

TO: Chief Justice Tani Cantil-Sakauye
FROM: Arthur G. Scotland, Chair of the Strategic Evaluation Committee
DATE: January 10, 2012
RE: Strategic Evaluation Committee Progress Report - January 2012



On March 9, 2011, you created the Strategic Evaluation Committee "to conduct an in-depth review of the Administrative Office of the Courts (AOC) and its organizational structure to promote transparency, accountability," and "efficiency in providing services to the courts," and to "make findings and recommendations to improve the efficiency of the AOC" (News Release OC 23-11). The committee became effective on May 1, 2011.

This charge placed upon the Strategic Evaluation Committee the responsibility to undertake a thorough, conscientious, inclusive, and objective examination and evaluation of the role, functions, organizational structure, methods of operation, and staffing of the AOC, and to make findings and recommendations regarding whether changes should be made to ensure that the AOC performs only essential functions in an appropriate, beneficial, cost-effective, and transparent manner.

In addition to me, the jurists you named as committee members are Judge Verna Adams, Marin Superior Court; Judge Angela Bradstreet, San Francisco Superior Court; Judge Judith Chirlin, retired, Los Angeles Superior Court; Judge Ronald Christianson, San Bernardino Superior Court; Judge Sherrill Ellsworth, Riverside Superior Court; Judge Ramona Garrett, Solano Superior Court; Judge Suzanne Kingsbury, El Dorado Superior Court; Judge Brian McCabe, Merced Superior Court; Judge William MacLaughlin, Los Angeles Superior Court; Judge William Pangman, retired, Sierra Superior Court; Judge Donald Shaver, retired, Stanislaus Superior Court; Judge Richard Sueyoshi, Sacramento Superior Court; and Judge Charles Wachob, Placer Superior Court.

Also named by you to the committee as advisory members are David Caffrey, Diane Cummins, Mary McQueen, and James Tilton. Mr. Caffrey was Administrative Officer and then Cabinet Secretary for Governor Deukmejian, and Deputy Chief of Staff for Governor Wilson. Ms. Cummins was Chief Fiscal Policy Advisor for Senate President Pro Tem Burton and Chief Deputy Director of Finance for Governor Wilson. Ms. McQueen was Court Administrator of the Washington State Courts and is now President of the National Center for State Courts. Mr. Tilton was a Department of Finance Budget Manager then Secretary, Department of Corrections and Rehabilitation for Governor Schwarzenegger.

This diverse group of jurists from small, medium, and large county trial courts and an appellate court, as well as advisory members with significant experience in organizational governance, bring to the Strategic Evaluation Committee their experiences, perspectives, integrity, objectivity, and diligence.

The Strategic Evaluation Committee is completely independent of the AOC. Although the roster of the committee shows three AOC regional directors as staff to the committee, I - with your approval - immediately informed Sheila Calabro and Christine Patton that they would have no role in the work of the committee. I also told Jody Patel that she has no role in the committee's deliberative process or its ultimate findings and recommendations. Her assistance is limited and at the direction of the committee to obtain information from the AOC requested by the committee and to help committee members make travel and accommodations arrangements for committee meetings.

After the committee became effective on May 1, 2011, its first meeting was held at the Court of Appeal, Third Appellate District, on May 2 and 3, 2011, to discuss the role of the committee and develop the process, including surveys, it would use to gather all the information needed to conduct a meaningful review and assessment of the AOC. The committee also began obtaining information about the AOC's functions, structure, budget, staffing, and operations, including statutory mandates and Judicial Council directives regarding AOC functions, services, and reporting requirements.

In addition, you provided us with all the input you received from presiding judges in response to your March 2011 solicitation of their views on current branch governance and operations of the AOC.

Committee member then shared with each other our thoughts regarding questions that should be asked in the committee's surveys and those who should receive the surveys.

On June 9, 2011, the committee met at the Court of Appeal, Third Appellate District, to discuss and agree on details of the surveys, how they would be communicated to survey recipients, who should receive the surveys, the deadline for responses, and whether there should be follow-up meetings with survey participants.

After the ensuing and time-consuming process of drafting and refining the survey questions, programming them into an independent survey site, identifying those who would receive the surveys and obtaining their contact information to send it electronically, the surveys were sent on July 19, 2011, with a response date of August 1, 2011. The survey questions were drafted by the 14 judges on the committee, with input of the four advisory members. The questions asked for detailed information, not general perceptions, so the committee's findings will be based on verified facts and principles of good governance.

Over 3,500 surveys were sent to every state judicial officer (including associate justices of the California Supreme Court; administrative presiding justices, presiding justices, and associate justices of the Courts of Appeal; presiding judges, judges, commissioners, and referees of the 58 Superior Courts); justices and judges who retired within the past five years; the clerk administrator of the Supreme Court; the clerk administrators of the six appellate districts of the Court of Appeal; the court executive officers of the 58 Superior Courts; AOC directors and unit managers; all other AOC employees; former AOC employees who left the AOC within the past five years; and persons, firms, organizations, and entities with interest in the judicial system.

The surveys were designed so that the survey responses would be anonymous, except for those from administrative presiding justices of the Courts of Appeal, clerk administrators of the Supreme Court and Courts of Appeal, presiding judges and court executive officers of the Superior Courts, and AOC directors and unit managers.

While awaiting survey responses, the committee continued its progress of obtaining information about the AOC, the administrative offices of the courts in other states, and publications containing best practices and other theories of effective organizational governance and operation.

At the request of survey recipients, deadlines for responding to the surveys were extended to August 23, 2011, to provide them with the additional time they sought to answer the survey questions.

On August 11, 2011, based on the significant information it had already received and discussed, the committee met at the Court of Appeal, Third Appellate District, to decide whether it should provide you with a recommendation regarding retention of the position of Administrative Director of the Court. The meeting also was held to discuss and plan for future steps the committee would take in reviewing and evaluating the AOC.

At the conclusion of the meeting on August 11, 2011, I sent you a memorandum, saying the Strategic Evaluation Committee "recommends that there continue to be an Administrative Director of the Courts and that a nationwide search be commenced to identify candidates with the training, experience, management skills, business acumen, and leadership traits necessary for the position."

The August 11, 2011 memorandum explained:

"[T]he Committee has ample information to recommend that the position of Administrative Director of the Courts, established by the voters in 1960, be retained. Therefore, the Committee submits this recommendation now in light of the fact that, unless the Judicial Council decides to seek an amendment of existing law to eliminate the position, there is an urgent need to begin the search and selection process to fill it after the retirement of Bill Vickrey in September [2011].

"The Strategic Evaluation Committee recommends that there continue to be the position of Administrative Director of the Courts for the following reasons:

"• In 1960, California's voters authorized the appointment of an Administrative Director of the Courts to 'perform[] functions delegated by the [Judicial] [C]ouncil or the Chief Justice, other than adopting rules of court administration, practice and procedure [a responsibility of the Judicial Council].' (Cal. Const., art. VI, § 6; Prop. 10, as approved by the voters, Gen. Elec. (Nov. 8, 1960); Sen. Const. Amend. No. 14, Stats. 1959, res. ch. 254, p. 5822; see Gov. Code, § 68500; Cal. Rules of Court, rules 10.81, 10.101 et seq.) The argument in favor of the amendment asserted 'other States and the federal Government have learned that such a Court Administrator performs an important function in increasing the efficiency of the courts' (Ballot Pamp., Gen. Elec. (Nov. 8, 1960), argument in favor of Prop. 10, p. 15).

"• A measure of the need for an Administrative Director of the Courts as a component of the judicial branch of government in California is reflected by the fact that judicial branches in the other 49 states, as well as in the District of Columbia and all territories of the United States, have administrative directors with varying ranges of authority and responsibility. Twenty one state Constitutions refer to an administrative director position (e.g., Ariz. Const., art. 6, § 7; Colo. Const., art. VI, § 5(3)), and it is created by statute or court order in other states (e.g., Conn. Gen. Stat. § 51-5a; Tex. Gov't Code, § 72.012; Fla. R. Jud. Admin. 2.205(e); Wisc. SCR 70.01).

"• That the Supreme Court, the six districts of the Courts of Appeal, and the 58 Superior Courts each has a court executive officer in charge of the administrative operations of the court and accountable to the jurists of the court is another measure of the need for the AOC to have such an executive officer in charge of the administrative operations of the AOC and accountable to the Chief Justice of California and the Judicial Council.

"• In California, the AOC has a broad scope of duties imposed by the state Constitution, statutes, and the Judicial Council. For example, the AOC assists the Judicial Council carry out its responsibilities to establish direction and set priorities for the continual improvement of the state's court system (Gov. Code, § 68501); promulgate rules of court administration, practice, and procedure, and sponsor or take positions on legislation affecting California's judicial system (Cal. Const., art. VI, § 6; see, e.g., Gov. Code, § 68511); allocate the judicial branch budget (Gov. Code, §§ 68502.5, 68502.7); coordinate judicial branch education programs (Gov. Code, § 68551); and respond to mandates by the Legislature (see, e.g., Gov. Code, §§ 68511.3, 68604). The AOC also provides a number of services to local courts, and imposes a number of requirements on the courts, which should benefit the judicial branch and the state as a whole.

“Due to the scope of the AOC’s responsibilities, it is essential there be a person in charge of, and held accountable for, the overall operations of the AOC consistent with directives of the Chief Justice of California and the Judicial Council, and statutory requirements. That person is, and should continue to be, the Administrative Director of the Courts.

“● Accountability for assistance the AOC provides to the Judicial Council’s development of the strategic and operational plans for the judicial branch of government also should reside in an Administrative Director of the Courts.

“● In addition, effective interaction with the other branches of government requires the judicial branch to have a primary liaison, on behalf of the Chief Justice and the Judicial Council, between the judicial branch and Legislature, and between the judicial branch and Governor’s administration. Except when the Chief Justice serves in this capacity, that person is, and should continue to be, the Administrative Director of the Courts.

“● Such responsibility and accountability at the statewide level, coupled with effective leadership and oversight by the person who serves as Administrative Director of the Courts, will minimize legislative and executive branch efforts to interfere with the management of the judicial branch of government.”

Consistent with this recommendation by the Strategic Evaluation Committee, a nationwide search was commenced by the Judicial Council to identify candidates for the position of Administrative Director of the Courts.

On August 16, 2011, at the request of the trial court presiding judges and court executive officers advisory committees, I spoke at their joint meeting in San Francisco to inform their members of the work and recent activity of the committee, answer their questions, and urge those who had not already done so to respond to committee’s surveys.

By the August 23, 2011 deadline, the response rates to the committee’s surveys were:

- 47.2 percent of the administrative presiding justices of the Courts of Appeal, the presiding judges of the 58 Superior Courts, the clerk administrators of the Supreme Court and Courts of Appeal, and the court executive officers of Superior Courts;
- 15.2 percent of all other judicial officers;
- 40.3 percent of retired jurists who provided contact information for the survey;
- 7.3 percent of persons, firms, organizations, and entities with interest in the judicial system;
- 100 percent of AOC directors and unit managers;
- 27.8 percent of other AOC employees; and
- 58.3 percent of former AOC employees who provided contact information for the survey.

On Saturday, September 17, 2011, at the request of the California Judges Association, I spoke to its members at the CJA's annual meeting held in Long Beach, informing them of the work and recent activity of the Strategic Evaluation Committee and answering their questions.

On September 26, 2011, through September 29, 2011, Strategic Evaluation Committee members continued the information-gathering process by a series of interviews of AOC directors and management staff. After being asked questions arising from information in their survey responses as well as survey responses of current and former AOC employees and others, they were invited to submit, in writing, their ideas for changes to improve the AOC's efficiency and effectiveness. These interviews were held at the AOC's offices in San Francisco on September 26, 27, and 28, and at the AOC's Northern/Central Regional Office in Sacramento on September 29, 2011.

On October 3, 2011, the committee sent invitations to the clerk administrator of the Supreme Court, the administrative presiding justices and clerk administrators of the Courts of Appeal, and the presiding judges and court executive officers of the Superior Courts, expressing appreciation for the important information the committee had received in response to its survey, and inviting them to further assist us by meeting personally with committee members to provide additional insights regarding the functions, structure, and methods of operation of the AOC. They were asked to inform the committee, by October 10, whether they accepted the invitation or felt a meeting was unnecessary because they had an adequate opportunity to express their views through survey responses.

On October 7, 2011, members of the Strategic Evaluation Committee made site visits to, and met employees working at division and unit offices in, the AOC's Northern/Central Regional Office to further understand the AOC's functions, operations, staffing, and facilities.

On October 11, 2011, committee members made site visits at the AOC's San Francisco offices.

Members of the Strategic Evaluation Committee then began preparing for, and the committee Chair began scheduling, meetings with the clerk administrator of the Supreme Court, administrative presiding justices and clerk administrators of the Courts of Appeal, and presiding judges and court executive officers of the Superior Courts who asked to meet personally with committee members.

On November 15, 2011, the Strategic Evaluation Committee met at the Court of Appeal, Third Appellate District, in Sacramento to go over the information obtained from the interviews of AOC directors and other managers; to finalize plans for the upcoming meetings with presiding jurists and court executive officers that would be held by groups of three to five members of the committee; and to discuss whether it is feasible to complete the committee's work by the end of April 2012.

On November 21, 2011, committee members held a series of meetings with presiding jurists of the Court of Appeal and Superior Courts, and court executive officers of the Superior Courts, at the Court of Appeal, Second Appellate District, in Los Angeles. The members then made a site visit at the AOC's Southern Regional Office in Burbank.

On November 28, 2011, committee members held a series of meetings with presiding judges and court executive officers of the Superior Courts, at the Court of Appeal, Fourth Appellate District, in Riverside.

On November 29, 2011, committee members held a series of meetings with presiding judges and court executive officers of the Superior Courts, at the Court of Appeal, Third Appellate District, in Sacramento.

On November 30, 2011, committee members held a series of meetings with presiding jurists of the Court of Appeal and Superior Courts, and court executive officers of the Superior Courts, at the Court of Appeal, Fifth Appellate District, in Fresno.

On December 5, 2011, committee members held a series of meetings with presiding judges and court executive officers of the Superior Courts, and clerk administrators of the Supreme Court and the Courts of Appeal, at the Court of Appeal, First Appellate District, in San Francisco.

On December 6, 2011, committee members held a series of meetings with presiding jurists of the Court of Appeal and Superior Courts, and court executive officers of the Superior Courts, at the Court of Appeal, First Appellate District, in San Francisco.

On December 7, 2011, committee members held a series of meetings with presiding judges and court executive officers of the Superior Courts, at the Court of Appeal, Third Appellate District, in Sacramento.

On December 9, 2011, committee members held a series of meetings with presiding judges and court executive officers of the Superior Courts, at the Court of Appeal, Third Appellate District, in Sacramento.

On December 20, 2011, committee members held a series of meetings with presiding judges and court executive officers of the Superior Courts, at the Court of Appeal, Fourth Appellate District, in San Diego.

At the end of each meeting with the presiding jurist of a Court of Appeal or Superior Court, with the court administrators of the Supreme Court and Courts of Appeal, or with the court executive officer of a Superior Court, the committee extended an invitation for them to provide further input, in writing, setting forth their views on the role of the AOC; its functions they consider to be essential and those they feel are not core functions; and changes they believe should be made in the AOC's organizational structure, methods of operation, and staffing. Stated another way, they were invited to provide their views on what findings and recommendations the Strategic Evaluation Committee should submit to the Chief Justice and Judicial Council. The deadline for such further input is January 15, 2012.

On January 18 and 19, 2012, the next meeting of the Strategic Evaluation Committee will be held at the Court of Appeal, Third Appellate District, to discuss the preliminary analysis of AOC divisions that is now being done by committee members based on the information obtained thus far by the committee.

As reflected in this progress report, the Strategic Evaluation Committee is working diligently to fulfill its responsibility to complete a thorough, conscientious, inclusive, and objective examination and evaluation of the role, functions, organizational structure, methods of operation, and staffing of the AOC, and to make findings and recommendations regarding whether changes should be made to ensure that the AOC performs only essential functions in an appropriate, beneficial, cost-effective, and transparent manner. Thank you for the opportunity to provide this update.