



September 30, 2011

Dear Members and Others:

On Wednesday, the Legislative Analyst's Office (LAO) created quite a stir with its report entitled, "Completing the Goals of Trial Court Realignment," issued as judges in the criminal courts of California were madly preparing to implement the "realignment" provisions of AB109 that take effect October 1.

The LAO advocates centralizing control over the terms and conditions of employment of court staff by placing the power to negotiate those terms in the hands of the AOC, even while the stated goal of AB109 is to decentralize the rehabilitation and supervision of those convicted of various felony crimes -- part of a broader effort to transfer various responsibilities from the state to cities and counties. The LAO also recommends that the state "establish a comprehensive trial court performance assessment program and establish a more efficient division of responsibilities between the Administrative Office of the Courts and trial courts."

You may access the complete report of the Legislative Analysts' Office at <http://lao.ca.gov/laoapp/PubDetails.aspx?id=2523>.

The Alliance responded the day the report was released with the following statement:

"We are concerned that the LAO report not be interpreted to put more centralized control of the courts in the hands of the AOC," said Alliance Director David Lampe, Judge of the Kern County Superior Court. "That model has been a failure -- it puts the goose in charge of feeding the chickens." Courts need greater flexibility in budgeting and management at the local level than do most state institutions. This allows the flexibility necessary to economically run our courts.

"We have met with Mr. Soderberg previously and pointed out that centralization of the courts has not led to "economies of scale," but has instead led to significant diseconomies, such as the ill-advised CCMS system that has cost the state \$546 million to date, with no prospect of full deployment in this economy before it is obsolete.

"The Alliance supports independent analysis of how to improve the trial court system. The AOC should not be put in charge of that analysis, because the AOC will invariably recommend proposals that enhance its role and diminish local autonomy. We would suggest that this project, if it is to be undertaken, be overseen by a select committee of the Legislature with an independent staff. The LAO analysis points out how dramatically the Judicial Council has expanded. The report states that the Judicial Council's budget has quadrupled from \$77 million in 1997-98 to \$362 million in 2010-11. Similarly, the number of positions in AOC has more than

tripled from 244 in 1997-98 to 960 in 2010-11. Our own investigation shows over 1000 employees, temporary workers and consultants.

“The Alliance of California Judges stands ready in the coming year to work with the Legislature, court employees, judges, lawyers, and citizens to improve our court system and improve its governance and financing.”

The Metropolitan News-Enterprise wrote an article about the report and reactions to it, which may be found at <http://www.metnews.com/articles/2011/lao092911.htm> .

We are not sure what we find more disturbing -- the thought of the AOC “assessing” the performance of the trial courts, or the near certainty that the “more efficient” division of responsibilities envisioned by the LAO would place ever greater power and control in the hands of the AOC.

A basic premise of the report is that the trial courts have irresponsibly given their employees raises and extravagant benefits, and that giving the AOC greater control in this area will lead to savings. What we find most ironic about that viewpoint is that the AOC has given its own employees raises, and its staff has grown exponentially, while the trial courts have furloughed court staff, imposed hiring freezes and laid off employees. Has any court during the current economic crisis given raises and paid benefits that it was not under an obligation to pay, as the AOC has done? With this history, how could giving the AOC more control over the employment conditions of our court staff possibly improve the efficient operations of the trial courts?

If each court were given a direct allocation of funds for operations, the courts that improved efficiency and controlled operating costs would benefit, and those with less fiscal restraint would be made to pay the price for their lack of judgment. Wouldn't that be the fairest and most effective way to control costs? Shouldn't we be looking for accountability at the local level? This is the basic premise of AB1208. Aren't the citizens of the individual counties, who look to their local courts for access to justice, in the best position to evaluate the performance of those trial courts?

Also, preeminent columnist, Dan Walters, of the Sacramento Bee, weighed in on the issue, noting the Alliance position, in the following piece:

Walters: Judges' war gets fresh ammo

By Dan Walters / The Sacramento Bee
Thursday, Sep. 29, 2011 | 09:50 PM

The Legislature's budget analyst has waded into the political war between the state court system's San Francisco-based leadership – including Chief Justice Tani Cantil-Sakauye – and hundreds of local trial court judges.

While not overtly taking sides in the power struggle between the Administrative Office of the Courts (AOC) and the rebellious Alliance of California Judges (ACJ), a lengthy

report by Legislative Analyst Mac Taylor's office, issued this week, seems to side with the former over the latter on one key issue.

It suggests that control of 58 local Superior Court systems over their employees be shifted, instead, to the AOC and the Judicial Council, which Cantil-Sakauye heads, saying it would create a more uniform and efficient system.

That raised alarm bells among ACJ leaders. "We are concerned that the LAO report not be interpreted to put more centralized control of the courts in the hands of the AOC [because] that model has been a failure; it puts the goose in charge of feeding the chickens," Kern County Judge David Lampe said in a statement.

The ACJ rebellion began under Cantil-Sakauye's predecessor, Ron George, with critical judges charging that he, through the Judicial Council and the AOC, had created a bloated and self-serving bureaucracy that starved local courts of funds while pursuing a grandiose but unworkable centralized computer system.

The two factions have also clashed over the AOC's massive courtroom construction program and other aspects of the system that was created more than a decade ago when the state assumed full financial responsibility for what had been locally managed courts, but left many aspects unsettled.

The legislative analyst's report was aimed at how well that "trial court realignment" has worked, and concluded that significant problems remain, including a decentralized system of determining pay, benefits and working conditions for court employees, who remained largely tied to county personnel systems.

The report did confirm one of the ACJ's most common complaints – that the AOC has grown exponentially since realignment began.

Finally, the LAO report sets the stage for another showdown, proposing that the Legislature undertake a "comprehensive trial court performance assessment program."

The ACJ says it welcomes "independent analysis" but opposes allowing the rival AOC to control the study.

It is, indeed, time for the Legislature to step in.

The ACJ's proposal to have "a select committee of the Legislature with an independent staff" do the assessment makes a lot of sense.

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