

Judiciary Committee – Monroe County Board of Commissioners
Tuesday, October 27, 2009

Dear Commissioners,

Please accept this letter as a general outline of the initial comments of the 38th Circuit Court. Please understand that the 38th Circuit Court has never had a court administrator, and despite strong suggestions by the State Court Administrative Office (SCAO) of the Michigan Supreme Court, this Court has not pursued acquiring this position. Therefore, the administrative tasks usually performed by a court administrator, falls upon the individual judges and their staffs, and primarily the Chief Judge.

This Court has been asked by the Board of Commissioners (BOC) to respond to the evaluation conducted by the Matrix Consulting Group (Matrix). On Tuesday, October 20, 2009, the BOC requested that the Circuit Court judges meet with the BOC's Judiciary Committee to respond to the evaluation. Chief Judge Joseph Costello has previously responded to the Matrix evaluation in an e-mail to the BOC Chairman, William Sisk. It is our understanding that the BOC will meet separately with the 1st District Court, and the Monroe County Probate Court at a later time.

This Committee may recall that when the County of Monroe (County) allowed a number of county employees to opt for an early retirement, Judge Costello was assured that he would be able to replace his immediate staff (court recorder and secretary). Judge Costello attempted to combine the position of court recorder with the clerk assigned to his court, but in the end, the BOC agreed that the trial project did not work. First, even with new digitalized recording equipment, it was impossible for the clerk to attend to her/his duties as well as maintaining a proper record. Furthermore, the union representing the clerks was making suggestions that they would seek a grievance for this attempt to add additional job duties. Mr. Frank Spreeman discussed this with Judge Costello and there was a suggestion that a study be done to create a new position, but much like the Rye Study that is scheduled to be postponed until 2011 (see BOC agenda of October 27, 2009, item 2A. of the consent agenda), this suggestion was abandoned. Ultimately the BOC agreed that the best solution was for Judge Costello to hire a court recorder. During the trial project there were multiple complaints including the clerks were not capable of performing both tasks through no fault of their own, and the court recorder responsible for creating transcripts stated that an adequate log and other documentation was seriously lacking.

Based upon the updated Matrix evaluation as provided to the courts by Mr. Spreeman, the Circuit Court responds as follows:

1. The courts are grateful to the BOC to allow us to be the recipient of the evaluation as the process was going forward. Initially, the courts were not considered a party to the process. The BOC Chair, Vice-Chair, the County Administrator, and the Human Resources Director met with the Chief Judges of all three courts and

entered into a formal agreement for the courts to be co-equal participants as a separate branch of government.

2. According to case law, the BOC may set the budget, and it is then up to the courts to determine how to spend the allocated monies. It has been the practice of the courts to provide the BOC with the line-item budgets even though it is not required by law.
3. The Circuit Court judges spent minutes with the Matrix staff, and requests for additional time with the Matrix representatives were inexplicably not granted. Matrix did conduct surveys with court personnel, and the courts had an opportunity to see the questions before they were submitted to the staff. Once again, the courts were frustrated in their efforts to have a meaningful dialogue and discussion with Matrix, despite their admission that they had never assessed a court system before, and despite their initial report's shortcomings and deficiencies. One or more judges provided written comments to the BOC Chair and alerted him to the fact that the courts would take issue with the evaluation and did not want to blindside the BOC. Judge Costello spoke by telephone to Ms. Susan Leigh, and a person identified as the company president, toward the end of the assessment. Judge Costello advised both of them that Judge Weipert wanted a day to go over the report with them to discuss it in more detail. Judge Costello stated that Judge Weipert had reported they had "only spent 5 minutes with him", to which the president actually said, "That's not true, it was 15 minutes". Fifteen minutes is woefully insufficient.
4. The courts cannot respond to Matrix's claim of "[utilizing their] library of best practices developed by the firm while conducting hundreds of management studies throughout the Country [sic]", as cited on page 3, second bullet, of their report. This is especially true in the face of their candid admission of **no prior experience** in this area.
5. Matrix recognized their failure in their first report to acknowledge the Family Division of Circuit Court (combining part of the Circuit and Probate Courts together), and in the revised report they combined part of the Circuit and Probate Courts. A simple check with the judges of this county, and/or the website of the Michigan Supreme Court would have easily revealed the true division of the Circuit Courts and the Probate Courts (Google "Michigan Supreme Court", click on "Trial Courts", and follow the prompts). Attached as Appendix A is a sample of the basic division of cases between the Circuit and Probate courts.
6. On page 5, item 2.(1.), Matrix fails to note that the Circuit Court also handles misdemeanor cases which may be part of a multiple count Information against a person who is also charged with felonies. Although the BOC is expected to meet separately with the Probate Court, another example of Matrix's failure to understand even the simplest structure of the courts is evident in their failure to note that the Probate Court under the local Family Court plan also handles

- juvenile delinquency cases and child protective proceedings (child neglect and abuse cases). See page 5, item 2.(1.). The same mistake is repeated on page 7 of their report, and likely throughout the report. They finally address these cases at page 13, and subsequent pages of the report.
7. On page 6, item 2.(2.), the schematic of the state and local court system is simply wrong. For instance, Matrix lists the Youth Center, Chief Referee, Assistant Administrator of Youth Services, Juvenile Probation, and Juvenile Register under the direct supervision of the “Circuit Court”. Based upon a local administrative order (available on the county website or from any judge), the schematic should list these items under the direct supervision of the Probate Court. Matrix repeats this mistake on page 7, and likely throughout the report. Pursuant to the local administrative order, approved by the Michigan Supreme Court, Judge Weipert is the presiding judge of the Domestic Relations section of the Family Division. The Chief Probate Judge (Judges Hohman or Moskwa) is the presiding judge of the Juvenile section of the Family Division, and therefore, oversees the Youth Center, etc.
 8. On page 7, Matrix finally acknowledges that the Circuit Court judges utilize part-time bailiffs, but still fails to note that these positions do not receive county benefits. The Circuit Court judges on their own agreed to use part-time bailiffs prior to these positions ever being challenged in prior budgets.
 9. Matrix unbelievably claims, “The Administrator’s Office (presumably Mr. Micheal James) serves as both the court administrator for the Family Division of Circuit Court, as well as the Probate Court. No one can account for this claim. The local administrative order clearly spells out that Judge Michael Weipert is the presiding judge of the Family Division of the Circuit Court. The same mistake is repeated on page 8, first indented paragraph, and likely throughout the report. (See also pages 26 and thereafter). Buried on page 8 is the first acknowledgement that “the Court Administrator’s Office **does not** provide support to the Circuit Court (excluding the Family Division)”, and recognizes that the “Chief Circuit Judge **uniquely** has oversight and responsibility for the administrative functions.”
 10. Matrix did make some very complimentary conclusions of the courts including those listed at pages 8 and 9. For example:
 - The Circuit Court’s organization structure fosters accountability.
 - The plan of organization has minimized administrative overhead with respect to financial management and oversight. The Court has consolidated functions to cross utilize staff and reduce redundancy in organizational units.
 - **There are no significant issues with the overall organizational structure of the Circuit Court and Probate Courts.**
 11. On page 11, Matrix claims several of the **comparative** agencies (Allegan, Muskegon, and St. Clair Counties) share bailiff and law clerk positions. First of

all, a reasonable person would question the qualifications of a person serving in these two **distinct** occupations. Secondly, Allegan County has a population of 112,975 people, approximately 39,974 people, or 26% less than Monroe County. Next, St. Clair has a population of 168,894 people, or 10.5% more than Monroe County. Furthermore, and more importantly, Judge Costello corresponded with court directors and/or judges in the three counties, and only St. Clair and Muskegon responded. According to Court Director Jerry Celmer in St. Clair, they **do not combine the position of law clerk and bailiff although that was the case “some ten years ago”**. The bailiffs are part of a “Court security department” and it has a staffing of 11 FTE including 7 full time and 10 part time bailiffs (the equivalent of 4 FTE). Muskegon County Circuit Court Judge John Ruck, one of four Circuit Court judges, stated, “each judge has a bailiff and a secretary”, and although the correspondence is not in depth, it reveals contrary information to the Matrix report.

12. Matrix significantly short changes the stated duties and responsibilities of the various court staff (see page 12), and the courts are currently drafting a better composite of the staff’s various duties. The courts agree with Matrix that the staff backs each other up, even though it is not within their job descriptions. Furthermore, you will not see immediate court staff taking their 15-minute breaks in the morning or afternoon, a practice that has been true for years.
13. Despite the numerous deficiencies in the Matrix evaluation, even they still recommend the combination of secretary and court recorder through attrition (see page 13).
14. The formal direct response to the Matrix evaluation ends here and leaves the domestic relations division, and the Probate Court to be addressed by other judges.

This draft is being submitted on October 27, 2009, after the Circuit Court judges had an opportunity to review it. Thank you.

October 27, 2009

Respectfully submitted,

Hon. Joseph A. Costello, Jr.
Chief Judge
38th Circuit Court

