

AN INTERVIEW WITH AOC ADMINISTRATIVE DIRECTOR JUDGE STEVEN JAHR

Judge Allan D. Hardcastle, Sonoma Superior Court

Judge Steven Jahr, the AOC's new Administrative Director, grew up in Altadena, near the San Gabriel Mountains. "I did a lot of hiking as a kid." After Law School at Hastings, he practiced for six years in Los Angeles, before settling in Redding. He and his wife wanted to live "close to the high country." His wife, Karen Keating Jahr, served as county counsel in Shasta County for 17 years. Jahr retired from the Shasta County Superior Court in 2009 after serving 22 years as a judge. An edited transcript of Judge Hardcastle's interview on January 18, 2013 follows.

So retirement was good. But then you applied for the top AOC job. What Were You Thinking?

I had the opportunity over a period of years to be involved in state-wide concerns in the branch; first, of course, on the CJA board years back, and then on a variety of standing advisory committees for the Council and, ultimately, on the Judicial Council. And there were a great many contributions that a number of people made to improving access to justice, and, I think, over time, putting the branch on a firmer footing financially; although, obviously, at present we're struggling.

But I saw with those struggles some of the progress that I'd been happy to participate in threatened; sitting on the sidelines, I was uncomfortable to see that.

I also saw our new Chief Justice Cantil-Sakauye taking the reins and opening a new era, that she began with a theme of serious public self-assessment. That appealed to me. It seemed to me that it was going to produce some uncomfortable information, but that's how things ought to be. And so I was, frankly, engaged because of the approach that the Chief Justice took. Between the concerns that I had for harm to the branch because of the tough economy, and the sense of purpose that our Chief Justice evidenced, I was interested in getting involved again.

Where is the Council in implementing the recommendations of the SEC?

Well, as you know, this last summer the Judicial Council received recommendations from its Executive and Planning Committee, which itself had scrutinized all 145 to 150 recommendations of the SEC, and had put them out for further public comment and response. The Council broadly adopted the recommendations and converted them into directives to the Administrative Office of the Courts, either to do specific things or to consider the recommendations and report back a response from the perspective of the staff agency that we are. The Council also set the time for responding.

So we developed, as started by Jody Patel, who served as interim director, an administrative process by which activity report forms are completed and essentially lay out a narrative of what is being done, in a transformational sense, to meet the directives that the Council has provided. And that report is tied in to a larger status report grid, all of which are online for regular review.

How will that be communicated out to the branch?

Well, the way that it works is that the activity reports are prepared at the supervisorial or managerial level. They go to the office directors and then to the division chiefs, the Chief Administrative Officer, Curt Soderlund, the Chief Operations Officer, Curt Child, the Chief of Staff, Jody Patel, and myself. And we together review them. At each monthly cycle we then report over to the Executive and Planning Committee and to the Council. And they are then placed on the public web site so that the public can scrutinize them.

We also have particular directives that come forward for specific discussion on the Council's agenda. And the Executive and Planning Committee essentially shepherds those forward because of their particular significance.

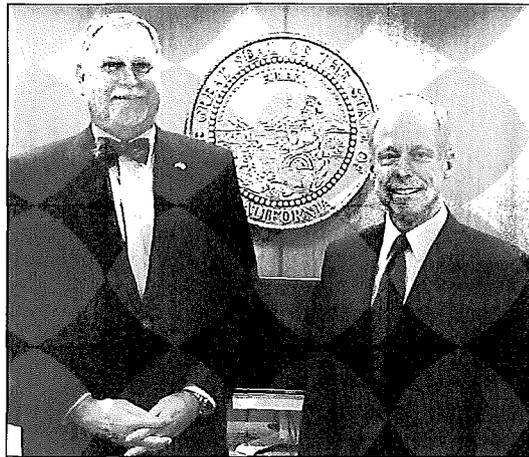
So you're confident in saying the SEC report is not sitting on a shelf just gathering dust.

Oh, no, no. In fact, to the extent that anybody may be concerned about that, I can tell you that the chair of the Executive and Planning Committee, Justice Douglas Miller, has put that front and center as an issue that will receive direct attention. And the compliance, just in numeric terms, I think about a third of the recommendations we have completed.

On January 10th the Governor rolled out his budget proposal. What are your comments?

We were very concerned because of the initial signal we received from the Department of Finance that they intended to recommend that what remained in the fund balances of each of the 58 trial courts would be removed from their hands and used to, I guess you would say, backfill the General Fund restoration that was contemplated in the last budget.

Just in rough numbers, for this fiscal year, for which the budget was settled last summer, there was a General Fund reduction to the branch of \$540 million, which is breathtaking. And of that \$540 million, \$125 million was scored as permanent, which is even more painful. The remaining \$415 million, sometimes you see it expressed as \$418 million, were one time cuts. So it was our



initial expectation that the Governor's budget would be proposing a \$415 to \$418 million return of that one-time hit.

But, as I mentioned, DOF indicated to us that they were proposing instead to the Governor that it be \$218 million return to the branch and that the remaining \$200 million be made up of the fund balance. Well, the cash-flow problems that would result, not to mention the disruption in the planning in that the courts had to utilize their fund balances over the two-year period, taking them down to one percent, which in and of itself is unacceptable to all the courts, and certainly to us, that all of a sudden was being halved, so to speak.

So we were, obviously, pleased that the Governor decided to present a proposed budget that did not include that feature. So that the fund balance amounts, to the extent that they remain at the end of this fiscal year, will be available to the trial courts as we had all planned they would be, for them to continue the glide path toward what has become a very, very lean financial picture.

The flip side, of course, is that the Governor's proposed budget, instead of sweeping those fund balances, proposes to redirect \$200 million of the revenue stream from what we refer to as the Immediate and Critical Needs Account, the revenue stream that supports the lion's share of court construction, not to mention modernization and so forth, that was first created by what folks refer to as Senate Bill 1407.

Well, this isn't the first time that construction funds have been redirected. As you know, in our current year \$240 million were redirected; once again, to backfill for lost General Fund support. And of that \$240 million, \$50 million was scored as being permanent.

Well, you have these revenue streams that are based upon increased fees and increased fine and penalty assessments. And when you add those to the special fund support for the court operations, you increasingly have an institution that is being operated on user fees. It's an unintended consequence. But the General Fund support for our entire branch, which as few as four years ago was 56 percent of the total of the dollars that came in is now down to 20 percent, according to the Legislative Analyst's Office.

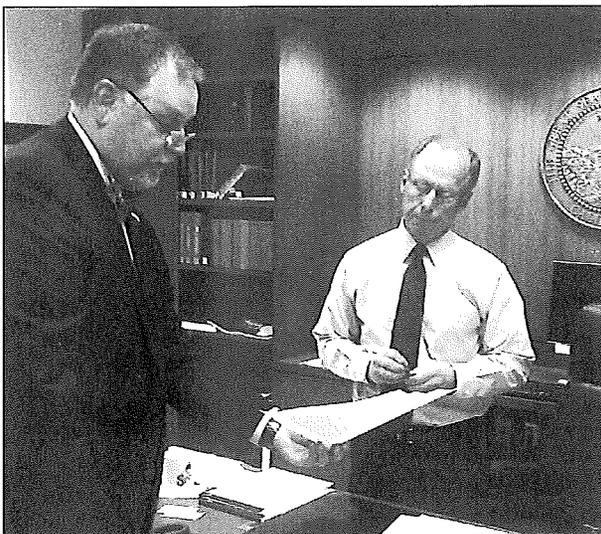
Is there any chance for stable General Fund support to the courts? Do you see that as a prospect? Or an increase in funding for the courts in the near future?

I do. It has kind of a two-part piece to it. One part, I think, is a structure that is somewhat akin to the state appropriation limit approach that was taken a number of years ago. This formulaic approach to increasing the support that the state government provides an agreed contribution to the trial and appellate courts annually; which, of course, has the benefit of taking us away from the political process and the political arena.

And also, the second part, it seems to me, is our answer to the call by the executive and legislative branch for us to be able to demonstrate better than we've done so far our work load measures, our performance measures. And that's a tricky subject. Because, for those of us who have served in the trial courts, we know that there are variables over which the courts have no control that feed into what it takes to run a court day in and day out: the District Attorney's filing policies; the demographics of the county in which the court exists itself; cultural attitudes that certain segments of the bar have when they come to court. Family law adjudication, maybe custody and visitation disputes, in one county can look very different than how they look in another. These variables prevent exact measurement.

That said, we are able to define ranges of work load so that we can make comparisons that are not unreasonable, but also that aren't imprudent. And I think that, as we move forward, we'll be able to do that in a way that is demonstrative of the overall need of the branch. And I'm convinced over time we'll unlock the door to improved state support.

Is there anything that individual courts or judges or even CJA could do to improve our relationship with the Governor or the legislature?



You know, I think that we can always do more to acquaint our colleagues in the sister branches with what we do and how we do it. Because courts are unique. Most organizations are hierarchical. When you're communicating with legislators or with folks in the executive branch, you discover that they view organizations in that way.

It's difficult for them to compare what they know to what we have, which is a statewide policy-making and

rule-making entity, the Judicial Council, which draws from across the state to develop policy that will make more uniform the public's access to the branch; and, at the same time, autonomous entities in the trial courts and appellate courts that have the specific duty of serving the populations within their regions. The interaction of the two, it's difficult for the legislators, I think, for some of them, and for some in the executive branch, to understand that interaction. And so for us to be able to educate and explain more plainly that structure is very helpful.

The Day on the Bench program, which I was involved in years ago in my court, I thought illuminated things for our local legislators. If they're sitting up there on the bench with the judge with a full courtroom of litigants, be it a traffic arraignment calendar, be it a family law motion calendar, it's an education. I remember distinctly the legislator I had with me, I was whispering to him, explaining something I had just done and showing him how the process went as these litigants came forward. And after an hour or so we went into my chambers, and he was exhausted.

And I told him, "It's time for you to go down the hall to the executive office. The members of the press are there to interview

you about what you saw and what your experience was."

And he said, "Well, what are you going to do?"

I said, "I've got two more hours in here."

"Well, how frequently do you do this?"

"We do this every day."

That's helpful. And so I firmly encourage the Day on the Bench. I think it's a terrific illustration of what we do day in and day out. Not just we, the judges, but all the folks in the courts.

Do you think the AOC has been effective in telling its story to the legislature?

Well, you know, just the way you structured your question caught my attention. For those who have the impression that the AOC is leading the charge, so to speak, we've done something wrong to enable that impression to gain currency.

When I was on the Council in the late '90s and through 2001, it was the Council that set the policy. It was the Council that gave the direction. We expected, of course, the Administrative Office, as our staffing agency, to implement that policy and report back to us.

I viewed the Administrative Office as being in that role then and I view the Administrative Office as being in that role now. We serve the Council, which is the policy-making body for the state; and, in so doing, we serve the courts. We also, of course, serve the public in doing those things. We provide a lot of direct services to many trial courts. And so, in that sense, we're a service agency as well. But our duty is to follow the Council lead.

We have a great number of members in CJA who are subordinate judicial officers. Any opinion as to the future of SJO's in California?

Well, my experience in our court was that our subordinate judicial officers performed vital functions and served the public very well.

So, wearing my "former judge" hat, if you will, I see great value in our commissioners. I know the Chief and I will be meeting shortly with the representative of the subordinate judicial officers, and that's certainly an area to which we must be sensitive. It's important public service.

One last question. What's the future of the branch look like?

I think the future is good. And I see that partly because I'm an eternal optimist and partly because of the leadership we have. It is a very vigorous Judicial Council. It is a Council that the Chief has encouraged to be candid and open to new ideas and willing to consider new approaches. And that's all for the good. You know, necessity is the mother of invention. And I think that the Council right now is poised to really enable us to move forward on the budgeting front and the like.

I also believe firmly that the Governor is committed to ensuring that our justice system is sound and strong. I had the good fortune to be in the meeting with the Governor and the Chief Justice. It was for an hour and a half, and we were talking the entire time. It was about substance. He was engaged, interested, inquisitive and concerned. It seems to me that we have in Governor Brown a very open-minded person who, at the same time, is dealing with crucial budget problems.

Our conversations with the members of the leadership in the Senate and the Assembly disclose exactly the same thing. They are aware. They understand. And I think they're poised to help us find what you were talking about earlier, which is a more predictable and stable structure, so we can get back to long-term planning, which was the whole point of state Trial Court Funding, and get back to the task of ensuring equal access to citizens, regardless of which county they happen to live in, which was also a central tenet of the Trial Court Funding law, the Lockyer-Isenberg law. So I'm an enthusiast and I'm an optimist.

Good enough. Let's break for some lutefisk and krumkake.

Not that. Not lutefisk.

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