

# Four Point Accountability Plan for the Administrative Office of Courts (AOC)

## *Background*

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Prior to the Trial Court Funding Act of 1997, which separated the trial courts from county government and placed them under a unified state funding system administered by the Administrative Office of the Courts (AOC), various aspects of the operation of the trial courts were subject to the California Public Records Act, independent audits, and the Brown Act.

These laws and standards were adopted to ensure that our government would be accountable and transparent to the public.

Today, the AOC operates outside this basic framework for government accountability and transparency, and all Californians are paying the price.

## *The Need for Greater Accountability and Transparency*

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As California continues to face its worst fiscal crisis since the Great Depression, a pattern of questionable priorities and spending at the AOC has united many judges, court workers, law enforcement officers and others in calling for greater accountability.

Consider the following:

- **COURT CLOSURES.** As a result of budget cuts, courts throughout the state were forced to close their doors to the public once a month. According to Sacramento Judge Maryanne Gilliard, the impact of these closures is significant and felt across the board: “Let's talk about abused and neglected children whose cases are going to be delayed. Let's talk about crime victims. Let's talk about those accused of crimes. Let's talk about jurors who could be very well in the midst of

deliberations on a murder trial being told they have to go home. It is significant, and the public should be aware that the Thursday after the Wednesday shutdowns, it's going to be monstrous in terms of dealing with the press of cases (that) we're not going to be able to get to on Wednesday.”<sup>1</sup>

- **INADEQUATE DEPENDENCY COUNSEL.** While millions are being spent on computer system upgrades, construction, and other questionable spending, the Dependency Court system is woefully underfunded, leaving our most vulnerable children without adequate court services. In fact, in Sacramento County, there were 395 clients per dependency attorney,<sup>2</sup> more than double the AOC’s own standard of 188 clients per full-time attorney.<sup>3</sup>
- **RUNAWAY I.T. EXPENDITURES.** At the same time, the *Daily Journal* recently found that a new computer system for the court is expected to cost \$1.75 billion, 35% more than AOC administrators reported to the Legislature last year, and *500% more than the agency predicted as recently as 2006.*<sup>4</sup> The system is still years from completion and is expected to be three years overdue. That’s equivalent to a \$1 million computer system per judge in the state of California. In FY09-10 the AOC is planning on spending more than \$171M on Statewide Administrative Technology Infrastructure, including more than \$84M on CCMS. \$72M of this funding is set to come from the Trial Court Trust Fund, the intended purpose of which is to fund trial court operations.

Just this past Friday, October 23, the Judicial Council voted to authorize the AOC to redirect \$72 million from the Trial Court Trust Fund to CCMS. This is money that the AOC currently has and *that could have been sent to the trial courts to avoid the forced closures.* No one was aware that the AOC had this money.<sup>5</sup>

- **LACK OF PUBLIC DISCUSSION AND RECORDS.** According to a review of all available Judicial Council minutes conducted by Judge Charles Horan, in a memo to the Alliance of California Judges, the California Case Management System (sometimes referred to as the Court Case Management System), CCMS, evolved and grew without extensive or even adequate public review, oversight, and discussion.<sup>6</sup>

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<sup>1</sup> “Sacramento judge expects backlogs from court closures,” *Sacramento Bee*, 07/31/09.

<sup>2</sup> *E.T. K.R., C.B., and G.S., v. George, et al.*, plaintiff’s complaint, paragraph 51.

<sup>3</sup> “Dependency Counsel Caseload Standards, A Report to the California Legislature,” Judicial Council of California, 2008.

<sup>4</sup> “Cost of Court Case Management System Grows by a Third,” *Daily Journal*, 10/09/09.

<sup>5</sup> Judicial Council Meeting Agenda, October 23, 2009, Item G: Allocation of Special Fund Monies for Court System Projects and Programs in Fiscal Year 2009–2010.

<sup>6</sup> Memo to Directors, Alliance of California Judges, re: CCMS, Judge Charles Horan, 10/21/09.

- **SEQUESTRATION OF CONSTRUCTION FUNDS.** According to the Department of Finance, the AOC is at least three years from selling the first of \$5 billion in bonds to refurbish and rebuild courthouses<sup>7</sup> – but is still taking millions in fees from county trial courts every year, fees that would otherwise be used for court operations and keeping courts open to the public. As of result of SB1407, from January to June of 2009 the 58 trial courts collected more than \$78 million in court construction funds. A full year of this revenue collection would provide more than \$156 million for trial court operations.<sup>8</sup>
- **HIDDEN FUNDS.** In July, the Judicial Council transferred \$9.28 million dollars to prevent cuts to court-appointed dependency counsel from funding sources that the AOC had previously said did not exist.<sup>9</sup>
- **EXPANDING BUREAUCRACY.** While county courts have been forced to layoff employees, the AOC continues to hire high-priced employees. In fact, the AOC staff has grown from 490 to 901 since 2004, and the AOC continues to hire despite a hiring freeze. 1/3 of AOC employees earn at least \$100,000 a year.<sup>10</sup>

The Center for Public Accountability at SEIU 721 filed a routine request for public information in September: who works at the state's Administrative Office of the Courts and how much they get paid. According to a 2007 Supreme Court opinion by Chief Justice Ron George, salary information is “in many cases necessary to disclose inefficiency, favoritism, nepotism and fraud with respect to the government’s use of public funds.” Despite that, the Center has not received a response.<sup>11</sup>

- **OTHER QUESTIONABLE EXPENDITURES.** The AOC recently held a training for judges at the Dolce Hayes Mansion, at a cost of \$337,000.<sup>12</sup> A three-day conference in San Francisco cost \$82,000.<sup>13</sup>
- **LAX FISCAL OVERSIGHT OVER LOCAL COURTS.** The AOC audits local courts, but this arrangement, like many internal audits, has not proven effective. Recently, for example, San Mateo County Court laid off 28 employees because court administration overlooked a \$4M deficit that was only discovered at the close of the fiscal year. A 2007 audit conducted by the AOC of San Mateo Court did not

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<sup>7</sup> 10/09/09 conference call with SEIU Local 521, 721, and DOF staff.

<sup>8</sup> Source: Report of Revenues Fiscal Year 2008-2009 Quarter 4.

<sup>9</sup> “Allocation of Trial Court Funding for Fiscal Year 2009-2010, Including Recommendations Regarding Statewide Funding Reductions,” staff report presented at Judicial Council 7/29/09 meeting.

<sup>10</sup> “Critics target California’s courts bureaucracy,” *San Jose Mercury News*, 08/28/09.

<sup>11</sup> Ted Rohrlich, “Open Government? Not at the Courts,” Oct. 22, 2009, SEIU 721 Center for Public Accountability, <http://www.seiu721.org/2009/10/why-is-court-keeping-salaries-secret.php>

<sup>12</sup> “Despite Money Woes, Judges Train in Luxury,” *Daily Journal*, 08/11/09.

<sup>13</sup> “Lawmakers Set to Scrutinize AOC Spending,” *The Recorder*, 10/09/09.

even audit the courts budget projection methods.<sup>14</sup> The Placer County Court Executive Officer received almost \$500K in apparently unauthorized compensation over a period of 8 years. Between 2001 and 2009 the official's salary was increased 11 times from 162K to 304K.<sup>15</sup> Earlier this year the Department of Justice launched an investigation when it was discovered that \$100,000 in fines and fees paid to Humboldt County Court were missing within a period of 4 months.<sup>16</sup>

## ***Recommendations***

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We believe that the Legislature must take action to ensure that the AOC's priorities and spending are aligned with the public interest and that the agency is held accountable to the public. The Legislature has the statutory authority to:

- 1. Prioritize serving and protecting the public.** Direct the AOC that keeping California's courtrooms open and secure and maintaining public services is the first priority of the courts.
- 2. Open records.** Require that the AOC provide the public access to administrative records, including budgets.
- 3. Open meetings.** Require real opportunities for public input in decision-making.
- 4. Independent audits.** Require independent financial audits of both the AOC and the courts on an annual basis, much like cities, schools, and counties are required to have.

These four steps are the minimum necessary to bring the AOC in line with California's basic framework of government accountability and transparency.

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<sup>14</sup> "San Mateo County Superior Court to layoff 28 workers," *San Jose Mercury News*, 09/01/09 Link: [http://www.mercurynews.com/breakingnews/ci\\_13251531](http://www.mercurynews.com/breakingnews/ci_13251531)

<sup>15</sup> "Ex-Placer Court Executive's pay under scrutiny" *Sacramento Bee*, 06/16/09

<sup>16</sup> "DOJ investigates alleged embezzlement in county courts" *The Time-Standard*, 06/24/09. Link: [http://www.times-standard.com/localnews/ci\\_12678128#](http://www.times-standard.com/localnews/ci_12678128#)