



For attention: Hon. Mr Xola Nqola, MP
Email: Judicial@parliament.gov.za

24 July 2026

Dear Hon Nqola

We attach our joint written submission by the Helen Suzman Foundation, the Democratic Governance and Rights Unit, Faculty of Law, University of Cape Town, and Judges Matter in response to the invitation for comments on the [South African Judicial Education Institute Amendment Bill \[B26-2025\]](#).

We would like to confirm our interest in making oral representations at a convenient date.

Should you have any queries, it would be appreciated if you could contact us at the following email addresses: naseema@hsf.org.za, vanja.karth@uct.ac.za and mbekezeli@judgesmatter.co.za.

Yours Sincerely

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1. Introduction

- 1.1. This is a joint submission by the Democratic Governance and Rights Unit (DRGU), the Helen Suzman Foundation (HSF), and Judges Matter.
- 1.2. The DGRU is an applied research unit based in the Faculty of Law at the University of Cape Town. Its work focuses on judicial governance, judicial appointments and accountability, and the rule of law in South Africa and the wider region. The DGRU works closely with the Judicial Institute for Africa (JIFA), which delivers judicial education across the continent, and it accordingly has a direct and sustained interest in the institutional arrangements for judicial education in South Africa.
- 1.3. The HSF is an organisation that promotes constitutional democracy, the rule of law, and human rights. HSF has a longstanding interest in matters regarding the judiciary as an independent, knowledgeable and effective judicial system contributes to the bedrock of South Africa's constitutional democracy. HSF has previously litigated on judicial appointments, administration of justice, and judicial independence.
- 1.4. DGRU and HSF welcome the opportunity to comment on the [South African Judicial Education Institute Bill, 2025 \[B 26—2025\]](#) (the Bill), which proposes amendments to the South African Judicial Education Institute Act 14 of 2008. Both organisations support the objectives of strengthening the academic leadership of the South African Judicial Education Institute (SAJEI) and welcome, in principle, the creation of the office of a Dean as academic head. This submission is offered constructively, with the aim of ensuring that the amendments achieve their purpose in practice.
- 1.5. DRGU and HSF both recognise the importance of judicial education for the administration of justice and strengthening the judiciary. Judicial education does not only allow for judicial officers to develop skills and get continuous training of the law but keep up with trends emerging out of our domestic, regional and international judicial landscape. The structure and arrangement of the SAJEI, through the Bill, is an important step closer to the realisation of judicial independence.
- 1.6. Both organisations recognise that the judiciary currently is still in the process of realising full institutional independence as the Office of the Chief Justice (OCJ) is a national department established by means of a presidential proclamation in terms of section 7(5) of the Public Service Act, and has not moved into the second phase that moves from the OCJ into an independent entity such as the Auditor-General to allow for financial and administrative independence.¹ This

¹ 103 of 1994, Proclamation No. 44 of 2010. See draft paper "Judicial Governance in South Africa", Judges Matter, available at <https://www.judgesmatter.co.za/wp-content/uploads/2023/12/Judicial-Governance-in-South-Africa-UPDATE-24.11.2023.pdf>, accessed 21 July 2026.

anomaly that should be considered practically as it might cause complications in that the OCJ is a national department within the executive and SAJEI is an independent entity that established by an Act of Parliament.²

- 1.6.1. While the OCJ is established by presidential proclamation it is not without legislative prescript.³ Section 3(7) of the Act bestows the executive authority all the necessary powers and duties necessary for “the internal organisation of the department concerned, including its organisational structure and establishment, the transfer of functions within that department, human resources planning, the creation and abolition of posts...”. The complication lies in who the executive authority is, in this regard. Is it the Minister of Justice? The Secretary-General? Or the Chief Justice?
- 1.6.2. This complication is replicated in the position of SAJEI in the broader institution within the judicial landscape, much like the Judicial Service Commission, that focuses on judicial education but within the structure of the OCJ.
- 1.6.3. The central theme of this submission is that the Bill has been drafted against the statutory scheme of the principal Act, but without engaging with the significant divergence between that statutory scheme and the manner in which SAJEI is administered in practice within the OCJ. Unless that divergence is confronted, the amendments, and in particular the office of the Dean, risk being absorbed into departmental structures in a way Parliament did not intend, with implications for the governance of the Institute and, in respect of a serving judge appointed as Dean, for judicial independence.

2. Summary of submission

- 2.1. DGRU and HSF raise the following considerations and concerns:
 - 2.1.1. The SAJEI Act establishes the Institute as a juristic person governed by a Council and chaired by the Chief Justice. However, SAJEI functions as a component of the OCJ, which is a reality the design and implementation that the proposed amendments must account for.
 - 2.1.2. The relationship between the Dean and the OCJ's organisational structure requires clarification, given the constitutional sensitivity of placing a judge within a departmental reporting line.
 - 2.1.3. The Bill should state clearly that the Executive Director, not the Secretary-General, is the accounting officer.

² Act 14 of 2008.

³ Proclamation No. 44 of 2010 in accordance with section 7(5) of Act 103 of 1994.

- 2.1.4. The Dean's functions are framed with reference to judges only, leaving unclear whether the Dean is also academic head of training for magistrates, who form the substantial majority of SAJEI's constituency
- 2.1.5. The Bill is silent on the discipline and removal of the Dean and imposes no reporting or accountability obligations on the Dean towards the Council.
- 2.1.6. A statutory 'Deputy Dean' post should be created to divide responsibilities, support succession planning, and align SAJEI's administration with standard tertiary-institution governance.

3. Background and institutional context: the divergence of administrative practice from the statutory scheme

- 3.1. Section 3(a) and (b) of the SAJEI Act establish the institute as a juristic person responsible for judicial education and training of judicial officers and aspirant judicial officers. The governance of the institutes is vested in the Council as established by section 6 of the Act. Section 9 provides that the council is tasked with the establishment of standing committees for curriculum planning, oversight of judicial education, budget and finance, personnel management and general administration. Section 11(a) provides for the institute to employ a director as its administrative head, who is appointed by the council under section 12.
- 3.2. The preamble to the Act records that "it is desirable that the education and training of judicial officers should primarily be directed and controlled by the judiciary". Therefore, a juristic person governed by a judicial officer gives effect to independence and supports the proposal of a judicial officer as the Dean of the Institute.
- 3.3. In practice, however, SAJEI operates as a component of the OCJ. The OCJ's 2024/25 Annual Report depicts SAJEI within its "Branch: Judicial Policy, Research, Education and Support Services" (see Annexure A), reporting to the Secretary-General; the Council as the statutory governance body of SAJEI appears nowhere in this structure. This Branch includes SAJEI, the Judicial Services Commission and the Judicial Policy Research and Support Unit. SAJEI's head is titled Chief Executive Officer with a direct reporting line to the Secretary-General, and the OCJ's Strategic Plan assigns the judicial education performance indicator to a public-service post, the "Chief Director: SAJEI" which treats the office as departmental rather than a Council appointment.
- 3.4. The current incumbent in the Director post, has a contract of employment with the OCJ, not with the SAJEI council. SAJEI falls under Programme 3 of the OCJ's budget vote, combined with the Judicial Service Commission and Judicial Policy, Research and Support's finances, and despite sections 13(8) and 15 of the Act, it has no separate annual report or financial statements.

- 3.5. Nothing in the OCJ's stated mandate nor the Act empower the OCJ with any role in the governance, direction or control of SAJEI; that role is reserved by statute for the Council. However, the above administrative arrangements which treat SAJEI as a branch component, the reporting line of its head to the Secretary-General, the absence of the Council from the governance framework, and the absorption of SAJEI's employment contracts, finances and reporting into the departmental vote amount to departmental control rather than administrative support. The OCJ's Governance Framework document similarly makes no provision for the SAJEI Council within either the judicial or the administrative governance structures of the department.
- 3.6. We do not suggest that administrative support from the OCJ is inappropriate: section 13 of the Act itself locates SAJEI's funds as earmarked funds on the departmental vote, and the Judicial Matters Amendment Act 24 of 2015 assigned certain accounting responsibilities to the Secretary-General. Our point is that the Bill proposes to build a new office of the Dean onto a statutory foundation that is not being adhered to in practice.
- 3.7. Unless this divergence is addressed, the Bill risks the same fate: a Dean provided for in statute as a Council appointee but absorbed in practice into a departmental branch that recognises neither the Council nor SAJEI's juristic personality. A judge appointed Dean under the proposed section 12A(1)(b) could become embedded within a reporting structure headed by an executive official, conflicting with the OCJ's own move toward institutional independence and with the Act's preamble.
- 3.8. For these reasons, we urge the Committee to ask for clarity from the Department on these questions before the Bill is passed, and to consider whether the Bill should state expressly that the Dean is accountable to the Council alone in respect of the academic functions of the office and to clarify the employment and governance line of the Executive Director, which in practice is now contractually with the OCJ, but as the Bill proposes, is in fact with the Council.

4. Comments on the Provisions of the Bill

- 4.1. The definition of 'dean' and scope of the dean's functions: judges and magistrates (clause 1; definitions and clause 5; proposed section 12A and 12B)
- 4.2. The principal Act's purpose states that the Institute is tasked with to "promote the independence, impartiality, dignity, accessibility and effectiveness of the courts by providing judicial education for judicial officers" and the preamble also notes that there is a "need for education and training of judicial officers, whether aspirants, newly appointed or experienced".⁴ Its mandate is not only for the training and development of judges and aspirant judges, as the provisions in

⁴ Emphasis added.

the Bill infer, but extends to magistrates of district and regional courts.⁵ This is evidenced by the composition of the Council, which includes five magistrates designated by the Magistrates Commission. The bulk of training activities of SAJEI is directed at the magistracy.

- 4.3. The proposed definition of 'dean' in the Bill makes only reference to a judge to be appointed and this is also replicated in the proposed sections 12A(1)(a). The proposed section 12B(e) also refers to those who will receive training and development through facilitated seminars are only judges and aspirant judges. Moreover, 'judge' is defined in the proposed section 12A(4) exclusively with reference to judges of the High Court and Supreme Court of Appeal who are in active service⁶ and judges, possibly to be considered for appointed, who have been discharged from active service.⁷
- 4.4. From the reading of the proposed definitions and post of dean, it is not clear why magistrates, both in the district or regional courts, are not considered for appointment for deanship. There is no explanation in the purpose or the objectives of the Bill on how this was conceptualised or considered, and if so, why the rationale would hold. On a principled basis, is the position of dean intended to be the academic head of training for judicial of the district and district courts as well, or only for the superior courts.
- 4.5. For these reasons, DGRU and HSF submit that magistrates should be included for consideration for the position of dean, especially with pathways being prepared for judicial independence, financial and administrative independence, to an equal arm of state as the executive and the legislature.
- 4.6. We propose that this can be done by:
 - 4.6.1. Amend the definition of dean to include 'judicial officer(s)' after judge in the proposed section 1 and whether there is reference of judge and/or aspirant judge in the subsequent proposed provisions to also include 'judicial officer' as contemplated in section 12A(1)(a).; and ⁸
 - 4.6.2. Furthermore, include 'judicial officer' and/or 'aspirant judicial officer(s)' for training and development as contemplated in section 12B(e).
- 4.7. If the intention is that the dean's academic leadership covers the whole of the Institute's mandate, the Bill should say so expressly. It should be amended to

⁵ Section 3(b) of the principal Act.

⁶ Sections 5(1)(a)(iii) and 6(2)(b) of the Superior Courts Act, respectively.

⁷ Sections 3(1)(a) or (c) and 3(2)(a), (b) or (d) of the Judges Remuneration and Conditions of Employment Act.

⁸ Judge is defined in section 12A(4) transposing the definition from the Superior Courts Act. The same can be done for the definition of judicial officer. Judicial officer is defined as "a magistrate, an additional magistrate or an assistant magistrate" as defined in section 1 read with section 9 of the Magistrates' Court Act, 1994. It is also defined in section 1 read with section 10 of the Magistrates Act, 1993.

clarify that the Dean's role and function is intended to cover leading the academic training programme for all judicial officers., not just judges of the high courts and supreme court.

5. Vacation of office and removal of the Dean

- 5.1. The Bill makes no provision for the termination of services, resignation or removal of the Dean. If concerns arise regarding the Dean's performance of, or conduct in, the office of the Dean – as distinct from the person's conduct or performance as a judge or a magistrate. It is unclear whether such matters would be referred to the Judicial Service Commission or the Magistrates' Commission under the judicial conduct process or dealt with by Council as the appointing body.
- 5.2. If there is acceptance that the performance of such Dean should be handled by Council, the Bill should expressly state this. The DGRU and HSF accept that the person appointed as Dean would be a judicial officer and that they should execute their tasks in the standing befitting of a judge – the title and the office of a judge or a magistrate does not cease to exist once appointed as a Dean. However, it must be noted that a Dean is an academic leader responsible for the academic project or activities of the Institute and is not performing judicial functions.
- 5.3. There is a difference between judicial functions that are performed by judges or magistrates, particularly those who are in active service, and a judge who is performing the role of a Dean, which focuses on, in this case, judicial education, development and training. Discipline and misconduct proceedings handled by the Judicial Service Commission and the Magistrates Commission, through their judicial conduct process is of a higher threshold and mostly conceives of conduct in the performance or execution of judicial functions. Council, on this basis, is unable to discipline a judge or a magistrate that would not be supported by law, and it should not be invented here.
- 5.4. The only mechanism the Council can use is to hold the Dean accountable through their execution of their functions and their performance. What they cannot do is sanction a judge or a magistrate, they do not possess such powers in the principal Act or the proposed Bill. When such performance is of material consequence to the Institute and has adverse effects, such Dean should be referred to the judicial conduct bodies on allegations of misconduct or incapacity.
- 5.5. The Bill, therefore, should:
 - 5.5.1. Make provision for such a differentiation and provide guidance on how this will be handled, especially when it comes to the termination of the services, resignation and removal of a Dean who does not perform their functions or wants to vacate their office before term expires;

- 5.5.2. Make provision for the process to be handled internally by the Council as they are the one's responsible for the appointment of the Dean and provision must be made in the Bill or by regulations (or using the language of the principal Act, guidelines) issued out by the Chief Justice with the concurrence of the Minister, as per section 16 of the Act;
- 5.5.3. Specify that only when the conduct of the said judge or judicial officer appointed as the Dean constitutes misconduct or incapacity, refer the matter for judicial conduct proceedings as stated in para 4.2.3; and
- 5.5.4. Expressly state which body is responsible, and by what procedure the Dean may be removed or the appointment terminated before the expiry of the term.

6. Accountability of the Dean to the Council

- 6.1. The proposed section 12B makes the Dean responsible for the general academic programme "subject to such conditions as the Council may impose" but imposes no reporting obligations whatsoever. By contrast, the Executive Director must provide quarterly management reports to the Secretary-General, as proposed by section 12(3)(c), and submit the annual report to the Minister, as propose by sections 12(3)(d) and 15(1).
- 6.2. This asymmetry is doubly problematic. First, the office responsible for the core academic function of the Institute is subject to no periodic accountability at all. Secondly, such reporting obligations as the Act does impose flow to the Secretary-General and the Minister, who fall in the executive branch, rather than to the Council, the statutory governing body.
- 6.3. Although the Dean is a judge or magistrate with the title of judicial office not ceasing, it is important for the Bill to expressly state that the duties and functions of the Dean are not judicial functions but academic functions with a requisite requirement of administrative undertakings. This will dispel any potential argument that arises that the requirement of the Dean (or a judge, a magistrate as judicial officers) reporting to Council would restrict the independence of such a judicial officer and place them as subordinate required to report to an institutional governing body as opposed to their head of court, Chief Justice or the JSC or the Magistrates Commission.
- 6.4. That is not the case. The requirement of reporting obligations to Council assists with accountability and measuring of performance of the academic head of the Institute. Examples are provided.⁹

⁹ There are other institutions that use the services of judges for non-judicial functions. The Judicial Inspectorate for Correctional Service (JICS) has a sitting or retired judge appointed as the inspectorate, in terms of, section 89(1) of the Correctional Services Act, 1998. Section 90(1) of the Act

6.5. Accordingly, the DGRU and HSF recommend that:

6.5.1. The Dean be required to report quarterly to the Council on the academic programme, and that consideration be given to requiring the Executive Director's quarterly management reports be provided to the Council (with copies to the Secretary-General as necessary for the departmental accounting purposes), so that accountability is anchored where the Act locates governance.

7. The Research Function

7.1. The proposed section 12B(h) makes the Dean responsible for "directing, managing and coordinating research".

7.2. Section 5(c) of the principal Act confers the research function on the Institute, and section 10(2)(b)(ii) obliges the Council to engage in research into matters affecting the Institute. The current research function for SAJEI is included in the Judicial Policy Research and Support Unit, the staff of which are employed by the OCJ and who are also responsible for research for the OCJ.

7.3. It is unclear whether the intention is that SAJEI's research department and research staff will report to the Dean, and how this is to be reconciled with the Executive Director's responsibility for appointing and supervising "the administrative staff", as proposed in section 12(3)(b), and the Institute's duty to employ academic staff, in section 11(b).

7.4. We therefore recommend that:

7.4.1. The reporting lines of research and academic staff be clarified, failing which the division of responsibility between Dean and Executive Director will be a source of institutional friction; and

grants the inspectorate judge general powers and functions such as inspecting prisons and treatment of prisoners. The inspectorate judge is required to submit a report to the Minister on each inspect and an annual report to the President and the Minister to table before Parliament. The Investigating Directorate Against Corruption (IDAC) requires for the appointment of a retired judge, in terms of, section 22A of the National Prosecuting Authority Act, 1998 to investigate complaints or any alleged improper conduct of IDAC personnel. The retired judge, in terms of section 22A(6) must report the outcome of the investigation to the Minister. Section 22A(8) requires the retired judge to report to Parliament annually on the performance of their functions. The point made here is that judicial officers, in active service or discharged, can perform non-judicial functions routinely that require them to report on the performance of their functions in the position they occupy. Requiring the Dean to report to Council would not diminish their independence or make them a subordinate.

- 7.4.2. Clarify whether there is a dedicated SAJEI research staff component or if they will continue to remain in the Judicial Policy Research and Support Unit, conducting research for the OCJ as well.

8. The position of the Dean within the OCJ structure and judicial independence

- 8.1. Given the absence of the SAJEI Council from the OCJ's organisational structure and governance framework documents, the question arises whether the intention is that the Dean will, in practice, fall under the Secretary-General within the "Branch: Judicial, Policy, Research, Education and Support Services".
- 8.2. The Bill provides that the Dean is appointed by the Council and is the academic head of the Institute; but if the Institute is administered as a branch of a national department, the practical effect may be that a judge, including a judge in active service appointed under the proposed section 12A(1)(b), is embedded within a departmental reporting structure headed by an official of the executive.
- 8.3. That outcome would sit uneasily with the constitutional principle of judicial independence and with the preamble to the principal Act, which records that judicial education should primarily be directed and controlled by the judiciary. It also raises unresolved practical questions: what is the relationship between the OCJ's organisational structure and the SAJEI statute; who is the employer of the Dean for purposes of conditions of service and support staff; and how will the employment of a judge as Dean be effected within, or outside, the public service establishment?
- 8.4. The Committee is urged to require clarity from the Department on these questions before the Bill is passed, and to consider whether the Bill should state expressly that the Dean is accountable to the Council alone in respect of the academic functions of the office.

9. The establishment of a post of Deputy Dean

- 9.1. Section 12B entrusts the Dean with extensive functions for one individual to perform. These functions seem excessive for one individual to discharge, even with the assistance of Council committees under section 9(1) of the Act. The DGRU and HSF accordingly propose the creation of a statutory post of Deputy Dean, for division of workload; operational continuity and succession planning; oversight across judicial tiers and alignment with academic institutional governance.
- 9.2. Given the scale and distinct character of magistrates' training, it is suggested that consideration should be given to creating the post of a deputy dean to serve as academic head for district and regional judicial officers, appointed by the Council through a comparable process.
- 9.3. The Deputy Dean post can be occupied by either a judge or a magistrate as judicial officer(s) with powers and functions delegated by the Council with the

concurrence of the Dean. This will also assist in instances where there is a vacancy in the Dean's office, or the Dean is unable or unavailable to perform their functions due to a myriad of reasons. The Deputy Dean would immediately serve as acting dean, as opposed to sourcing an external person from within the ranks of the judiciary and magistracy who might not be as intimately involved in SAJEI's academic functions. This would remove the administrative hurdle and pressures.

- 9.4. Practical examples are stated below to illustrate the considerable task a Dean is required to do within the Institute in service of 250 of judges and 1 700 of magistrates in active service, including aspirant judges and aspirant magistrates. Sections 12B(g) and 5(f) require the Dean to:
 - 9.4.1. Consult with heads of court;
 - 9.4.2. Establish local and foreign institutional partnerships;
 - 9.4.3. Provide high-level academic and strategic vision for judicial education;
 - 9.4.4. Supervise judicial educators;
 - 9.4.5. Develop curricula;
 - 9.4.6. Manage research projects; and
 - 9.4.7. Facilitate seminars for all judicial officers.
- 9.5. These external, strategic functions and the internal, operational functions of the office are qualitatively different, and are better discharged through a functioning division of labour between a Dean and a Deputy Dean.
- 9.6. The proposed section 12A(1)(a) – (b) provides that the Dean be appointed for a non-renewable term, and that the judge may be one in active service or discharged from active service. If a situation arose where the judicial officer serving as Dean be incapacitated, urgently required elsewhere, or travelling during the term, a gap in leadership results. Therefore, the appointment of a deputy dean would ensure uninterrupted decision-making and continuous oversight of judicial training.
- 9.7. SAJEI is statutorily mandated to provide judicial training to lower court magistrates (regional and district) and superior court judges, as well as aspirant judicial officers (sections 2 and 5). Given the distinct training needs across these tiers, a Deputy Dean could be assigned a dedicated focus.
- 9.8. For example, the Deputy Dean could focus on lower court judicial training and aspirant judicial education to ensure that each stream receives dedicated, expert attention under the general direction of the Dean. Even under a single judiciary, aspirant judges would still require a dedicated curriculum and oversight, which is best achieved through the appointment of an additional incumbent.
- 9.9. We submit that it should be considered that in the South African tertiary institution space, it is common for a Deputy or Associate/Vice Dean to support

the Dean's office by taking responsibilities for core academic portfolios such as teaching and learning, research, and postgraduate studies, as reflected in faculty leadership structures at several universities. If the intention is to strengthen SAJEI's institutional capacity to provide high quality training and research, there is a compelling reason to create similar divisions of labour and a deputy dean position.

10. Confusion around accounting officer and financial reporting of the Institute

- 10.1. The proposed amendment to section 13(8) of the principal Act substitutes 'Executive Director' in the place of 'Director' as the person responsible for the preparations of the financial statements of the Institute.
- 10.2. However, it but does not address why the Secretary-General, in terms of section 13(3) of the principal Act, is still the accounting officer for the purposes of accountability of monies as required by the Public Finance Management Act, 1999 (PFMA), as opposed to the Executive-Director, who is considered as the "administrative head and chief executive officer of the Institute", despite SAJEI being an independent statutory juristic person/entity.
- 10.3. This creates the impression that the Institute is administratively subordinate as a branch of the OCJ.
- 10.4. This undermines the institutional and judicial independence as an independent statutory entity would have its own accounting officer under the PFMA.
- 10.5. The Bill should therefore revisit this provision so that there is clarity in the governance arrangements in order to advance the goals of the Institution and entrench its independence.

11. The change of the title from 'Director' to 'Executive Director' (clause 1, 3, 4 and 6)

- 11.1. The purpose of the change of title from 'Director' to 'Executive Director' is unclear, especially given that in reality the office has always been, and still is, referred to as the Chief Executive Officer in all reports, official documentation and media communications. If the purpose of the amendment is to align the statutory title with practice, it does not achieve this.
- 11.2. Indeed, the Bill moves in the opposite direction. Section 12(3) of the principal Act currently describes the Director as "the administrative head and chief executive officer of the Institute", whereas the proposed substituted section 12(3) describes the Executive Director as "the administrative head of the Institute" only, silently deleting the chief executive officer designation. The Memorandum on the Objects does not explain this deletion.

- 11.3. The Committee must provide an explanation of the purpose of the retitling and of the removal of the chief executive officer designation, and should consider whether the statutory title should instead be aligned with the designation actually in use.

12. Co-ordination between the Dean (and the Deputy Dean, if accepted) and the Executive Director

- 12.1. The proposed provisions in the Bill do not consider the co-ordination between the Office of the Dean and the Office of the Executive Director on functions and activities of their work. Consideration that needs to be accounted for is

- 12.2. There are two instances where the Bill considers the interaction between the Dean and the Executive Director:

12.2.1. In the proposed section 12B(g) where the Dean in conjunction are working on partnerships with external organisations to further judicial education and training; and

12.2.2. In the amendment of section 15(1) of the principal Act where it requires the Executive Director must prepare an annual report to submit to Council with consultation of the Dean.

- 12.3. We submit that the Bill must consider that the Dean and the Executive Director must cooperate in their performance of their respective functions to promote the objects of the Institute. The Dean is responsible for the academic leadership, quality and content of judicial education and training whilst the Executive Director is responsible for the administration, financial management and operational affairs of the Institute.

- 12.4. Nothing in the Bill should be misconstrued as permitting either office to exercise or interfere with the statutory functions assigned to the other unless imposed by the Council but reverence must be given to the doctrine of separation of powers.

13. Conclusion and Recommendation:

- 13.1. The creation of the office of Dean is a welcome opportunity to strengthen the academic leadership of judicial education in South Africa. That opportunity will be lost, however, if the new office is simply layered onto an institutional arrangement in which the statute is honoured in form but not in practice.

- 13.2. We urge the Committee to use the occasion of this Bill to restore the alignment between the SAJEI Act and its implementation, and to entrench the governance of judicial education where the Act, and the principle of judicial independence, place it with the Council under the leadership of the judiciary.

13.3. The DGRU and HSF make the following recommendations to the Portfolio Committee:

- 13.3.1. The Committee must require the Department and the OCJ to account for the divergence between the statutory scheme of the SAJEI Act, which establishes SAJEI as a juristic person governed by a Council, and the current administrative practice, under which SAJEI is treated as a branch component of the OCJ. This should include explaining why its head reports to the Secretary-General, why the Council is absent from the OCJ's organisational and governance structures, and why no separate annual report or financial statements are produced for the Institute;
- 13.3.2. The Committee must take note why the OCJ's own Strategic Plan confines its mandate under the SAJEI Act to the provision of administrative support to the Institute, and that no legislative mandate exists for departmental control of the Institute;¹⁰
- 13.3.3. The Committee must mend the Bill to clarify that the Dean's academic leadership extends to the education and training of all judicial officers, including magistrates of the regional and district courts, and consider providing for a Deputy Dean as academic head for lower court judicial officers;
- 13.3.4. The Committee must insert express provisions governing the removal and early termination of the appointment of the Dean, identifying whether the Council or the Judicial Service Commission is the responsible body;
- 13.3.5. The Committee must insert quarterly reporting obligations for the Dean to the Council, and reconsider the reporting lines in the proposed section 12(3) so that accountability runs primarily to the Council as the statutory governing body;
- 13.3.6. The Bill must clarify the reporting lines of the Institute's research and academic staff as between the Dean and the Executive Director;
- 13.3.7. The Bill must require clarity on the position of the Dean relative to the OCJ organisational structure, including the identity of the Dean's employer and the safeguards for judicial independence where a judge in active service is appointed;
- 13.3.8. The Committee must require an explanation of the purpose of the retitling of the Director as "Executive Director" and of the deletion of the "chief executive officer" designation from section 12(3), and consider aligning the statutory title with the designation in actual use; and

¹⁰ https://static.pmg.org.za/OCJ_Strat_Plan.pdf at page 12 - 13.

13.3.9. The Bill must clarify where the Dean and the Executive Director are required to act jointly or in consultation, such coordination should be limited to matters of institutional cooperation within their respective statutory mandates and does not create a relationship of supervision or subordination between the two offices, especially derogating the independence of the Dean, as a judicial officer.