



The Superior Court

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POMONA, CALIFORNIA 91766
CHAMBERS OF
ROBERT A. DUKES, JUDGE

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July 5, 2012

Dear Chief Justice Cantil-Sakauye, Justice Miller and Judicial Council members:

I write on behalf of myself, but with the perspective of a trial court judge of over 25 years, half of which has been devoted to Judicial Management and interactions with the Judicial Council and the AOC. I am a past Judicial Council member, Presiding Judge and Assistant Presiding Judge of both the Los Angeles Superior Court and the former Pomona Municipal court, a Supervising Judge of a large Los Angeles court district operation, a teacher and student at many CJER courses and a participant in numerous Judicial Council Advisory Committees and Work Groups. As such, I believe I have more than average experience with most all departments and divisions at the AOC as well as an understanding of the culture of our Judicial Council.

I join my numerous colleagues in asking the Judicial Council to endorse, accept and implement the full recommendations of the SEC committee without change. To do less will cause further erosion in the trust and confidence of judges, the public and the legislature in the ability of the Judicial Branch to responsibly govern itself and oversee its staff operations.

This year is a watershed for the problems created by the culture and directionless growth of the AOC over the past decade and continuing to this day. It is not the fault of the employees, most of whom I have found to be tireless and dedicated, but as noted in the SEC report it is the fault of the Judicial Council itself in not properly overseeing its director and clearly setting policy and reasonable boundaries. The AOC is now a bureaucracy out of control, and many of its actions have reflected poorly upon the judges of our branch.

The members of the SEC committee were handpicked by the Chief Justice and are among the most dedicated and distinguished in our judiciary. I know most of them. None could be considered "flame throwers." Their methodology consisted

not just of surveys as suggested by some, but also of one-to-one interviews, examinations of voluminous records and documents and, importantly, their own vast personal experiences and observations. I doubt that any had a preset agenda, but after a year of examination they came to overwhelming conclusions about the failure of the AOC. And they have detailed their observations in a cogent and particularized report.

Their observations continue to state what has been stated for the past decade by myself and others individually during our terms as Presiding Judges and as participants in committee and workgroups staffed by the AOC, and then in a more organized manner by other Judicial Council members (McCoy, Welsh and Kuhl) and through surveys and reports by individual trial courts and organizations such as CJA and the ACJ. The issues facing the mismanagement of the AOC have even lead to the creation of two Blogs – one of which remains very active -- with numerous postings of criticisms by the public and those who purport to be AOC staff members. All have the same themes as those found by the SEC report authors.

With so many recommendations, it is an easy task for anyone to take issue with any of them. But to do so acts only to undermine the core reason for the creation of this committee by the Chief Justice – “to conduct an in-depth review of the organizational structure, methods of operation, and budget of the AOC; to assess the AOC’s mission and priorities; to examine how the AOC is operating and whether it is efficiently meeting appropriate goals and mandates; and to determine whether changes should be made to the structure and operation of the AOC to ensure that it fulfills its core functions in an appropriate, beneficial, cost-effective, and transparent manner” (CJ/Judicial Council press release, July 9, 2011).

The dedicated members of this committee have done as charged. To dilute their recommendations with further “how many angels can dance on the head of a pin” analysis and debate will only serve to erode what little credibility the Judicial Council has left. If the Council cannot assert itself and uphold the actions of its Chair’s own independent investigators, then it deserves little respect from those of

us it purportedly seeks to assist – the public, the courts, the legislature and the Governor.

This is a report for use by the Council in setting its policy vis-a-vis its staff at the AOC, and to give direction to the new Director of the AOC, not the other way around as some have suggested. This report empowers the Council and the Council should accept it and its recommendations without further delay. To fail to do so will only add fuel to the fires of criticism that the appointed members of the Council are insular and out of touch regarding their duties of oversight and their actual function under our Constitution. It will validate this current perception held by the vast majority of judicial members of our branch, the legislature and the public we serve.

Finally, that the Council could not even adopt the most fundamental of these recommendations at its last meeting (**Recommendation No. 4-1: The Judicial Council must take an active role in overseeing and monitoring the AOC and demanding transparency, accountability, and efficiency in the AOC's operations and practices**) is truly disheartening. That some still want to debate this foundational recommendation speaks volumes to those who are critical of our current structure. If members truly believe that is not the accepted role of the Judicial Council, then we truly have a renegade bureaucracy without oversight and a Judicial Council lacking an understanding of its fundamental role in controlling its staff's Director and this agency.

I give my personal thanks to our Chief for creating the ability to begin to set our branch and its governance system and staff back on a positive track. As members of the judicial branch, we who are judges are all indebted to the many fine judicial officers who contributed to this historic document.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. A. Dukes', written over a horizontal line.

Robert A. Dukes,
Judge of the Superior Court