

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 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

Please include the following information:

Name: Teresa J. Schmid, JD, EMBA, LP.D **Title:** Attorney at Law

Organization: State Bar of California (active member); Oregon State Bar (active member and former Executive Director); State Bar of Arizona (former Executive Director)

Commenting on behalf of an organization

General Comment:

The Strategic Evaluation Committee's report is an accomplishment of historic importance to the judicial branch. Whether it achieves its full potential as a catalyst for change depends on how well it is understood and deployed. This general comment suggests priorities for the Judicial Council's consideration.

It is important, to understand what the SEC's report represents. The SEC's basic approach was use of a social science research methodology similar to ethnography, i.e. taking a snapshot of a culture (in this case, the organizational culture of the Administrative Office of the Courts) by means of interviews, surveys, and other data. From such material, much of it subjective, a social researcher identifies recurrent themes and attaches meaning to them. At its best, an ethnography provides a roadmap into how a culture views itself, thereby providing to those outside of the culture information on how to best relate to it, interface with it, and negotiate a shared understanding of the environment essential to survival of all. The SEC's report can potentially accomplish

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goals. But since an ethnography is by definition an immersion in a single culture and is therefore largely subjective, taking effective action based on the SEC's recommendations requires objective analysis and careful deliberation by the Judicial Council. These comments recommend a structure for that process.

Article 6 of the California Constitution establishes the judicial branch and identifies three key structural entities: the Supreme Court, the Judicial Council, and the Administrative Director of the Courts (or ADOC). In order for the judicial branch to perform its constitutional functions, all three entities must be in place and operational. The SEC report records a period of operational instability within the judicial. The SEC report suggests that Judicial Council is in place but not fully exercising the scope of its authority, and while the ADOC position is vacant, the third structural entity is in absentia, impairing the branch's operations as a whole.

Specific Comment - Recommendation/Chapter Number:

Following are specific comments recommending action by the Judicial Council on the SEC report, including references to sections and paragraphs, as well as prospective agenda items for each of the future Judicial Council meetings scheduled through the end of December, 2012. Levels of priority are assigned to each, as described below:

--Level 1 priorities represent action that the Judicial Council should take in 2012. For example, on May 1 2012, the news media reported that the ADOC search had produced only eight candidates, not all of whom had completed applications by the deadline. The SEC has already identified a need for classification and compensation studies for key personnel; the lack of response to the recruiting process suggests that the ADOC is one of these, and the most critical. Another area requiring immediate action relates to Judicial Council's exercising oversight of critical areas such as budget and finance. A third area for immediate attention is the development of data necessary to support future Judicial Council decision-making, such as in the areas of the financial impact of AOC staff reclassification and compensation, or potential relocation of AOC headquarters to Sacramento.

--Level 2 priorities represent issues to be considered for further action as appropriate after the new ADOC is in place. Peter Drucker used to say that reorganization was like performing surgery on a body: the surgeon must be confident that the disease is more harmful to the patient than the negative effects of an invasive procedure. By this measure, reorganization of the executive function is like brain surgery; it requires deliberation and restraint, since a misstep in this area is more immediately dangerous to the patient than the combined effects of all other disorders. The ADOC must not only be in place but also must drive and be accountable for necessary changes in these areas. Ad hoc reorganization efforts should cease until this key position is filled.

--Level 3 priorities represent action that cannot be performed immediately and requires further information, discussion, and integration into a strategic plan. This level also includes action calling for drafting of policies, bylaws, rules, legislation, or other issues requiring further deliberation or process.

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RECOMMENDED PRIORITIES APPLIED BY CHAPTER AND SECTION

Chapter 4. Judicial Council Oversight:

- Level 1: Recommendations 4-1, 4-4
- Level 3: Recommendations 4-2, 4-3

Chapter 5. Organizational Structure: All recommendations in this chapter should be considered Level 2 priorities.

Chapter 6. Management Structure, Systems, and Processes

- Level 1: Recommendations 6-3, 6-6, 6-7
- Level 2: Recommendations 6-1, 6-2, 6-4, 6-5, 6-6, 6-8, 6-9

Chapter 7. AOC Divisions and Specialized Offices

- Level 1: Recommendations 7-1, 7-8, 7-27, 7-28, 7-33, 7-36, 7-40, 7-51, 7-53, 7-67, 7-69, 7-73, 7-83, 7-85
- Level 2: Recommendations 7-3, 7-4, 7-10, 7-11, 7-12, 7-13, 7-14, 7-15, 7-16, 7-17, 7-18, 7-19, 7-20, 7-21, 7-22, 7-23, 7-24, 7-25, 7-26, 7-29, 7-30, 7-31, 7-32, 7-34, 7-35, 7-37, 7-38, 7-39, 7-42, 7-43, 7-44, 7-45, 7-46, 7-47, 7-48, 7-50, 7-54, 7-57, 7-56, 7-57, 7-58, 7-59, 7-60, 7-61, 7-62, 7-63, 7-64, 7-65, 7-66, 7-68, 7-71, 7-72, 7-74, 7-75, 7-76, 7-78, 7-79, 7-80, 7-81, 7-82, 7-84, 7-86, 7-87
- Level 3: Recommendations 7-2, 7-5, 7-6, 7-7, 7-9, 7-41, 7-49, 7-52, 7-70, 7-77

Chapter 8. AOC Budgets

- Level 1: Recommendation 8-1
- Level 2: Recommendations 8-2, 8-3, 8-4, 8-5, 8-6, 8-7, 8-8, 8-9, 8-10, 8-11

Chapter 9. Staffing Levels: All recommendations in this chapter should be considered Level 2 priorities.

Chapter 10. Other Issues

- Level 1: Recommendations 10.1, 10.2 (initial study)
- Level 3: Recommendations 10.2 (decision and planning)

2012 JUDICIAL COUNCIL AGENDA ITEMS FOR LEVEL 1 PRIORITIES

August 30-31 meeting:

-- ADOC recruitment and appointment: The Judicial Council should direct the search committee to conduct further market research and to reopen the ADOC search with a competitive compensation package and with a view toward completing the selection process and nominating a candidate for the Council's appointment at its October 25-26 meeting.

-- Financial Reporting: The Judicial Council should direct the Director of the Finance Division to prepare a financial report for each Council meeting, beginning October 25-26. This report should include: a comparison of year-to-date budgeted income and expense to

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actual, and percent variances in each category; a comparison of actual income and expense to the same period last year, with variances; balances of all major funds; a current count of full time employees; and a cover memo of no more than three pages by the Director noting any trend or anomalies in the reports, with a short explanation of each.

- AOC Personnel Manual: The Judicial Council should direct the AOC's interim management team to comply with all existing requirements in the personnel manual.
- Center for Families, Children, and the Courts: The Judicial Council should direct that the CFCC discontinue investigating and responding to complaints against judicial officers and coordinate transition of existing matters to appropriate reporting entities.
- Office of Governmental Affairs: The Judicial Council should direct the OGA to begin the review described in recommendation 7-83 with a view toward recommending appropriate action for the 2013 legislative session.
- Office of Court Construction and Maintenance: The Judicial Council should direct that office leases be reviewed as set forth in recommendations 7-85 and 10-1. The Office should also begin its cost-benefit analysis for possible relocation of the AOC's main office to Sacramento.

October 25-26 meeting:

- ADOC recruitment and appointment: the Judicial Council should interview final candidates and extend an offer, with a view toward having the new ADOC in place and functioning prior to the Council's December 13-14 meeting.
- Financial Reporting: the Judicial Council should review the financial report and direct the Director of Finance to make any desired changes to the reporting format.

December 13-14 meeting

--ADOC Report: The newly appointed ADOC should report on the leadership transition; identify the key members of the leadership team; describe the process for selecting and appointing a permanent team; describe the process and status of the reclassification and compensation study; describe the process for reinstating personnel evaluations and other policies within the AOC personnel manual; and recommend a time frame for budgeting and strategic planning for 2013-14.

--ADOC Evaluation: The Judicial Council should identify goals and deliverables for the ADOC in 2013 and establish a process for an annual review of the ADOC to be completed in December of each calendar year.

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