

# A judicial hierarchy out of control

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After an exhaustive investigation, the state [auditor](#) delivered her conclusion last month. The Administrative Office of the Courts and the [California Judicial](#) Council completely botched the largest information technology project in California history, the California Case Management System. The complete audit report is at [bsa.ca.gov](#).

The word “failed,” as in “failed to disclose accurate [cost estimates](#),” appears 50 times in the audit report. “[Risk](#)” and “risky” 81 times, “problems” 60 times, “lack of oversight,” “lack of planning,” “lack of documentation,” “lack of any documented plan,” “lack of understanding,” “lack of transparency,” and “lack of expertise” 39 times. The word “competent” appears not once.

The newspaper headlines describing the situation were depressingly similar. Words like “mismanaged,” “over budget,” “bungled,” “botched,” and “a mess” were the norm. A common press theme was the obvious lack of oversight of the project by the Judicial Council, and the eightfold underestimation of its cost – the Administrative Office estimated the total project cost to be \$250 million, while the auditor pegs the true price at a minimum of \$1.9 billion. This, while some courtrooms are closed to the public due to lack of operating funds.

The auditor’s findings were devastating, but the reactions of the Administrative Office and Council were equally disturbing. Confronted with 138 pages documenting years of mismanagement, misrepresentations, scripted responses to criticism and an absence of Judicial Council oversight, the Administrative Office and Judicial Council responded with a scripted video produced by the Administrative Office’s own phony “[News Bureau](#)” which reassured us that all was well, and that any problems would somehow be solved simply by its director, [William Vickrey](#), creating a new committee. After roughly 24 hours of repeating this flapdoodle, they proclaimed that they were now “ready to move on.” Indeed.

Enough is enough. The auditor gets it. The press gets it. The public gets it. The [Legislature](#) most certainly gets it. We must get it.

The judicial branch must have the trust of the public and of the Legislature in order to function. If we condone conduct of the sort uncovered by the auditor or of the bureaucratic denial we have just seen, we will not have that trust. Nor will we deserve it.

The Alliance of California Judges, now several hundred strong, was formed in late 2009 to address concerns such as these. The computerized system may be but the tip of the iceberg – no one has yet conducted an audit of the Administrative Office’s \$1,100 to \$1,700 per-square-foot construction projects, as but one example.

We need to face the larger truth: Our judicial governance structure is broken. Some of our leaders appear arrogant, and others too accustomed to power – one has served on the council for 14 years. I experienced this arrogance last year in the Judicial Council chamber as I watched our former chief justice imperiously silence a judge who sought to speak a few sentences about our governance problems. The judge had traveled to [San Francisco](#) at his own expense to deliver a pre-submitted and preapproved statement (a requirement of the Judicial Council, lest an upsetting word slip into that [rarefied air](#)). Not one council member spoke up to defend this judge's right to speak. On that day, when not 30 seconds would be given a judge to air concerns shared by hundreds of judges, the Judicial Council did find time to unanimously pass a motion that the Administrative Office of the Courts be given an award for exemplary service to the public.

Things must change. Under the mantra of statewide administration, we have allowed an unaccountable bureaucracy to hold sway over our judges. Fourteen years ago, as part of the Lockyer-Isenberg Trial Court Funding Act of 1997, the Legislature instructed the Judicial Council to enact a “trial court bill of financial management rights” by Jan. 1, 1998, precisely so this situation would never occur. Thirteen years later, the judges of the state still await Judicial Council action.

The Alliance of California Judges stands firmly behind the Legislature in this regard, and has proposed legislation to bring this long-awaited goal to fruition. Further, we will support efforts to democratize the Judicial Council. For far too long, a small, insular minority of favored judges have allowed the Administrative Office to hide behind our robes. It is time for that to stop, and it will.

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