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October 26, 2010

Hon. Tani Cantil-Sakauye, Chair
Advisory Committee on Financial Accountability and Efficiency
455 Golden Gate Avenue
San Francisco, California 94102-3688

Re: AOC Compensation Issues

The Alliance of California Judges objects to the recommendation of the Advisory Committee on Financial Accountability and Efficiency for institution of discretionary salary step increases for AOC employees retroactive to July 1, 2010.

First of all, we recognize the hard work that AOC employees devote to their jobs. This same recognition applies to court employees throughout the trial court and appellate court system.

However, the recommendation is, at best, ill-timed. Throughout 2009- 2010, our trial court employees suffered financial reversals due to mandated court closures which imposed unpaid furloughs. Although court closures are no longer mandated, many trial courts will be compelled to implement furloughs in any case. Effectively, many of our trial employees will continue to suffer up to a 5% pay cut.

The recommendation of the Committee states that it is based on a staff report on compensation and personnel policy. As far as we know, that staff report has not been made public, and its conclusions cannot, therefore, be independently analyzed. If the staff report is available, we would request a copy.

The staff report concludes that trial courts kept step increases in place averaging 5.1 per cent. How was this number determined? It is unfair to use trial court step increases that are part of negotiated union contracts in past years as justification for this current action. Many courts are now in the midst of negotiating new union agreements, and there simply is no money in the trial court operations budget for salary increases. Many courts are operating at significant staff shortages. Most trial courts have therefore substantially reduced their overall payroll cost.

It is also inappropriate to use Executive Branch practices as justification, particularly without considering the impact of executive furloughs on overall costs.

Hon. Tani Cantil-Sakauye, Chair
October 26, 2010

Before considering these step increases for AOC employees the Committee should provide additional public information. Has the AOC significantly reduced its overall payroll consistent with trial court practices, through attrition or otherwise? To what extent has the AOC used temporary employees or other practices to offset staff reductions, and what has been that cost? Has the AOC implemented furloughs without providing other vacation or compensated days off as an offset?

At the same time as this Committee will report this recommendation for pay increases, the Judicial Council will be recommending the new 2010- 2011 trial court budget to implement the enacted state budget that contains substantial shortfalls. The staff report on how these deficiencies will be accommodated is not yet available, as far as we know. Will these deficiencies be wholly absorbed by the AOC without impacting trial courts? Without this information, it is difficult to see how a recommendation for AOC staff raises can be considered.

To state that these raises are “not funded by the Legislature” seems incorrect. The AOC’s budget comes from the taxpayers, and is an approved appropriation in the state budget.

Finally, although we have no quarrel with hard-working AOC employees, we think that the Advisory Committee on Financial Accountability and Efficiency should step back and take a serious look as to whether the AOC has fulfilled its mission since state funding of the trial courts was implemented. The reasons given for state funding and consolidation were to achieve “economies of scale” efficiencies and to achieve better balance in funding between the trial courts.

Unfortunately, the goal of balanced statewide funding has yet to be achieved. For example, in 2005 the AOC found the Sacramento Superior Court “underfunded” by 4.9 percent. As of the last report (7/27/09) underfunding had grown to 28.87 percent, making the Sacramento Superior Court the fifth most underfunded court in the state. Many other trial courts suffer similar disparity in funding. Those joining Sacramento County in the 10 most underfunded trial courts are San Bernardino, San Joaquin, Glenn, Tulare, Placer, Fresno, Tehama, Yuba, and Kern County. Los Angeles County is now considered an underfunded court.

Furthermore, The Alliance believes that the initial goal of increased efficiency by centralized financial control has been frustrated by problems in AOC management of the branch: lack of transparency in communication and reporting, duplication of effort, organizational aggrandizement, political justifications instead of economic justifications, isolation of decision-makers, slow response, and inertia (resistance to change).

The AOC seems to have lost its way. It is for these reasons that the Alliance continues to propose legislation that will implement a Trial Court Bill Of Rights, and a Trial Court Advisory Group elected by judges to provide greater independent judicial oversight of AOC functions. We hope that the Committee on Financial Accountability and Efficiency will consider a broad re-

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October 26, 2010

evaluation of AOC practices, including the possibility of reducing its size substantially and transferring many functions to the local level.

At a minimum, we request that this proposal be deferred until there can be further review and input into the proposal.

We intend to ask to reserve to make comments upon this proposal and the budget allocations at the Judicial Council meeting for this Friday, October 29, 2010.

Very truly yours,

Directors of the Alliance of California

Cc: Members of the Judicial Council