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May 22, 2015

Justice Douglas P. Miller, Chair
Judicial Council Executive & Planning Committee
Court of Appeal
Fourth Appellate District, Division Two
3389 Twelfth Street
Riverside, CA, 92501

Re: Invitation to Comment SP15-03 - Proposed Change to CRC 10.63

Dear Justice Miller,

As Chair of the Trial Court Budget Advisory Committee (TCBAC), I write at the request of our committee members to express opposition to the proposed change to California Rule of Court 10.63, specifically subdivision (b)(2) which provides authority to the Advisory Committee on Financial Accountability and Efficiency (A&E) to conduct reviews of Judicial Council expenditures for local assistance and state operations. While we agree that spending guidelines and regular compliance reviews are wise and necessary, we believe that the infrastructure is already in place for the TCBAC to review these expenditures and it should be the body to do so.

The annual budget act appropriates state funding for the trial courts to the Judicial Council and it in turn either allocates those funds directly to trial courts or authorizes the Judicial Council staff to spend those funds on trial courts' behalf. Judicial Council staff then has the discretion to pay for expenditures incurred "on behalf of the trial courts" from local assistance appropriations or their own state operation appropriations. Currently there is no Judicial Council body which reviews local assistance expenditures to determine whether staff discretion is exercised appropriately.

The Invitation to Comment provides: "Though the TCBAC currently has a role in making recommendations to the council on trial court budgets and the allocation of trial court funding (Cal. Rules of Court, rule 10.64), E&P has determined that A&E should serve a different role in this process: it has the appropriate expertise to review expenditures—under guidelines developed by the TCBAC and approved

by the council—after funds designated for state operations and local assistance have been used.”

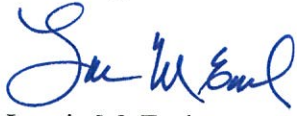
To describe the TCBAC as having “a role in making recommendations to the council on trial court budgets and the allocation of trial court funding” minimizes the work of the TCBAC. Among other duties, on an annual basis the TCBAC reviews allocations from the Trial Court Trust Fund (TCTF) and State Trial Court Improvement & Modernization Fund (IMF) to ensure consistency with Judicial Council goals and objectives. This annual review includes an exhaustive analysis of the costs, expenditure trends and projected funding needs of each program and service supported by these funds. Besides conducting annual reviews and making recommendations to the Judicial Council on how TCTF and IMF funding should be spent, the TCBAC has been tasked with developing written fiscal policies and procedures for the administration of local assistance and state operations expenditures from these funds. Yet the Judicial Council’s Executive & Planning Committee (E&P) has inexplicably determined that another advisory body will conduct the oversight component of determining whether expenditures from the TCTF and IMF were consistent with the policies and procedures the TCBAC itself has created. Should this Rule change be approved, it is difficult to tell where the role of the TCBAC ends and the role of A&E begins and has the potential to create confusion and tension between the committees.

Of all the funds that the Judicial Council oversees, only trial court funds from the TCTF and IMF include local assistance expenditures. The issue simply does not exist in regard to Judicial Council expenditures on behalf of the courts of review or Habeas Corpus Resource Center. It is not clear from the Invitation to Comment why E&P believes that A&E is the more appropriate body to review TCTF and IMF expenditures. The TCBAC, which the Judicial Council has recognized as experts in trial court funding and delegated authority to represent the trial court on budgets matters, has historically been responsible for oversight of these funds; reviews these funds every year, makes annual allocation recommendations from these funds, and is developing guidelines for Judicial Council staff to utilizing in expending the funds. To have a body other than the TCBAC review expenditures to ensure compliance with guidelines and recommendations crafted by the TCBAC, seems counterproductive to the spirit of this Rule change.

Having the TCBAC serve in this role is not only logical given our familiarity and work with these funds, but is a significant opportunity for oversight and accountability over state trial court funding. It would also ensure that Judicial Council expenditures are more transparent to the trial courts. We firmly believe that depriving the TCBAC of this important oversight role is unnecessary and misguided. We invite you to listen to the discussion on this issue with Judicial Council Administrative Director Martin Hoshino at the May 18, 2015 TCBAC meeting. Comments by committee members were articulate, well-reasoned and well-supported. The conversation can be found on our committee’s web page at <http://www.courts.ca.gov/tcbac.htm>, approximately 22 minutes into part two of the audio of our meeting, or you may click on the following link: <http://wpc.1a57.edgecastcdn.net/001A57/itso/jc-advisory-groups/tcbac/2015-05-18-meeting/TCBAC-20150518-audio-part-2.mp3>.

We thank you for the opportunity to comment and look forward to a discussion on this proposal at the June Judicial Council meeting.

Sincerely,



Laurie M. Earl
Judge of the Superior Court,
County of Sacramento
Chair, Trial Court Budget Advisory Committee

Cc: Chief Justice Tani G. Cantil-Sakauye
Members, Judicial Council of California
Members, Trial Court Budget Advisory Committee