

## **Item SP12-05 Response Form**

### **Title: Strategic Evaluation Committee Report**

The Strategic Evaluation Committee (SEC) was appointed by Chief Justice Tani G. Cantil-Sakauye in March 2011 to conduct an in-depth review of the AOC with a view toward promoting transparency, accountability, and efficiency. The Chief Justice received the report and recommendations on May 25. At its meeting on June 21, 2012, the Judicial Council accepted the report and directed that it be posted for public comment for 30 days. Comments received will be considered public and posted by name and organization.

**PLEASE NOTE that all comments will be posted to the branch web site at [www.courts.ca.gov](http://www.courts.ca.gov) as submitted by the commentator as soon as reasonably possible after receipt.**

#### **To Submit Comments**

Comments may be entered on this form or prepared in a letter format. If you are not submitting your comments directly on this form, please include the information requested below and the proposal number for identification purposes. Because all comments will be posted as submitted to the branch web site, please submit your comments by email, preferably as an attachment, to: [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

Please include the following information:

**Name:** Hon. Sean P. Dowling    **Title:** Judge

**Organization:** Nevada County Superior Court

**Commenting on behalf of an organization:** No

General Comments:

1. As an initial matter, I am of the view that the Strategic Evaluation Committee Report is not the proper subject of public comment. Chief Justice Cantil-Sakauye commissioned the evaluation, appointing well respected members of this committee, to impartially investigate and report on the AOC. I personally know many of the committee members, and I know them to be professional, thorough, competent and impartial.

While the function of public comment on proposed rules and forms is somewhat obvious, the same cannot be said as to comment on the SEC report. If the purpose was to give AOC an opportunity to respond, then this could have been accomplished internally. If the purpose is to critique the report, public comment would be prone to nothing more than biased discourse, depending upon the commenter's agenda. Members of the public who have not conducted their own in depth investigation are in no position to question the report's findings and simply become disruptive of the process. If the purpose is to consider implementation of the report's findings, then this objective is equally unclear in the Request for Comment.

<b>DEADLINE FOR COMMENT: 5:00 p.m., Sunday, July 22, 2012</b>
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All comments will become part of the public record.

My concern is that public comment will be no more objective or useful than our local newspaper blog which provides a forum more for disgruntled protagonists than a medium for true commentary.

2. I further object to the public comment process because such a process compromises the confidentiality with which the report was investigated and prepared. The ability to speak candidly with the SEC was integral to the report. Real or imagined, many judges have been reticent to publicly criticize the AOC due to concerns of retribution in both direct and subtle ways. The comment process now leaves some judges who are critical of AOC in an uncompromising position of either publicly coming forward in support of the report or remaining silent to maintain their confidentiality.

3. In evaluating the dis-functionality of the AOC, the SEC Report in my view does not give enough credit to AOC and its individual employees for the fine work they do in supporting the courts, particularly small courts. In this regard, Tehema County Judge Richard Scheuler's recently published comments in The Daily Journal ring true.

4. Having made the above Comment #3, I am also of the view that the SEC Report reflects many of my own experiences and concerns about AOC. The SEC's fact finding and analysis of the issues was right on the money, both figuratively and literally. For this reason it is critical that the Judicial Council see the Report not as a criticism (which it certainly is) but as an opportunity to move forward with essential reforms for the benefit of the judicial branch as a whole. Whether this change is in the specific form suggested by the report or some variation is of far less consequence than maintaining the status quo.

5. It has been suggested that the Judicial Council delay further consideration of the recommendations of the report pending the appointment of a new AOC director. The Judicial Council should not await the appointment of a permanent director. To the contrary, my view is that it is preferable that the AOC should be restructured in accordance with the vision of the SEC Report and the direction of the Judicial Council before the appointment of a new director, not that the new director should be delegated the task of creating his or her own vision of the AOC. Otherwise, I fear we are destined to repeat the past.

Specific Comment - Recommendation/Chapter Number \_\_\_\_\_:

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