

The Judicial Council of California is the constitutionally created policymaking body of the California courts. The council meets at least six times a year for business meetings that are open to the public and audiocast live via the California Courts Web site. What follows is a formatted and unedited transcript of the meeting of July 22, 2011. The official record of each meeting, the meeting minutes, are usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts Website at <http://www.courts.ca.gov>.

>> Good morning, we're about ready to get started are. Get a seat and settle down so we can start. This is the business meeting of the judicial council of California for July 22nd, 2011. This special session is devoted to the judicial branch budget for the current fiscal year as provided for in the budget act of 2011 that was signed by the governor on June 30th. First, I'd like to go over some preliminary matters and that is to ensure public access to these sessions and to increase understanding of the business of the Court, business meetings of the judicial council are audiocast live with real time captioning on the California courts website. And also portions of these business meetings are also routinely videotaped for later broadcast on California court news or CCN as you see on your web. Also this is easily accessed on our website. And for some of our meetings, we've had several hundred online visitors and even greater number of listeners for the archived broadcasts and I am informed that we have many, many internet listeners today. And so for their benefit, I remind council members to speak into their microphones and address each other by name so that audiocast listeners and real time captioning listeners and readers can follow the discussion. And today we're fortunate to have several distinguished colleagues and visitors at this session who will be presenting items on the public comment as well as in our presentation period of our business meeting. And we will introduce them individually when those items are called. I also want to take this time to welcome four incoming members of the judicial council who have made time in their schedule to be at this very important meeting. So joining us for this special session we have from Sacramento Judge David De Alba. And we have presiding judge David Rosenberg.

>> Thank you very much.

>> And from CGA president Judge David Rubin and yes, a fourth David, David Yamasaki the court executive office for the superior court of Santa Clara county.

>> Grad to be here.

>> We have a matter before we get started the opportunity on the first agenda item to swear in our new council member Justice Judith Meisels Ashmann-Gerst on the Court of Appeals 2. Justice Meisels Ashmann-Gerst takes it is seat previously by justice Huffman and we welcome her to her first business meeting of this session and it's my duty and pleasure to administer the oath to you so I ask you to please stand and raise your right hand. I Judith Meisels Ashmann-Gerst. Do solemnly ware that I will support and defend the constitution, of the United States and the constitution of the state of California against all enemies foreign and domestic. That I will bear true faith and allegiance to the constitution of the United States and the constitution of the state of California. That I take this obligation freely without any mental reservation or purpose of evasion that I will well and faithfully discharge the duties on which I'm about to enter. Congratulations. [Applause]

>> I also want to congratulate Justice Doug Miller on his appointment as chair of council's executive and planning committee. I know that you have many ideas on planning branch governance. We all look forward in working with him in his leadership. I want to congratulate Justice Harry who will be part of the rules committee affectionally as RUPRO. I would like to say a few words of our meeting and our tasks today. We

know that the legislature and the governor have made very difficult decisions in enacting this budget. And in the legislature's first budget, the one ultimately vetoed by governor brown we first learned of the additional \$150 million cut on top of the \$200 million cut. And the language of the \$150 million cut was directed at trial court operations. Alarm after much discussion and a swift veto we quickly met with the governor and requested that the judicial council have authority to allocate the reduction from various funds of the judicial branch. And we made this request in order to more equitably absorb the reduction to the branch. Not just to one part of the branch. And I stand behind the principle that we are more than a branch in name only. We are all part of a branch with a shared responsibility to the public and to ourselves. And now like the legislative branch and the executive branch, we must make very difficult decisions. And many excellent programs and services as you'll hear today have been evaluated, will be reevaluated in this environment and, unfortunately, as all of us know, no program is immune from the scrutiny. And I do submit to you that the ability to withstand this crushing reduction in 2011 year '11, '12 and to make good on our branch's promise is predicated on us acting today on these difficult issues on a fair, civil and deliberative process as a branch. And how we handle with this unprecedented crisis, in the future I think it will say as much about the viability of our state court system as it will about our characters. I have little doubt that this body, the judicial council and the judicial branch is the finest judiciary in the nation. It can rise to the challenge. And we can and will put in place the foundation for a new era in California. Before I turn this over to public comments, I would like to ask Senator Noreen Evans, chair of the senate judiciary committee to make any comments, if she wishes.

>> Yes, thank you very much for the opportunity, Madam Chief Justice. I appreciate it. I am Senator Noreen Evans. I have been serving in the legislature since 2004. Currently I chair the senate committee on the judiciary. But prior to that, when the economic crisis first hit California in a very serious way, starting in late 2008, I chaired what's known as the conference committee on budget. And that is the bicameral committee on budget composed of both senators and family members. And it was my task to -- in a year where the state lost 20% of its expected revenues in the first quarter of the calendar year, it was my task to try to keep the state on some kind of a track and continue to operate. As you can imagine, it was not an easy task. I held weeks of public hearings, much like this one in a hearing room that was four times this size. It was packed to standing room only. Mr. Childs was there from, I think, every day of that hearing and every moment of it. And we took testimony from all over the state, and I'm telling you this because this is not my first time having to look at these very, very difficult choices. And we have made a series of tough choices for the last four years, beginning in 2008, and every single year since then and actually more than once in every year because our revenues continue to decline and we have continued to make very serious and very deep cuts. We have been able to delay this day of reckoning that I think the judicial council and the judiciary at large is facing this year. It's very tough. And every -- every choice is a bad one. There are no good choices right now. And I've been hearing from judges around the state about what's happening in their trial courts. And I think the challenge that we have to remember and always keep in mind as we make these very difficult choices is the Number 1 priority is to somehow preserve access to justice. And in the coming years that may look different than it has in the past. I believe, as does the chief justice, that we have the human resources to meet the challenge. We do not have the financial resources to do everything that we need to do and have done in the past. But if we continue to keep our eye on the ball and that is preserving access to justice in such a manner that when we do begin to reach some degree of financial health again, we are able to restore funding as opposed to trying to reinvent programs. That I think we will have met the challenge. And that's what we did under my leadership at the state level. We have done our best to not dismantle programs but to keep things moving even at some minor level of funding so that we don't have to come back and reinvent everything when we have the money to do it again. So I'm trying to look at this as an opportunity to do things in a new and creative and innovative way. I've heard some good ideas from around the state. I think collaboration amongst the courts at all levels throughout the entire state is a

necessity and I look forward to assisting in whatever way I can as a legislator, I can introduce legislation that may enable courts to do things in a different way than they're mandated to do by law right now. So I'm looking forward to working with you and I'm pleased to be here but I honestly wish it were under better circumstances. But I do believe that we will be looking at a better day sometime in the near future. Thank you.

>> Thank you, Senator. We're about to begin our public comment period. I want to state we have 12 speakers who have requested public comment. We also have over 40 letters certainty to us regarding today's concerns with today's actions regarding actions. Regarding the list of 12, I want to say each speaker has up to 5 minutes. And I know that you are numbered 1 through 12 but I'm going to take this opportunity to request that the constitutional officers speak first. And so that would be -- if you have the constitutional officer understand our four total and after the constitutional officers speak, then I would begin with number 1 to speak. The first one is the Honorable Robin Appel of the superior court county of Joaquin.

>> Morning. Chief justice, members of the council thank you for the opportunity to address you today. I am the presiding judge of Joaquin County and, of course, I'm aware of the horrible budget situation in which we find ourselves, statewide. Everyone needs more funding than they're being allotted but there are several courts that are so impoverished that it's impossible to justify or explain. San Joaquin County has been underfunded and under resourced. We were so grateful when the council recognized that two years ago and gave us is \$1 million reduction of our pro rata share of the '9 '10 cuts. We were 44% underfunded. Last week at the trial court budget working group meeting we received the list with the newest numbers and it shows that San Joaquin County is the most under resourced county in the state at 36.4% underfunded. That information is in your materials. It's item 2 attachment 3 option 2 on Page 13 and 14. The next court after ours is Glenn county. They're much smaller than San Joaquin County but they are 31.5% underfunded. I talked to Judge Byrd and he isn't here but I'm including Glen county in my request. We're asking for some relief in the expected allocation that the council will be making. Apparently, over 30% is the new threshold for being severely underfunded. We're asking for at least enough funds to get us to the 30% threshold. That is not going to solve all of our problems but it will get us closer. For San Joaquin County that number is 2 million 783,000 for Glenn County it's \$157,200. Like other courts we are closing branches. But we have had to take the unprecedented step of eliminating an entire case type. Effective October 3rd, absent relief from the council we will not be hearing any small claims cases. Last year, we had over 3,000 small claims judgments so the impact to our impact is going to be huge. We've always been understaffed incarceration to being under resourced. The RAZ model suggests we need 462 full-time employees. We could function efficiently with a lot less but we currently only have 306 employees in 2009, we had 352. Unfortunately, whether it's because of additional furloughs or layoffs to meet the expected reduction in funding, we will not have sufficient staff to process all of our cases. Without the cuts, our budget is projected to have a \$2 million deficit. With the cuts it will be over \$4 million. I should mention that in 2007, our staff received raises. For three years beginning in 2004, we had received RAZ funds due to our being underfunded. We had a compensation study which determined our staff was underfunded some very significantly as compared to other courts. Given the RAZ funding we were able to give increased compensation to our employees. At that time we had no idea what was to come and it was the following year in 2008 that everything fell apart. We have been excellent stewards of public funds. In my recent letter to the trial court budget working group and the judicial council which is included in your written comments of your materials for today, I detailed just some of the steps we have taken to reduce costs over the past eight years. No matter how bad our budget situation have been we have always lived within our budget. Years of good fiscal management allowed to us build reserves. Those reserves as part of our budget plan over the last four years when our budget plans prevented us from meeting our modest expenses and that is not available to us as we will use up our reserves by the end of this fiscal year. At the working group meeting last week, the committee identified money

with which they could offset the cuts. This is how I propose the council resolve our problems. The \$43 million was not anticipated and I believe courts have planned their fiscal years without that additional amount. This is the council's opportunity to address the inequities and access to justice among the counties. Allocating a small part of that \$43 million to the most severely under resourced courts would have a big impact on those courts. That would still leave \$40 million to allocate pro rata putting some additional unanticipated funds into all 58 courts to offset the cuts everyone has to make. I have been on the bench for 16 years so I'm not new to the budget process or the history of how my county got to where it is now in terms of its significant budget problems. I've been able to explain the circumstances in San Joaquin County in the past but I can no longer find a plausible explanation for our particular situation when asked by the citizens of the county we serve or the media who seem to be constantly at my door lately. I appreciate the council's consideration in providing this requested relief to address the indefensible inequities in the allocations to the different counties and provide some of the fairness we are in the business of promoting. Thank you for the opportunity to address you. If any of you have any questions, of course, I'd be happy to answer them but I know you have a lot of people to hear from this morning.

>> Thank you, Judge Appel.

>> Thank you.

>> Next we have the honorable Laurie Earl Johnson, assistant presiding judge, California superior court, county of Sacramento.

>> Good morning, chief justice, members of the council, thank you for allowing me the opportunity to speak to you today. My name is Laurie Earl. I'm the assistant judge of the superior court. I do appreciate the task before you today is an onus one which will likely please few. I urge you in making these decisions to direct that the manner in which these reductions are met are not done so on the backs of the trial courts. Throughout this state trial courts are preparing to close courtrooms, reduce hours of operations, send employee layoff notices and provide -- excuse me, and prioritize mandated functions because we cannot afford to do them all. When we do that, we will be unable to serve Californians in the manner expected of us. Courtroom and courthouse staff are our vehicle for administering justice. The trial courts and the public can't survive in a reduction of branch services. The same cannot be said about just reductions to trial court services. We cannot sacrifice people and justice for the sake of administrative services, programs and projects. The working group recommends a 50% discount adjustment for the AOC to allow for transition time to, quote, plan for and implement ongoing cuts in a disruptions to access to justices access to justice what function will our administrative agency will be able to perform? Will the public be impacted if the AOC reduces its public hours? Or closes on Mondays and Fridays as many of us are contemplating? The trial courts serve over 36 million people. We don't have the luxury of transition time. Reserve money won't do that. We're going to need it to keep our doors open and for some, reserve money won't be enough. Why can't the AOC take deeper cuts? What would happen if they did? If the answer is you don't know because it hasn't been fully presented to you, then I implore you not to act until it has been. The working group has also recommended a one-year delay of CCMS before. I agree California's judiciary must meet the ever expanding technology of the 21st century but is now the right time? When we are on the threshold of the denial of justice and the loss of hundreds of employees is a one-year delay enough. A one-year delay will mean nothing comes next year for the cost is a astounding 15% reduction of the trial courts. At the very least a delay in CCMS shootings us through this crisis. This crisis will not be over on July 1st of next year. CCMS is a financial drain on our branch. It is time to stop the bleeding. Despite a deployment delay courts that currently use CCMS will continue to bear significant costs. Those costs need to be reduced. We

believe there are ways to do so as referenced in my letter which is included in your materials. The AOC and Sacramento superior court have recently worked collaboratively to lessen the problems our court has experienced in using CCMS. We are willing to continue that partnership as are other courts that currently use CCMS to develop cost-saving measures associated with the current use of CCMS. We can no longer afford to have CCMS hijack our budget. The working group's recommendation will cripple underfunded courts like the Sacramento superior court. Since 2008, our court has been underfunded by an average of 21% each year. As a result we have already reduced our staff by 18%. That number will surely double if we are to survive. Sacramento is facing layoffs nearly 200 additional employees over the next two to three years. If you determine that cuts to the trial courts are inevitable, we request that you adopt the proposition that any allocations to the trial courts must first address the adequacy of each court's funding. The formula the judicial council uses for funding trial courts has continued to perpetuate disparate funding among similarly situated courts. By the AOC's own reports Sacramento should receive between 15 and \$19 million more per year to provide the same services available at comparable counties. Each year we continue to do more with less. We are not alone. There must be parity when considering these allocations. Until there is, underfunded courts like Sacramento should be exempt from a pro rata reduction. By treating us the same, we are treated differently. The decisions you make here today should be thoughtful and deliberative and individually and collectively you should assure yourselves that you have considered all potential options. The branch is united in its insistence that the judicial council must do everything it can to keep the very fabric of a third branch of government open and intact. We all must make difficult choices that will impact the lives not only of hundreds of staff with whom we have worked for years but for millions of people who rely upon us to provide a fair and prompt forum to litigate their disputes. We can no longer wait for new workload models to be tested or for groups to review structure before making the decisions that need to be made. I urge you to make a decision that supports the chief justice's mission and signals to the trial courts and all of California's citizenry that the judicial council understands and supports keeping the doors to justice open at all costs. Thank you for your time.

>> Thank you, Judge Earl. Next we have David R. Lampe, who I show speaking on behalf of the alliance of California judges.

>> Good morning, Madam Chief Justice, members of the judicial council. My name is Judge David Lampe from Kern county and I'm a director of the alliance of California judges and I speak today on behalf of the 400 judges who are members of that organization. Before I do that, since I'm standing up here, I hope you will indulge me a personal moment to say in the spirit of the chief justices' initial remarks that I do not envy you in the choices that fall to each one of you today. We can all talk in the abstract about reductions, cuts, mitigation and budget numbers but we all understand that we are really talking about people's lives. Court employees, administrative employees and the people of our communities. We are all under stress so personally today I pray for your utmost discernment. And speaking now for the alliance, you each have a copy of a letter that we issued and also hopefully you have a copy of a memo that we did yesterday where we tried to be as specific as possible about our proposals. I will not repeat those since you have them in writing but I will summarize. We ask first that you fully mitigate the impact of the budget cuts to the trial courts this year. And second, we ask that you defer any allocation decision for fiscal year 2012 and 2013. It is, therefore, our specific proposal that you find a way to add \$135 million of trial court mitigation this year. We see that it is your task to decide upon the number and direct staff to develop the options to reach that number. In this environment you cannot fairly ask staff to decide upon the only options and limit yourself to those options. We are the judges. You are the leaders. You decide the number and you tell staff to get to that number. We also know that our proposal, as it stands, currently, exceeds statutory authority. I believe the members of this council understand this but there may be some in the audience may not know that there is a cap in the budget act this year of \$150 million for mitigation

from specific funds. We do believe that there's additional mitigation money that is available. As we calculate it, the trial for budget working group has proposed about 124 million of mitigation. We see that 56 million of that is attributable to one year CCMS deferral. And we believe that should not count against the cap for mitigation because that money should be accounted to the trial court trust fund, in other words, the trial court trust fund that was allocated for that purpose. So we see that that leaves under statutory authority approximately 82 million of additional mitigation that is available. We also believe that there is additional mitigation available in any trial court trust fund money that is still directed at the operation, maintenance or development of the CCMS project. Frankly, it is difficult to assess how much of that funding is available and perhaps staff can address that for you today. But if that money is available, we believe that this amount should also be redirected. We also recognize Senator Evans that further mitigation for the proposal. If so, we do ask you to seek that additional authorization. Our trial courts need this further mitigation this year because there's no question with the permanent reductions imposed by the legislature that the trial courts are going to have to restructure and they will necessarily have to reduce their reserves. The alliance does not support the redirection of any one court's reserves for the benefit of any other in this year. There is really no fair mechanism presently identified to do this. However, additional mitigation will further ease the immediate impact of cuts for each court so that these cuts may be done over time. What we're looking at here -- we all recognize that. We're already at the end of July. That's no one's fault here, but we also are under a statutory obligation to give a 60-day notice for any significant reductions for some type of significant reduction so that's going to leave the courts with about 6 or 7 months for some courts to try to achieve as much as 20%. Some courts much more than that, in a very short period of time to get what we anticipate will be next year's reductions. Additional mitigation will allow this to be -- the reserves to be -- what we're calling ratably applied over perhaps a 3-year period of time so that the cuts that appear to be necessary can be phased. In conclusion, I would say that 14 years ago we were led into a great vision to remake the judiciary and to expand central authority. That vision came with the promise of stable and adequate funding both in good times and bad times. For now, and I emphasize only for now, that vision and promise has failed. And that is no one's fault. There's no sin in failure. The sin may be in failing to recognize the circumstances. If you mount a mission to summit at mount Everest sometimes the weather changes and you have to abandon the request. If you insist on plowing forward, that's when you get killed. I also think as judges we must be careful not to think too much of ourselves. We're just judges. We're not politicians. Or policymakers. We need to Marshall the courage to return to our core humility which is the simple task on presiding upon or deciding the cases for the citizens of our communities. That's what we do. That task needs to be funded as much as possible. Everything else must fall to that. Thank you very much.

>> Thank you, Judge Lampe. Next we have the honorable Katherine Feinstein, presiding judge California superior court, county of San Francisco.

>> Madam Chief Justice and members of the council, thank you for the opportunity to address you today. San Francisco is the first county to suffer the serious impacts of the staggeringly inadequate state budget. This week as you all know, we delivered layoff notices to 41% of our remaining court staff and announced plans to close 25 of our 63 courtrooms. On a personal note, following in Judge Lampe's footsteps there, I will be forever grateful to the many justices, judges and court executives and members of the legal community who called from all around the state offering help and consolation during this crisis. By contrast, I still remained stunned that neither I nor our court executive officer has received even a single phone call from anyone in the administrative office of the courts, the entity that I heard you just say, Madam Chief Justice, on the radio this morning that is supposed to provide service and support to the trial courts, not a word. San Francisco may be did first trial court to fall, but I know that others are soon to follow, and I know you know that too. Perhaps the AOC, as your staff

agency, will offer them some help and support. I hope so. I'm addressing you today because if I can help save one job for one employee or keep one more courtroom open, I'm going to do whatever it takes to do so. You hold in your hands the ability to mitigate a large portion of the effects of this disastrous situation. And the question is whether you will choose to do so. I wish today to add my voice to those of so many of my colleagues around the state in asking you to make additional funds available for our trial courts. In doing so, I realize that this will require a close and painful reexamination of undertakings previously considered sacrosanct. First, I do not quarrel with the needs of my sister counties for safe and adequate courthouses, but the fact that the AOC ever proposed spending \$26 million on a single courtroom in a county with two judges, five staff and a total county population of 1175 people and likewise spending \$52 million on three courtrooms in a county with two judges and 17 staff members is to my mind absurd. I realize that these projects had now been curtailed in scope but how could projects so out of proportion with plausible need ever have been deemed reasonable in the first place? This leads me to ask that you take a hard look at the staff of the administrative office of the courts, which recommended these expenditures. In 1998, the AOC had 268 employees. Since 1998, that number has grown by more than 3 1/2 fold. 10% in the last three years alone. While every trial court in the state has been tightening its belt, the AOC has been loosening it. While we and other trial courts are firing, your staff is hiring. This wild expansion of an administrative bureaucracy in these times is simply unconscionable. Your staff has overseen that the expenditure of at least \$400 million on the still-dysfunctional California court case management system. Despite these huge expenditures, CCMS is not fully operational in a single county bits and pieces of it are operational in only seven counties. CCMS may have been a great idea when ideas were grand and money was plentiful. Today, it is clearly overdesigned, over budget and overdue. The estimates to have CCMS up and running in all counties range up to \$2 million. There's no reason to believe that this amount of money will be available before the technology upon which CCMS is built is obsolete. Allow the counties who have CCMS who want it and pay it can keep it but don't force us to abandon basic access to justice in favor of feeding this technological beast with trial court trust funds. I urge you to re-examine your allocations immediately. These run-away plans, systems, and staff are sucking tens of millions of dollars from the trial court and that must be reversed. I know these are trial times not just council, but I know our citizen's access to justice is fundamental and paramount. That access occurs in our trial courts. For our justice system to survive, it is your solemn duty to preserve this access. To fulfill this duty in tough times, our branch needs to jettison projects that divert us from the preservation of our citizenry's fundamental rights. If you are true to your mission, I know that you will do this. Thank you very much.

>> Thank you, Judge Feinstein. Next we'll have Mr. Michael Lawrence, executive director of the habeas corpus resource center.

>> Chief justice, members of the council, thank you very much for allowing me the opportunity to speak on behalf of the habeas corpus resource center. As you may know, the habeas corpus resource center was initially started in 1998 to provide representation to death row inmates in California habeas corpus proceedings. Since that time, the HCRC has been appointed to represent 86 individuals before the California Supreme Court. Understandably the current budget crisis affects the very core functions of the judicial branch, but the HCRC understands that it must participate in the reductions contained in the 2011/2012 budgets. But I'm here today to request the formula used to calculate HCRC's share of these cuts, equitably applied and come up in account of our unique appointment. Specifically, I request a portion -- a portion of the HCRC budget be treated as exempt from the reductions in the same manner as the Supreme Court's and the Court of Appeals's budgets have been adjusted. Three justifications support this request. First, unlike any other line item in the judicial branch, the recommended reductions provided no adjustments, no adjustments to the HCRC budget. Unlike any other entity in the judicial branch unless our entire budget is subject to a 12% reduction. Second, the

recommendations contain adjustments for court-appointed council programs including the court-appointed depend sent council program. These same rationales which justified exempting those programs from budget reductions -- that those programs directly provide representation to indigent people are precisely the reasons why the HCRC's budget need to be treated the exact same way. Our mission, as provided by statute, is to provide representation to those who cannot afford it. And we have been appointed any number of cases to do precisely that. 90% of our staff are directly related to the representation of individuals. We have very little overhead that we have available to cut. Nonetheless, our proposal seeks to adjust our budget not by the entire 90% figure but merely to reduce the amount that is going to be reduced by examining the amount of our attorney salaries. So I request only a portion of our budget to be reduced to be able to accommodate and avoid the inequity that I've just described. Third and most importantly, the recommendations do not account for the unique circumstances for the work of the HCRC. In my 25 years of representing death row inmates, including a number of people who have been executed by the state of California, I have never been more challenged than I am currently challenged today. We have 16 petitions to file in 2012. And 15 petitions to file in 2013. And unlike every other litigant in any other type of case before a court, we do not -- [Inaudible]

>> We question a time for filing those petitions. The time for filing those petitions are directly set by the California Supreme Court policies. And I can risk on not filing those petitions on time because we do not have the resources but we do know all the consequences around that. People have been executed around the country because their lawyers failed to file on time. Unless we face this very very difficult dilemma, I can ask for the court to withdraw -- allow us to withdraw from these cases which would only then tax the indigent council program or I can try to file these petitions on time with inadequate reference. That type of dilemma is something that I certainly cannot stand. And more over, it is not economical. If I ask the California Supreme Court to withdraw from these cases they will have to find private counsel to eventually take over these cases and to review the same work that we have already produced and pay for this expense a second time. Now, if I'm asking for a small reduction in the overall reduction of the HCRC budget, to reduce that budget reduction to a \$1.07 million reduction from our budget. It accomplishes what you would intended to accomplish what the court-appointed adjustments and I believe that we can fulfill our mandate to provide high quality representation to death row inmates in California. In closing, I appreciate the difficult task facing the country. I truly do. We have struggled it for the past several years understanding we have had to deal with reductions as well. As well as an expanding workload of the HCRC. I merely request that the reduction be fairly calculated and to allow us to be able to provide that representation without wholesale disruption in the capital habeas process. Thank you very much.

>> Thank you, Mr. Lawrence. We'll hear next from Mr. Mark Natoli, superior court clerk out of the county of Los Angeles county superior court, also vice president of the local 575. I also understand that Mr. Natoli may be sharing his time with Ms. Sherry ray Peters, president of local 276 and from the California superior court county of Los Angeles.

>> Thank you, madam chief. Madam Chief Justice and council members, good morning.

>> Good morning.

>> I'm Mark Natoli, a court clerk in Los Angeles County and vice president of the local 575 representing superior court clerks and paralegals in Los Angeles County. I'm addressing you today in the fervent hope that you will decide to spare the trial courts from any further budget cuts. And apportion the cuts to the state court bureaucracy and pending special projects such as the California case management system. In March of 2010,



330 of our colleagues, coworkers and friends were laid off from the superior court in Los Angeles County. Some have returned to work in the ensuing 16 months but current budget constraints have prevented our court from hiring enough new line employees to compensate for losses due to retirement, leaves, and other departures. Today we are able to provide service, albeit, with some considerable delays in certain areas to the 10 million people we serve. If the additional cuts to the trial courts proposed by the AOC and the trial court budget working group are enacted as proposed, our ability to provide full service to the public will be severely compromised, perhaps even crippled. We implore you to consider every possible alternative before burdening trial courts throughout the state with these additional cuts. We realize, madam chief, and members of the council, that you are faced with some very difficult choices. Our mission, as a third and coequal branch of government, is to provide access to justice for all Californians. This access happens first and foremost at the level of the trial courts. We will be very happy to join you in your efforts to convince the legislature to fully fund the judicial branch in the coming years. Right now, we must also all work together to ensure that we make the best possible use of the money we have been allocated. We believe that to spare the trial courts from additional budget cuts will represent our best effort to fulfill our constitutional mandate. Earlier this week, the superior court here in San Francisco announced its intention to lay off 200 of its hard-working court employees. In addition to the hardship and heartbreak that will cost to these dedicated public servants, these reductions will prove devastating to the citizens of this great city. This is exactly the type of action that we are seeking to avoid. The San Francisco announcement, madam chief, council members, adds urgency to your task. Please do all in your power to avoid a repetition of this elsewhere and to help restore the court here in your home city to its full capacity and splendor. Thank you all very much for the opportunity to be heard. We look forward to working with all of you to ensure the brightest possible future for our court system. Thank you very much.

>> Thank you, Mr. Natoli.

>> Good morning, chief justice, and members of the judicial council, as you're aware the Los Angeles superior court is the largest of the Court entities and our court receives one-third to the court system. The last two years have been a challenge for the courts and the entire state. In Los Angeles, ASME has worked with the court through all the cuts and reductions necessary. Although we suffered many challenges with temporary furloughs and the layoffs of many of our members, we have continued to provide access to justice for the citizens of Los Angeles County. I come to you today with a plea on behalf of our members and the citizens of Los Angeles County. We know you have tough decisions to make with the recent budget and the huge cuts to the court system. We implore you to consider the people's access to justice when making these decisions. Our court has worked with significantly less staff, fewer resources for the public in the forms of classes and self-help forms and the eliminations of entire programs. If further cuts to staff and further hours of operations are made, it will seriously erode the public's right to access justice. Already the public is waiting longer and longer for court dates, mediation appointments and other services. Please consider making any unnecessary court cuts without eliminating the staff and operation hours with huge reductions in our immediate future we believe the judicial council has to ensure every citizen's basic right to access justice is protected. We are asking that funds be redirected from other areas such as the AOC building funds and the CCMS project to help keep the courts accessible throughout this great state. Our members are working hard and are committed to serving the public. Please focus on keeping the courts open. Thank you.

>> Thank you. We'll hear next from Mr. Curtis Draves and Mr. Brandon Scoville speaking on behalf of the California federation of interpreters.

>> Good morning, honorable chief justice, esteemed members of the judicial council, thank you for the

opportunity to speak here. My name is Curtis Draves and I'm a California certified court interpreter of Spanish, a full-time employee of the Alameda court and the president and chairperson of the California federation of interpreters. As a labor union, we represent over 800 employees in a single statewide union of court interpreters and we're the largest professional association of corporate interpreters including members who are independent contractors. You have a letter from CFI in your packet for reference. I'm here today because I'm greatly concerned over the proposed cuts to the court interpreter budget. Our members have sacrificed greatly over the last several years. The services we provide are required by the California constitution, yet, because of fears because the budget is insufficient courts have cut back on interpreter availability. I'd like to read selections from a letter sent to the state courts by Thomas Perez attorney general department of justice civil rights decision. Dispensing justice fairly and accurately is a corner stone of the judiciary policy and practices that deny LEP persons to the courts undermine that cornerstone and they may place state courts in violation of long-standing violation of courts. Failing to take reasonable steps to ensure meaningful access for LEP persons is a form of national origin discrimination prohibited by title 6. Language services, expenses should be treated as a basic and essential operating expense not an ancillary cost. Budgeting adequate funds to ensure language access is fundamental to the business of the courts. We recognize that most state and local courts are struggling with unusual budgetary constraints that have slowed the pace of progress in this area. Fiscal pressures, however, do not provide an exemption from civil rights requirements. Chief justice, council members, interpreter services must be expanded, not reduced. I'm somewhat heartened by the alternative proposal before you today to take only 3 million from the interpreter budget but this is still too much. I urge to you reject the cuts entirely and allow us to expand and improve interpreter services to work toward compliance with the DOJ mandate. Too many cases are being delayed and continued and many court users have no access to an interpreter at all.

>> Thank you, Mr. Draves.

>> Thank you.

>> Thank you, chief justice, members of the judicial council, my name is Brandon Scoville. I'm a California registered interpreter, court interpreter in the LAO language. I worked in the courts between 2005 and 2010. I am now a representative of the California federation of interpreters. With due respect to the members of the working group and the difficult decisions that they had to make in creating these proposals for the courts, I believe they failed to recognize the context in which they had proposed the cuts to the interpreter budget. Interpreters do know the context in which these proposals are made. They know that there has never been a cost-of-living adjustment for interpreter employees. They know that the costs of being an interpreter have increased dramatically as the cost of benefits, continuing education, certification renewal and the general cost of living has increased while their salaries have stagnated for years. They also know that their services are the only program that is directly mandated by the constitution and is being directly cut here. Four years ago, the baseline budget for interpreters was the same as it is now. And it was not enough to cover the costs at that time. The legislature had to back-fill by a million dollars. There was an impact on interpreters because when the court is closed there is no work for interpreters even though there was work for some other employee groups in some courts. So the money you're considering cutting Dacca directly from the pockets of interpreters. Legislators made budget policy to ensure that those savings from the interpreter costs for the closures would go to future interpreter costs and they rejected an attempt to remove 2 million in the interpreter budget from negotiations. Six months ago this judicial council respected that vote of the legislature and keep everything left over at the end of the year in the interpreter budget. Everyone at that time recognized that interpreter costs had to increase in order to comply with the California constitution and with the DOJ requirements. Reversing that policy now and cutting these funds will send a message to the legislature that the judicial council rejects their priorities. It

will send a message to the DOJ that California is unwilling to make reasonable efforts to comply with civil rights requirements. It sends a message to the courts that they should continue to cut interpreter services. It sends a message to a significant portion of our society that they will have no access to justice in our courts. It sends a message to the interpreters that the branch does not recognize or appreciate the competence, the dedication, the professionalism, the passion, and the sacrifices of our court interpreters. Thank you.

>> Thank you, Mr. Scoville. Next, we'll hear from Ms. Doris Chang, a partner in San Francisco and a board member of the bar association in San Francisco.

>> Good morning chief justice and members of the council. I thank you for the opportunity to address the devastating impact of budget constraints to the citizens of San Francisco and users of this court. The fact that any county should face defamations of its judicial system is unconscionable. That a county as large in population in San Francisco should face closure of civil trial courts is untenable. We have heard from many different courts. We have heard from you all and understand how valuable each of our counties are but I want to tell you something about our own court system here in San Francisco. San Francisco is really the epicenter of Northern California. It is a major player in the United States, and that can't be denied. There are cases filed in San Francisco that could be filed elsewhere, that could be filed in federal court. I understand that Judge McBride, for instance, in our own San Francisco court right now has a large intellectual property case, business disputes that involves billions of dollars that was not filed in federal court. There's a reason that those cases come to San Francisco. It is a major player. When you look at our asbestos courts, for instance, the strides that we have made in the last two years, cleaning up the overhaul and getting those cases moving is because our trial courts have leverage to get those cases moving and get those cases settled. And so it cannot be denied in any fashion how significant San Francisco is, and I say that because it is true that if San Francisco is forced to take the cuts that it is taking and have been mandated to take because of these budget cuts, it will cause a ripple effect and it will be the first to topple. And let there be no mistake about this. This is not a local issue anymore. And it's not even a statewide issue. I've received calls from colleagues around the country and I'm sure you all have now as well, probably more than I have, but my friends over in Philadelphia, in Massachusetts, South Carolina -- all of these states are wondering well, what's going on? And we wonder the same thing and it's because there is a national effect and we need to recognize the national symbolism that is occurring because of these cuts. If San Francisco is forced to sustain the reduction of only three trial courts for civil cases, I fear that we will look back on this day and recognize it as the first most glaring symptom of an epidemic. The judicial branch will no longer be a coequal part of American government, and this will have international consequences as well. My colleagues in my firm and I and I know other people in San Francisco have done training abroad. I have taught lawyers in Kosovo, Macedonia, Ireland and Mexico. I have broken judges and lawyers from Japan to come bear witness to our courts here in San Francisco. And they view this as a model for good government, for a strong judiciary. So this will have greater impact and that needs to be recognized so that we do try to protect access to the courts. I want to just mention at the ground level what this means for us at the bar association. We have clients and we think there are at least three areas, at least, that are really affected. Our clients, the users of the Court, we're talking about now what would be an erosion of the judicial system of just plain justice because when we're facing a five-year delay to get our cases to trial, we lose exactly what all of you justices have written in your opinions. We lose evidence. Witnesses are gone. Their memories fade and there is then an erosion of the justice that is dispensed. For clients who have severe personal injuries -- my client who has -- who was quadriplegic, if he has to wait five years for compensation, on a real level, that's not just the money that's being denied, it's life expectancy. It's a shortened life expectancy because we know about good care extending life expectancy. Businesses are effected. It interferes with those who have to report their litigation, their disclosures, insurability. All those things come in to play. We fear for our own courts that when

you gut the power of the courts, that it becomes in effect administration. My colleagues and I on the bar association have had the privilege of serving on the judiciary committee. I was the chair in 2008, and we were really supportive of all the judges who came up in the last couple of years and so supportive of how wonderful their expertise is, how great their experience is, and we fear that with the erosion of our justice system, that we will see a degradation in the applicants that come in the future. Our society is affected. Every day conduct is regulated by the existence of a powerful judiciary. The way that we interact in the workplace, the way that we drive on the streets, the way that we manage our property or run our business is affected by the belief that we will be held accountable for wrongdoing. And when we no longer have a powerful judiciary, expect that there will be chaos. Expect that there will be a reversion to chaos. We have relied historically on the courts in the place where the power less with the powerful full with things like housing, marital dissolution, marketplace compensation when there's no accountability, there will be sort of a caveman-style compensation or retribution. In closing, I want to encourage members of the judicial council to please use us, the bar association is 7500 members large. There are a number of other organizations that support the courts -- or are committed to an independent judiciary and equal access to justice. The bar association of San Francisco is committed to developing a task force which we have started. We implore you use us and let us have input because how much this affects us. Please do not give up on protecting our rights to equal access. Thank you.

>> Thank you, Ms. Chang. Next we'll hear from Debbie Pearson, Adrian, Williams and Ms. Arnella Sims from SEIU.

>> Good morning, my name is Debbie Pearson. I'm the chapter president for the courts in Alameda county with SEIU. I am LPA in Alameda county. And as of all the other people that have come before me to tell you, we're here with the same message. It is totally important that we hang on to what we have at this point. Two years ago, I came here and spoke. We were getting ready to lay off 73 people. Those people did go out the door. We are still short another 38 that haven't been hired from attrition in Alameda courts. We have fewer and fewer hours that we're looking at, at serving our public. Our employees in Alameda county are dedicated to what our - - what we're supposed to do which is to serve the public, as you all know. So we are here to implore you as everybody else has that's been up here so please, please preserve the trial court so that we're not cutting services to the people of California. If we are not prioritizing our services, it does not make sense to increase construction and maintenance projects all while planning to close courts, provide excessive pensions to top managers, keep contracting services such as Deloitte contract that cost millions and has been an I.T. nightmare. This body has the ability to make corrections in the direction you're currently going in. I am urging you as all the other employees in the courts in Alameda county to prioritize the needs of the people of this state by finding ways to keep our courts up and running towards greater efficiency and transparency. That's what we all have been entrusted to do, not just this body, but all of us. I urge you to prioritize services what these courts were put here to do. Impact the decision -- and the impact of your decisions will have a ripple effect on families, children, business and residents and, of course, the state of California. I urge you to find ways to serve and not harm our communities that are representing -- that I'm here representing here today. Thank you very much.

>> Thank you, Ms. Pearson.

>> Good morning, chief justice and judicial council members, my name is Adrian Williams and I'm a court worker at the San Francisco superior court. And as all of you now aware we have received 200 layoff notices. On Monday it was anticipated that 200 would be mailed out on Tuesday, 200 of my court workers received layoff notices. The impact it's going to have on the court workers -- [Inaudible]

>> Is financially horrific. We have quite a few working families here within the courts that come to work every day and try to provide an excellent service to the San Francisco community as well as court users. It's very important that you understand that you have to look at your projected projects and see where you can see cuts alleviating budgets in the state. San Franciscans are not the only ones here that are in this situation but other courts throughout the state. You know, our model here has always been to have equal access to the judicial system. Unfortunately, with the closing of 25 courtrooms, we'll no longer be able to provide that. And our once known model of everyone has a day in court will no longer have the same meaning for the public. It's important that you all understand the impact it's going to have on the public services as well. San Francisco prides itself in its excellence of community service-based programs. We have many outreach programs which help bridge and access the public to the courts. This is once again one of your mission statements. I ask you to please look into your budgets and help the courts of California. Our saying now is with 25 courts closing, justice delayed is justice denied. Please do not let this happen to California. Please ensure that the survival of the judicial branch continues to exist for not just the court workers but for the California residents itself. Thank you.

>> Thank you, Ms. Williams. Ms. Arnella Sims?

>> Good morning. My name is Arnella Sims and for nearly 36 years I've been a court employee in Los Angeles County and I'm watching the court system disintegrate before my very eyes. Decisions made today will provide a litmus test for whether the judicial council and the AOC are prioritizing serving the public. The trial courts are the backbone of our judicial system but we cannot continue to do the people's legal business under these circumstances. In March 2010, the L.A. superior court laid off 229 court employees and a long-standing hiring freeze is still in place. At our courthouses there are not enough staff, paperwork can't be processed and the public has to wait longer periods of time to have cases heard and resolved. We as the employees are doing the best we can to meet the statutory requirements that we must meet. We know our work has critical repercussions and this added pressure puts the quality of our work in jeopardy. There are many who fear that a simple mistake will have wide ranging negative impact. The public needs to be the top priority in your decision. You must terminate the delayed contract, you must end all spending on CCMS. You must bring the spending of maintenance costs in line by transferring authority for those duties to the department of general services which has the experience to do so. In the pension give-aways to top managers and cut far deeper into the costly centralized bureaucracy. The legislature has given the judiciary branch great leeway in implementing the cuts that it made in this budget. If the judiciary shows that it doesn't prioritize the public, then it will prove clearly that this trust was misplaced. Thank you for your time.

>> Thank you, Ms. Sims. We'll hear next from John W. Gibbons, Nevada city, California, speaking on behalf of himself as a private citizen.

>> Madam Chief Justice, members of the judicial council, my name is John Gibbons. I live in Nevada city, California. I'm a private citizen. I'm not an attorney. So please bear with me. I must say I've never attended one of your meetings. I find this justice a little bit intimidating. [Laughing]

>> I feel like I'm called before the knights of the round table so please bear with me. For those of you who may be unfamiliar with Nevada city, we are just a little town of 3,000 people. We are located about 60 miles northeast of Sacramento. We're on the heart of the gold country, and we may be small but we are the county seat of Nevada county. I'm really coming here, Madam Chief Justice, at your request. I understand that this has

been a special meeting of the judicial council called to deal with the financial crisis caused by the legislature cutting \$350 million out of your budget. I understand you have called for ideas and I was told that you said everything is on the table. So just as a private citizen I have come forward to say I think I have found about \$105 million which in my math comes to about 30% of that \$350 million budget cut, that I am, of course, speaking of our Nevada county courthouse. Let me tell you just a little bit about Nevada city, we have three magnificent art deco buildings that were WPA projects. The first of these are our city hall. Several years ago it had clearly fallen on hard times. The city did an extensive renovation and today it is a model of the renovation of an art deco'd WPA building. My understanding it won a pot full of awards. The second building we have is the Nevada city elementary school locally known as NCE. You can find a picture of it if you just go to [preservation.org](http://preservation.org). That's the magazine for the national trust for historic preservation. Click over on the story of the week and go down to January 31st article "trouble in a gold rush town" and there you'll find a picture of our wonderful elementary school. Well, unfortunately, in June of last year, our board of education closed the school due to a declining enrollment. That would have been enough story but then we learned that the AOC was thinking seriously about acquiring that building, demolishing it, and building an 84,000 square foot thing with underground parking. That school is located in the middle of a tight little neighborhood of beautifully and lovingly restored late 19th and early 20th century homes filled with families who live there because they wanted to send their kids to NCE, and you can just imagine the response that the AOC got. The good news is, the AOC has rejected that alternative. The board of education has now leased the building to a charter school and classes start on August 24th so we are thrilled. So now we come to our crown jewel, the Nevada county courthouse. And for those of you who have never seen it and who are unfamiliar with it, I brought along a copy of the draft E.I.R. with three pictures in it. You folks can come up and take a look at it and I'll be happy to show it to you, I guarantee you it will knock your socks off. It really stands over our little town. Like a medieval cathedral or a medieval castle, we are the Nevada city county seat and we were built at the foot of that courthouse. Now, the AOC has told us that they have three options. One is to demolish our historic courthouse, which is quite clearly really a national jewel, build a new courthouse, architecturally sensitive. The second choice is to renovate the courthouse and then the third choice is to abandon the courthouse and move it down the road to a location just on the edge of town that we refer to as cement hill. Now, I'm not going to waste your time in going into discussing the three options. I understand this is not the forum for that. The AOC is going to be in town on August 9th to take public comments on the draft E.I.R. and I can assure the AOC will be waiting for them, all right? That would be the forum. What I would like to suggest is this, the AOC wants to spend \$107 million to tear down or abandon a national treasure; build a courthouse that nobody wants and candidly I don't believe we need. So let me make three options to you and I understand I've got a roomful of decision makers here so -- I mean, maybe we can put this to bed today, option Number 1 -- that's another story. Option Number 1, let's just stop right now, what we're doing with the courthouse. Just end it today. Let's not go any further. The second option would be, let's then take this off the table. The Nevada city courthouse is on a list of 41 courthouses that are listed in critical conditions. I really think it's functioning. It's probably working today unless it's one of those days when the courts are closed because they don't have any money. The third option -- and then we can move it over to that new task force that you're creating, so take it off the list of 41 buildings. Take it over to that new task force that you're going to create on buildings and then let's take this at a more major pace. The third option is, let's just keep the courthouse functioning now, let's just patch it up, it works. But let's all agree on something. The courthouse is sorely in need of a facelift. For I think considerably less for \$107 million we can sit down with the AOC and the judges and the contractors, make a short list of things that really need to be done, let's do it and then let's move on. Now, I understand I'm in a room full of distinguished people, this is an August body, and I'm just a school bus driver, so maybe spending \$105 million on a building that nobody wants and we don't need when I've been listening a parade of people coming up here and they're all doing the lord's work and we're all running short of money, why do we want to build this courthouse? Maybe it makes sense to

you, but I'm just a school bus driver and, Madam Chief Justice, and members of the judicial council, I don't get it. Thank you for your time.

>> Thank you, Mr. Gibbons. For all of the speakers who appeared today to present their important ideas, we thank you for coming and informing council. We have your comments in mind as well as the written comments, which have been shared and that every council member has a copy. At this point we conclude our public comment period and we'll begin to move forward on our agenda. The first item is, of course, what we've all been speaking to and hearing about is the budget allocation of 350 million ongoing reduction to the judicial branch. It's an action item. I'm going to ask the presenting panel to please take their seats at the area in judicial council. Before we start on this item I would like to give a little background. The trial court budget working group and many members here in consultation with the appellate court leadership and judicial council members have conducted extensive reviews of many of the programs funding and court programs. The trial court budget working group as you know consists of 15 trial judges and they've provided us today with the recommendations that you have before -- before you regarding on allocation of funding and reductions. In addition to the trial court budget working group, all of whom are serving one-year terms and have made these recommendations, we concluded for the first time the appellate court leadership. And the brief explanation for this expansion as well as the judicial council is the fact what we've alluded to here today is that the \$350 million ongoing reduction to the branch budget will profoundly and radically change how the grant delivers justice to 37 million Californians. And so I am going to have the group talk a little bit more about that process as pertinent but I did want to introduce to you the folks here today and I'll start from my left, the honorable administrative presiding justice Brad Hill from the fifth appellate district. Also our chair of the trial court budget working group Stephen Nash. We also have Ms. Kim Turner, a member of the trial court budget working group and we have Judge -- the honorable Gary Nadler a member of the trial court budget working group and also we have Ronald Overholt, chief deputy director of the AOC for this presentation. Thank you all for being here.

>> To begin, I would like to thank our chief justice and the judicial council for the opportunity to present the recommendations of the trial court budget working group. As we know, the judicial branch faces extraordinary challenges as does this esteemed council. We are the third branch of government and we are charged with facilitating the provision of justice to our citizens, which in itself is no easy task. However, this burden has dramatically increased as we must serve our citizens with dramatically reduced and inadequate resources. Given the financial limitations which saddle us, our chief justice forms a working group the trial court budget working group in order to examine the financial implications of the budget reductions imposed and to make recommendations to this council. The working group itself includes 30 members. It is representative of the diverse trial courts, large, small, medium, urban, and all the regions of the state are represented. The charge of this working group includes providing advice on the total trial court budget process, considering trial court budget priorities and making recommendations on the allocations of trial court funding including methodologies for allocating trial court augment trial court reductions. We engaged in what could be described mildly as a robust discussion. At times emotional, but always engaging. And always professional. Votes were taken and indicated not a unanimous ratification of all the suggested outcomes but rather a reason to termination by the majority. At the end of the long day, the universal understanding was that balancing the totality of needs against fiscal limitation was a Herculean task necessarily involving frustration, concern and disappointment. I can, however, promise that the working group did its very best to accomplish its stated purpose in reaching these recommendations which we bring before you today.

>> I really want to thank you for grounding us in that charge. I also just want to say on behalf of the trial courts

that we are really in your debt. To get the council to spread the courts among not just the trial courts but the other areas. Thank you very much for pulling that off.

>> I'll walk you through some of the numbers and issues that were identified and ultimately get you to the budget working group recommendations were.

>> It allows the council to direct other funding from the trial court trust fund other than court operations, equal access funds. I'm including the Supreme Court, courts of appeal, judicial council, judicial branch facility program and including a habeas Corpus resource center. Also, the authority allowed for transfers from various fund sources including immediate and critical needs account, the state court facilities construction fund, the trial court improvement fund, and the modernization fund. Now let's look -- now let's take a step back and look at cumulative reductions that have impacted the entire branch of the last -- over the last few years. This chart displays starting in 2008-2009 the judicial branch budget, and I'm including what's identified under state judiciary, that's how it's identified in the state budget. That's the Supreme Court, courts of appeal, AOC, HCRC component of our budget, and then the trial court funding is separately identified, but branch wide you can see in 2008-2009 we had 103.5 million dollars of cuts. Moving to 2009-2010, those reductions were increased, and you can see the total impact to the branch had increased to \$377.9 million dollars in 2009-2010. That's an important point in time because that was the year the legislature not only included reductions in the budget but also provided the council authority to make one-day closure, state wide closure in the courts. As we all know, there was a lot of impacts and implications from that one day closure, and the users and our court leaders and unions and others were very concerned, sheriffs, various players, and as a result of that, the legislature actually restored funding in 2010-2011, so you can see the reduction, and this is a cumulative number. This is the ongoing impact. We are looking at 332.9 million dollars of cuts.

>> The reduction was scheduled throughout the branch. I'm jumping ahead a bit. We're talking about branch operation reductions. The funding of branch operations comes primarily from these fund sources, the state general fund, trial court trust fund, the trial court improvement fund, and the appellate court trust fund for the courts of appeal and the Supreme Court. There are other fund sources that would not be included in any potential transfers, that were not included in the provision authority provided by the legislature. These are special purpose, special allocations from funds. Those would include the motor vehicle account, federal trust fund, judicial branch, workers' comp funds, family law trust fund, mental health services fund, state community corrections performance and senate fund, and the court interpreters fund. Going back to the \$200 million, the first wave of cuts, so the legislature scheduled \$200 million in reductions. That was the first phase of the \$350 million. Again, this was scheduled throughout the branch impacting all areas of the branch, and that was based on looking at the total operation budget for each area with certain adjustments. These adjustments were for court appointed indigent counsel in the courts of appeal and the Supreme Court. There was a budgeted transfer of 8.1 million of funding from the judicial branch facility program to the court facility trust fund, and that simply is an item that is extremely underfunded, and that was not included in the computations. Judicial compensation with the -- at this point fairly low vacancy rate and the need for appointments. There has to be funding to compensate judges, so that is not included. The assigned judges program is not included which is also primarily compensation for retired judges. There's an adjustment we'll talk about later related to health benefits and retiree health for trial courts. That was not included, and finally local trial court reserve and revenues were not included in the calculation.

>> Subsequent to the legislature approving a reduction spread that took into account the factors that we just identified, other budget considerations have been identified and those are identified here. So when we're



looking at a spread across the entire branch, while the trial court and judicial compensation was not included, the courts of appeal and Supreme Court have identified that the justices also likewise need to be -- their compensation needs to be excluded and the trial court budget working group agreed with that. Part of the realignment, and we'll talk more a little bit later this afternoon about the court security realignment that was part of the overall justice realignment package that the legislature approved. That money, the function of that, that money comes out and is being removed from the trial court budget under local security realignment. That money now will be provided directly to counties for court security, so for calculating purposes for the budgets where you have to identify and spread the cuts, that money now needs to be reduced from the trial court funding side of the picture. If you pull out security funding from the trial court, the argument is that the security costs associated with appellate Supreme Court funding for CHP also needs to be addressed, so that is recommended for exclusion. The indigent council was going to be excluded as proposed, and the dependency council was not in the calculation. As a result of the adjustments, we end up with an adjusted budget you can see for the branch of 2.3 billion dollars, and you so then what we do is identify of that 2.3, what share is each entity have of that 2.3 billion, so it goes from various habeas Corpus resource center, .6%, Supreme Court 1.3, all the way to trial court funding, and this includes grants and local assistance, and that's about 87.6% of the total. So then we look at the total \$350 million reduction that was included in this year's budget for purposes of coming up with a proposed spread. First off, \$350 million against that adjusted judicial branch budget that we talked about represents 15.2% of the total. So let's look how that 15.2% would spread throughout the branch. For the Supreme Court, 4.4 million, and that's based on their share of the total budget. Courts of appeal, 19.6. Trial court funding, 15.2% amount, and so that's the -- the spread that ultimately was recommended by the trial court budget working group in our joint meeting. Now, aside from this approach of looking at total budget and percentages and then trying, endeavoring to equitably spread the cuts, other allocation options have been identified. One of those is don't adjust what the legislature did at all. They spread 200 million and left 150 million in trial court funding. We don't think that's appropriate. That's certainly not consistent with what the chief justice has talked about and other branch leaders, so that's not recommended. The next one, offset reduction by elimination or reduction of 50% of the judicial council AOC general fund budget. There have been different options thrown out and suggested. Some have suggested offset the entire AOC budget first, and then if there's anything left, look at the appellate courts and courts of appeal. Another option was this one where we'll do 50%. That's another alternative. Finally, some have said well, don't look at the total budget, only look at general funds. Just look at what share of each or how much general fund is provided in support of each area of the budget. So let's talk about some of these other options. First off I mentioned no adjustment to the reduction, so that would leave, we think, too big a share of the cuts in the trial courts, and first off, one of the things that was very clear in the discussion with the budget working group, and I think certainly with all the speakers this morning, \$350 million, and this is stipulated out of the chute, \$350 million of cuts, there is no way to spread this without substantial pain. It is -- it's a very difficult budget, so there is no optimal spread for \$350 million. So again, the option that would leave a bigger share in the trial courts, we don't believe that that is appropriate. The second approach eliminates judicial council AOC general fund budget, essentially, offset the trial court funding reduction by eliminating the council general fund support. We think that would be inconsistent with the notion of sharing the burden of reductions equitably through the branch. There would be in some cases severe impact to services provided to courts. That includes legal services, education, all kinds of other services. We think that the burden of doing away with or eliminating or reducing some of those services would impact small courts especially hard. And then finally, the notion of well, let's cut 50% or 100% or whatever it is at this point appears we think very arbitrary and certainly not an equity based. Finally, this notion of well, just apply it against general fund only, it's a general fund cut. Let's apply it to general fund only. If there's other fund sources, don't look at those. That does not appear to be a -- an optimal approach. It would substantially increase reductions allocated to the Supreme Court, the courts of appeal, less so, but also to the AOC and habeas Corpus resource center

because their share of general fund support is substantially higher and would result in a large disparity in percentage of operations reduced among the entities, and we have a table that displays this. So if you looked at general fund only, and this was the 200 million. This is analysis from that original \$200 million reduction that the legislature had scheduled, the \$200 million level based on the calculations at that point would have been about a 6.8% hit, and so this was -- the 6.8% column reflects what was actually done in the budget and for the \$200 million, that's the first wave of the \$350 million cut. If you apply that only to general fund instead of spreading it out across all operations as was identified, you would end up with some substantially different reductions. So the Supreme Court instead of 6.8% cut would end up with a 16.8% cut. Courts of appeal would end up with a 15.4% cut. AOC, 9.7%. The branch facility program is really an anomaly of the numbers. It's a very tiny little support budget, so I wouldn't worry about that. The trial court OPS court would reduce to 6%. Habeas Corpus would face about 11.3%. Again, the notion is that model would have some real serious and disparity impacts, so that was not recommended.

>> Now let's talk about what the \$350 million reduction, what are the implications for some of the areas in our branch, and I'd like to call on justice hill first to talk about from the appellate court perspective some of the challenges they're looking at.

>> Thank you very much, chief, and members of the council. Good afternoon. On behalf of the courts of appeal and the Supreme Court, I would just briefly state that we are very supportive of the trial court budget work group recommendation. I was at the meeting. It was as indicated a very thoughtful discussion and had many varied ideas, but at the end of the day I believe everyone felt that the ideas that were presented and the solutions arrived at were equitable to all concerned, not devoid of pain, but certainly thoughtful and good solutions. I would indicate that as the courts of appeal, many of us have PJs of trial courts. We under the daunting challenges that all of them have and all of you have. It is nothing that really can be described if you haven't been a PJ of a trial court. Waking up in the morning and trying to figure out how you're going to yowfer calendar, how you're going to find enough judges to meet the challenges that day, the number of staff that you have to find to cover those courtrooms, and then in times like this, the concerns that you have with respect to fur lows and layoffs and budgets. It's a daunting challenge to say the least, and we certainly understand that. One of the things I'm not sure I fully understood when I was a trial court PJ is that as an appellate court PJ, you have not all of the challenges necessarily that a trial court PJ has, but you have a different set of challenges, one of which is the fact that we don't have reserves. We're precluded from carrying money over year to year. While we'd like to save money for a rainy day like many of the trial courts do, we can't, so in good times, it's fine. When you hit a year like this, you have no reserves, and no ability to meet those challenges. I will say that the courts of appeal have been meeting those challenges in many ways. We took the full brunt, 100% of those cuts for the first 200 million. Our court employees have not received any cost of living over the last four years. They take the same furloughs one day a month for the last two and a half years, and we have been meeting those challenges by seeing how we can obviously find every bit of money in our budget that we can. We appreciate in light of the fact that we don't have reserves the accommodation that the trial court budget working group made for us, but we understand that we still have challenges to face, and all of us are getting together this coming week because the cuts are as painful to us as they are to many other courts. We are having to find many that currently -- find money that currently we don't have. We appreciate the challenges that you face. We appreciate the gravity of the tasks that all of you are dealing with today, and we thank you for your consideration of the courts of appeal and the Supreme Court budget. Thank you very much.

>> Good morning, chief, members of the council. I'd first like to indicate how proud I am to be a member of the administrative office of the courts. The AOC has been the subject of many comments, both this morning and

over the last several years, but I have never been associated with a more dedicated, hard working, loyal group of professionals than are here at the AOC, and I want them to hear that and know that and I know the members of this council do. With a mission of serving this chief justice, this council, the courts of appeal, the superior courts, and the public of California, and that is their goal, that is their mission, and the work that they do is very, very important to the access to justice. So that being said, I really appreciate Stephen Nash being willing to come back one week after his new gig in San Bernardino know and appreciate his continuing service to the branch and to this council and to his presiding judge for allowing him to delay his start in San Bernardino and to lend him to us today to present this fine presentation. The AOC is fully participating in the cuts that have been applied to the branch. If you look at attachment two of your agenda and you see the spread Stephen indicated of the \$350 million, the AOC along with HCRC is slated for the highest proportional cut of any entity of our branch at 12%. When we first looked at the cuts based on the \$200 million reduction in the first round of the budget back in March, the AOC's 6.8% which was across the board, 6.8% of the reductions in all areas of the branch, the AOC's cut was \$8 million. When as Stephen indicated the adjustments were made to remove trial court security from the base of the trial court's base budget, that meant that the cuts to the AOC and the courts of appeal and the Supreme Court went up. The cuts to the trial courts went down. And we fully agree that that was the appropriate move to make because the security was no longer in the trial court's base budget, and so when that happened, our share, AOC, and you can see it on attachment 2 here, computing ongoing reduction of \$200 million, that's column E, went from \$8 million to 9.7, so just under \$10 million. When the additional \$150 million was added to the reduction, a full reduction would have -- would have computed to 17 million dollars, so we started at 8 million, went to 10, and to fully absorb the reduction of the 150 million dollars pro rata share would have been \$17 million. The recommendation of the trial court budget working group is that that not be absorbed totally in the first year, to provide the AOC with a bridge to next year when we would be facing that amount, to make our cuts this year 13.4 million dollars. That is a significant hit, it will mean layoffs at the AOC, it will mean that we will eliminate approximately 100 funded vacant positions that are vacant because we have not been hiring for the last three years. We will continue our furloughs that we've been engaged in for the last two and a half years, just as the appellate courts and Supreme Court have been. We will continue that. The number of layoffs that will be necessary will be dependent on other actions that we take, whether it's additional furloughs or other cost-saving measures that we're able to do. Other impacts, and as we've looked at the budget cuts for the AOC, our first direction to our directors was look at ways to reduce the AOC's budget that doesn't have a negative impact on the trial and appellate courts, and that was the first priority that we had, so don't pass the -- the cuts of the AOC onto the courts and cause them additional costs. That was the direction that was taken, and a part of the budget cut scenario. I will say at 12% budget reduction and 13 million dollars, that's not possible to say we are going to cut the AOC budget and it's not going to have any impact on the trial and appellate courts. Almost everything we do serves the trial and appellate courts and the public in the process, so there will be impacts. You'll hear in the next segment or the third segment of this presentation a discussion about the elimination of \$20 million from the modernization fund, and what that means in terms of programs that are being eliminated or defunded for one year, at least, in the process. We have been shrinking. You've heard that somehow we're on a wild hiring spree. We have not been on a hiring spree at all. We now have 834 FT Es or full-time equivalent positions. That is shrinking. We're seeing AOC folks retire and look for other jobs and we are shrinking, and we are not replacing folks. We're looking at reorganizing our executive office programs director is retiring at the end of August, and that division is being consolidated with another one of our AOC divisions, and so as a part of the process that we're going through right now, we're looking at any way possible that we can be more efficient and find cost saving measures in the process, so my basic message is that the AOC is fully in on these budget cuts. We're not avoiding them or somehow immune from them whatsoever. These are very painful cuts and as I talked to our staff and indicate that some of them will not be with us because of layoffs or other situations, it's a very difficult situation, but we are fully in. We are not suggesting

that our cuts be given to another part of our branch or somehow we are certainly not going to attack our colleagues in the judicial branch in the process of dealing with these cuts. The reality of this is that the villain here is the economy. We're dedicated to making it work the best we can.

>> Okay. Thank you. So just to recap for a second, again, we're talking about \$350 million of reduction, the recommendation coming out of the budget working group was to spread it, and it's a big number, 15.2% throughout the branch. Now let's -- and that's the ongoing reduction, but let's talk about the first year now. Because the implications of the cuts are so big and trying to deal with those at every level of the branch, for trial courts there is some ability to offset in the short-term some of the impact to these cuts. First off, a cumulative -- accumulated reserve funding, and we put on there where available. I mean, in some cases, in the most extreme case would be San Francisco superior court where they basically have no reserves or very minimal. There's a few other courts where the reserves are minimal and negligible based on having offset and absorbed cuts and other resource deployment issues, but generally there are some level of reserves the courts can use to one time or short-term be able to offset the impact of some of the cuts. Also as provided by the legislature for the past couple of years and again as we were talking about as part of this item, there is an ability to do one-time fund transfers to mitigate on a one-time basis the impact of some of these cuts. These options, though, are not available to the rest of the judiciary, and access to reserve funds and one-time reduction offsets are not available to the Supreme Court, courts of appeal, HC RC and AOC, and this isn't a complaint. This is how the state budget works, and this is similar to agencies and departments in terms of the way the state budget works. There is no carryover funding. It's one-year appropriations. But given the one option considered and ultimately recommended by the budget working group was to provide one-time, first-year relief in terms of the calculations and spread of the reduction, and so this relief would be provided on a 1-time basis to the supreme courts to allow for some partial offset and ability to transition on an ongoing basis to the full level of cuts that would be ongoing. Under this approach, the first year cut would be less than ongoing and so the approach would be for the Supreme Court and courts of appeal that a portion of the cuts that we talked about there was two phases, \$200 million and then the additional \$150 million cuts that the legislature appropriated for a total of \$350, and for that second \$150, the recommended approach would provide for courts of appeal and Supreme Court, 85%, one-time offset for the additional council and Habeas Corpus resource center. Doing that ends up with the two different levels of cuts identified. The other thing is we will be talking more specifically about some of the offsets for trial court funding that the budget working group recommended. Those are incorporated in the table as well. If you apply those offsets as indicated, the cuts that would be facing the courts this year are identified in the middle column, so the reduction of the Supreme Court on a one-time basis would be 2.8 million this year. That would grow to 4.4 million ongoing, so this year's cut would be 9.7%, still very significant, very substantial, and a real challenge, but that's real relief as they work to a much deeper cut the following fiscal year. Similar numbers or similar percentages for the courts of appeal. AOC we said would be a 50% one time offset in the first year, so that would bring their -- the reduction to AOC to 12% this year, again growing to 15.2% in future fiscal years, and then for trial courts, and again, this is reflecting some offsets that we'll be discussing and presenting to you, but at this point they're assumed for purposes of this table the first year share of the \$350 million would be about 6.8%, but again, that would grow to the full 15.2 and beginning in 12, 13, and ongoing, and then habeas Corpus you can see the implication for them. This, then, is the basis for recommendations 1 and 2. Recommendation 1 is for the council to allocate \$350 million of reductions on a one-time basis in 2011, 2012, reflecting a discount adjustment to the first year share of the ongoing reduction as follows. 85% for the Supreme Court and courts of appeal, 50% for the judicial council, AOC, habeas Corpus resource center, and then recommendation No. 2, allocate the 350 million ongoing reduction as indicated in column M of attachment 2 of the report based upon adjusted total operations budget. This would reflect the adjustments made in the budget act of 2011 and four additional adjustments in the calculations that we talked

about and the result of all this would be an ongoing across the board 15.2% reduction. Concludes the report. Any comments or questions?

>> There was a question asked, Mr. Nash, of what the percentage of cuts were to the trial courts, the Supreme Court, and the Court of Appeals over the last five years and the AOC, and you indicated that you would have somebody working on that and have that answer. Do you have that answer today?

>> I apologize, judge Wesley. I understand that staff are still working on it. We do not have it.

>> All right. Thank you.

>> Stephen, what review, if any, was done on the habeas center in terms of whether they needed more than a 50% discount this year or savings I guess you could say?

>> Not a lot of detail. Not a lot of discussion on the Habeas Corpus budget.

>> And you heard the comments I think from the director today about taking their salary out because their staff salary is comparable, if you will, to court appointed counsel in juvenile cases and on appeal which I think would be about 600,000, if I recall. Having gone through that process of identifying comparable adjustments, would you agree that that would be maybe a comparable adjustment that we should consider?

>> I would think that that's something that should be looked at. It would seem reasonable to look at that.

>> Yes. Judge Rosenberg.

>> If I could ask a question regarding the AOC. I know when my court had some budget challenges years ago, we consolidated from a number of locations to one location. Has the AOC looked at that possibility?

>> We've been asked questions about the regional offices that we have, locations in Sacramento and burr bank, and we've certainly looked at that. We believe that the value of the office in Sacramento for former employees of the executive branch and legislative branch or people that know state government has been a big value to the courts and the public in the process. Likewise, to be able to recruit from the huge southern California labor market has been a great benefit. Asking people to relocate to San Francisco is prohibitive, and so the notion that we would move 200 staff from Sacramento to here and 100 staff or so that we have in Burbank that are provided services to the courts from the general counsel's office from court construction and management, security, a variety of the functions that are there would be more expensive, in our view, to bring them here where I think we probably pay higher rent to BGF than we do in most -- those offices remotely. So certainly it's been looked at. We don't believe it would be a cost reduction.

>> Ron, have you looked at the regional offices in terms of -- regional offices in terms of attempting or consolidating leases for those spaces?

>> We have. I think close to \$500,000 has been reduced from lease costs in Sacramento by consolidating staff that are there, and leaving space that we had previously occupied. Similarly in Burbank, we're downsizing our leased space to basically squeeze nor more people into a smaller space and also realize, as I mentioned, we're shrinking in numbers. So where we can consolidate staff, we are.

>> Judge Pines?

>> Yeah, I gather from the recommendation that's being submitted to us, we are asked to basically make a policy decision if we accept this recommendation. Is that where this leads if we accept this? Whatever the final number is, in other words, the AOC, the habeas Corpus research center, in a sense are viewed of equal value, of equal importance to the trial courts, and the appellate courts in terms of what percentage of reduction they should suffer. Is that implicit in our vote on this?

>> As you can see, the proportional cuts or percentage of cuts is not equally spread.

>> Well, in the end it's 15% at the end of the second year.

>> That's looking forward. We're talking about --

>> That is a policy consideration. I gather the view at the trial court's working budget group was that this reduction or loss should be spread evenly. Everyone should accept the same percentage. Is that a fair assessment?

>> As you heard the chief justice in her intro indicate we will deal with the budget process in the branch. It was looked at on a proportional basis. I understand. Our role today, one of our functions is to set some priorities, and an issue for this group is whether this reduction in our budget should be prorated, absorbed by each of these agencies in the same percentage, and I have some question about that. I've also heard the chief say that our chief priority has got to be to keep the courthouse doors open, and I've also heard a lot of people say that our chief priority has got to be access to justice. I'm not -- I don't agree that that means that the reduction should be shared in the same percentage by all of these agencies. I think that's something the council has to address now.

>> Judge Wesley?

>> I listened to the speakers and read the letters we received. The AOC provides essential services to the trial courts and the appellate courts, but at the same time they know that the cuts should come primarily from those parts of the branch involving non-essential and administrative management overhead. I think that's what Judge Pines is alluded to. I listened to the APY of Sacramento saying the cuts were proposed placed a disproportionate burden on the trial courts, their employees, and the public in favor of administrative services. I listened to Judge Kathryn Feinstein from San Francisco say we should look to the administration, the AOC to provide some relief to the trial courts. I have a motion. My motion is this. I move to approve recommendation one and modify recommendation two. The motion to allocate the cuts seeks to establish a baseline allocation of those cuts across the entire division. They should share the unallocated cuts to the branch. They need stability for making their plans for restructuring, and they need to know their ongoing shares of an overall cut. However, the administrative office of the courts does not fall into that category. AOC is an administrative, not an adjudicatory agency and is not treated in the same fashion as those agencies. In addition, this 15.2% cap in the 2012-2013 year seems to me to preempt the work of the SEC and the other bodies that have been tasked by the chief to review and recommend reductions to the AOC staffing and costs. They may recommend that they need more money. They may recommend that they need to be reduced, but by this council voting for a 15.2% cap of the 350 ongoing for the following year, I think they're limiting the ability of the SEC to function as you anticipated. Indeed, we should be reducing our state wide administrative overhead just like so many trial courts

are doing at the local level. The council should explicitly recognize reductions should be made as we see what the 2012-13 budget looks like. Therefore, I move the council adopt any reductions to the AOC budget made today as a minimum and that the AOC and the council recognize that further allegations of the \$350 million are possible this year and next year. That is my motion.

>> Can I just make a comment?

>> Yes.

>> Just prior to this public meeting the council met in closed session concerning its voting practices. Under its historic and current practice, council action requires the concurrence of a majority of a quorum of voting members. Conceivably with a I don't remember rum, six members could act on behalf of the council. While this has never occurred, after considerable deliberation over the last year, the council has opted to change its practice to require a concurrence of the majority of voting members. That is a minimum of 11 votes to effect council action. The new practice is prudent and it is good policy. It sets a high bar for council action, and it demands an even higher degree of consensus on the complex issues that come before this body, and I just merely wanted to repeat what we had discussed and had considered earlier so we're all aware of that when we take our votes today. Thanks, chief.

>> Thank you. I'm going to ask judge Wesley if he would consider breaking his motion down into two parts, the first one dealing with the recommendation of the trial judge working group which is the one time spread of the adjustment to the appellate court, and secondly deal with the issue of ongoing or future cuts. The reason I do that is two-fold. Number one, I have a sense that maybe the first recommendation will probably not meet -- the motion will not meet with a lot of discussion or op sayings. Second, I'd like to ask you to amend it because I would like to Propofol that with respect to the habeas Corpus center that we adjust their operation base to reduce or take out their staff attorney, but that's a separate motion. First right now just were you would consider breaking your motion into two.

>> I'll do that.

>> Thank you.

>> Would you mind repeating that.

>> So what would they be, then?

>> There's two recommendations. There's two recommendations, and my motion goes as to the second, not the first, so I think what judge waters is asking me to do is make a separate motion as to recommendation one, is that correct?

>> That's correct.

>> All right. I'll move to approve recommendation 1.

>> Second.

>> Second.

>> Second by judge O'Malley. In terms of recommendation No. 1, fully stated on page 2 of your handout, all in favor? AYE. Any opposed? The matter carries.

>> I was actually going to ask for an amendment to allow for the adjustment to the HCRC operating budget. I don't know if I'm too late now.

>> Why don't you make an amendment to No. 1 a recommendation.

>> Okay. I would move that with respect to recommendation No. 1 we adjust the HCRC operation budget to reduce or deduct the staff attorney compensation and according to the letter received, that would be 4.8 or 4.9 in their adjusted operation budget.

>> Any discussion on this?

>> Is there a second?

>> I will second.

>> Well, any discussion? Thanks. Any discussion?

>> I just have a question. If you make that adjustment, where does the other adjustment come from? I don't know where that money comes from, out of what other fund.

>> Well, it -- go ahead, Steve.

>> So it would just spread. It would spread percentage wise.

>> It would be about a \$600,000 spread.

>> Yeah.

>> Tell me what that means, then, when you're saying that because you said 4.8.

>> I don't know the exact numbers, we'd have to look at the numbers. I don't know if the number is correct, but if there's a reduction made to the cut to the HCRC, then proportionally it would spread again based on those percentages that we talked about to Supreme Court clerks, AOC, trial court funding, and judicial branch facility program based on their relative share.

>> I think it's about \$598,000.

>> I don't know the specific number.

>> So I'm going to ask if judge waters would mind if we don't vote on her motion yet and had the opportunity



for people to discuss other items or line items because what I can envision that might happen is we're going to vote on one thing. If we start doing this piece meal, the numbers won't necessarily add up at the end. The other thing I wanted to say was that I listened to the morning session of the trial court budget working group. I had a calendar in the afternoon, so I couldn't listen in the afternoon, but one thing that I heard from Kim Turner and others was a discussion of what the AOC presents or offers to courts of various different sizes, and I'd like to hear more about that. My experience with the AOC is from the receptionist to everyone that I've worked with over the last ten years, that is it a group of well intentioned, well run, and well led people. My other question is whether or not we've looked at an issue that to me seems protected. There is one group that is not taking any cuts, and I understand there's legal and constitutional reasons for that, but judges are protected in this budget working group that we've looked at, and in the past when we had the furloughs, courts allowed their judges to voluntarily waive salary, and that resulted in cost savings to the court. I wonder if we've looked at whether there's a program that would allow bench officers to voluntarily waive perhaps for a day or a month or whatever it is to help our courts recruit and really spread the sacrifice to every person who's in the courts.

>> And I would say that in 2009 with the one day a month closure, that was done pursuant to legislation, and there was also legislation that provided for a salary give back by judges, but those statutes have sunsetted, so there's no -- there's no statutory authority to have a program like that at the moment, and no legislative language has been suggested or offered on that.

>> Miss Turner?

>> Thank you, chief. As judge asked, I would like to offer a few comments on behalf of small and medium sized courts that do rely very heavily on the services received from the AOC and legal matters and finance and budget, you know, certainly the Phoenix program and others, and I -- I want to just say that I think it is very difficult, it's a little bit of a slippery slope to call trial court operations those things that happen in the courtroom or at the clerk's filing window and to separate court administration from that equation because they are inextricably linked. I look to my fellow CEOs around the table and those in the audience who can speak on this issue as well which is that, you know, the operations will not go forward if we don't have a budget in place. If we don't have a personnel plan and policies, if we don't have appropriate levels of infrastructure, both administratively and in our facilities to be able to execute the contracts and the employee labor agreements and manage the budget and manage procurement and all of the other things that administrators do to keep operations running smoothly in a trial court. So to sort of identify administrative services at as the AOC as somehow different or more vulnerable I think than the operations that happen in our trial courts. Especially for courts that rely heavily on the AOC for those services I think it's a bit of a problem. It's certainly a problem for the small courts, the medium sized courts, and those that have come to as judge has said, very timely and good service for the AOC. I offer those comments because I want to make sure we don't somehow treat administrative services as significantly different from those of operational services.

>> Thank you.

>> I think maybe what the council has done with this particular motion in severing the two issues may be the best course of action because we've put in place the allocation for 11-12, recognizing that certain parts of the branch will bear the burden more than others. But it's going to take I think some considered evaluation to determine what are the appropriate and necessary levels of infrastructure support and to simply say cut 50% here, cut this there without that kind of analysis and looking at more specifically what is of direct benefit to the trial courts and to the branch as a whole, because I think there are also things that they never see, in terms of

tasks they've been given above and beyond operations that aren't fully evaluated. I think that's something the SEC is going to be looking at. To sever the 12-13 and 13-14 allocations I think in hindsight this may be the best course of action because it gives us the intervening months to do that appropriately. I mean, I just did some quick math. If you say to me as a trial court administrator. Where are we going to lapped. I don't think any court can absorb that level of reduction. I mean, the 11-12 allocation to give the trial courts 15.2, they all could be San Francisco, okay, the focus of our effort is addressing that 15.2% whether it's through some other mitigation measures that may become apparent, additional funding that might be available next year down the road. Further modifications to the AOC's role and responsible on a very considered and deliberate basis. For planning purposes, I think we've done to tell people you better be looking at 15.2 and leave 11-12 where it is.

>> No longer judge O'Malley. Judge waters.

>> You asked me a question which was whether we could defer this issue until we discuss other aspects, and I - I don't think we can. This report deals with how we're going to spread the 350 across the branch. I think what you're maybe referring to, if I'm wrong being correct me, have to do with more of the allocations and the offsets in the trial court budget portion which is report No. 2. What I'm trying to achieve is some consistency by eliminating their attorneys, in determining their base budget just as we have eliminated the counsel for indigents in the appellate process and in the juvenile side. I think it warrants that consistent treatment. I think it needs to be decided to determine what the spread is going to be, but if I misinterpreted, please let me know.

>> I believe the status of your motion, then, was seconded. Any more discussion on backing out the habeas Corpus resource salaries of attorneys from this computation?

>> I just want to clarify. If you back out the salaries all of the attorneys, you back out the entire budget, and so I think if you follow the director Lawrence's recommendation that he's seeking the same level of offset at the Supreme Court and the court of appeals received, that is, 85% relief, so if you -- if you're trying to meet his recommendation, that's what you would be doing, and that results in the close to 600,000 or whatever it is when Stephen an Stephen, both Stephens, is affording them the same relief.

>> I have no reason to doubt your interpretation. I was listening to his comments and following the letter that was sent. I may have the numbers wrong, but I think you and I are hearing the same thing. It's about a 500 or 600,000 in the overall reduction in their cuts -- reduction in their cuts.

>> In other words, it's the same percentage as the Court of Appeals, the Supreme Court, and you're not tying it necessarily to the language of attorney salaries.

>> No. I'm not.

>> All right. A hand raised?

>> Judge Wesley and then judge Rosenberg.

>> So the trial courts and the courts of appeal and the Supreme Court would pick this up as an additional cut to their budgets, am I correct?

>> That's right.

>> Thank you.

>> I'm hearing that the maker of the motion and the seconder are accepting Mr. Vickry's comment as a friendly amendment, so that is now the motion.

>> That's right. Justice Baxter?

>> I'd like to inquire of the trial court budget working group whether this was an issue that was addressed or overlooked or what?

>> It was not discussed.

>> It was not discussed.

>> It was not discussed at all.

>> Other than just the 50% level that was ultimately recommended.

>> So just for clarity, how much was involved here?

>> So I -- you say it's 13.789 million, right? It's 13.789.

>> We'll calculate it real quick.

>> It's 13.789 million. You take out 4 million, and you take 15.2 of that. You get to about \$600,000.

>> We'll calculate it real quick.

>> You spread the rest.

>> I have a question. So while they're doing that, the first vote that we took, is that now moot or where are we on the first vote we took.

>> Well, on our first vote, it was for recommendation No. 1, it passed unanimously without negative votes.

>> Okay.

>> We consider judge waters, I consider judge waters an amendment but a separate motion to treat HDRC, even though it's contained within motion No. 1, recommendation No. 1, the last entity, that's an amendment to the passed motion. I'm still waiting to hear the number, and then we'll ask if there's further discussion before we vote on judge waters' amendment.

>> Doing a quick calculation, it looks like it's about \$315,000.

>> Is that the total?

>> That would be the total reduction. What would their total cut be? So they would -- so -- yeah. So their current cut right now, yeah. It would drop to about 1.2 million for habeas Corpus in 11-12.

>> From the 2.1?

>> 12.649 million. I'm looking under column I. That's the 11-12 reduction. And for habeas Corpus, it's 1.649 with a 50% one-time credit against the cut.

>> So what would be their percentage of reduction then?

>> So if they were reduced a 15% cut similar to courts of appeal and Supreme Court, that would drop them about \$350,000.

>> Behind you is Mr. Lawrence. I wanted to let you know. It would drop them \$315,000.

>> If I may, it what we were proposing is attorneys salaries from our operating budget. We were not looking for a reduction from the 85% or the 50% one-time allegation, and our attorney staff compensation is 4.89 million dollars. That's on page 2 of the letter. What we were trying to do was to see a comparable figure for attorneys' salaries reflected in the indigent counsel program. Once that reduces -- once we reduce our overall budget by 4.89 million dollars, that leaves 8.9 million dollars for us to then take the reduction from. That works out to once that operating budget is adjusted, it then makes our share of the overall cuts at 1.07 million dollars instead of 1.65 million dollars in 2011 and 2012.

>> Thank you. I understand just following up on that, that that \$600,000, according to judge Wesley's question a moment ago, would be spread across the rest of the branch in the same percentages as we voted on a moment ago here.

>> Right.

>> That's correct.

>> Judge Pines?

>> A couple of comments. We're singling out this one budget operation for a particular discussion, and I'm just trying to understand why we are we making that distinction for the habeas Corpus resource center as opposed to any other function that's being funded here? I still don't understand why we would make that exception. I think when we prepare the budget, and maybe Stephen can go through this again, but we exempted dependency council, we exempted the appellate defense counsel, and so Michael Lawrence is asking to create the habeas Corpus resource center to be treated as the other projects. By pulling out the budgets, and you make get to the same numbers both way, but if you pull out the budget of the lawyers, it would reduce his cut and treat him the same as the assumptions for the trial and the appellate budgets. I think that's the --

>> The recognition, as I understood it, that the work of the habeas attorneys is comparable to the work of the counsel appointed for indigent defendants in the appellate courts and in juvenile cases. Any further discussion on this motion?

>> yes. I want to be clear. It's back to being take the salaries out and then readjustment or is it 85%?

>> I think his model works better if that's the number. Stephen will have to go back over that.

>> So can we have you, Stephen, state the -- with some specificity how the attorneys' salaries would be excluded out of the habeas Corpus resource center on this motion.

>>> So -- and I don't have the specific detail that Mr. Lawrence was citing, but to the extent that council wishes to offset and do an adjustment to the habeas Corpus resource center related to the compensation provided to their attorneys, we need to identify what that number is and I'm sure Mr. Lawrence has that correct number. That would be reduced from the base. Then you apply the percentages that are identified to come up with an adjusted number, and then whatever that adjustment is, if it's 600,000 and that's what they've indicated the calculation staff are going to need to look at to just make sure the number is right, but if it's 600,000, then again, that would spread to the rest of the branch. That share of the cut. The 350 million, that's a piece of it. It's based on the relative percentages for the other areas of the branch.

>> So I understand that once the -- as you've just indicated, once that number is backed out of the base budget, then the reduction as scheduled would apply to the balance.

>> That's correct.

>> Any further questions? Discussion on this matter before I call for a vote?

>> I see no hands raised. All in favor? AYE.

>> Any opposed?

>> Opposed. Opposed. Opposed.

>> We're going to do a roll call vote.

>> Judge Wesley?

>> No.

>> Jump waters?

>> Yes.

>> Judge SO?

>> Yes.

>> Judge Smith?

>> Yes.

>> Judge Pines?

>> No.

>> Judge penrod?

>> No.

>> Judge O'Malley?

>> No. 37

>> Justice Miller?

>> Yes.

>> Not present.

>> Yes.

>> Yes.

>> Judge Kaufman?

>> Yes.

>> Justice hall?

>> Yes.

>> Judge Hermann?

>> Yes.

>> Senator Evans.

>> Pardon me?

>> Abstain.

>> Thank you.

>> Justice Baxter?

>> No, but with an explanation. [ Laughter ]

>> I hate to vote yes when I don't know how many dollars we're dealing with or I think there's just a lack of clarity. If the matter -- there's a lack of clarity. If the matter could be clarified and re-voted on, my vote could be changed.

>> Thank you.

>> Judge Baker?

>> Yes.

>> Justice Ashmann-Gerst?

>> No.

>> Chief justice?

>> Yes.

>> 11 AYES, 6 NOs.

>> You want the list? Who else did I miss? Thank you.

>> Okay.

>> Judge Wesley, I feel your motion is a little bit in abeyance.

>> I felt that way myself, chief.

>> We haven't forgotten about it. I know that Mr. Roddy made a statement speaking to it, so let's focus on recommendation No. 2 and weather -- how we discuss that and whether we need to proceed with it.

>> Just for the record, I'm going to second his motion. He was addressing the issue I raised as well.

>> I'd like to hear the motion again if you don't mind.

>> What's the motion?

>> I think I should almost repeat it. I don't want to go through the whole thing again, but I indicated I'm recognizing the statements made by the California judges association and the speakers we had this morning, and therefore I'm moving to modify recommendation No. 2 which is the motion on the table to allocate the ongoing 350 million of cuts, seeking to establish a baseline allocation of those cuts across the entire branch. I agree that the agencies directly involved in adjudication, that is, the Supreme Court, the Court of Appeals, and the trial courts are appropriately allocated prorata shares of the \$350. They should be able to make plans for

restructuring and they need to know what their ongoing share of the cuts are. However, I do not feel that the administrative office of the courts falls into the same category. The AOC is an administrative agency, not an adjudicatory agency and is not treated in the same fashion. More over, it preempts the work of the SEC and other bodies that have been appointed by the chief justice to review the administrative office of the court and make recommendations in not only this year but next year. The council should explicitly recognize that additional reductions to the AOC may be made as we see what the 12-13 budget looks like and not limited to 15.2%. Therefore, I move that the council adopt any reduction to the AOC's budget made today as a minimum. And that the council recognize that further allocations of the \$350 million to the AOC are possible this year and next year. That is my motion.

>> Thank you.

>> What was the last part?

>> That means that if the SEC comes back with a report this year or the council feels that additional budget cuts should be made to the AOC that they could be made this year or next year. There is no 15.2% cap with respect to the administrative office of the courts.

>> Is there any necessity that recommendation No. 2 be acted on today?

>> It's recommended -- it was recommended by the budget working group and initially staff because of the need for the various entities of our branch to identify. There's cuts this year that are offset whether through relief or one-time measures, but full impact of the cuts doesn't hit until next fiscal year, fiscal year 12-13, so for purposes able to manage planning, operations, and reduction and being able to begin to try to operate with some level of the cuts, the different areas of our branch, because of the size of the dollars need to have a sense of what they're facing. That's what the purpose of recommendation 2 was.

>> Well, you've told them what they're facing the next fiscal year is much larger than what they faced this fiscal year. Aren't there a lot of unknowns including the fact that justice Scotland's group has not provided a report yet, the council hasn't acted? I know the AOC is actively looking at consolidating and trying to cut programs and doing a complete top to bottom evaluation, so it's unclear exactly what's going to come out as far as that's concerned. Is that fair?

>> That's correct, yes. You'll be dealing with 12-13 as that approaches. This recommendation I think as Stephen said and Mr. Roddy said was to give some sense of what's on the horizon if nothing else happens to mitigate it or it could be worse, but you're not taking action on next year's budget today. You're taking action on 11-12.

>> Thank you.

>> I'm intrigued by the original suggestion. It appears to me that it might be wise. That way for purposes of preparation, I would think that the various entities in the judicial branch could take what we see in the 2012-2013 forecast here as advisory, if not likely absent something changing. However, it would give us the flexibility in the upcoming year to make necessary and appropriate adjustments to this and specifically I think it might put judge Wesley's concerns somewhat -- somewhat alleviated as he sees this as being a cap on the AOC reductions. I think it just gives us the flexibility to deal with these issues as they arise and not deal with them prematurely.



>> Judge Friedman?

>> I think we're moving in a prudent direction with some of the most recent comments. We don't know what the state fiscal situation will be next year. It could be worse, but there could be modifications. Various groups are planning or talking about putting measures on the ballot that would generate new revenue. We don't know what those proposals are. We don't know what the prospects of their enactment would be. The prospects for anticipating the predicament that we'll be in next year now are very limited. We have some idea, and I think it's useful to give the branch and the courts as much of our best thinking as to what is likely to occur or what we think might occur next year at this point, but we don't know. I think that prudence dictates us hesitating before we go forward with a recommendation that seems to lock in what the 12-13 budget will look like when probably the only thing that's certain is it isn't going to look like we think it's going to look.

>> chief?

>> Judge O'Malley.

>> I would ask if justice would would make his comments a motion.

>> We first have judge Wesley's motion. I anticipate hearing a second. Judge Pines has seconded. We've had a discussion on I think or at least we asked on judge Wesley's motion on the table benefit enter tape any additional motions related to the same.

>> Point of order.

>> if someone wants to make a substitute motion, we could vote on that motion.

>> This is Rosenberg's order.

>> I'm all ears.

>> I think perhaps we could after this discussion have a -- if that is a correct interpretation of the rules of order a substitute motion may have more clarity for going forward, so I would like that because I'd feel better about knowing what I was actually voting on.

>> Well, go ahead, justice hall.

>> If that's the case, procedurally, I will make that a substitute motion in accordance with comments I made a few moments ago which basically said we table the 20-12, 20-13 budget numbers before us to give us the flexibility to deal with them as events arrive.

>> I second that.

>> Judge O'Malley seconds. Did I hear something?

>> There were like five of us trying to second down here.

>> I'm going to identify judge waters on the record for that. I thought you were trying to make something for this year and not just next year, judge Wesley.

>> I was actually making something for both years. That really doesn't substitute for my motion. What I indicated was that the -- that any budget reductions or budget adjustments that we vote on today for the AOC be viewed as a minimum and not a limit. That's the first part of my motion. The second part was that there be no cap presented for next year, and I have moved that any reductions adopted by -- for the AOC budget made today be viewed as a minimum and not as a maximum.

>> That's the second by judge pipes. I know we've discussed in this substitute motion, but my feeling is it's getting more confused than it's worth. I'm going to call for any further discussion on judge well lease' motion. We'll take a vote, and it will depend where we go from there. So all in favor of judge Wesley's motion, say AYE.

>> All opposed?

>> No. No. No. No.

>> We'll take a roll call vote. [ Laughter ]

>> Judge Wesley?

>> AYE.

>> Judge waters?

>> No.

>> Judge SO?

>> No.

>> Judge Smith?

>> No.

>> Judge Pines?

>> Yes. Pen rod?

>> No.

>> Judge O'Malley?

>> No.

>> Justice Miller?

>> Yes.

>> No.

>> No.

>> Judge Kaufman?

>> No.

>> Justice hall?

>> No. Judge Herman?

>> No.

>> Senator Evans?

>> No. Justice Baxter?

>> No.

>> Judge Baker?

>> No. Justice Ashmann-Gerst?

>> No.

>> Chief justice?

>> No.

>> So the motion fails 16 nos, three AYES.

>> We still have -- it's 4 AYES.

>> I have three.

>> Am I missing someone's vote? I have the yeses as judge Wesley and Judge Pines.

>> She was the first no.

>> Thank you, chief, I think. ANNETTE 3:30-5:00

>> As the events of the upcoming year beginning now transpire.

>> I would second that.

>> Second by Judge O'Malley. Any discussion on this motion? All in favor?

>> Aye.

>> Aye.

>> Any opposed? Matter carries unanimously.

>> At this time before we move to item number 2, we're going to take a 30 minute lunch break. We will reconvene at 2 o'clock. . . . .

>> We'll have a seat and get started on our second item of your agenda. I'd ask the presenters to please have a seat. Do we need to raid the lunchroom? Reconvening after lunch. We'll be addressing item number 2. The trial court budget allocations for fiscal year 2011-12. This is an action item for the Judicial Council. On this panel we have presenting -- we have starting from my left, we have the honorable Gary Nadler, member of the Trial Court Budget Working Group. We have miss Kim Turner, member of the Trial Court Budget Working Group. We have the honorable Justice Terence, cheer of the CCMS executive committee, and we also have sitting to his left the honorable Jim Herman, chair of the CCMS internal committee. We also have -- will be presented on this panel the honorable Brad Hill, presiding justice of the Court of Appeals, the district chair of the Court's district working group. We have Stephen Nash, our former financial director will be presenting. Mr. Willoughby will be joining us. Mr. Mark Moore from the CCMS office, and Mr. Steven Chang finance division. And I believe on this item two panel that Mr. Overholt you're the moderator.

>> Thank you, chief.

>> Thank you.

>> Good afternoon. Consistent with the approach that's been taken over the last several years in terms of dealing with budget reductions to the trial and appellate courts, we were asked to look at all statewide funds and see if there were funds that would be available to be allocated to offset the cuts to the trial courts. That was done this year as well. And the two primary areas that were identified are here to give presentations today. The first being the CCMS project. And the second Justice Hill will step in after CCMS conversation is completed to discuss the facilities funds, and any funds that have been recommended for allocation to help offset the cuts and what the impact is on CCMS and then what the impact is on the court facilities program. So Kim.

>> Rob, I wanted to add the Trial Court Budget Working Group invited two justices from CCMS and Justice Hill and Willoughby and his staff to adjust the budget working group because we really needed to understand the context of impacts of significant funding reductions to these programs. So we heard -- we have had a very full discussion at the Trial Court Budget Working Group with both the justices and the AOC staff that accompanied them, and so we were able to, following their presentations, address recommendations and actually in four areas which are outlined in item 2. So the first two recommendations relate to the regular

process of the Trial Court Budget Working Group goes through of allocating the funding to the 58 trial courts and in this context also allocating offsets to funding reductions to the courts. So that was the first two recommendations. The third recommendation was really one, a tiny bit of good news for the trial courts which is related to the augmentation of our budgets for \$52 million of new funding to cover employee health, retirement, and retiree health costs, which are -- were funded because we like the other branches of government have ongoing costs in this area and I think the governor and the legislature recognized we needed to be treated the same way other branches are treated. And finally, I call it a technical adjustment, although Stephen will tell me it's a term of art, but what it really was the removal of \$484 million of funding from the trial court budgets now shifted to the counties to cover Court securities. So that's the context for the discussion around taking money out of CCMS and out of the facilities programs. And with that, I would just turn it over to the Justice and ask him to perhaps tell you how he filled us in that day.

>> Good afternoon, Chief Justice, members of the council. First of all, I would like to say as with Brad Hill, I'm a former trial court presiding judge and I certainly am more than sympathetic to the extraordinary difficult circumstances that our trial courts face and the impacts at a very personal level that these cuts to our budget will mean to our court staff and to the public's access to justice. I fully understand the frustration expressed by Finestein and Judge Pearl and Judge Earl earlier here today. I know that under these circumstances any significant branch expense is subject to legitimate scrutiny and must be justified. I also am well aware that CCMS has been and will continue to be a target issue and exploited by some, but I think it's important to remember that there are some key issues that remain relevant despite the crisis environment we find ourselves in. First I think it's the needs that drove us to initiate the CCMS project in the first instance I think are even more critical now than they were 10 years ago when we first started this project. We're being forced to do far more with far less, and CCMS is one of the tools that will allow us to do that going forward. It will allow us to save money in our trial court operations. I think you only need to look to Orange County's experience with the amount that they've been able to save from their own local trial court budget by virtue of moving to paperless files in civil and going to electronic filing to see the savings that can be realized by implementation of programs like CCMS statewide. If we do not continue to move forward with CCMS, if we abandoned it, if we walk away from it, we will find ourselves in a far worse position than we were 10 years ago when we started this. The reason we did is because we had pre-dating trial court unification, multiple case management systems, and today we still have 70-plus and 130 different flavors of those. Most of those systems are long past their useful life. Most of those systems are dependent on vendors who are out of business or going out of business or who no longer support the systems. We do not have systems that speak to each other. We do not have systems that communicate even within courts. We certainly don't have systems that communicate with our justice partners. We know from the studies that have been done that at least 47 of our trial courts will have a need to replace their case management systems within the next 5-7 years. Some of those courts have immediate need today for replacement of their case management systems. If we do not go forward, we will have substantial and ongoing court costs to the branch and costs to the local courts. If we fail to finish what we started, if we fail to use the tools that we have spent so much time and money to develop, and we will continue to have the ongoing maintenance costs for the interim CCMS versions, V-2 and v-3 that are currently operational in seven of the courts. So if we fail to move forward with this, we're looking at spending over the next five to seven years an estimated \$340 million plus just to replace the critical needs systems that are going to fail in the meantime, and to replace those with systems that have nowhere close the functionality and usefulness that CCMS will provide for us. CCMS will meet the needs of the trial court. It has been defined and developed by the trial court by the needs of our justice partners and it will meet the needs of the public. At a time when we have fewer resources, one of the aspects that CCMS will provide is a public access portal. That's part of the product acceptance testing that is being done right now. That will allow people to access court information remotely. They will be

online and not in line. They will not be wasting their own time and resources to come down to the courthouse and try and find what they need and they will not be occupying our court staff time at those filing lines. I think it's also important to emphasize despite all the claims to the contrary, first and foremost, CCMS works. All the Court functionality for all the case types in the final version have passed testing. They have met all the criteria we have defined for them. They met our performance criteria. We have already accepted those elements of the core product. We are almost halfway through, or just about halfway through the performance testing on the external components for the system. These are document management systems, e-filing, things like public portal. And the Justice and I were on the weekly conference call this morning going over the progress of that. We are very encouraged to have every expectation that by the end of next month, by the end of August all of the products acceptance testing will have been completed, will have been completed successfully. The third party quality assurance that this council and the legislature has insisted we perform is being performed concurrently. We have every expectation that will be completed by the end of August. And frankly everything we have seen so far has been very encouraging in the preliminary reports we're getting on the third party quality assurance as well. So we have a system that we will have in hand, ready to use, that will meet our needs and we'll be fully ready for deployment into the trial courts by the end of next month. We have also, by the way, responded to all of the criticisms of our process and approach that were presented by the bureau of state audits and to, I think, successfully, and we have continued to update the BSA on our progress here. So we have done everything that I believe the BSA and the legislature has suggested or required that we do. For those who insist that CCMS is a failed system, it simply is not true. CCMS will be a failed system if and only if we make the decision to allow it to fail. Now, we do have courts that have immediate and critical needs for CCMS. And to -- I think you all have before you the various scenarios that we presented to the Trial Court Budget Working Group. We were asked, because the chief indicated everything was on the table, so we were asked to present alternative scenarios, one of which was to implement what was referred to as a six-month pause. In reality, that was a one-year pause because we already delayed deployment for six months. That would have saved us about \$18 million in the current fiscal year, in other words, money that could be diverted from CCMS for other purposes. We were asked to present a shut-down scenario, what it would save the branch if we simply walked away from our investment into CCMS and we presented that to the Trial Court Budget Working Group. It was encouraging to me that there was minimal if any support for that scenario at the budget working group. And then we presented what is referred to as the one-year pause scenario, that's the one that was recommended by the budget working group on a split vote and is currently before you that results in a savings and a contribution to the offset of the reductions of about \$56 million. Now, we recommended initially the six month pause rather than one year simply because from a project standpoint and trying to protect our investment and the viability of CCMS going forward and getting CCMS out into the real world environment with the trial courts, we felt that that made the most sense. We fully understand that under the present circumstances, you know, the recommendation for the longer pause was accepted by the budget working group, and I'm not here today to argue for anything different. But I do think that with the one-year pause scenario, and assuming we go forward with that, and again, that's in reality an 18-month pause scenario, we have identified what we think are some significant risks to viability of CCMS going forward if we do not attempt to do something to mitigate those. The concerns we have, among other things, are the cost to restart deployment, the additional time line to set up and deploy the maintenance, loss of key personnel, both at the support and within our own project maintenance, our project management office, and frankly we're concerned that some of our justice partners who have committed to this project and who have relied on our representations that we were going -- are going to proceed may question their own participation in the project as well. But first and foremost in my mind is the fact that the clock on the warranty on this product will begin to run probably in September. Assuming the product meets all of our requirements and meets the contract specifications, we will be contractually obligated to accept the product probably sometime in September and the clock on the warranty starts to run. It is important that we try

and get CCMS into a real world environment to both take full advantage of the warranty applicable to CCMS and to make any adjustments that we need to make to it in an operating environment to ensure it meets practical needs in the courtroom. So what we are here to ask you for today is a little flexibility in how to address the deployment of CCMS within the constraints in this budget scenario. Again, we're not asking you to make any adjustments to that budget scenario going forward. What we are asking you to do is to let us review and revisit what we can do within those same budget constraints to try and take maximum advantage of the warranty to keep the product as viable as we can and to find some way to get this into a real world environment. Now, we have courts that are ready, willing and able to participate. We have courts who have immediate need. I did ask Judge Vincent O'Neal from Ventura today who is the PJ for one of our early adopter courts and ready to deployment to be here, and also Judge Steve Crandall, because Judge Crandall's court is one of those courts that has an immediate need that has a system failing, is sitting there waiting for us to implement CCMS in his court and will have some real and significant consequences if we substantially delay that deployment. I'd like to save a minute or two of my time to Judge O'Neal and Judge Crandall, if I might.

>> Good afternoon, madam chief, esteem members of the council, it's a pleasure to be here and I will keep it very brief. I'm here this morning -- this afternoon now to let you know the Ventura spirit court -- Superior Court remains -- this includes the justice partners this our county who have agreed in principle and another county waiting for the opportunity for electronic filing in our county. Ventura was one of the original five courts to successfully deploy the CCMS civil probate and mental health modules. We've been operating on this system called V-3 now for 4 1/2 years. In addition, we have dedicated staff to participate in the CCMS design and development for the past several years representing the trial court needs in the development of that system. our court is also one of the 20 or so courts that have deployed the Court's protective order registry which is planned to be compatible with CCMS. So we have seen the promise that the system brings with it and we believe that it can be the case management system of the future for California if the leadership in the branch wishes it to be so. We understand the recommendation of the Trial Court Budget Working Group to delay deployment. And we share the same concerns everyone else does for one year out and two years out and even into the future, but to the extent that you can see through that forest and look to the future and keep one eye on it, we -- we endorse the fact that CCMS does work, at least as far as we all have experience with it for seven years and plan to stay involved and devote reasonable amount of resources in conjunction with any statewide resources that can assist us in doing that. Thank you very much.

>> Thank you. .

>> Good afternoon, chief. Members of the Judicial Council. My name is Steve Crandall and thank you very much for giving me a minute or two to address you this afternoon. This morning, you know, I listened to the impacts of closing San Francisco and shutting down small claims in San Joaquin, I'm going to go a step further than the Justice and say to me it was frightening. I do see the budget cuts as a threat to democracy when you start denying access to justice. And we are also facing reductions, furloughs, layoffs and things of that nature. Where I -- where I disagree my distinguished colleague, when she says it feeds the beast. If you're going to use a metaphor when you discuss this project it's more like the doctor/patient relationship. The quality of medical care is not just related to the number of physicians or nurses you have. It doesn't work that way. It also depends on technology. It depends on the medicine, it depends on the radiological equipment and things of that nature, and it's also true in the law. To use that metaphor, slow as a dying patient, we need CCMS to give the doctor the vital tools to keep us going. In our county, CCMS is not a luxury, it's a vital -- it's vital to delivering access to justice. And let me tell you why. We have two ancient failing technological systems in place, one is called sustained. It's 27 years old, it's older than most of the IT people who service it. about a year and a half

ago it crashed, it crashed for two weeks. Two weeks just as surely as you closed the Court or laid off people we were down in the civil department for two weeks between Thanksgiving and Christmas. So -- and our staff is worried if it goes down again it's not going to come back up. The other thing is when we -- we need help, we have to call on someone who is retired, nice lady, probably in her early 80's, she answers the phone and you can hear dogs barking in the background and the first thing you say please be healthy, we stay alive, we need you. Okay. So we have real concerns. This isn't some luxury. We need this system. Our criminal system is similarly antiquated. These are both DOS systems, and I still haven't figured out how you operate DOS. It's a mystery to me and always will be. My point here, though, is you can't provide access to justice with a -- without a functional case delivery system. That's true, it's true in medicine, it's true in law. The other thing I want to say on behalf of our county is this. And Jim Grant, the county administrative -- chief administrator officer is watching this, where the cameras are, hello, Jim, I'm up here fighting for us. I'm really worried about history repeating itself. We went through the V-2 process, the county committed the county thousands of hours, hundreds of thousands of dollars and the plug got pulled in 2006. And I've spent the last six months to a year, together with Ron Overholt, trying to win back the county. I've used every persuasive technique I know and we've had success. The county is now all in. They are using again IT resources, they've already spent \$300,000 to integrate with our system, but they have told me and they have told Ron that the point is, we've got to stay current with them. We can't fall behind. In other words, to make -- to make CCMS work on the justice partner exchanges, you can't really pause it without extreme cost. In our case if we take the pause it's going to threaten the entire system. I'll tell you, I don't know exactly why that's so, but it is so. I've been told it's so, and I hope you pay attention to that when you discuss our CCMS system. So the other thing I want to let you know is this morning I was -- you know, Jim sent me an e-mail he said fool me once, shame on me, fool me twice, so they're not going to keep going with us on this project if we pause or pull out now. We've got them back in, they're all in, and I really hope you find a way to do it. I don't envy the tough choices you have, they're horrible choices, frankly, and I wish -- I really wish, I think it's unfortunate and unfair we have to make them. But our CCMS system is simple, it's relatively inexpensive, it's desperately needed and enthusiastically supported by our staff and leadership in our court. So I'm only asking you to give this consideration when you actually have to come around and vote on it and keep us afloat and moving forward. Thanks very much for giving me the time.

>> Thank you. .

>> Thank you, Judge Crandall. Again, we are not asking the council to authorize or shift any additional money beyond what is already in the budget on the CCMS. All we're suggesting is, and I've said this to the council before, we need to take a fresh look at what we are doing in deployment. We need to find ways to do it cheaper. We need to find ways to reduce or eliminate the \$20 million a year that we're currently committed to spending just to maintain V 2 and have-3 which are interim systems, and were never intended to be long-term systems. We think there are ways to do that. We think there are ways to mitigate some of this risk what was very encouraging to me, we had a joint meeting of the general -- of the council's committee and the executive committee. There is really enthusiasm among the courts that are represented on the executive committee to work cooperatively, to work collaboratively, to find ways to put CCMS to use, to share resources, both branch resources and local court resources to do that. We would like to come back to you certainly no later than October with some alternatives for you to consider on how we can move forward with CCMS within the budget constraints that we have.

>> Judge?

>> Thank you, justice. Chief, members of the council, there's nothing that I can do that could extend beyond



the eloquence of the need for CCMS that's been presented by my colleagues to the county north of mine and the county south of mine, that's sandwich, our humble fishing village on the central coast. It's really given me a personal above and beyond incentive to work with the justice and the committees and the executive committee to make sure that this project can continue because we do have a product, it is a product that works, it's a product that our courts need and it's I think in our view a part of the future of our courts in terms of -- in terms of support. The vote at the Trial Court Budget Working Group was actually pretty close between the six-months scenario that the justice has described and the one year scenario, I think the vote was 13-11. With a lot of soul searching both at the executive governance committee as well the internal committee level, we do recommend in light of the budget piece that's already been discussed and passed by the council that the Trial Court Budget Working Group's recommendation to defer the \$56.4 billion budget for CCMS is a one time budget to the trial court budgets to assist the trial courts in what is the direst budget situation we've faced as a bunch. So that is our recommendation. We will continue to work closely with the governance committees and the executive committee in order to come back to this body with all of the options and alternatives that go forward as far as the CCMS project is concerned. And I am being sandwiched between Ventura and another county, very much aware of their needs. Not only is this a need, for example, in San Luis where they have a failing system, but we have V-3 courts out there that have a system that only covers a certain portion of their case loads. And until we get this product deployed to those courts as well, they have essentially a partial system or two different case management systems or multiple case management systems in order to handle their case loads. So that is the recommendation of the internal committee and it follows the recommendation of the executive committee of the CCMS governance committees as well as the budget, Trial Court Budget Working Group.

>> I've raised concerns before about the ultimate cost of this system, and I don't see in the foreseeable future the ability of the legislature or the courts to fund something that can total as much as \$1.9 billion when you think about all the costs of development and maintenance are concerned. have you considered something less than this system? I trust what you're saying that it's a wonderful system and that it's working, but maybe we designed something that's too expensive in Rolls-Royce rather than a Volkswagen here for us to go forward with it. Have you considered other options? For example, I know the bar in particular is very interested in e-filing. Are there other programs that could be bought for the courts for e-filing that are off the shelf, so to speak? Is it your committee considering other options besides this? Because in the end I question whether it will ever be funded.

>> Well, Judge Pines, the -- certainly the deployment piece of this has been the most expensive component. We have spent, I checked the numbers with Steve Nash, I think they're correct, in terms of the V-4 development, we spent a total of about \$320 million. Now, was that too much? Frankly, I don't think so, but the -- I think it's a question certainly as legitimate to ask and we can look at that once we're complete, once we have the product development complete. But we have the product. It's on the shelf. It is better than, and I've seen any number of case management systems over the years at the national court technology conferences, it is far superior to anything that is out there any place. We have the product. So our development money is spent. Now, in terms of deploying it, and particularly talking about deploying a system that is an integrated justice system that is an enterprise system, that is integrated not only among and between our courts, but with our justice partners, there is nothing out there that has data integration with -- between courts, there's nothing out there that has data integration with our justice partners. We had to define those data exchanges. So is there a system that will -- that is equivalent that would result in --

>> Talking about maybe pieces of the system, some which may be more important to the courts an the bar than other pieces.

>> Well, no, in terms of deployment, I've said before, we need to look at all deployment options and take a fresh look at them, and that includes modular deployment, so we have need of a traffic and criminal system, we have one on the shelf for them. If they have a immediate need for civil system with e-filing capability, we have that for them. If they want family, juvenile, we have that available for them. if they want to adopt and deploy all of those components, they are able to do that. But to go backward, to essentially throw this investment away, I don't think we save any money. Look at the estimate that we had from the Grant Thornton study was \$342 million just to provide existing functionality for systems. So if we do that, we're exactly back where we were ten years ago. We have no communication within the branch, we don't function as a branch, at least from an enterprise basis, we don't have document management systems, we don't have public portals, we don't have venue transparency. The -- everybody's doing their own thing. So we -- we spend \$340 million for a bandage that keeps us where we are and don't give us any capacity to go forward. In terms of the -- people keep talking about, you know, these \$1.9 billion plus numbers. First of all, the is \$.9 billion number includes the BSA's estimate of ongoing maintenance cost and they -- over the time span they -- they figure that at \$600 billion. So that's a big chunk of that. We are spending branch wide \$100 million a year now to maintain the existing systems now. So that is not a component of any incremental cost. In fact, it saves us money if we go forward with CCMS. In terms of the deployment costs, we have to find ways to do it cheaper. We have to find ways to do it faster. And that's what we're working on now. But we haven't been able to focus on that unless and until we have the product in hand and that's why we're going to be in a month from now.

>> Justice?

>> I just wanted to add to what the justice and Judge Herman have said, and call to everyone's attention that there is an appellate component to all of this that's really significant as well. In Ventura, and the other county, they're ready to go on the program which would then mean they could have e-filing at their level which means at the appellate level we can start to have e-filing and e-access which is so important to the legal community. We've had a pilot project rules that have been in place for the second district. We're about to actually extend those to a pilot project for any district in the state of California that wants to do it in the appellate district. But in order to do it we just -- we have to start with e-filing at the Court level where they're able to. I mean, I understand this is a very painful time. We all appreciate that. And I also understand it's hard to see that we're talking about something out there in cyber space as compared to a closed courtroom door. But I also think that, you know, as the justice and Judge Herman have said, we can -- in the long resume we have to look at ways to save and technology is one of those ways.

>> I would just also point out just as a base -- as a matter of comparison. In the past year alone we spent \$700,000 for an interim system for Nevada county, small county. And we spent in Sanoma spent close to a million dollars of its own local court funds, again for replacement system that, while Judge Nadler can speak to that, because CCMS was not available to them. So they had to find something, an interim system. That was a million dollars, close to a million dollars of local court money. So between those two systems alone, for Nevada county and Sanoma county, that's \$4.7 million, and they don't have all the functionality CCMS has, and they don't have the benefit of a statewide system.

>> Madam justice, Thank you. I don't know if this is an opportune time for me to ask for some indulgence from

yourself, madam chief, as the chair of the council and for my colleagues, but in this morning's presentations, which were very long and very productive and the discussion that followed and with the number of speakers from the public that we had, many of whom spoke very passionately about their viewpoints, it was very difficult for me to find a good place to interrupt and to ask if I might be allowed very briefly just to share the position of the California Judges Association with regard to the working group recommendations. Unlike some of the speakers we've heard today who have exceeded their five-minute time limit, I promise you that certainly will not happen, and my comments would be brief. And I offer them, madam justice, or colleagues on the council would indulge me a couple minutes.

>> Proceed, Judge Davis.

>> Thank you.

>> As the California Judges Association stated last week at the joint Trial Court Budget Working Group and the appellate court leadership meeting, the business of this branch is making certain that California citizens have courts from which they can get justice every working day of the year. No one wants our branch to be part time. CJA urged the working group to approach its task by allocating two trial courts and appellate courts minimal if any monetary cuts. Those parts of the branch concerned with management and administration should receive the brunt of the budget short fall. recent events in San Francisco, Alameda, San Joaquin and elsewhere have born out the wisdom of its position. After the meeting, the working group make several recommendations to the Judicial Council. CJA understand in the current crisis facing the working group there were no good choices to make. Rather, the working group was forced to select among the least onerous options. CJA urges in the strongest terms the Judicial Council adopt the working group recommendation that seeks to restore monies cut from trial courts from last year and this year's budget. Further, CJA seeks this body examine other sources of money to explore the entire amounts of cuts that came from the additional cuts imposed by the 2011-2012 budget act. this further reallocation of money would come from resources available to the Judicial Council. through further cuts to branch and administrate of it costs including the AOC. They deploy the Judicial Council to find the additional funds to keep all of California's councilors employed and judges working in courtrooms. Finally the CJA acts the council to reject the working groups recommendation imposing an equal across the board 15.2% cut to all areas of the judicial branch and the 2012-2013 budget. CJA does indeed recognize that the AOC provides essential services to the appellate courts and to the trial courts. rather, as CJA stated, cuts should come primarily from those parts of the branch involving nonessential administration and management overhead. little if any of the cuts should impact working courtrooms. Simply put, as much as can possibly be done under our current budget realities, we ask trial court rooms across the state spare further reductions the next budget year. These are dire economic times for the branch, the legislature, and the governor that made unsustainable deep cuts to our budget.

>> Yeah.

>> No matter where one works in the judicial branch, we can all agree that keeping courts open and keeping justice accessible is our top priority. I want to thank you, madam Chief Justice, for allowing me the opportunity to share CJA's position, and I want to thank my fellow council members for allowing me the time.

>> Thank you, judge, and I thank the panel -- not done yet, for the indulgence of this moment. And I have justice hall then Judge Waters.

>> The -- after the very important comments of Judge Davis on behalf of CJA, returning then to CCMS, it's a matter that's going to occupy our time for a long time to come, but for the purposes of this meeting today, I would move the council to accept the Trial Court Budget Working Group's recommendation regarding a one-year delay in implementation of CCMS to a savings of 56 plus million dollars to be used by the trial courts to do as best they can what Judge Davis and so many others have asked for here this morning and this afternoon.

>> I'll second that.

>> Justice Miller seconded justice hall's motion.

>> I have two comments and two questions. Following up on what Judge Herman said, there are not only V-3 courts waiting to get the rest of it, but we can't forget we have one court on V 2 costing \$6.52 million. I agree, justice, we have to relook at all conversion concepts, deployment concepts, and whether or not we should convert existing and closed files in the systems. Now my question. You mentioned the warranty, justice, and I wonder whether -- and that's been a question of mine with the one year suspension. Have any discussions taken place to get a postponement and the warranty time period. My second question, this is two, you asked for flexibility, and I'm interpreting that to mean that so long as the CCMS can achieve the savings being sought here, the \$56 million, that you be given flexibility how you achieve that savings?

>> To answer your second question first, the answer is yes. And in terms of the warranty period, frankly, two things, one, we've been focused on closing out our development contract, and we are almost there. The -- have we had any actual discussions about extending the warranty period? No. And again, I think part of the answer there is at this point we don't know what would be necessary in terms of that extension if -- I would assume it would have some cost associated with it. I would still like to find a way within our budget constraints, and I know the trial court's certainly would, to find a way to get this into a trial court, at least some module have it, into a trial court early enough that we take full advantage of the warranty period. Now, is that when specifically? That's a question we're going to try and answer for the council here when we come back to you in October. The -- I do know that, you know, a significant number of trial courts are clearly interested in trying to share their resources and to work with branch resources and their resources to get CCMS deployed into their courts, this is going to have to be a cooperative and collaborative process going forward among the course who want to do it. There are courts at this point who are neither prepared to, nor do they need to, nor are they particularly interested in doing it. We're not forcing CCMS on anybody, we're talking about getting a coalition of the willing.

>> Judge baker and then Judge Kauffman.

>> I have a question concerning the point of order. I concur with the motion and would intend to vote in favor of it, but the way the presentations made by the Trial Court Budget Working Group is such that we're asked to consider approving a number of adjustments collectively and then that seems to affect the second recommendation with respect to a specific number. So I'm wondering if the current motion should be adjusted somehow or should be deferred and be considered along with these other allegations.

>> The second piece of the presentation here is a presentation on reallocation of funds from facility funds. And then there's a third piece. Is it just three pieces?

>> In terms of interpreter funds.

>> So you can pick them apart. I think it's important that you hear the impact of the facilities reallocation and then the recommendations from Steve and then decide if you want to do them all separately or do them all as one motion.

>> That's fine, I understood that -- I'm sorry, Judge Kauffman, the chief had recognized you next.

>> I'm sorry to interrupt you. I would just offer this friendly amendment, this is a budget hearing and I would offer that we agree to transfer the \$56 million from the trust fund to the trial courts. and then have everybody come back in October. The reason for October is in August we have the acceptance testing, we'll have a much better idea where we are and we can look at all of our options. It may be we shut it down, maybe put it off for two years, we may go with deployment in certain courts. For the first time I'm hearing from other courts an interest in CCMS, as opposed to before it's always been Judicial Council says we want to give you -- now we're hearing from the trial courts we want it. I think we need that 90 days to explore this option so we can honestly report back to the council. This is where we should go. Because just because we take the \$56 million, we still have our product, and you can't just start a year from now and say let's start it up again. I think we have to have a game plan where we're really going. And this 90 days would allow us to do that.

>> Well, so the friendly amendment is to take -- to rephrase the motion so that it reads essentially that 56 million from the CCMS fund is transferred to the trial court trust fund, is that correct, Judge Kauffman?

>> That's acceptable to me.

>> And I second it, and it's hard to me to say this, but I agree with you. I'll second it.

>> I'm going to hear from Judge Wesley, and I think Judge Herman had something to say.

>> Trial courts working group recommendation is 56.4 million, is that correct?

>> Yes.

>> Then I concur with you.

>> I think that was Judge Waters point as well, that gives us all the maximum flexibility in terms of looking at the system with CCMS.

>> If I may as far as when we vote on what, I simply made the motion at that time or the thought -- I'm not sure where that leaves my motion.

>> I move that we vote.

>> I think we should.

>> I think I'll just go on the first motion here. And ask for -- ask it as a technical question. As I heard it, it was to -- the word was transfer to the trial court trust fund the 56.

>> 56.4.

>> The money is in the trial court trust fund, it wouldn't require a transfer.

>> Reduction.

>> Offset the reduction by --

>> 2.4 million.

>> Okay. So that's the budget working group recommendation.

>> Yes.

>> Thanks.

>> So okay. So that's the budget working group recommendation.

>> Yes.

>> So any more discussion on the clarity of this motion? [Laughing]

>> It's clear to me so I'm going to ask -- call for a vote. All in favor, aye.

>> Aye.

>> The matter carries unanimously.

>> Thank you, chief. The second part of this presentation before Stephen goes through all of the -- all of the pieces is a discussion about allocation from court facilities funds to help offset the trial courts' cuts. And we have the chair of our court facilities working group, a seasoned veteran of about a week of chair of that committee who is here to provide a perspective on it along with Lee Willoughby of our director of office of court construction and management.

>> Thank you.

>> Thank you, very much, thank you, Ron, chief, members of the council, again, I will be brief as Ron indicated, we've been at it for about a week now. We're working to move very quickly because, obviously, in today's environment, we need to have knowledge as to where we're going and what resources we're using and where we're using them. We've been trying to set a meeting within the next 30 to 45 days. We're looking at everything that has been either proposed or in process. We're looking at it from top to bottom and I assure you we'll be reporting to you soon. And we will be reporting to you often. We're going to be, as I said, looking at

everything. Now, quite frankly, you know, you hear the term that the AOC has chosen certain projects. The AOC didn't choose any of those projects. The projects that are in line now, the critical needs, were put there by committees of judges, administrators, lawyers, and others who looked at projects from around the state and chose those projects that were indeed critical. Chose those projects that if you didn't build them you had a building that very well could pancake in an earthquake. You had a building that has security concerns that if, in fact, there's an incident, people could be killed. Those are the types of critical needs that those judges and those court administrators looked at. But with that said, we're going to take another look at all of those projects to make sure that in today's economic environment we can support those. And we will do so and we will do it quickly. I think that it's clear that infrastructure is important. You need only look at the roads in California to see as Exhibit A a reason why infrastructure funds perhaps should not, borrowed just every time there are operational needs. There will always be operational needs. There will always be very good arguments as to why you need to move infrastructure funds over into an operations account. Quite frankly, that's what we have faced and Lee Willoughby will detail all of those fund transfers but over the past year plus, the facilities basically funds have been either borrowed, transferred or swept to the tune of about a billion dollars. It's billion with a B. So there's not much left at the moment, but we have to plan for the future, and at this time Lee will give you a rundown as to what is left in some of those accounts and where we're going from here. Lee?

>> Thank you, justice. As Justice Hill said we have transferred or loaned over \$1.1 billion including the 63 million recommended by the budget working group. We've also transferred \$240 million to our architectural revolving fund for the authorized phases of SB1407. These funds are planned and committed on these projects. So the fund balances at the end of '11, '12 and this is assuming the recommendation of the budget groups will be made for SB1732, it is \$8.8 million. And for SB1407, it's \$16.4 million. And in the records of the financial people, these are -- they're extremely concerned with these low balances and especially even given the revenue uncertainties. But on SB1732, there is some positive news. These -- we have finished three of the projects to are currently in construction. And we're very hopeful to go for -- to bond sale this fall, with five projects, bond sale in this spring for one project and the final one would be in the fall of 2012. We talked with the state treasurer's office yesterday and they -- they hope to sell revenue anticipation notes in August. And hopefully sell geobonds and lease revenue bonds in September or October. So our plan in 1407, we would like to continue with the currently funded phases and then we're going to develop a methodology for options for proceeding or stopping with projects and we are going to have to stop some of these projects. And we'll meet with the court facilities working group, justice hill's group just as soon as possible to lay out these options and then I think the plan would be for that group to present to the judicial council.

>> So the impact -- the 1732 projects are not impacted by the sweep of the \$310 million and the other -- and the other borrowing. It does contribute an amount but it doesn't impact those facilities that are well into the process of planning and construction. The impact is going to be on the 1407, the 41 projects. And as Lee said, the plan here is to finish a phase. They're all in various points in the phase -- in the development of their buildings. If they're in site selection, that process will continue to select a site. If they're in site acquisition, that will continue on some projects but not all projects. We will have a number of projects that involves piecing together various parcels of lands from a variety of owners. That to not proceed with the site acquisition at this point, those deals would fall apart or be in danger of falling apart so there are some that will move to site acquisition. If we're in preliminary drawing phase instead of selling an architect to stop in the middle of a piece of work that they continue to finish that phase, and then we pause. So whatever phase we're in, we would finish that phase and again those funds are already encumbered and are not affected by the \$310 million sweep that's been ordered by the legislature so that's how we would proceed on this. So similar to CCMS, pausing for a year, this is not turn off the spicket and turn off everything. It's to a rational point where you can pause knowing the \$310 million in

revenue that's being swept in this fiscal year is not available to continue those projects until next year. We're happy to take any questions.

>> I'm a little confused. You said the balance that you mention, would that be at the end of this fiscal year, June 30th, 2012?

>> Yes, there would. We receive our revenue in two months in arrears. This would basically be accrued amounts.

>> Okay. Between now and then, how much will you -- how much will you accrue in the account? These are the balances. How much will -- have been provided in funds during this period from these collections? Do you follow me? You give me a balance ski assume you're spending some in the meantime.

>> That's correct. The total revenues for '11, '12 and that's 11 or 12 million and that's what's being swept.

>> This is for future revenues and not --

>> I wasn't sure.

>> I thought it was a combination of existing funds and future.

>> It is a combination. There's a contribution from the courthouse construction funds to offset cuts to the trial courts. There's costs of finishing the phases of the projects that we're in, and that money has been encumbered for those purposes.

>> And how much is that?

>> Well, for that function, it's 2 -- about 240 million has been transferred.

>> For site acquisition.

>> It encumbered various phases. Whether it's preliminary drawings, site acquisition, site selection, whatever phase --

>> And some of this can be practically stopped, you're saying?

>> It would be impractical to suggest that we stop drawings in midstream or walk away from complex real estate deals that have been negotiated over the last several years. It would be impractical in our view.

>> If you did that, there would be money available?

>> That money is there and encumbered. You could tap into it if that's what you decided to do. We think it would be unwise to do that. It's just this constant issue. I could ask everyone the same question. We got to balance those expenses versus having a lot of courtrooms close, you know, that's why I raise these issues.

>> And that's one of the reasons, Judge Pines, we're not wasting any time in terms of setting up this working



group and getting the first meeting and hopefully having a recommendation to you certainly by the end of the year and perhaps sooner.

>> You're looking at a lot of things besides just the perpetuity of these acquisitions.

>> We're looking at everything.

>> At the contracts, price per square foot, you name it. All the issues that have been raised which we're all aware of.

>> Everything's on the table.

>> Any other questions on the use of these facilities funds? Is there a motion at this point or not?

>> I'll make a motion to approve the use of the funds

>> And I'll second.

>> The motion by justice Miller and --

>> Are we talking about --

>> I'm sorry.

>> Are we talking about the amount that's in the report that's being allocated?

>> Will you come over and look at the recommendations.

>> Because there's different funds.

>> Right. [Laughing]

>> I asked him nicely.

>> Can you restate it --

>> I haven't stated it.

>> Can you state it for the first time. [Laughing]

>> You're getting testy. [Laughing]

>> I thanked him earlier for coming up here.

>> I'm glad you came back, right, Steve? That's your fault.

>> So the recommendations for this report -- the first one will be to prove offsets totaling 124.2 million to trial court reductions. These consist of transfers from the immediate and critical needs account, the state courts facilities construction fund, recommended savings -- well, we were going to be discussing this in a minute from the court interpreters program fund from 2009/2010 and savings from one-year pause in deployment activities related to CCMS and so that's a component of that.

>> Right.

>> So you're asking how much?

>> How much.

>> So the -- the -- the state court facilities construction fund of the 124.2 million, the state court facilities construction fund would be \$25 million. Immediate and critical needs account would be \$38 million. Now --

>> Stephen, I want to interrupt. That's on Page 4 of the handout; correct.

>> Page 11 of your schedule.

>> Thank you.

>> It's in several places. I'm looking at Page 4.

>> Now, that's on top of -- where the legislature had already authorized \$180 million of one-time offsets this year. 130 million from immediate and critical needs account, state court facilities construction fund generally. 10 million from the immediate and critical needs account and separately an additional 10 million from the state court facilities construction fund related to facility modifications. So it's a substantial component of what's being recommended.

>> Any additional questions or comments in light of --

>> I'm sorry. I'm just trying to get the gross figures here. The legislature's already required a total of how much of the construction funds to be used to offset these reductions? [Inaudible]

>> Again, what are the gross figures?

>> Well, if you go to Page 5 in your memorandum --

>> I see it. There it details all the redirections. You see the 35 million -- you see those from the state court facility?

>> Yes.

>> You add all those it's \$213 million.

>> And that doesn't include additional 63 that's being proposed now?

>> No. That does include the 63. You see that about halfway down the 38 million.

>> Oh, I see it.

>> And the 25 million. What it doesn't include the 310 million that was swept, that went to the general fund and the prior loans and other redirections that were made that all totaled over 1 billion -- over \$1.1 billion.

>> All right. And so this year -- excuse me, Lee.

>> No.

>> With the office of construction and management, I would just like to also share that 350 million was borrowed to the general fund this year from the state court facilities construction fund and 90 million from the immediate and critical needs account. Those are expected to be repaid or anticipated to be repaid in two years.

>> About how much is collected in each of those funds at an annual basis?

>> The immediate and critical needs account, excuse me, is about 320 million annually. And the state court facilities construction fund is about 130 -- between 130 and 140 annually. They have been fluctuating.

>> I have a question for Mr. Nash. The way we're doing this I'm losing track of recommendation Number 1 so if you'll permit me, Mr. Nash, did the legislature give us is cap of \$150 million?

>> So the legislature provided authority to the -- up to \$150 million that can be transferred to be a reduction.

>> These that we're talking about can be used for that purpose?

>> That's correct.

>> Did we reach the cap?

>> I don't believe so. You have to add -- and it would be a couple of different transactions. The first action to allocate some of the cut to the other areas of the branch would be included and then what would not be included is the CCMS.

>> So the 56.4 is not part of the cap?

>> That's correct. So the CCMS part is not -- is not a transfer. That's why that I was pointing it out earlier.

>> Okay.

>> But the part that does get added is to other areas of the branch.

>> Then would hitting that cap mitigate against further trial court reductions?

>> That's correct.

>> All right. I actually have a motion to modify recommendation 1 which would include what we're talking about, if I can make that motion.

>> Uh-huh.

>> I want to modify recommendation 1 -- my goal is to reduce the burden on the trial courts from 135.9 million down to 53.9 million. I move that the council adopt recommendations 1 and 2 and option 1 with the following modification.

>> Wait a minute.

>> I'm ahead of you. I know that.

>> What page are you on?

>> Well, recommendation 1 is on Page 2 and recommendation is on Page 2. And option Number 1 is on Page 6. These are the recommendations of the trial court budget working group with the following modification. That the council use its authority to fully mitigate the \$150 million cut through the transfer of funds from the AOC, the SCEF, ICNA, recognizing that the 150 million in savings will record 1.389 million from the court interpreters account. The council also has already approved 56.4 million in savings from the trial court, from -- excuse me, from SCCMS as per the recommendation of the trial clerk budget working group and the council's vote. Legislature gave this council the authority to redirect certain appropriations. That is in I believe provision 1916, section 1 of SB87. The authority we have never had before with the clear intent for us to make our own choices to eliminate all the 150 million in additional cuts. Why would we not use it? CJ implores us San Francisco superior court implores us, Sacramento implores us. The state judges all over the state are watching us. The legislature is looking to see whether we are willing to make the tough choices. They are waiting to see whether the priorities of this body have indeed changed. They made it clear from what they did to the construction funds in CCMS that neither of those projects are legislative priorities. Are we here today to say those projects are more important than keeping our courts open? I am not. I reject that sort of restructuring as unacceptable. In the past two years this body to lead and adjust our mandates to fit our resources. But it's not too late. We have one last chance to lead. We can do it today. If we literally buy the time we need to do it. We need an additional year to do what we should have been doing for the past two years. Working with legislators, the governor and shareholders to change civil and criminal procedures so that we can continue to provide access to justice with fewer resources. The literature just gave us the tools to do it. We cannot fail for lack of will. While I make this motion that we accept the recommendations option 1 and 2 with this modification that the council use its authority to fully mitigate the \$150 million cut through the transfer of funds from the AOC, the SCFC and the ICNA recognizing that the \$150 million in savings will include 4.389 from court interpreters accounts. And that the council direct an additional 56.4 million in savings to the trial courts from CCMS per its present vote. That's my motion.

>> I second it.

>> Judge Pines discussion on mitigating the 150 million --

>> I wasn't sure whether the 4.8 is part of the 150 or --

>> My understanding is that the 4.8 can be used to mitigate, am I correct?

>> That's correct

>> The CCMS is already in the budget. It's already in the trial court trust fund.

>> Okay. So you're really saying is 26 --

>> That's what I'm saying.

>> 206 million?

>> Counting CCMS.

>> What do we have now?

>> What is that versus -- so the recommendation from the trial court budget working group again totals --

>> 124.2. That's the recommendation by the trial court

>> The recommended 124 but it had in it the 56 which I don't think it can be used as mitigation --

>> 24.2?

>> Right.

>> Which includes CCMS.

>> Okay. Judge Rosenberg?

>> If I may I would like to speak against that motion. The motion ignores the needs of many trial courts in this state who have been working very hard to construct courthouses and facilities to replace facilities that have been found to be extremely wanting and in need. It adds us -- puts us in the same place as the legislature which swept the construction funds. You want to sweep the construction funds to back-fill but the proposal made by the working group has already decimated the construction fund and kept it on life support. You want to eliminate that flicker of life left in the construction fund. You want to eliminate the opportunity of the working group that's been set up to evaluate each and every project. This motion is -- is remarkable.

>> Well, thank you.

>> Well, it truly is. [Laughing]

>> I sit here in wonder because we haven't heard from all the different courts, and there are dozens of them in the state that want to keep their projects at least moving forward like turtles, at least we'll move forward a little bit. You want to eliminate that completely. So I think -- I would speak against the motion. I can't vote on it but I can at least speak against it.

>> Judge Pines?

>> We've all heard from representatives of the courts here. But they're closing courthouse doors. Are we going to walk out of this meeting and allow 25 courtrooms in San Francisco to remain closed to allow all these layoffs? Are we going to tell all these people that have small claims actions in San Joaquin and other courts that there's no room anymore in the courthouse for them? I mean, these are tough choices. What the motion addresses is a way of trying to keep the courthouse doors open. And justice accessible and administered. This is the problem we face. You can vote against this motion and tell San Francisco, sorry, there's no money. It's more important to have CCMS or these courthouses planned and underway than keeping your doors open. And that's what we're faced with here, folks. What are we going to do? Are we going to end this meeting, voting for the recommendations and have all these courtroom shut in this city? Come up with another solution. It's to provide some relief to San Francisco and other courts and, you know, our courts are in bad shape, too, you know, we're getting by but we 10% of our staff. I mentioned before to this group, Judge, as a working trial judge I'd much prefer having another judge in my building and more staff than anything else, frankly. And that's what I really need because we're not able to service the public as well as we should be.

>> Mr. Roddy and then Judge Yew.

>> If I understand the objective here it's to restore over \$200 million in cuts trying to address the second \$150 million that we were cut. And I've heard repeatedly from a number of sources what led the legislature to take not only the \$310 million in construction funds but also impose the additional \$150 million amongst other things is the fact that after years of cuts, we've our budgets. We back-filled ourselves every single year. The impression we leave is we can take it. And we're going to prove that we can take this and we can mitigate the cut and I'm not convinced in the next 10 months that we're going to restructure and re-engineer the branch 'cause we have failed to do that over the last three years some we've seen this coming for three years and we call furloughs and staff layoffs re-engineering. I'm not convinced that we've got the wherewithal in 10 months to move from what essentially would be a completely mitigated set of reductions. I mean, we're at 6.8%. This would take it well below that to next year 14, 15% cut, whatever that turns out to be. That's like falling off the edge of the table. Many courts, mine included, have spent the last three years getting ready for this. I can take the 6.8% cut. I don't want it. I don't like it. It's going to have dramatic impacts potentially. But we positioned ourselves with. We've restructured the wage base. We've got retirement concessions. We withheld vacancies. At one point this last year 10 months to get a civil default judgment through the clerks office. Not proud of that fact. We kept the doors open. And individually we've been told since 1998, '97, '98 when we went into state funding, you guys need to work within your local court with your presiding judge and your leadership we're going to tell you what you get to resources and you have to make it work and gee, if you're good at it, you can keep those funds in reserve. A practice unheard of in virtually every other part of government. So many of us have worked diligently to get there. Some have reserve issues due to lack of funding -- I mean, we need to discuss those things. But not every court is affected the same way because we're not all managed the same way and I would suggest that if we take the cuts that are suggested in Judge Wesley's motion we're going to send a very clear message to the legislature that we can take this and they're going to do it to us again and we're going

to have this exact same conversation next year 'cause we've had it this year, last year, the year before and the year before that and we're still in the same place. And gee oh, by the way in the process we decimated CCMS and we decimated our buildings so we've left no legacy for the people who are going to follow behind us except we've been able to keep the doors open so the legislature can take more money from us legislature. I would be real concerned about this. I think the idea of providing access to justice is not only about open courtrooms but it's about the totality of the management job that we've taken upon ourselves. We asked to be a separate but coequal branch of government. We asked for the authority to do these things but we're saying we're only going to worry about keeping the courthouse doors open and that is definitely important but we cannot lose sight of the rest of the organization as well.

>> Judge Yew?

>> I can't say it better than Mike Roddy other than what I was going to add, Dave, I'm going to vote against the motion with the Justice Baxter explanation because to me what you said wasn't very clear. Let me hear it from Judge Friedman?

>> I have a question. I don't know if this is the time to raise the issue I want to raise or not so I need to ask a question either of Judge Wesley or of Steve Nash. Is the list of operations on Page 5 with the exception of the CCMS money what you're seeking to divert entirely to the trial courts? On Page 5 of the report. In particular I'm interested in towards the bottom there's the 5.2 million in ongoing reductions to various grant and local assistance programs such as family law information centers and equal access. Is that encompassed in your motion?

>> I didn't know if you were just --

>> Well, one of you may be able to answer it for me. If the answer is yes, then I have a point to make. If not, I'll make it at a later time.

>> So I'll just give my understanding of the motion but also what the numbers are. So again, Judge, there's a couple of different things here. First off, the legislature already approved \$180 million of -- and those are included in this Page 5 so the Page 5 has a combination of the \$180 million that was already approved by the legislature as offset and, again, it was from ICNA and the state court facilities construction fund. \$10 million -- a total of \$20 million. 10 million from a middle modifications another 10 million for facilities modifications and the state court facilities construction fund. 20 million offset for the modernization fund and \$10 million of planned funding. This is the initial cut and I don't think we talked about it today from CCMS. Those are all included here. That's done by the legislature. What the budget working group said, okay, are there additional on top of those actions already we got a new set of new set of cuts that total 350 million are those additional reductions beyond what the legislature already scheduled that could be done. That's the 124.2 million and that is the 1-year suspension of deployment activities CCMS at 56.4. He the state court facilities fun a construction fund 25 million but also remember we had one time cuts -- or one time offsets to ongoing cuts in fiscal year '10, '11 so some of the 180 million that we talked about is really replacing the 1-time money that we offset cuts with last year. That's why we're facing this really -- it's a cumulative hit of ongoing cuts and one-time solutions are what are being proposed but eventually the cupboards are getting pretty bare.

>> I guess my question is, I want to address the equal access fund and I don't know if this is the time -- whether

it's implicated by Judge Wesley's motion or not. And I would like to know when it would be appropriate to do so.

>> The equal access fund, this actually goes back to -- this would be really detail from the -- so there's two pieces of cuts that for trial court funding. One is trial court operations -- there's actually three. Trial court operations, non-security, security now as you know is local security realignment being taken out of the budget, that there was a historical piece about \$17 million of cuts that was included and for security funding and then there's a separate little cut and I have the numbers and we have a chart in the packet if you want to that would apply to grants and local assistance. Within the grant and local assistance item, this is below the detail equal access fund is one of the components of that. And so if the council approves the allocation of the reductions as recommended, there is a reduction that applies to grants and local assistance. One of those items is equal access fund and how that actually is split out, that would be detailed and being reported back.

>> So the motion on the table is not germane to that detail concern, maybe a detail but I think it's extremely important and I want to speak to it. But it seems like this is not the time or the motion to do so. Am I correct?

>> That's correct.

>> So this relates to the offsets.

>> If you'll give me a thumb's up when it's the right time? [Laughing]

>> I'm going to go to first in order Kim Turner then Arnold Carlson and --

>> Up to the microphone.

>> Stole my thunder what I was intending to talk which we have, I think, effectively dodged bullet by using a lot of tactical maneuvers that this council has had the authority to do over the last three or four years. I think the message was clear that the governor and the legislature gave us additional cuts because they think we can take it. And, in fact, if we show them again that we have not only fully mitigated but mitigated plus added additional money back into your baseline budget for the trial courts, we have failed in demonstrating to them that we are listening to the guidelines they are giving us. The other thing I would like to say I'm a court that doesn't need a facility. I'm not on the list or prioritized up high. Yet, I feel great compassion and great empathy for those courts that are surviving in substandard facilities with asbestos, with lead, with inmates being marched down the middle of the Court or next to the judges chambers. In various stages of decrepitude that I think this short-sighted motion would, in fact, leave them forever wanting that facility that is going to, I think, improve the quality of justice in their communities. So for that reason I would absolutely -- if I were a voting member, I would vote no.

>> I also would endorse what mike said wholeheartedly. But trying to get at what Judge Wesley is proposing if you look at attachment 1 on my Page 11 it may be an older version. The 120.323 million if you take out the CCMS part, it leaves 67.8 million that we've covered and if you're saying, okay, we could cover 150 what's the difference so what we're saying we ought to come up with 82.2 million.

>> That's correct.



>> I don't know. Can we find 82.2 million and does your motion say who's supposed to find that? You know, where we find that?

>> It is in the motion.

>> It's not my turn.

>> Well, it is -- if you're done, then it is.

>> You're exactly right. To help my colleague, Judge Yew, the council has the authority to redirect money. The authority is capped at \$150 million. But the cap hasn't been reached. I believe there is still \$82 million left in that cap. The legislature gave us the authority to fill that entire amount, to mitigate against the trial courts. And what we're doing is we're taking 25 million from SCFS, we're taking 38 million from ICNA, nobody says there's not more money in there. And nobody says we have to stop doing projects. In fact, the committee is looking at projects that we're not going to do site acquisition on. And there's a whole lot of money in there that we don't have to do site acquisition at the expense of closing down courtrooms and letting employees go and I disagree with my colleagues here that building a new building is as important as keeping the employees we have and keeping the current courts that we have open. So we've applied 25 million, 38 million and 4.8 million from the interpreters, a savings of 67.8 million against the cap. There's still 82.2 million that we can use to mitigate for the trial courts. Every one of our trial courts is begging for that money except San Diego, apparently. They need the money. And we're saying -- the legislature is looking to us to see -- are we restructuring? We need time to restructure. Every court needs time to restructure and all this money does is give you time to restructure and we as a council should start to approach the legislature and restructure our mandates so that we can pay for these cost -- either give us the money or restructure so that we can do business with the limited resources you're giving us. So that's what this motion goes to. It goes to the \$82 million that we could still fill, and we're not doing it. We have ICNA, SCFS and the AOC. There were three sources that have not been tapped to their fullest.

>> Judge Yew.

>> So some of that money comes from courts like my court that is hoping to build a courthouse. We've had vacancy rate of 16% for years for at least four and a half years we've tightened our belts, saved our money and our own money was transferred to AOC to help us build a courthouse. A courthouse that we desperately need because there are issues of safety. We had a child in a dependency matter propositioned by a sexual registrant in a mental health drug court at the hot dog stand because there's no place that's safe for that child to wait or get anything to eat while they're waiting for their case to be heard. So to me the motion is still unclear and not well-founded.

>> With full did you say enclosure, in the robust discussions that occurred at the trial court budget working group, there was a reference to a pet project or something like that and I would just like to address a broad really what we define as justice. Justice is keeping open courtrooms but I think we have to consider what we're keeping open and the safety to the citizens if we don't provide safe courthouses to our citizens, we're not providing justice. And in my courthouse presently, my criminal courthouse in my county, when I am walking to my courtroom from my chambers, I may have to flatten against the wall while the sheriff brings felons down the secured hallway past our courtroom entrance, our courtroom entrance, past our chambers so they can

transport prisoners. That's one of numerous very serious safety violations. So when I go to bed at night as presiding judge, I think about the possibility that I'm going to get a phone call the next day informing me that there's been an incident. There's been a judge hurt. There's been a court staff that's been hurt. There's been a shooting. This is not for purposes of getting a pretty courthouse. This is for purposes of what I consider to be providing justice, providing a safe facility for the citizens, for the lawyers, for the parties to the litigation and, frankly, for the judges as well and the court staff. We don't have it. And what we're talking about with this minimal amount of money that's left in the construction fund is allowing us to at least get to the point where we finish the phase that we're currently in so we don't lose the years of work that was put into it and the considerable expense that went into it not only a right part of the state and the local courts but also the counties that we've been working with and negotiating. There's a very good chance that all of that would be lost if we pull more money from this decimated account. So respectfully and I don't have a vote, Mr. Wesley, Judge Wesley, I have to tell you that I would find it to be a sad day indeed if we pulled money from that account. I appreciate your position, but that's the motivation at least from my standpoint. Thank you, Judge. Thank you, counsel.

>> Commissioner Alexander?

>> My question is, if you took that initial \$82 million out, what would it look like? What would happen in the next year?

>> So I couldn't -- I couldn't say that. Clearly, there would have to be a review of whatever is left and available in the funds and whatever occurs through the SCC and look at AOC and the review that Ron is going to be doing with his team on AOC. But we have to be clear again. Also figuring into that 150 is the reallocation to the rest of the branch of the \$150 million cut. That comes off as well and that's the first item that we talked about. And there's HCRC adjustment that we'll need to calculate in there but all of the -- remember, the legislature scheduled the full 150 million against trial court funding so the reallocation goes against that -- out of that 150 million authority and then any other allocations of funds would count against that as well. So it's not 82 million. Again, we'll have to calculate what that is. But what the actual impacts, and we'd have to identify where the funds coming from and determine what the impacts were.

>> A significant amount was being mitigated a significant amount reduction to the coming year to a 6%, roughly, number. The proposal that's on the table now is saying, we don't want to have any reduction at all. We want the trial courts to have 100% of their budget going forward. And my problem with that is a little like Mr. Roddy's which is that we are in a new era. And we cannot go forward doing business as usual and saying we're going to find the money from somewhere else so he can with keep doing our business just exactly the way that we've always done it. That's not what we've been told by the legislature. And unless we have a cut and a 6% cut is going to cause courts to look at their operations and decide perhaps we can't do it the same way we've always done it. It's not just a matter of shutting a door. Let's have some creative ideas about different ways that we can do business. Let's not just show okay we got to shut the door. Maybe we have to use our space differently. Maybe we should use our personnel differently. We can't to make fundamental changes and by back filling and putting off the problem for another year we simply move exactly the same problem forward a year when it's only going to be worse.

>> I don't want the impression that we're going to do business as usual. I guess there's some mistakes and we're in the going to point fingers one way or the other and, no, I think San Francisco since it's been used and discussed so often that we don't want to be San Francisco. And trust me, San Francisco did not want this to

happen again. We made judgment calls to keep our courts open to address our citizens. So I look at this. I'm here to help because we're all one court. Wherever a branch, a county gets in trouble, I don't look at it as Riverside's problem or the problem but it's all of our problems. So I don't want the impression that, no, we're going to go business as usual, we're going to continue in 1960s. I think we have a message and we're trying to do something about it.

>> One moment. Did you have your hand up?

>> Well, I had my original motion so I don't know if we're going back to that one or not. We're working that way?

>> Well, we're working on Judge Wesley's motion.

>> Ken says so is called for the question. Judge Pines do you have more on this?

>> Yes. It's been suggested that one of the things the courts need to do facing these cuts is start looking at new ways of doing things, not be stuck in all practices. Before your court decided to close 25 courtrooms, did you consider these other options, ways of avoiding this?

>> Did we consider what?

>> Other ways of avoiding -- having to shut 25 courts down? I assume you did?

>> Yes, we did.

>> And this is where you came up.

>> This is where we came up. [Inaudible]

>> Right. And understand that it's -- well, it's my understanding is that we were already down by 18%. And we were operating on bare minimum, you know, before this happened.

>> I just want everyone to understand that the courts right now throughout the state are barely getting by. Almost all of them are down a certain percent, probably most of them are down 10% and we're suffering now and to incur further cuts is going to be very detrimental to our citizens. But I just wanted to go back to just Wesley's motion. It's my understanding that he was the motion encompassed additional offsets that included both construction funds, these funds we've been talking as well as additional funds from AOC budget just so that's clear. It wasn't just all construction. I gather what Judge Wesley would want for the AOC to come back with a further recommendation?

>> Sorry. Could you all hearing. I didn't realize I was leaning on my --

>> No. [Laughing]

>> So the Judge has put the question --

>> Chief?

>> Yes.

>> Yes, sorry. I had two questions that I was just hoping I could pose before the vote. The first is as I understand it the 82.2 are difference. I understand Judge Wesley intent I guess my question what would the process be for determining how that 82.2 million would be calculated and is it Judge Wesley intent that would be Dell indicated or would that come back to the council for approval? And I guess my second question is, if we were to accept Judge Wesley's motion, what would that mean when it calculates down in terms of difference for courts such as San Francisco and would that be a sufficient import that it would -- it would result in any significant different pathway for them as opposed to where they otherwise indicate where they would end up?

>> I wasn't talking about any construction project. There was 41 -- at least 30 of those are in site acquisition. Not ever site acquisition has to go forward. Every county will have a story where they want it to go forward. And we discussed this at the trial court budget working group. And -- but there is money there. There is money in the AOC. And I don't care where it comes from. I mean, perhaps -- if my motion were to pass I would say -- the committee who oversees the construction that we can save money let the AOC come back and say yes we can save money here. And have that as part of this \$82 million to help the trial courts. We have the ability to help our trial courts. If we'll put projects none of trial courts this is a decision this body can make but we have the authority to offset the hits to the trial courts. I don't care where the funds come from to help the trial courts. If that we would do that. The 124 recommended by the trial court budget working group was an offset to the 150 but, unfortunately, the 56 is that the an offset to the 150.

>> Maybe I'm confused. Isn't that what you're doing in the process that you're going through. That you would have it by August or December but it could be within this year and come back and say we've looked at all these different projects and here is some additional money that's available and then the same with regards to Ron. Isn't that the same thing that the AOC is doing at this particular time? Is there going through -- and maybe I was confused in my original vote this morning but I thought that's what you're doing and what Justice Hill is doing?

>> That is part of what we're doing. As Judge Wesley indicated, we will be looking at it, as you said we're looking at it but I was appointed about 8 days ago. [Laughing]

>> And I was on the phone this morning picking dates for the meeting and we have 25 people and we're trying to get them all together so we will look but things like this but take some time and we're going to --

>> It seems like it's beyond our authority anyway once you come back and say if there's additional savings and we have the ability to utilize that in the construction funds.

>> I don't want to cut anybody off.

>> I just have a question. If this body were to vote to add the \$82 million -- it's so unclear where it's coming from, does that mean we're actually deferring a vote on the allocation to the counties in general because you would then have to figure out where that's coming from and then figure exactly how much it has been and how it's going to be apportioned so that we would delay the vote in general. I'm having a hard time understanding --

I do care where the money comes from. I think ultimately you may be looking at the AOC's, quote, budget but the impact on services to certain courts or all courts that may be -- used by the AOC would maybe cause all of us to reevaluate would want to look at that cut. So I'm really confused. I'm sorry I'm not much clear on the process A where the money is coming from and two, if you want to consider that vote how it would then impact our budget votes today or discussions.

>> We'll do a roll call vote and have Bill make the roll call vote.

>> The vote on Judge Wesley motion.

>> Use the microphone.

>> Thank you. [Roll call]

>> The motion fails. [Inaudible]

>> Can I restate it. It was a long time ago. Adopt the trial court budget working group's recommendation to approve the funding transfers from the immediate and critical needs account and the state court facilities construction fund as set forth in attachment 1. I think that totals 67.8 million.

>> Second.

>> Second by Judge Herman. I'm sorry, Judge Baker. Any discussion.

>> Quick question?

>> Yes.

>> Can we reduce the time? [Laughing]

>> Yes.

>> I got it. [Laughing]

>> Any more questions or discussion as to the motion by Justice Miller?

>> Chief?

>> Yes.

>> Just a clarification. I understand that it's implicit in this motion that we adopt a recommendation but that we're adopting them with the understanding that every effort will be made in the coming months to continue to look at other savings, efforts, that are possible that Justice Hill and others are doing on our various committees. I would just feel more comfortable if that is explicit in the motion because my concern with the prior motion -- I agree with many of the sentiments that Judge Wesley expressed but I'm uneasy where those possible savings might come from. And would like to this motion to explicit acknowledge that those continuing efforts are to

happen and perhaps a report back could be made to the council within a couple months whether those efforts are successful or not.

>> I would ask Justice Miller if you would take the friendly amendment.

>> Absolutely. That's fine.

>> Any further discussion or questions before I call for the vote? All in favor?

>> Aye.

>> Any opposed? Yes, we have the court interpreter before we take a break. Before we take a take a break. The interpreter matter program which is a component of the recommendations in item 1.

>> Chief, if I may, so the option was provided to the budget working group and discussed by the budget working group as we're looking at all the different fund sources that can be identified. That there was in 2009/2010 approximately \$4.8 million of carryover funding related to the court interpreter program. And these savings largely relate to the savings through the one-day closure in 2009/2010 and these were specific, though, to the interpreter program. And so these were identified as an option. It also was discussed we're not sure yet but it looks like approximately 1.5 million may be saved with the court interpreter program which would be available next year to offset and provide additional funding of that program was projected to exceed its appropriation authority. Subsequent to that, staff have also identified -- so subsequent to the discussion and the option that was provided to the budget working group which ultimately the budget working group recommended, staff have identified an alternative which would be less of an offset and that would be \$3 million of that 4.8 million used to offset the trial court reduction leaving 1.8 million, and that 1.8 million is based on a couple of years ago and so the notion there was some variability and it's hard to predict the expenditure in the interpreter program from one year to the next. And so that that would leave even greater cushion so that would lead 1.8 million plus the 5.8 million that we're estimating would be available this year as a reserve so that's another option. But again, the recommendation of the budget working group was to offset the total one-time savings from 2009/2010 of 4.8 million as part of the overall offset.

>> Thank you. Any questions? Commissioner Alexander?

>> Is that money still available or is that --

>> Yeah.

>> So the money's still sitting there.

>> So for clarification the trial court budget working group recommended 4.8 million from the court interpreters reserves. But the alternative here today that council has to consider is instead of taking 4.8 it's take 3 million leaving 1.8 in order for the Court interpreters program to cover any fluctuations or overruns.

>> That's right. And that would be in addition -- to any savings this year which we think would be 1.5 -- I mean, in fiscal year '10, '11, the year that just concluded.

>> Any discussion or questions?

>> I would actually move that we adopt the alternative of \$3 million. It doesn't make sense when we recognize the interpreter costs fluctuate year to year to wipe out all of its surplus at this time.

>> I'd second.

>> Seconded by Judge Herman, motion by Judge waters. Any further discussion?

>> Yes, I have a question.

>> Yes.

>> If we went with the 4.8 recommendation of the trial court budget working group and there was a shortfall, who would pay that shortfall? [Inaudible]

>> That's correct. So that's a reimbursable item and so there's only a certain amount available in the fund and so when we are short, unless -- so the council has done -- handled it a couple of ways in the past. The council could allocate additional trial court trust fund money from reserves to cover whatever shortfall and that's occurred in the past or it could be a partial so that if we were 95% of the funds available for reimbursement, then the courts that utilize the expenditures would be short about 5% of reimbursement.

>> Hearing no further discussion or seeing questions, at this point all in favor.

>> Aye.

>> Any opposed?

>> No.

>> Judge Wesley, one no. The matter passes. We'll stand in a 10-minute recess until 4:10. Thank you.

>> Can I ask everyone to take their seats so we can continue on with the balance of items? can I have everyone take their seats, please? we're still on agenda item number 2 and we still yet have to address on agenda item 2 the recommendations by the trial court budget working group on page 2 of your memorandum, items 2, 3 and 4, and then we also will have items 3 on the agenda. So I ask the panel to proceed, please.

>> Can I just clarify my addition on my motion? I said 67.8, and of course my math was wrong, and it was 63 million, if I'm correct. Right?

>> That's right. That's right. As stated in the recommendations. Correct. Thank you.

>> That's right.

>> So we're on numbers 2, 3 and 4 on agenda items. chief?

>> So, chief, if I may ....

>> Please do.

>> We'll just get right to the document. The -- if you turn to attachment one, page 11 of the report, this is really the big picture that says all the pluses and minuses. The -- under 2011-2012, there's going to be -- it's important for the record, there's going to be adjustment to a lot of these records. We did HARC, we did to the interpreter problem, there's goods to be tweaks if the final version of the approved report. Going down 2011-2012 column, as initially recommended, and again, there's some minor adjustments to that, trial courts are facing about a combined \$605.2 million. We talked about \$180 million of-off sets the legislature already scheduled. In section 2-C we discussed, and that's what the discussion today was before we got into the item, the CCMS, the facilities, and it's been clarified to me the action was not a one-year pause, it was just that that amount of savings had to be identified from CCMS. That's my understanding that the motion was. Court interpreter, again, that number will be slightly different. The 3 million instead of 4.839. But that's the offset that we've talked about. The next one is just the legislature, it provided over the last several years in section 3 and section 4 new fee revenues and you can see what the estimates that will be available to offset these reductions, 6.5 million from the 5-dollar first paper filing fee that was included as part of the 2009 budget act trailer legislation. And then under section 4, \$64 million are estimated from 1011 fee increasing. So that leaves us with really a reduction that saves a total ongoing cut at this time facing the court net after those-off sets 230.4. Then we have -- then we start to subdivide that cut. And this guess to Judge Friedman where he was asking some of the detail, like equal access fund, but there's a total reduction of 5.190, which is for local assistance and grant programs. Security and, I mentioned this earlier, alluded to this earlier, there was \$17 million of reduction last year that was their share of last year's cut that was included in their base. And so that gives you a reduction, the court allocations of \$2.8 million. Last year the council had approved a one-time allocation of \$7 million for the court appointed council dependency program, and this adds to -- it's included in this allocation. This year that amount was going to be half as much, 3.5 million, which allowed the program to identify deficiencies, you end up with an allocation with all the pluses and mines about 207.5 million. Last year the courts were left with an ongoing cut of 75.8. That's a cut that was already allocated by the council on an ongoing basis and so courts have already incorporated that, that's part of their current budget. so the net of all of that is, and again, as I said, there will be pluses, some minor pluses and minuses for these things that council today has modified, but we're looking at \$135.8 million of reduction. Then related to that we had some options, so that's all those offsets, then we had some options, do you want to go ahead and pull the slides up? so then the question is, and this is something that the budget working group discussed and prior budget working groups and prior council meetings have talked about. Once you identify what the cut is the question is how do you allocate it amongst the courts, and clearly discussed at the opening of today's meeting there are differences in the financial position of different courts and clearly differences in historical funding and so forth. So these are options that have traditionally been looked at. First is pro rata, that's I would say the standard not exclusive action, but standard approach that's taken to reductions and even new money by the court, and that's simply saying what does each court share of the total statewide trial court funding allocation and then you pro rate whatever the number is. So again, I said that number 135.9 will be adjusted somewhat based on actions. But this option would prorate back to the courts again simply based on their share of the overall trial court funding allocation. The next option is looking at RAZ, research allocation study. And this is using formulas that have been used for many years. They're in the process of being updated and that's part of the concern staff has, that by next year we'll be using -- we'll be presenting or somebody will be presenting formulas and data and so forth that represents an update and courts are working on the SB 56 group to go through the data, look at the methodologies with our awesome court



research team here in AOC. So there's going to be an updated and appropriately updated model. So we think some of the RAZ calculations and formula really do need to be revised. But nevertheless, using the same model that has been around for several years, we look at and applied it. It's interesting when you look at the RAZ model, and there was some discussion in a presentation with the budget working group, but when you look at the RAZ model, the last couple years the number of courts that are showing up as being very under resourced and significantly under resourced is growing. When you think about it it makes sense because we've been getting reductions and we haven't been getting much new funding. So you're seeing a lot of -- it's just a result of that, a lot of percentages going up in terms of under resourced courts and the magnitude of that level of under resource. So what we did is we looked at five courts that were identified as being the most severely under resourced this year, and 30% are more. And what was the total dollar amount on that? And so that would -- so the idea was what would it take. So they were over 30% under resourced, what would it take to get to those five most under resourced courts to just a 30% under resourced level and that's about \$3.1 million. And so that's an option, so this approach would say as -- before you allocate the reduction, provide 3.1 -- \$3.1 million of credit or offset to those five most severely under resourced courts and then spread the overall reduction to all the rest of the courts. So that's the pro rata taking into account a under resourced RAZ adjustment. And then finally we have -- and this is a very different analysis, typically when we present this we would have a list of courts and show you what their reserves are. Because of the timeliness of the budget this year and the fact that trial court accounting record books are not closed for last year yet, and it will be another week to two weeks before we'd have final numbers, we can't give you what the final reserves court by court are. There were interim numbers folks have looked at. I always advise against looking at those, caution strongly, because it is the last week, last two weeks when all of the -- again, a lot of the accruals and a lot of things that are done in the financial statements that are really key and do impact what courts are really showing as reserves. But this option would provide for those courts that just have minimal or negligible reserves. For this end of calendar year, they ended up June 30th again with close to zero or very minimal numbers, this approach would be to provide some level of one-time-off set, so again, it's a notion similar to if you recall at the beginning we talked about courts of appeals, AOC, we can't carry reserves over and so there's a need for there was -- the argument was there was a need for some one-time consideration and credit. This would say, well, that's courts can carry reserves over but those courts had no money carried over and so give them a credit. We don't have, again, we don't have final reserve numbers for you, fund balance numbers, but if that's what the council wants to do, staff could go back and calculate whatever adjustment that would be once those numbers are final. So these were discussed with the budget working group, these options, and the budget working group recommended the pro rata, just the straight pro rata, no RAZ adjustment, no adjustment for courts that have found themselves with no reserves. so that's the recommendation. What was the number? Second recommendation, which was allocate, again, that number will be adjusted, but allocate the 135 approximately million dollars in reductions to courts as displayed in column E of attachment 3 and that's the pro rata option without any adjustment.

>> Any questions or discussions for Steven of the panel?

>> That's my motion.

>> Judge So has moved to pass to recommendation number 2 on page 2.

>> Second.

>> Second by Judge Wesley. Any discussion, questions?

>> I think now's my time.

>> Yeah.

>> and I thank Stephen for explaining this to me. It has to do with the equal access fund, which is critical to the -- if we truly believe in equal access, doesn't do the poor and disabled much good to have open courtrooms if they don't have a lawyer to represent them when their basic rights and interests are at stake. The equal access fund has been around for a number of years as a way to try to help the programs that provide free representation to the poor of California to ignore the cuts they've received in the last number of years. They took a pro rata 6.8% cut from the equal access fund to about \$700,000. Not addressing that, but there's another \$374,000 that is in cuts that are allocated to the equal access fund from the trial court trust fund. And it's my belief that we should offset that reduction by reallocating the amount, spreading it across all the courts in the state. It's certainly not something that I raise lightly. I think this is a matter of most importance to the people that are served by the equal access fund and people that are never at this table or any table, and it's only because some of them have the ability to obtain legal representation from a legal services program that they're able to protect their housing, their benefits, and these are points that were made in some excellent letters submitted in the public comments by the equal access commission, by the Legal Aid association of California. So even though I don't have a vote, Mary informs me that I do have a right to make a motion. And so I will move that we -- maybe I'll even ask as a friendly amendment, if not just as a modification to the motion to adopt recommendation number 2 that we offset the \$374,000 additional cut to the equal access fund out of the trial court trust fund.

>> I don't have to recuse myself as a member of the commission on access to justice, I second that motion.

>> Judge Waters?

>> Just a point of clarification. I think what we had been doing prior to our break was going through the list of adjustments on page 5. I don't know that we ever formally adopted recommendation number one to the full amount of 124.2. And in light of what Judge Friedman saying what I'm hearing is he'd like that number to go down by 347 and allocation items number 2 go up by the same amount.

>> I defer to our expert on budgets for that. I don't -- I don't know the answer to where -- that's why I kept asking the question.

>> So was I -- as I track it, it was approved in pieces.

>> Right.

>> It was not done as recommendation one, in pieces, but you had -- you approved a savings of 56.4 million from CCMS, you recommended -- or approved Tate reallocation of 3 million from the court interpreter program, and then you have 63 million. So I think it was approved in pieces.

>> I look at the last four bullets on page 5 and I don't recall any discussion of those items. the 70.6 in revenues, the 22.2 in ongoing --

>> The 5.2 this comes out of, you're right.

>> I don't think we ever discussed those last four bullets.

>> So this is reflective as we indicated, Judge Waters. So the 3.5 million was approved by the prior council action, and that's in a previous meeting when they did the 7,000,003.5. The 17 million is not something the council really has authority to change right now and security. That was already approved going back two fiscal years by the council. The 5.2 is part of the adjustments that are reflected on this chart, and it does relate to -- that's where the -- the equal access fund is included. So in this item, actually, this recommendation, when we talk about the allocation, that net number would include all of the other adjustments, and that's why I say you have to adjust it slightly. But all of those could be incorporated to get to the 35.9.

>> I understand.

>> With a net reduction, what we're showing as a net reduction after all of these adjustments.

>> Is 24.

>> No, is 24, what we're saying it will have to be adjusted, but it's approximately 135.9 million. After we talked about \$6 million worth of cuts, all of those adjustments that are recommended are incorporated to get us to a net cut to the courts of approximately \$135 million. Again, it's going to be adjusted slightly. All of those are included in that, though. And then we got to the -- so I believe that this action does take care of all those adjustments.

>> That's fine.

>> So Judge Friedman is requesting a modification of the motion to allocate 135.000000 in reduction -- 135 million. You want that number changed?

>> 75 --

>> I don't know who made the motion.

>> There's several motions here.

>> Okay.

>> And Steve, I just had a question. Is this a single fund, is this the equal access fund or are there actually two funds? Because didn't the legislature appropriate the money for the equal access fund and wouldn't we have authority to reduce that?

>> This is interesting, justice. The equal access fund is not a separate fund. It is a program, but it gets funded out of two sources. There's general fund appropriation Judge Friedman identified and there's also trial court trust fund revenues that come and it's included as part of that. And there's also part of the overall appropriation

that funds the equal access. But it's called the equal access fund and is named that way in statute but it's not a separate fund. It's funded out of these different fund sources. More of a program.

>> Is there a portion of that that's funded by the legislature that's an amount we couldn't reduce?

>> So they identify the total cut for the equal access fund was already reduced and specifically by the legislature, Judge Friedman already met with me, and the general fund piece you would not be able to adjust. The legislature made that adjustment. But Judge Friedman was focused on the piece that comes out of the trial court trust fund and that could be adjusted.

>> Okay. All right. Thank you.

>> Okay.

>> So it's been mentioned, but I'll put the question to the motion on this. First motion, whether or not there would be a friendly amendment to back fill the legal access fund with trust fund money to the tune of 374,000.

>> Well, normally I would -- I know that it's a worthy program, opening it up like this opens it up to all these other worthy programs that we're not considering again. so I would decline.

>> Okay.

>> So because the first motion was made, I'm going to take the -- I'm going to take the second motion first, actually. do I hear substitute motions?

>> Explain if I don't know.

>> I think what we'll do is, my feeling is, perhaps, and I asked Stephen this, if there's another way to accomplish potentially what there might be some vote for in terms of what Judge Friedman has indicated without -- as an augmentation or another aspect. Because I think what I'm going to -- I put that question to you, Stephen.

>> Is there another way of doing it, chief?

>> So you could do it as a separate, you could include it as an offset as was being proposed to this, an adjustment to the overall we were talking about, you could do it as a separate action and do the 135 and say and we're going to restore 300 -- what is the number, 374,000 to the equal access fund. One of the things we're working on hard and lots of staff here are making sure we're taking notes because there's a lot of adjustments occurring in today's meeting, but you could do it either way, and I think it would be fine. Probably the cleanest is a separate transaction so if you did the 139.9 and then did a vote on the recent reduction of the reduction already taken by the legislature on the equal access fund, you could do that. Okay.

>> Then I'm not hearing any further discussion, I am going to put the question as to recommendation number 2 on page 2 of your memorandum to allocate 139.9 million in reductions to -- 315.9 million in reductions to courts in item 3.

>> I do have one final comment. I intend to vote to support this recommendation, but following Justice Baxter's lead with a request that the trial court budget group be directed to look at different models. What's never been addressed as long as I've been around here is the disparity in basic funding for all the courts coming in. And it's been raised a couple of times today. You heard it from San Joaquin. I know our court has found at times in the past perhaps we weren't being treated fairly in funding, and I'm sure every court feels that to some degree. But I think some of the problem is we continue to work off the basic funding models that we all came in with into this system. Attempts in the past to use new monies to equalize funding have been met with opposition, both by trial courts but ultimately in the legislature. And it's time we start addressing that basic funding in equity.

>> Thank you.

>> And my understanding that the administrative office of the courts is looking at new models.

>> Right.

>> But that's not anything that we can --

>> We can't deal with it today.

>> And it will be coming back.

>> Yeah.

>> So in the meantime, yes.

>> I have a question, what was the reasoning that the working group had to not give extra money to the underfunded courts?

>> So we just had a discussion about -- and again, staff had talked about -- they provided information and lots of detail from the RAZ model, and we talked about the need for again, an update that a lot of this is fairly old data and fairly -- these are formulas and so forth and based on Delfy model and that go back in other time studies, that it's not a real -- it does need to be updated, there's not a real sense of confidence that the numbers you're looking at now are what you're going to see as a body when the SP 56 -- SB 56 work group completes its work and comes back with some recommendation. So I think there was some concern about that as a tool identifying those most under resourced courts at this time. And then there is some -- (Unintelligible) -- discussion with the council whether or not, you know, you address under resourced courts incrementally through this process. I say it's been a continuing discussion. The council approved for several years RAZ sub-allocations from the overall money that was provided, and the idea was to provide some additional funding, incremental funding for the most under resourced courts based on the RAZ model. We haven't had any sal money for a couple years. Doesn't mean again you couldn't apply it here and that's why we had it as an option, but there was some discussion, but I think at the end of the day the feeling was pretty overwhelming we should do it pro rata.

>> Any other discussions or questions?

>> Yes?

>> Thank you. I understand that because (Unintelligible) to know for sure what the reserves will be like. (Unintelligible) option 2 largely stems from (Unintelligible).

>> Jim Turner I believe would be able to answer that.

>> Marion, we did have, I think quite a full discussion of the two options that were on the table at the working group, the option to just allocate the money pro rata as we have done traditionally, with a few deviations over the years, and the idea of going with option two which would be to make a small adjustment to the under -- what are still considered under resourced courts. Under this RAZ model, I think it's 10 years now, I don't know if OCR's here, I don't see them, I believe the RAZ model was rolled out in 2001 or 2002. And I think the discussion did center around the fact that the RAZ data is extremely old, it's a decade old now or very close to it, and the SB 56 group is getting together to have its final -- I believe its final meetings in September to actually update all the work load data for all the trial courts and to, you know, bring in a very much more current picture of this. And so I think the working group's final decision was that this was not the year to use very old data and make funding decisions based on old data when new data is going to be available in short order and probably will be available by the time we're having this conversation again next year. So it was certainly we feel the pain of the under resourced courts, but I think at this point everyone feels rather under resourced. So it was -- it was simply a decision of the Trial Court Budget Working Group and I believe -- I don't know if it was a unanimous vote, but it was certainly a close vote -- not a close vote, it was certainly a near unanimous vote on the trial court budget working group to go with option one.

>> And I guess thanks for that. I guess the only question is again because 2.8 up to 3 million adjusted with the San Joaquin (Unintelligible) I'm just wondering whether there was any look (Unintelligible).

>> I think we did hear from San Joaquin at that meeting, and we also, you know, had to look at the underfunding, you know, kind of in the larger context of, you know, every court makes local decisions on how to manage their funds and how to manage, you know, all of the variables that go into, you know, ensuring that a court gets to the end of the year and, you know, fully funded. And I think there was, you know, some concern that, you know, and I think Judge Apple mentioned it this morning, that a court that is severely underfunded did give raises, gave raises over the course of several years. I think that was -- that played probably into the thinking of the trial court working group. Although I can't speak for the other members.

>> Okay. Thank you.

>> Thank you. Regarding recommendation number 2, seeing no further hands, all in favor?

>> Aye.

>> Aye.

>> Aye.

>> Any opposed? matter carries. I think now's the time to take up Judge Friedman's motion to augment, if that's the right word, \$374,000 to the legal access fund. and was there a second on this as well?

>> There was.

>> Thank you.

>> Any further discussion, part of that, of course, was the implicit understanding that at our next meeting we would have it identified by -- if it carries, that we would have it identified by a finance to us along with the other adjustments if the motion carries. Any further discussions?

>> I just had a question. We haven't gotten to item 3 yet, but I see there are a lot of programs that have been cut here. Are we going to be going through some of those programs as well?

>> You mean item 3 on page 2.

>> I mean, item 3 on the agenda.

>> We're going to get there, but we're -- yes.

>> There are a lot of -- this was mentioned by the justice, there are a lot of worthwhile programs here and whether we're going to discuss them or not.

>> We're going to get there, and Kim Turner is going to have something to say about the groups that looked into those programs. I don't want to get ahead of ourselves, you know those are coming up, but in terms of this motion, any further discussions?

>> I would just like to ask Judge Friedman in terms of, my only concern is whether we're establishing a precedent that we would not be able to distinguish from any other requests in the future. And if you could respond to that, I'd appreciate it.

>> I think that's --

>> Has left the conference.

>> I think that's a very fair conference, Justice Baxter. I think the distinction I would draw is that in part like some of the augmentations we voted on earlier for council, whether it be the habeas council in the past, dependency council, this funding goes to provide counsel to people who are without any other recourse. And to the extent our guiding light today has been to try to assure to the maximum extent possible equal access to justice, it seems so fundamental that someone, even if a courtroom is open, does not have council to represent or at least advise them is not afforded equal access to justice. It would seem to be in my mind consistent with what they're trying to do in a way that many of the other worthy programs that are going to be on that item 3 list and others in the future probably can't replicate.

>> In light of that --

>> I noticed one of the other ones on the list is the family information centers which also provide legal information to people so they can self-represent, which is also an access issue. So -- how do you differentiate both of those are access issues?

>> I think the equal access fund in part funds those sorts of programs provided by Legal Aid agencies throughout the state.

>> This is the one that's in the court, family law information centers. I'm somewhat agreeing with Judge So in the fact I like that one, and you have your pet one and I think they all go to equal -- I think they all go to access to justice. So if you're going to add equal access, I want to leave the money in the family law information centers too. both of them to be funded.

>> It is also perhaps instructive that the equal access commission chose to identify this as something of particularly worthy importance to their overall objective of providing equal access in the state.

>> All right. I agree these are hard decisions and they are decisions that have to be made in comparison with other programs, and that's the guiding principles for our votes today. So all in favor of the August men addition to find 374,000.

>> Aye.

>> Aye.

>> Aye.

>> Any opposed?

>> No.

>> Do roll call?

>> Justice ashman gurs.

>> Yes. With reservations.

>> I'll second that.

>> Thank you. Judge baker.

>> Yes.

>> Justice Baxter?

>> No.



>> Judge Herman?

>> Yes.

>> Justice hall?

>> No.

>> No?

>> No. Thank you.

>> No, no thank you.

>> As long as we've interrupted the roll call vote I want to make it plain I suspect this is many people's mind, not that it matters, that Judge Friedman and Judge Herman seconding have a concern about the court and very important. My no vote at least goes more to the point Judge So and Judge Alexander made and that is is this the time to cherry pick who we're going to help and who we're not. So that is a no.

>> Judge Kaufman?

>> No.

>> One moment. We're in the midst of voting.

>> I'm sorry, are we voting on Judge Friedman's motion?

>> Yes, we are.

>> Thank you.

>> And bill's going through roll call.

>> How do you vote?

>> I vote yes.

>> Yes.

>> Judge?

>> No.

>> Mr. Mill, are you line?

>> No.

>> Justice Miller?

>> My vote is no. And this is a difficult vote because I'm on the access commission but I feel like if we're going to go through and pick out programs we're going to have a lot of worthy programs. So I apologize to the access commission, but my vote is no.

>> Thank you. Judge O'Malley? Not on the line. Mr. Penrod.

>> No.

>> Judge Pines?

>> No, also with I'm sorry.

>> Judge Smith?

>> No, with I'm really sorry.

>> Judge So?

>> No.

>> Without an I'm sorry?

>> Judge Waters?

>> I vote yes, and forgive the explanation, it's because I see some funding in the mod fund appropriations in the next report that has not been touched. That might be a good source for that program.

>> Thank you.

>> Judge Wesley?

>> Nope.

>> Judge you?

>> I vote yes understanding this is probably not the most prudent thing to do, my vote doesn't really matter because I don't think the motion carries, but I'm voting yes.

>> Chief Justice?

>> I'm voting no, I'm sorry.

>> 12 no and five aye votes, and we're absent.

>> Still on agenda item 2, turning to number 3.

>> Okay. Number 3 is no one will have to say I'm sorry on this. and this is revisiting an issue that the council dealt with at its last meeting on June 24th. On June 24th we had a current year allocation which was last year, fiscal year 1011, of 17.9 million that the legislature had appropriated for trial court increases related to retirement, retiree health and benefits. The need was higher, the legislature did not provide all the funding needed last year. But at that time we told you that the legislature was appropriating the full -- well, at that time what was identified as the full -- the amount of funding that is needed, 52.9 million -- I'm sorry, \$52.5 million, and so this item relates to allocation to courts based on identified needs for \$52.5 million. The total -- the total of updated need, these are always living, breathing items, so we financed at AOC are getting updates, they stay in very close contact with the courts, so we've now identified the number needed is 52.9 million in the current year. So you have approximately 99.3% of the funding available to offset that cut. Identifying the need in each court, spreading that money prorated 99.3% to all courts, and so that again is an allocation of 52.5 million that's recommended and that is a recommendation 3 allocated to courts 53.9 million from the budget act of 2011 for the full year impact of cost changes that were identified in fiscal year 20 10-20 11 related to benefits, retirement and retiree health based on the pro rata, because like I said we have 93.7% instead of the money. The allocation is reflected in column B of attachment to the report.

>> Any questions or comments regarding recommendation number 3.

>> May I make a motion?

>> Yes.

>> So move.

>> Second.

>> Second by Judge Waters. Any discussion, questions on recommendation number 3? all in favor?

>> Aye.

>> Aye.

>> Any opposed? Matter carries.

>> The next item, chief, relates to the -- and this is kind of the technical side, so AB 118 relates to the implementation of trial court security realignment. And so the legislature's already -- I should say the governor's already signed into law AB 118 that provides for funding that was originally appropriated and included in trial court budgets for court security. That money is being removed from trial court funding and is being provided directly to the counties for the provision of trial court security. and that action has already been adopted by the legislature. The Department of Finances implementing the requirements of that legislation.

They are processing an executive order which is taking the money, reducing trial court overall trial court funding. This recommendation reflects adjustments that had been identified, court identified (Unintelligible).

>> Could you mute your phone? It's blocking out conversation at this end.

>> Second.

>> Yeah, sorry.

>> So the thing -- this is the -- a tricky part of all this. We've had discussions on local -- this court security realignment and there's going to be a lot of things that need to be worked out between courts and sheriffs and counties and all this is all going to work. And I'm sure there's going to be need for additional legislative look at it in terms of maybe additional adjustments. But one difficulty that we had was an initial amount was identified and some of this was based on information the courts and sheriffs provided to my team, some of the initial split of the sheriffs' portion of court security and Department of Finance had that number and between us and then working with the Department of Finance and then the sheriff's association, they ended up with some initial numbers that became the adjustment. We understand from courts that those, they've looked at their numbers and they think there needs to be some adjustment. Either the sheriff is getting a little too much. We haven't seen any significant, substantial, but in some cases a little too much, or at least in one case where the court said you're leaving too much with us and they should give more to the sheriff. And so we had worked with -- we got the best updates we could from both the -- between the courts and the sheriffs, we got the best updates we could. We presented that to the Department of Finance and that also included a -- we explained to them based on our surveys that costs were going up. They reviewed that information and agreed the costs were going up but they somehow in the discussions decided that the best way to spread the increase, they got a 2.2 overall increase, they just spread it across that old prior year security base, and if they had -- we believe that if they had used the adjustment that we had presented there would be no need for adjustment. But I'm saying all this, that there are some -- I think that the judicial branch and the Judicial Council should be pushing for adjustment in these numbers. This would be the initial -- the consistent with the executive order that the Department of Finance is making, take down Court security, the budgets are reduced, the money does not exist for the council to allocate so you have to reflect that in the individual court allocations, but the second part of the recommendation relates to providing the administrative directive to the courts the ability to work with the Department of Finance and probably the sheriff's association to get them to agree to adjustments. We need some adjustments. It wouldn't change the overall cut -- I mean, it wouldn't -- it wouldn't reduce the overall funding provided for court security, the sheriffs, but it'd make some adjustments between one county and another and hopefully take care of some of these adjustments that we have. So again, there is a recommendation consistent with what the actual Department of Finance is doing, and money's gone, this is -- that's the technical side of this, but the second side of it is we do need to get some adjustments and so we recommend this delegation of authority for the administrative director to continue to work to get those adjustments.

>> Thank you. Any questions on recommendation number 4? seeing no hands raised, call for a motion.

>> We adopt the recommendation.

>> Thank you, Judge Baker.

>> Second.

>> Thank you, second by Judge So. All in favor?

>> Aye.

>> Aye.

>> Any opposed? Matter passes.

>> I think, chief, depending upon -- are you going to proceed to item 3?

>> Yes, we're going to proceed to item 3.

>> I think I could get you to the heart and soul of it fairly quickly if you'd like.

>> We'll try that first.

>> If that's okay.

>> Yeah.

>> Fine with me. In the report -- in the report at the very -- the very last attachment, there's attachment J, it's the last two pages of the report, so page 55 and 56, you will see the results of an effort. Let me step back for a second and tell you what that effort was. This year, as in every year, the council needs to approve allocations for various projects and programs from the trial court improvement fund, the trial court -- I'm sorry, the modernization fund and for technology from the trial court trust fund. This year we had additional complicating factor with that that related to -- and it's one of the items you've seen before. Of that \$180 million of offset to trial court funding, 20 million was a reduction from funding available in the modernization fund. So that typically -- typically for the last couple of years there's been an appropriation level of about \$38 million. The legislature in that action to move that funding and move that appropriation to offset trial court reduction dropped the appropriation to just over \$18 million. In considering that the whole series of projects and programs, some of the discussion that you all had this afternoon about how do we pick one out, how do we deal with one versus another, and clearly the ability of this body and the logistics become difficult. Even for the budget working group that's a difficult task. So we had called for a subcommittee, the budget working group that would volunteer to go through every project and program funded out of the modernization fund and the improvements fund. We had project managers come up and discuss the project, the viability of the project, the value of the project, and what it looks like with reductions. And then it had some real lively knock down, drag out discussions unrelated to that, but it also really roll up the sleeves. And so we had 12 members of the budget working group that volunteered for that duty. And that was two very long full days as they went through came up with the recommendations.

>> What you see on attachment J 55, 56, you see the results of that effort. Column A was the baseline budget. This is ongoing funding, this is at the ongoing level, for a series of very important projects. This is a long report and for those of you who went through it all so you'll know there is a discussion what the reductions were to

every single project and program that was identified. So the baseline amount, the starting amount if there was no reduction and no terrible fiscal year, what some of the baseline allocations and recommendations might have been for these projects and programs.

>> After the subcommittee work, you can see these are the recommendations. I'm not going to say, I think it goes without saying, many of you who participated in the process, none of you were there to say it's good. The story today has been very difficult all of these cuts, but all of the things in the projects and programs were really sweated over and debated. But they ended up with \$19.962 million of reductions that were identified not quite to the target that we needed, but then they asked at the very end at the point of exhaustion on the last day, okay, staff, you go see if you can identify some additional pieces to get us to that targeted reduction. That's column C, so we went back and squeezed a little more and project managers identified additional savings. So at the end of the day we were able to come back with a reduction that said in most cases these are programs and projects that were maintained and left viable. But at the end of the day, again, this is a one-time reduction, \$21.1 million that the subcommittee recommended to the budget working group, the budget working group looked at it again. The budget working group, like the council, really didn't have time to go through all of the details and all the programs and projects but looked at the work and ultimately endorsed and recommended to you these reductions that are shown on this page. You end up with a base that started in column A of 88.45 million on page 56, but you end with a recommendation from improvement fund and modernization fund this year of \$67.3 million, and that's the first piece of the -- the first of two pieces of the recommendation. The second one is something.

>> All of these guides but all of these things in the project and programs were really sweated over and debated. But they ended up with \$19.962 million of reductions that were identified not quite to the target that we needed. But then they asked at the very end on the point of identification okay. Staff you can go to identify some additional pieces to go for the targeted reduction. That's column C and we went back and squeezed a little more and project managers identified some additional savings so at the end of the day, we were able to come back with a reduction that said, in most cases these are programs and projects that were maintained and less viable but at the end of the day, again, this is a one-time reduction \$21.1 million that the subcommittee recommended to the budget working group. The budget working group looked at that time again. The budget working group like the council really didn't have time to go through all the details and all of the programs and projects but looked at the work and ultimately endorsed this was discussed only with the budget working group and that is technology funding and I would point to Page 54. And actually there is a lot of technology funded in the improvement fund and the modernization fund and they did not look at that. Is and some and statewide project is are with are where.

>> They charge \$550 I think it's per party. Up to \$20,000 in Los Angeles, for example, we collected \$1.3 million. Our funding was 1.7 million and I think if you look at each of the courts they are virtually paying for themselves. This is no savings to the trial courts. In fact, this is actually the kind of program that helps the trial courts handle the cases that they have with limited resources. It came out as a pilot program. It is endorsed wholeheartedly by the lawyers of this state that use it. In fact, they agree to pay higher fees to help the courts out. There are -- that's true. There are six courts using it. Some courts have opted not to use it. But then they don't collect the fees for the conflicts litigation cases that they have. There's a whole long explanation of what complex litigation cases are when you have a case with 1,000, 2,000 plaintiffs, maybe 600 cases put together, that's a complex litigation case. There's judges especially trained to handle them with special techniques. They help the courts in numerous ways and I'm not saying ADR is a valuable program but the trial court working

group -- it's a subcommittee of the trial budget group, they thought about all these things and they voted to support the complex litigation courts and that's why.

>> Judge so and then commissioner Alexander.

>> I'm going to move that the judicial council adopt the trial court budget working group recommendation as set forth on pages 1 and 2 of the staff report including items 1, 2, 3, 4 and 5.

>> Second.

>> Second.

>> Multiple seconds. I heard Mr. Penrod first.

>> Uh-huh.

>> Commissioner Alexander.

>> San Francisco said they weren't going to do their conflicts litigation. Is there something where that money comes back and get redistributed. On the conflicts litigation it says no changes as opposed to having that money come back.

>> Yeah. So we heard that statement. We're not -- at this point the numbers are reflecting a program that was originally conceived. We have not -- I have not seen or heard that there's a formal request by the court to not take this allocation. If that's approved and that either would free up the funds and I would defer to our general council that manage up the program that would free up the funds within the allocation or it would just not be utilized and saved and I'm assuming the office of general could would report back if that determination was made. So I'll just talk about the numbers working on Judge Herman may weigh in. It may move things around a little bit but the action of the council today was to reduce the funding available for CCMS, the planned funding this year so it doesn't -- it would not increase the funding. The only way they could have increased funding would be to come back to this body and get a allocation increase but it may result in some changes of characterization of some of the pieces.

>> And really we are where we are with the funding. This is the funding that we have to work with at this point. We are going to come back to the council. We are going to spend a substantial amount of time between the internal committee and the governance committee in terms of plotting out where we're going to go. These are the numbers that we're working with.

>> Any further discussion before I call vote. All in favor of the recommendations in items 3 as stated in your memorandum? All in favor vote aye.

>> Aye.

>> Aye.

>> Any opposed?

>> Thank you. I believe that concludes our agenda. [Applause]

>> I do want to say something, though, first, several things. I want to commend the extraordinary work of the trial court budget working group, the judges, the justices, the lawyers, the court executive officers, the AOC staff and also the work that council did today that was deliberative and it was deep and it was probing and they were able to do that at a high level and I also especially want to commend Stephen Nash who walked us through this. Who spent his day with us and I know you're technically in San Bernardino and I'm grateful for all your answers to all of my questions about the numbers and walking me through them and walking us all through them. And a special thanks as Ron already said to your presiding judge El well when I had to call him and ask him to keep you longer. And he said, chief, whatever you need. So we thank you for your service and especially for coming back and walking us through this. You will be definitely missed. Thanks. [Applause]

>> I'm concluding -- well, I'm concluding just to say that I'd like to meet in private session for no more than half an hour. Go ahead.

>> One observation and then one recommendation. On the discussion on equalizing funding in the courts and while we have a large number of judges and court executive officers and lawyers who are trying to work on a model that will be more effective and that you will have more confidence in to try to identify chronic underfunding issues but the reality is still is going to be that it will be a challenge as long as we have such an extraordinary disparity in the number of judges in courts across California. And not the sole solution to equal funding but a huge piece of it is having the allocation of judges that you have recommended over the past seven or eight years to make progress in getting that approved to move forward with and that will do more to equalize funding than anything else and we'll free up some other opportunities. And then finally, I'd like to recommend that you -- as you have done in past years on a number of occasions when we have -- we're going through budget reduction scenarios that you do as you have on past occasions and that's to direct the staff to -- after we get the final fund balances that Stephen talked about and those kinds of things but to look at both the reserve balances, other things about historical underfunding and go back to the executive committee and report on any courts that would appear to be in the state of absolute crisis so that if there is something that needs to be done, that it can get back before the council in August, at that time.

>> If there's a need for a motion, I would make that motion.

>> I would second that.

>> All in favor of coming back to council to do that, studying to get an idea of the end balances and where we need to start to begin to address the under-resourcing of courts, under-resourcing of courts, all in favor say aye.

>> Aye.

>> And so that is handed over to ENP to follow up on as well as the results of our adjustments today that we will hear further about and have more information in writing at our August meeting.

>> Could I just add one thing? We had an extraordinary meeting today for a lot of reasons but I really value that first our -- almost an hour where we had public comment, I haven't seen that before in our meetings, to have



that extensive amount of comment. I think it was very worthwhile and I appreciate ENP setting up this agenda in this fashion and allowing that type of input to the council before we started.

>> Thank you.

>> Thank you.

>> Thank you.

>> I will ask council members to stay for a half hour more to just in closed session on a personnel matter.