're hoping to do in January is we're asking all committees to kind of give us what it would cost, you know, what does your committee cost, the AOC, the trial court budget, and if there's a way to kind of let us know in January what again we're looking at so that we in evaluating whether or not this needs a standing committee in addition to a standalone office within the AOC, that would be very helpful for our consideration in January, for our report back to the council in February.

Judge McCabe.

Thank you, Chief. At the last executive and planning meeting, the former members of the SEC were asked to comment on this report and obviously, the report wasn't in our hands when we submitted the SEC report back in May and our comment generally was that we thought that this report was well reasoned, well supported, and thoughtful. The concerns that we had when we were doing the SEC report largely grew out of the fact that at the time we examined the Office of Imagine Services that it was a relatively small office then composed of about eight or nine employees and yet it was being asked to undertake a number of very diverse important tasks including personal security, physical security, and emergency planning for courthouse construction and that's a lot to bite off for a small office, so our recommendation, if you go back and read it, was essentially that the functions of the office need to be refocused and that I think is exactly what this report is bringing. It's bringing a focus to these functions. How it plays out and how the Office ultimately is constituted is maybe for later determination, I don't know, but from the two cents of the SEC perspective, we view the work of this committee as important and actually consistent with some of the concerns that we had in our report, so we appreciate the report.

Thank you, Judge Watcub, judge McCabe?

Thank you, Chief. First I would like to thank and congratulate the Chair of the committee Judge Horn, Judge Brandland, Mr. Rotty, and all of the other members, the SEC members were impressed with what you had done and this was consistent with what our driving thrust and focus was which is there needs to be a deliberate and careful analysis of the Office and I think that this report accomplishes that. To I think your comments, Judge Brandland were artfully put and at the very least. I agree, this is not an SEC versus AOC issue. It has nothing to do with that, and I am in full support of what the report points out. I am quite frankly pleasantly surprised and pleased to see the type of oversight that is recommended here and maybe answering the question that a number of you have privately asked me because you're wanting to know what the SEC people are going to do, maybe it's appropriate for me at this time to move to adopt the recommendations. I think that says something as a member of the SEC moving to adopt them hopefully that speaks volumes about our view and how impressed we are with this report.

Thank you, Judge McCabe. Judge Ellsworth?

I would second that and also make the following comment that I also agree with what both of my Brethren from the SEC have indicated and appreciate very much the hard work and also I will indicate that Judge Brandland has kept us in the loop, has kept us informed, has had discussions with us, and asked us about this and we very much appreciate it.

Commissioner Alexander?

I just have a question about the motion, the recommendations have three recommendations and two of them include the advisory committee.

Correct. One is to maintain the Office, two is to create an oversight committee and three is to direct them to return with recommendations, if I've read that correctly, which includes ENP being involved and reviewing the costs, etc.

Judge, if I might clarify, on the recommendations, the first recommendation is certainly maintain, continuing to maintain the Office of court security. The second recommendation was looking toward a advisory committee being created in the prior presentation, as part of the report, and it sounds like that where we're going now with this is not yet creating that advisory committee, we would maintain the Office of Court Security, we would continue to function with the duties and work that they've been doing thus far with the staff that we have, the ENP and RUPRO will put together ultimately final recommendations an the advisory committee and then if that is indeed created, the advisory committee would then serve to really reevaluate both the substance, the function, and advice on the structure of the Office. So it seems to me that the recommendations are probably number one and importantly is maintaining the Office of Court Security and--

If that's your motion, that's my second.

[LAUGHTER]



So wait let's clarify.

I would accept that wasn't necessarily my intent but I'll accept that as a friendly amendment.

So the motion is to recommendation Number 1.

Correct.

The other two to be deferred as part of a bigger picture and discussion.

I'll second that.

Second Judge Jackson.

Okay.

And Judge Brandland, and Judge Ellsworth. Commissioner Alexander did you have your hand up to say something?

No, that was my question clarifying the motion.

Okay, then the motion has been seconded I believe.

Chief before you call for the vote, I did want to publicly thank and acknowledge the leadership of Judge Jar who served as a Chair of one of the two subcommittees as well as Justice Manukian who was also a Chair of one of our subcommittees.

Thank you, Judge Brandland. Thank you. All-in favor of the motion, as amended to accept recommendation Number 1? Say Aye?

Aye.

Any opposed?

Oh, my goodness.

Matter Carries. The other two recommendations are deferred. [Captioner Transition]

u are contribution of the judicial Council oversight, good morning just out. This is Gisele Corrie.

Good morning again, folks. Necessity is the mother is invention I think is the theme that carries us forward into an evaluation of the ongoing existence of the court funded facilities request procedures, sometimes called the CFR procedure. That is by way of a brief

background, the facilities act passed in 2002 and among its various elements was a transfer that has been used, facilities for court operations from the counties that built and maintained them to the state whether they are old leased or otherwise. The process of transfer was very slow, slower than anticipated, but the counties were aware when the law was enacted, that facilities they had been responsible for would ultimately not be their responsibility anymore.

So, many of them prioritized downward dramatically the maintenance and upkeep of those facilities for folks who had facilities maintenance background, one knows that degradation of facilities [ Indiscernible ] with cannot with the absence of maintenance. Crisis proportion problem percolated up and into thousands, with many please and demands around the state, the administrative office, my predecessor developed with Council approval the CFR program. Government code section 680 five allowed for the administrative office to do in concert and with the agreement of individual trial courts that which prohibit the trial court directly which says make expenditures of baling wire for existing facilities, in some instances to lease facilities and the like.

The program was initiated as an interim measure for the reason that once all the facilities were transferred to the state, then the mechanisms of the facilities law regarding their maintenance and upkeep modification and replacement would go into place. The funding stream that was designed for that entire new facilities process would take over and the facilities now in state ownership could have expenditures made upon them with state dollars. The transfers were in process, that program could not be fully impacted. This was a temporary measure designed to meet urgent needs.

The last of the facilities finally transferred on the last day of calendar 2009, seven years after the act was in place. This program, which was utilized during the intervening years to replace air conditioners and two replace for coverings and a variety of other matters, continue. That was in large measure due to the reality that the facilities maintenance funding stream in the new programs really was an adequate to deal with what was a monumental mountain of deferred maintenance. However, it is at this juncture that we recommend to this Council that the program having been an interim program at the outset and now all facilities having been transferred to this day the state, Judge Hyde Burkert illustrated, be discontinued. As the old physicians admonition goes, first do no harm. There are irons of the fire and our purpose is not to do anything that would disrupt previous actions taken by the administrative office and administering this program in such a way that courts would be damaged.

You will see that the recommendations to you have a surgical component to them for that purpose. Gisele Corrie, who will make their particular presentation has been invaluable to us in working our way through the proposed unwinding of this program along with a myriad of facility issues that she addresses so capably on the maintenance and management side as well as the facilities construction site. I ask her at this time if she would lead us through the particulars. Thank you, Gisele.

Thank you Judge Jahr. Our first recommendation that we are presenting to you today is to discontinue the existing court funded facilities request procedure for all new requests, except those described in the second item, second recommendation. Because this procedure as Judge

Jahr mentioned was intended as an interim measure until the transitions were complete, and those transcripts completed in December 31, 2009 however existing request approved to proceed via written communication, sent to a court by or before December 13, 2012, as authorized by the administrative director of the court. That may go forward.

The rationale behind this recommendation is presented as follows. The trial courts may not pay most facilities related costs themselves. The CFR procedure was established as it permitted the AOC to pay the cost from the trial court trust fund on those -- for those courts via written memorandum of understanding to corresponding trial court -- allegation reductions pursuant to the legislation that was enacted in 2006. The CFR procedure was also adopted into thousand six. It was adopted and a period of transfer extended from 2004 22,009. It was a laborious transfer process and this was a way to allow the trial courts to address facilities needs that were not otherwise being addressed by the counties during that period. As counties new that the transfer was occurring, they were deferring some of the maintenance issues that were -- the courts needed attention to.

The recommendation to discontinue the current CFR procedure is made for various reasons. One, as we said, the procedure was intended as an interim measure [ Indiscernible ] second, all the procedures [ Indiscernible - Static ] to address facilities needs that otherwise may not be addressed due to limited available resources from the judicial branch facilities funds. Given the recent legislative changes to the courts ability to retain fund balances, the under 1% of their operating budgets, it is unclear if the court will have funds to contribute to future new facilities costs.

Free, it may raise equity concerns among those courts with the ability to contribute towards facility related costs to address their critical needs and those that do not have those resources to do so. Is existing state funding for court facilities is inadequate, even when supported by the CFR procedure, this continuing the procedure will raise difficult new challenges and prioritizing and directing facilities its managers. Which brings us to the next two recommendations, the second recommendation is to delegate to the administrative director the authority to approve the following types of new court facilities request between December 14th, 2012 and the date of the judicial Council June 2013 meeting. Consistent with the following guidelines and requirements, first, the core contribution will be used exclusively to pay either one, based related costs for example lease payments operating cost for repairs or modification required by lease, or costs that otherwise are allowable under will 10 810 for California Rules of Court. For example, furnishings, interior painting, flooring replacement, repair, furniture repair or record storage.

The resulting court financial commitment will not extend longer than three years. If the core contribution is release related costs, the contribution must be necessary to avoid other greater costs. For example, a lease termination that would require relocation to a different facility and increased space rental cost. The. The court demonstrated the ability to meet its full financial commitment and eight CFR so approved between December 2012 and June 2013 will be reported to the judicial Council by the administrative director at age Council meeting during this time period.

In an informational report covering covering CFR people that have occurred since the last Council been, with the report to cover all the point points specified in this delegation. Providing the limited authority during this period to permit the administrative director to approve the new CFR's, will permit expenditures that courts otherwise could incur any way under rule 10810 and also avoid increased police cost for several months effectively maintaining the status quo.

Our third recommendation is for the director to directly administrative director to return to the judicial Council in June 2013 to report on first, the extent of the outstanding financial commitments, that courts have incurred as part of the CFR procedure, the impact of the recent legislation restricting courts and balances on those commitments, and the advisability of the Council's approval a new policy permitting courts to make limited financial contributions to help meet urgent facility needs consistent with guidelines in reporting obligations that the Council may approved.

This would require that -- staff to gather data from the courts regarding all outstanding commitment of one-time and ongoing and the likely impact of the recent legislation impacting courts fund balances on those commitments. During the intervening period, the AOC will solicit comments from stakeholders on the advisability of adopting a new procedure permitting court contributions to specified facilities related costs via allocation reduction as well as on any accompanying guidelines and reporting obligations to ensure that councils fully informed about potential issues.

Our fourth recommendation is to delegate to the judicial Council trial court facility modifications working group the responsibility for receiving regular reports about all court facilities leases come in developing related policies for Council approval, and forwarding related issues for the councils information or action as appropriate. Oversight of court leases is not currently assigned to a specific committee of the judicial Council. Leases are a significant category of expense. In fiscal year 2011, 2012 we incurred \$24 million in expenditures drawn from both state court facilities funding and court contributions via allocation reduction.

To ensure that the judicial Council receives a reporting as appropriate on issues that may arise with respect to leases and that issues are submitted to every decision where appropriate, and any appropriate policies are developed and submitted for its approval, the AOC recommends the Council delegate ongoing oversight responsibilities for efficiencies the AOC recommends delegation to the trial court facilities modification working group. As members of that group, already are well well-versed in facilities issues.

Our fifth recommendation is to approve the revised court funded request form which is attached to the judicial Council report. For courts to use for requests under the limited exception to the otherwise discontinued procedure. The new form outlines the specifics under item two in the requirements that the courts must meet under the limited delegation period.

Thank you, Gisele. If the members have questions?

Just for Rosenberg?

I have some questions and concerns with regard to recommendation number four. There are courts that -- trial courts that have leases for court facilities that they pay for out of their own budgets or their fund balances. First of all, what do you mean when you say you want to have the working group have oversight responsibility over those trial court leases? What does it really mean?

The AOC will report to the trial court facility modifications working group on all leases outstanding.

I got that. What does oversight responsibility mean?

To ensure there is sufficient financial commitments available and also determine if there's any policies that are required in related to leases as well as identify --

Are you saying that this working group will now have the ability to say, well, we have to cancel this lease?

I don't think that is what we are saying at all.

[ Indiscernible - Multiple Speakers ]

Let me be plain, obviously within the confines of its charge, the working group would marshal information and make recommendations to the Council. The working group of course presently doesn't have the authority without the Council approval to take action of that sort.

Are you suggesting that the Council would say trial court X cancel the lease? The Mac.

I'm not suggested that at all. [ Indiscernible - Static ] to have under one umbrella and oversight process with respect to all the proper of 40 of leases for which they are ultimately responsible and for which the overarching budget responsibilities are attached. This certainly was not a staff recommendation of intrusion, but rather of information. We want to get our arms around everything that is least and is a responsibility of the judicial branch therefore.

I understand that, but that to me is not oversight. When you use the word oversight, it can mean a lot of different things to a lot of different people. If it is just a matter of reporting information, that is fine, but oversight tells me a lot more. I am concerned with the use of that term.

Certainly, and I appreciate the point, Judge, the notion that the court facilities modification working group which obviously accumulate special knowledge training and experience as work evidenced by Judge Heidegger three sport earlier today, would be an ideal focus for a place where evaluation of facilities related issues have to do with leases should be residing. In our view, it is well that there be such a place for the Council, and not to mention the trial

boards to go, so that we can know what is out there and also so that we can know if there are problems brewing.

I think the right entity to evaluate, if you use that term, would be the trial court. It would be the trial court that is, that is my opinion.

George Rosenberg, do you see a way in item four as you referred to that addresses your concern, recommendation for?

I would change the use of the terminology to reporting information, if that is what you're seeking. Here seeking something more than that, I would have a problem with number four.

If I may, number four reads that the trial court facility modifications working group to delegate the responsibility for receiving regular reports about all court facility leases, and Judge Rosenberg, no problem with that, right? Keep track of all that we're doing and the issue maybe with developing related policies for Council approval and forwarding related issues for the Council information or action is appropriate, is that the latter that is of concern?

The door is too wide open, they are, opinion.

So --

If in fact it is information gathering I think we can stop with the first raised.

How about that first part, delegate to the judicial Council facility modifications working group the responsibility for receiving regular reports about all court facilities leases and relating or forwarding that information for councils information or action as appropriate.

Perfectly fine.

Okay, so I would so move to amend number four for the following language. I should a second from Judge Morrison. After the work, of the second line all court facilities, with the phrase?

So for receiving regular reports about all court facility leases and forwarding information relating to such, for the councils information or actions as appropriate.

You just taking take out the middle phrase.

I didn't change that the lesson.

Okay. Second, any further discussion on any of the other recommendations or the amendment to recommendation number four?

I had a question, because we focused a lot on leases, here. But, just a facility modification, a remodel, I'm concerned with the timing. As courts are having to get out of leases and move

people into space and remodel space, I know you would usually make request to the trial facilities modification group, but there is time involved in that process. There are steps being taken to have them meet more regularly or consider those request, are we going to be in a position to absorb those if we eliminate the CFR process?

I think that is one of the issues that we will be bringing back to the Council in June. When we do request information of the court, that is going to be one of the concerns. We will be looking at all of those issues to determine what type of policy we may need going forward. The trial court facility modifications working group, currently those are the resources we have. The facility modifications resources would be the fund that we typically address that request and is the appropriate fun to address the request. However, we have limited resources, there. So, we will be looking at trying to expand those resources as well to address those needs of the courts. We need to know what those needs are.

This is a critical area where courts are needing to use fund balances, this is where fund balance is coming into play to help us gain efficiencies and do the things we need to do so that when we no longer have those monies to rely on, we can sustain in this economy. I had to close a least facility. I had to remodel my current facility, because I had my entire technology infrastructure in the least facility and it was through the CFR process we were able to do that. We had to do a within two months. We couldn't get it through the mod process we wanted to try and see if they want to help pay for, but we did have the funding and we pay for. I spent \$100,000. I save more than that in my first or by closing that least facility. These are the kind of things that are going to come up as courts are trying to figure out how they are going to continue to operate with these reduced budgets. This is where I'm especially if they close the door and fund fund balances or take half of it by the end of the year, they are going to need to do this quickly. I think we need to keep that in mind. June 2013, by the time we get report back may be too late.

Thank you.

Any other comments or questions? All in favor of the recommendations and four is amended? Say I.

I.

Any of those?

[ Silence ] we will be looking forward to the report back from you, thank you Gisele.

On your agenda, as you can see item W is three deferred to a different judicial meeting. That brings us to item X four public access to judicial administrative records. This is an action item we have presenting the Hon. Judith Ashmann-Gerst and Honorable Harry Hall and Mr. Thad Figi.

Thank you Chief and members of the Council. What are we going to do this morning or afternoon is that that is going to give you some of the background of the origin of rule 10.500 and Judge Hall will talk about the interim process and I will then talk about the proposed policy document itself.

[ Indiscernible - Multiple Speakers ]

That is fine, but I will go however. I could give some introductory comments, just to give the Council some perspective as to how we have come to this item today. As many of you know, the employees of the administrative office of the courts have long received requests from both trial and appellate courts for advice and assistance and information relating to matters related to ongoing court trial and appellate court operations. The AOC, by my understanding has always tried to be responsible and responsive and be helpful with those request.

Last spring, at least as far as my knowledge goes and perhaps before, it became known to some of us on the Council that the AOC did not really know how to handle some of the requests that have been coming to them and how to respond to certain requests, specifically, we were -- the AOC was receiving request that as for explanations. Indeed in many cases justifications for Council and AOC policies.

There are some examples in the staff report, I will refer to a couple of them to give you -- to remind you that types of requests that became very difficult for AOC employees to know how to respond to. One, for instance, said that how much to warn former AOC Judge Roger Warren and Edwards being former AOC Judge in judge in residence the Honorable Leonard Edwards actually work. One week per month Tom a two weeks, I noticed Warren salary is now listed as about 1 half what it was listed in 2009. I've heard he works one day per month. A second example was there ever any raise pay increase, pay modification, hourly wage increase or wage modification given to reduce or eliminate the two financial impact of further oh days on AOC employees? There is another example that I will address momentarily.

As I said, it was difficult for the AOC employees to know how to answer requests for information such as that. There was an additional concern on their part, which I'm sure we would share had we been in their position, and that is that these requests were coming from judicial officers for explanations of policies and other decisions that the employees had no hand in. Frankly, they probably had no knowledge of at the time of the requests being received. In addition to that, it turned out that the time, the staff time means we spent on requests such as this was becoming, to say the least, some desperate and some. do have those figures and what you referred to them?

I do, I can talk about that nine or wait.

Will just wait until we get to that. That is fine. A number of us, when we became aware of this, were trying to figure out how to handle such requests. We talked the matter over and initially, and this is the interim program that we have been following, felt that certain requests, such as these, should not be directed to AOC employees, but instead to members of



the Council and preferably given the office of the requesters, two a judge. I volunteered to be the contact person for that purpose and that offer was accepted.

Since about early August, I have had referred to me approximately six to eight requests to which I have replied. Again, by way of example, I had one request from a judicial officer, actually Ms. Roberts had one request from a judicial officer that was referred to me that said, I know that the minutes of each Council meeting begin with the recitation of coral Council members present coral Advisory Members president and others members present. I further note that the administrative director is listed among council members present rather than under others present or Advisory Members present. The director of AOC is not a member of the judicial Council and never has been, why is the director listed among the Council members. I was able to refer the requesting judge to rule 10.1 subdivision be of the California Rules of Court that says the administrative office of the courts supports the Council in performing its functions. The administrative director is the secretary of the judicial Council and rule 10.2 subdivision B4 says the administrative Secretary is elected to the Council and performs -- is provided by the Constitution and the laws of the state of California. Is delegated by the judicial Council of the Chief Justice, the secretary is not a voting member of the Council. In the hopes that would clarify the matter for the person making the request.

There was a second request that I responded to in September, noting that there had been a request to Mr. Stinky that also was conveyed to justice Miller on a Sunday afternoon relating to the actions of the judicial Council had taken the previous week in approving and implement the recommendations of the executive and planning committee which dealt with the reorganization of the AOC. I was able, at that time, two respond to their request and provide the requester the links to the judicial Council action discussions of the previous week relating to restructuring of the AOC and also a ailing to the PowerPoint presentation used at the judicial Council meeting as a related to that restructuring.

A third example, going back to August, a judicial officer had sent to request to Ms. Patel saying as filed, on July 18th, I said days straightforward e-mail to M s. Herskowitz as set forth ago, the only contact I received is the automated out of office reply. I am not the only one having problems getting timely and candid responses from your staff. Referring to another judge who had great difficulty in obtaining response from Mr. Child regarding his lobbying efforts against section 60805 which the chief justice said she did not oppose. Fact he did not respond until you apparently intervened. During I supposed to be and then his answer was wholly non- I think it was referring to Ms. Patel and then his answer was fully nonresponsive. Continuing and recording, that is the question on capital letters did the Council chief or all in capital letters anyone else tell him to lobby against the charger changes to go with code section 68085 and did he in fact do so?

I took this as an allegation of inappropriate conduct by Mr. Child and Ms. Herskowitz in not following either the Chief's or the Council's Leed on this issue and I told the judge that I would look into it. I did look into it and I determined there had been no inappropriate comment by either of those AOC employees and I so informed the judge. It became apparent by this time that in light of the nature of the request, the hybrid request that perhaps we needed to come up with some policy clarifications for AOC employees, especially for

requests that came in, in some form that that might ask as for document, but many of which did not. At that time, Justice Ashmann-Gerst and Hermann and Judge O'Malley both of which were on the original 10.500 committee and Mr. -- Mr. Finke and me and a much lesser role got together to consider a policy proposal to place before you which turns out to be today. I will finish by saying and then I'll turn matters over to justice Ashmann-Gerst and Mr. Finke that the proposed policy and the responses that we have made have not been based on anything other than an area -- and certainly are not an effort to restrict or make more difficult requests for information but to provide guidance to AOC employees who receive the types of requests which I have referred so they will better know how to handle them.

With that --

Thank you, again as Justice Paul said mama the same time that we started getting their increased request and staff was being reduced, the taste determined that -- Chief asked Judge O'Malley myself to review procedures and come up with a clear and concise policy for the staff to follow. We included Mr. Finke, Justice Hall, Paul, Mary Roberts, Peter Allen, and others as we felt were appropriate to come up with an appropriate policy that was easy to follow and a guide for Haley requests. I have to test these are not within 10.500 these are the other kinds of requests and we will go into those in a little bit of detail, because that is what is in the policy. That can give you back up.

Thank you, thanks Chief and members of the Council. A lot of the background has already been touched on, but so that you know why am involved in this. My office is in charge of administering the agencywide responses to 10.500 requests that come in. We also do it on behalf of all the appellate courts. I think what judge Ashmann-Gerst said is important, this policy before you today is meant to run parallel to 10.500 it is not in any way intended to modify or amend 10.500 or nor to alter the way staff currently have a request for judicial administrative records under that rule. We have, if you look at the policy, you will see a couple places where it directs staff via hyperlink, if you determined this is a judicial administrative records request, do what you have been doing. We have extensive documentation on Internet to guide staff in how to respond to this request.

10.500 was adopted by the Council in December of 2009, it went into effect to everyone, 2010. For the first 1.5 years as staff were getting requests for that rule, I don't know we had it in our head to differentiate between these informational type requests and judicial administrative records request. We try to answer everything that came in. Whether it called for documents or narrative response or what have you. Then, as Justice Hall pointed out at some point or other, not only did the amount of time become an issue and I'll talk about that in the moment, but the issue came up, is this really appropriate for staff to be responding to these types of questions?

That was in mid- 2012 that we started having that discussion. Those of you who are on the Council the time may remember, it was in October of 2011, I was given the direction by Justice Miller as chair of ENT to pass along to all staff that in responding to requests under the rule, we should interpret that rule narrowly and not go beyond the requirements of the rule in responding. Again, at that time, which was was late Chief I don't know that we as staff had

firmly in our minds the distinction between these informational type requests and record request. We interpreted that more of, don't create new records, which the real already talks about.

I don't think we were completely clear, yet, on how different these sort of informational type requests are. And the development of this policy starting with the interim procedure that Justice Hall talked about. And then the new policy that is before you, now. By way of numbers, and this is reported and in the report itself although I went through and re-added the numbers right before this presentation and either I did my math wrong or I hit the wrong key in typing the report. The report represents 734.7 -- tonight we did the math I came with 733.7. I want to make sure the record is clear that I'm not trying to play games with numbers it is one of the other and I can redo the math after this, but how we got there is, what we got to mid 2012, and as we were downsizing and really under Jodi's direction it can I taking a look at at what we're expending staff staff time on and reorganize the AOC, we became concerned about the amount of staff time we were spending on all requests, not just informational, but 10.500 as well.

Jodi directed all of the division directors to audit staff hours for June and July and keep a tick careful tab, not just of total errors but by staff person. We would then know not only how many total hours is my division spending on this, but whose hours are they? Is that the administrative level? Is at the analyst level? Is that management division direct your? We did that for June and July and cap pretty careful records. That is where we came up with this total figure of either 733.7 or seven 34.7. At that time again we work -- that was for everything, so that was 10-point .5 under, it was for informational requests that we hadn't yet begun referring to justice -- Justice Hull and it was for the hybrids which are a blend of the two.

You will see in the report that staff is estimated that we think on these 734.7 probably about 45% of those were either straight information requests or the hybrid types. They did have some -- about half of those hours probably less than half in some way involve staff trying to deal with these questions that ask for information as opposed to just asking for records, which we can then -- we have procedures for identifying and producing records.

It was against that backdrop and Chief put into place and Justice Hull in the interim and I was directed to work with other AOC to prepare the policy before you.

With the pile -- policy does, the first thing in our discussion is try to determine the type of request and determine they are following into four different categories. What is a request for additional administrative records under 10.500 and nothing changes about those. The next his request for basic programmatic or process information that may not be involved or embodied in judicial and minister's records, but are important. Particularly this is for judges in going about their business. An example of that might be how far in advance of his or her preferred starting date for serving on assignment should a retiring Judge submit the application? How long does it take typically to process the compensation claim for a panel training? Is the kind of things that we as judges need to know. Again, there are no change in those types of request. They according to the policy of each officer division.

The request that require an explanation or a decision or policymaking or is otherwise inappropriate for staff to answer is what the policy attempts to focus on. We also felt it was important to divide that up by the kind of requester, because judicial officers have important needs. We divided it by judicial officers, by members of the Council advisory committees, media, which would go to Peter Allen Allen's group, executive and legislative requests, that would go to Olga, and then the general public. You can see from the policy how we divided that and where to go. The most complicated of course was the hybrid request. Those are were the request that asked some aspect of the judicial administrative records and some that are not.

We have asked staff to try to parse those. Those aspects of the requests that can be answered pursuant to 10.500 go-ahead, those that cannot be, should go under the policy that includes Justice Hull. Bottom line is the goal was to give direction and staff consistency and ensure that there was consistency throughout the AOC. That was our whole purpose in this.

We had many phone conversations on it, many conference calls, lots of e-mails back and forth. We study this from August through now and this is the policy that we have suggested. I would ask either Judge Herman or Judge O'Malley have anything they want to ask? They were involved in the original and limitation imitation of 10.500 and perhaps they have insight for us. Judge O'Malley?

Judge Herman and I were involved in that committee. I would not say I was the chair that of that committee, but I think I helped lead the discussion of the committee. We worked very hard in creating and forwarding to the judicial council a rule of court with regard to public access to judicial administrative records. We worked with legislative staff, First Amendment folks, other interested parties, very hard to adopt a rule of court acceptable to all interested parties.

Since its adoption, what I have seen fruit Mr. Finke and the requests from the AOC have been a number of requests which do not fall in the purview of 10.500. They are hybrid request. Part of it might and part might not. And there are many requests that were completely outside the role of 10.500. These requests when post to staff were really difficult to determine. For instance, and this is coming from another judicial officer, it really puts staff in a very awkward position of, how do we do with this? They did try to deal with it for months and months and months. It wasn't until we were realizing the hundreds of hours that were being expended in answering the types of requests that we were seeing, that were, honestly, some people have a lot of time on their hands. I did not. It was amazing what it was they were asking for. ;-semicolon to be possibly legitimate requests and some I could not see any logic whatsoever in the request.

Especially, the logic in expanding the number of staff hours that was required to answer these requests. It got to the point of absurdity. It really did. When you reach that point, then we formed this committee. There had to be some action taken, because you could not continue doing what we were doing. Especially, with the realignment of the AOC, the staff was going down, they just did not have the time to be able to invest in these types of request. We really went through all of these requests and the packet was quite extensive. I think at some point,

Council members may have had a brief look at that particular packet. I again, by looking at the nodding heads around the counsel table, you know what it was that Mr. Finke and his staff were dealing with. It was very important that we needed to establish a policy, not to restrict access to the records, judicial administrative records, but everybody has a right to, that was certainly not the purpose. The purpose was to assist staff in identifying what type of request this is.

Identifying the type of requested is, then you can go forward with compliance. You can give them the parts of the -- or comply with records that are easily obtainable and accessible and can be turned over. On other policy issues or why do you address a person 88 judicial Council meeting at a certain way and wide you introduce them, again, that is not for staff to say. Those had to be given, but staff had to be given direction. If they just answered part of the question, they were in fear of offending the party who asked for the information. Again they should not not be put in that vision.

We had to give them an avenue, a direction, sometimes with have you handled the rest of the question that you have no business answering. That is what this policy is about. This policy is about helping staff to more easily identify the type of request it is and then, because we identified who it is from, because who it is from can go to a different entity, to help answer the question if you can be answered, more expeditiously. That is not to say is a judge or this particular judge or this judge from this Court and so were going to stonewall this. That was not the purpose, at all. The purpose is to help expedite the process. If it is something from the legislature, it is going to go to OGA because they have answered those questions for years and years and years. That is the right place for that to go.

If it is something that someone from the Council should answer, Justice Hull or anybody else or anyone of our committee, it'll get pushed out. Again, this was designed to assist staff in dealing with these issues, more expeditiously, so that we can deal with what we were being inundated with. That is my \$0.02. Thank you. I hope that we adopt this policy. Judge Herman?

I would concur on all the comments. The real emphasis here is, this is not in any way and alteration of 10.500 which again a lot of work was put into with all of the stakeholders to assure that we had both an identification of records that were -- the public is absolutely entitled to as well is a procedure to get access to those records. This really does merely addressed those requests that are outside of 10.500 and two give all of the staff across the board a clear understanding of how to triage or addressed those various requests.

Thank you, judge Jacobson and Judge Rosenberg?

These guidelines are reasonable and they give staff guidance that the staff deserves. A promote clarity and consistency, therefore therefore I move moved to adopt the second recommendation.

Second by Jim Fox and I will also hear from Judge Rosenberg and then judge mosque? [ Indiscernible - Low Volume ]

When I first got into this subject, I thought we were really just dealing with 10.500. As I learn more about this, it is really about 10.500 and everything other than 10.500. As I understand it, we are really not changing anything with regard to rule 10.500. People make a request for records, they get the records, pursuant to the rule. What we have been struggling with is all of these other requests that are either not 10.500 requests or some sort of hybrid. It is a little of this in a little of that.

This whole discussion has gone well beyond 10.500. I agree that this is a very thoughtful and very balanced approach and it will really work. Here's my concern. The numbers you've indicated about staff time are some of frankly, very troubling in light of the increased workload and reduced staff that we have. Under this new approach, has there been any evaluation in terms of S TE, full-time equivalents, staff that might be expanded in dealing with these requests? Are we talking about effectively a full-time or two full-time staff members in the course of the year?

Just to make sure I understand, judge, you beat of the new policy were adopted?

Yes.

To answer your questions as vaguely, no. I can tell you that I feel very confident it will be less staff time than now, because when the time really comes in is staff attempting to figure out substantively how to respond.

Okay.

Since that burden is being removed from staff under the policy, the only time will be the time that it takes to evaluate and see this is not a staff appropriate issue and referred onto Justice Hull or whoever the Chief appoints.

Let me ask one final question. Let me assume you get a request in the future that the something like, why did the judicial Council approve a stand-alone office for security? Clearly, not eight 10.500 request. You would send that request to Justice Hull or whoever is designated, and then what would they do with that?

I guess I'll defer to Justice Hull on that one. [ Laughter ]

I think as Judge O'Malley said, we want to continue to honor requests. There is a tension here, I don't think that either I or members of the Council or members of the various advisory committees can afford to spend a great deal of time in answering inquiries as to why we went to the Council deciding to keep an office of court security. I think we're just going to have to take it requested a time and do the best we can with it. Which is what I have been trying to do since August.

I would add that obviously if there is a written document dealing with it, that comes within 10.500 and we are happy to provide the document.

On that example, even the audio recording of the Council discussion.

Or just give them Jim Bradman's phone number. [ Laughter ]

Way, there is in order here. Judge Rosenberg --

It doesn't change anything about policy or process, correct, Mr. Finke? If you can reasonably recast into a records request. Spec no, that is right.

Artfully written, but it can be reasonably recast into a request for a particular document or documents, document, that will be taking care of initially under 10.500.

Is absolutely right. I will use Judge Rosenberg as an example. If we receive their request, why did the Council do ask improvements. The first thing we would do is check to see if there are any records that answer the question. We don't look at the phraseology of the question and say, that is a why question not a given document question. That is what drives the number of hours, we do look at that. Regardless of exactly how to set up, we think are there any judicial administrative records that would answer that. If so, we provide them presuming they are not subject to any basis for nondisclosure. None of that is changed. When we get to the point where there are no judicial administrative records and answer to this and they are demanding an answer rather than staff craft segments of the reference would be made up.

Thank you.

Angela Davis?

I agree that this is a really good policy and I am vividly remembering the meeting when we went over [ Indiscernible ] inquiries and it is obviously necessary especially with the reductions in AOC staff. There were two things I want to bring up, one is that a lot of the inquiries that are non- 10.500 are you have you went to categorize the motivation behind them, they are the underlying question designed to expose inefficiencies or ways that are perceived inefficiencies or ways that the AOC, particularly given the climate in which all of us are working and the efforts to overhaul AOC come I think the requests themselves at a minimum need to go to the executive office, even though they are going to be resolved and responded to through this consultative process with the different staff divisions and the consultants as outlined in the policy.

That was my first thought. My second thought is that I notice for non- 10.500 request, from the media, our media office under this policy will be responding to those, but there is not a consultation requirement for the media. It occurs to me given some events over the past year or two, media is a broad category and there was an incident about a year-and-a-half ago great television station requested expense reports and the way the expense reports were packaged up by come I don't know who did it, but the way they were packaged and delivered to the media outlet that requested them, they were a little bit ambiguous and they did give the impression that AOC and judicial council was reimbursing expensive restaurants and alcohol.

It is my view that could and should have been handled differently, perhaps with a cover letter and with participation of our executive office to get it in front of what was obviously an issue and then intent to expose something and explain exactly how those expense reports were handled and how it was a statutory per diem despite the inclusion of receipts for other things in the records that are maintained.

I would suggest that, with anon 10.500 request going to the media, the media respond to those requests after consulting with the at a minimum the executive office.

Thank you.

Ira?

I agreed with what you are doing, the only thing is that we have a First Amendment right any right to be responsive. I was going to ask that we come back in a period of time whether it is 90 days or 180 days and have a report back to see how the policy is really working. Also, saying if there is any put back in the sense that people are not satisfied or they're not getting what they think they should get. This is a new policy come I, I think we as a judicial council should have an oversight to see that it is working. Also hearing from had is making their work harder or easier. Until we have and move on.

Judge Kermit?

I would just add that I think Judge O'Malley is bring to modest in terms of what really was leadership within the 10.500 committee. The committee worked long and hard and particularly focused on the issue of the unsophisticated public requester of information from the courts to design a process where we could come together in terms of what information they were really seeking and then provide what information was available to answer their inquiry from. Quota pulled from the administrative records, that process is already built into the 10.500 and it is only when that process is exhausted, so to speak, and the requests are clearly outside or a hybrid request relative to 10.500, that the staff would have the guidance on this policy to triage those requests and place them where they are appropriately responded to one way or another.

Thank you. I will add one thing that I'm not sure has been completely covered by this. The two months and 733 hours are quite, quite, conservative. This has been an issue not only with transcript but there was a period of time and most recently where requests of hybrid of all three types of 10.500 and hybrid would come into multiple people at different times with the same kernel phraseology in question, but it would go to OGA, go to a debt, it would come to me, and we spent many many hours trying to figure out who should respond and what they were looking for an were where we being timely under the rule. There were many discussions about staff time, until there with the decision to start to chart it in order for us to get a handle on how to adequately staff these requests.

It was all in an effort to try to get the the information outcome a good faith effort to try to respond to our a lot of these questions. Some of which are frankly embedded in policy that is



decades old that were efforts made to try to provide that information. So, I think the guidelines, the policy is as recommended is very helpful especially with the report back to find out if we've been able to actually do as well as we can in responding to requests and using our time efficiently in our new environment of fiscal austerity and trying to be accurate as well. We want to be accurate and we don't want to create more requests by our response, which sometimes happens in certain instances.

Chief, your comment is traced a question. Mr. Finke, if there are multiple requests that come in, similar requests going to four or five different people, does the staff at the AOC know that you are the clearing house? They all have to come to you.

They do now, but as we were developing this in mid- 2012, as Chief pointed out that was part of the issue. Because these were not 10,500 requests, I think staff in subdivisions were quite sure. Some folks would say it seems like something we should send to Mr. Finke suspended on another's would say, no, they're not asking for documents, so I guess we better respond. I think this will hopefully eliminate the possibility of multiple responses that may be inconsistent.

Where we on the status of the motion?

It has been moved and seconded. Do we need to amend [ Indiscernible - Multiple Speakers ]

Do you want to accept the friendly amendment? [ Indiscernible - Multiple Speakers ] as what I.

Maybe in six months.

All in favor?

Aye.

Any opposed?

Silence. Motion carries. Thank you for this thoughtful policy I believe that concludes our business agenda, we conclude with a recent RAM is the Honorable Rinaldo superior -- less agile, the Honorable -- cannot both were retired from the bench, we honor them for their cause for the dedication to the cause of justice, their dedication to next judicial council meeting is scheduled for January 17, I want to thank all of our Council members, members, art by three committees come three committees, our task forces, working group members all AOC staff for their continued excellent supporting the judicial council. Happy holidays, safe travels, I look forward to a productive and act is 2013. Meeting is adjourned.

I believe that concludes our business agenda, we conclude with a brief remembrance of our Judicial colleagues recently deceased the honorable Reynaldo Shapiro, Superior Court of Las Angeles County. The Honorable Walter Harrington, Superior Court of San Mateo County. Both

were retired from the bench we honor them for their dedication to the cause of Justice, their dedication.

The next Judicial Council Meeting is scheduled for January 17<sup>th</sup>, I want to thank all our council members, our advisory committees, our task force workers & working group members. All AOC staff for their continued excellence in supporting the Judicial council. Happy Holidays, safe travels, I look forward to a productive and active 2013. Meeting is adjourned.