

Response to the Strategic Evaluation Committee Report

I applaud the Chief for establishing the Strategic Evaluation Committee (SEC) and I value their thoughtful contribution to the discussion about the future direction of the Judicial Branch. However, I am not surprised, but disappointed, by those who would suggest that its recommendation be thoughtlessly adopted “whole cloth” by the Judicial Council. That, in my view, would be denigration of the Judicial Council’s duties, a tragic mistake and contrary to the recommendations of the SEC (p. 7 and p. 200). Judge Brian McCabe, vice-chair of the SEC, carefully explained to the Presiding Judges at their May meeting that these are observations and recommendations to be evaluated by the Judicial Council and implemented ---if they agree---not robotically “rubber stamped” by them. The SEC explicitly indicates this on page 80 when it states that the Administrative Director should implement “if directed” by the Judicial Council.

What this report has done is highlight some very real areas of concern but, of necessity, the analysis in many areas is superficial and not complete. For example, what constitutes a “mandated or core function” is ill-defined and will mean one thing to one of 58 very different courts than it will mean to another. Further, what was perhaps true at the time of the appointment of the SEC (i.e., “oversized” and “unwieldy”) may not be accurate today in many areas. These and other “limitations” were acknowledged by the SEC (pp. 31-32).

There is no question that a new relationship between the trial courts and the AOC needs to be established and the new Administrative Director must do that. But to preempt his/her efforts by using a meat axe on the organization is counterproductive.

The Judicial Council must exercise its leadership and evaluate these recommendations in light of the current situation and with the new Administrative Director, develop a new strategic plan for the Judicial Branch. (This is a summary recommendation of the SEC).

Some of the recommendations of the SEC are out of date because many changes have occurred at the AOC during the last year. Staffing has been dramatically reduced, CCMS has been abandoned, new committees have been put in place, and the Legislature has slashed funding for the AOC. None of this was evaluated by the SEC. The Judicial Council now needs to take these changes into account in reviewing and implementing these recommendations.

There is one overriding issue that this report has not and could not evaluate. The status of the Judicial Branch as a third branch of government has been seriously challenged in the latest budget battle. The Judicial Branch was a victim of an Executive Branch and a Department of Finance that is either grossly ignorant of the role and work of our branch or tragically insensitive to it. We need to reevaluate how we interface with the Executive

Branch and the Legislature. As noted in the SEC report, the OGA has not been reviewed and enhanced in a number of years. This is not a small problem, but the most serious problem facing our branch. It is a crisis that overrides all of the recommendations of the SEC report. I hope that the Judicial Council evaluates this report in light of this change of circumstances.

I have reviewed each of the recommendations of the report and have below indicated my personal reaction to them. I have grouped them according to my assessment: 1) Agree with the recommendation, 2) Do not agree, 3) the recommendation should be evaluated in light of the capabilities of the personnel involved, 4) As determined by the new Administrative Director and the Judicial Council, and 5) Agree in part/disagree in part.

- 1) **Agree** ---4-1,4-4,5-1,5-4,5-5,5-6,7-3,7-4, 7-15, 7-16,7-17, 7-20,7-21,7-22,7-23,7-24,7-29,7-33,7-36,7-37,7-38,7-39,7-41,7-44,7-49,7-50,7-51,7-53,7-57,7-58,7-59,7-60,7-61,7-62,7-63,7-67,7-69,7-74,7-81,7-85,8-1,8-2,8-3,8-4,8-6,8-8,8-10
- 2) **Do not agree** ---7-6, 7-28,7-48,7-65,8-9
- 3) **Evaluated in light of personnel**---6-3,6-4,6-6,7-5,7-7,7-8,7-9,7-13,7-14,7-19,7-32,7-40,7-43,7-52,7-68,7-80,7-86
- 4) **As determined by the new AD and JC**---6-5,6-7,6-8,6-9,7-10,7-11,7-12,7-18,7-25,7-26,7-27,7-30,7-31,7-34,7-35,7-42,7-45,7-46,7-47,7-54,7-55,7-56,7-64,7-66,7-70,7-71,7-72,7-73,7-75,7-76,7-77,7-78,7-79,7-82,7-83,7-84,7-87,9-2,9-3,9-4,10-1
- 5) **Agree in part/Disagree in part**---8-5,8-7,8-11,9-1,9-5,10-2

Judge Richard J. Loftus, Jr.
Presiding Judge
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