

alaska judicial council

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Daniel L. Callahan
William T. Council
James D. Gilmore

CHAIRMAN, EX OFFICIO
Warren W. Matthews
Chief Justice
Supreme Court

MESSAGE FROM THE EXECUTIVE DIRECTOR

We are pleased to present the Alaska Judicial Council's Fourteenth Report to the Legislature and Supreme Court for the years 1987 and 1988. The Council reports biennially on its dual constitutional responsibilities of nominating candidates for judicial vacancies and of making reports and recommendations to the supreme court and legislature. The report also covers the statutory mandate to evaluate judges standing for retention and nominations for the Public Defender.

This report includes a brief narrative section that summarizes Council activities during 1987 and 1988, and a series of appendices. The appendices include a current listing of statutory and constitutional law affecting the Judicial Council, a log of judicial applicants, nominees and appointees, a log of all sitting judges and their retention election dates and summaries of Council procedures for judicial selection and for retention evaluation. Summaries of the Council's major reports during 1987 and 1988 are also included as appendices.

The Judicial Council welcomes your comments and questions about this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Harold M. Brown", with a horizontal line extending to the right.

Harold M. Brown
Executive Director



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U.S. Department of Justice
National Institute of Justice

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**FOURTEENTH REPORT: 1987-1988
TO THE
LEGISLATURE AND SUPREME COURT**

JUNE 1989

THE ALASKA JUDICIAL COUNCIL (1987-1988): MEMBERS & TERMS

CHAIRMAN

Warren W. Matthews
Chief Justice (1987-1990)

Jay A. Rabinowitz
Chief Justice (1984-1987)

ATTORNEY MEMBERS

Daniel L. Callahan (1988-1994)
William T. Council (1986-1992)
James D. Gilmore (1984-1990)
Barbara L. Schuhmann (1982-1988)

NON-ATTORNEY MEMBERS

Mary Jane Fate (1981-1987)
Hilbert J. Henrickson, M.D. (1985-1991)
Renee Murray (1983-1989)
Leona Okakok (1987-1993)

COUNCIL STAFF

1987-1988

Harold M. Brown, Present Executive Director
Francis L. Bremson, Past Executive Director
Teresa W. Carns, Senior Staff Associate
Marla N. Greenstein, Senior Staff Attorney
Josefa M. Zywna, Administrative Assistant



JUDICIAL COUNCIL MEMBERSHIP, 1989

Members, left to right (standing)

James D. Gilmore, Chief Justice Warren W. Matthews, Daniel L. Callahan
Harold M. Brown (Executive Director), Leona Okakok, William T. Council
Marla N. Greenstein (Sr. Staff Attorney), Dr. Hilbert J. Henrickson
(seated-left to right) Teresa W. Carns (Sr. Staff Associate), Renee Murray

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PART I
INTRODUCTION

Alaska's Constitution established the Alaska Judicial Council and required it to "make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years" (Article IV, Section 9). This is the Judicial Council's Fourteenth Report to the legislature and the supreme court since statehood. It summarizes the Council's activities in 1987 and 1988 in judicial selection and evaluation and in research. The report includes appendices that describe the Council's membership (Appendix B), judicial selection procedures (Appendix D), retention election evaluation procedures (Appendix G), and judicial nominations and appointments since statehood (Appendix F). Executive summaries from the major reports published by the Council are also included as Appendices K and L.

A. PURPOSES OF THE JUDICIAL COUNCIL

Delegates to Alaska's Constitutional Convention created the Judicial Council for two purposes: to nominate candidates for supreme and superior court judgeships, and to conduct studies and recommend improvements in the administration of justice. The legislature has since expanded the scope of Council activity to include nomination of court of appeals and district court judges and candidates for the state public defender's office, as well as evaluation of judicial performance of all judges and justices for retention election purposes. The supreme court, by court rule, has also requested the Council to assume varied responsibilities, including evaluation of pro tem judges and monitoring or evaluation of several experimental court programs. Appendix A provides constitutional and statutory references to all mandated Judicial Council functions.

B. COUNCIL MEMBERSHIP

Article IV, Section 8 of Alaska's Constitution establishes the membership of the Council as three non-attorney members appointed by the Governor, three attorney members appointed by the Board of Governors of the Alaska Bar

Association, and the Chief Justice of the Supreme Court of Alaska who serves, ex officio, as Chairman. The Constitution provides that all appointments shall be made "with due consideration to area representation and without regard to political affiliation." Non-attorney member appointments are subject to confirmation by a majority of both houses of the legislature, while attorney members are appointed by the Board of Governors of the Alaska Bar Association following advisory elections conducted among bar members within local judicial districts. Members are appointed for six-year staggered terms.

New members of the Council are Leona Okakok of Barrow and Dan Callahan of Fairbanks. Ms. Okakok was appointed by Governor Cowper to fill the non-attorney seat vacated by Mary Jane Fate of Fairbanks. Mr. Callahan was appointed by the Board of Governors to replace attorney Barbara Schuhmann of Fairbanks.

C. ORGANIZATION AND ADMINISTRATION OF THE COUNCIL

The Judicial Council is governed by bylaws adopted in concurrence with the constitutional provision that the Council shall act "...according to rules which it adopts" (Article IV, Section 8). The bylaws were revised substantially in both 1973 and 1983. Current bylaws are included as Appendix C.

Judicial Council activities are primarily funded by the legislature from the general fund. The Council may receive grants from other sources and conducted much of its past research with federal funding. In 1988, the federally-funded State Justice Institute made a grant to the Judicial Council for evaluation of Alaska's ban on plea bargaining and its relationship to presumptive sentencing. The two-year grant will result in a report and journal article to be published in mid-1990.

Prior to 1973 the Judicial Council was staffed either by the Court System or by contract. Since that time, the Council has maintained its own internal staff. The Council's staff currently includes the executive director, senior staff associate, senior staff attorney and administrative assistant. Additional temporary staff are employed as required for major research projects.

PART II

JUDICIAL SELECTION AND EVALUATION 1987-1988

A. JUDICIAL SELECTION

The Judicial Council filled six judicial vacancies during the past two years. Judges Van Hoomissen (Fairbanks Superior Court, 1987), Connelly (Fairbanks District Court, 1987), and Buckalew (Anchorage Superior Court, 1988) retired from active service. Judges Blair (Fairbanks Superior Court, 1988) and White (Anchorage District Court, 1987) resigned from the bench to go into private practice. A new district court seat was created by the legislature in Palmer in 1986; it was filled by permanent appointment in 1987.

The Council filled the vacancies in three separate meetings. Nominations for the vacancy created by Judge Van Hoomissen's retirement were made at the Council's March 20, 1987 meeting in Fairbanks. The Palmer nominations were made at the Council's meeting in Palmer on June 29, 1987. In July of 1988, the Council met for two days in Fairbanks and two days in Anchorage (July 14 - 18, 1988) to fill the four remaining judgeships (Anchorage Superior and District Courts; Fairbanks Superior and District Courts) as well as to evaluate pro tem judges and judges standing for retention in 1988. Appendix F gives the names of applicants, nominees and appointees for these positions, along with all other positions filled since statehood.

By law, the Council also makes nominations for the position of Public Defender when that position becomes vacant. Former Public Defender Dana Fabe was appointed to fill the Anchorage Superior Court seat left open by the retirement of Judge Buckalew. Nominations for her replacement were made at the Council's January 14, 1989 meeting in Anchorage.

B. JUDICIAL SELECTION PROCEDURES

The Bar survey was substantially revised in 1986. After using the revised survey form for the 1987 judicial selections, further minor revisions were made, including addition of a question regarding judicial temperament (see

Appendix E for copy of a sample survey form). The new form was used successfully in the 1988 survey for the four Anchorage and Fairbanks vacancies. The survey covered 38 separate applicants, the largest survey ever undertaken by the Council. The response rate, 43.4% of the active Alaska Bar Association members, was the highest obtained for superior or district court positions since the Council began conducting the selection surveys in 1980.

C. RETENTION EVALUATION OF JUDGES

Alaska's constitution and statutes require every judge to periodically stand for retention in the general elections. Judges appear on the ballot unopposed. Judges' terms vary depending on the court in which the judge serves.

Statutes enacted in 1975 authorize the Judicial Council to evaluate each justice or judge eligible to stand for retention. The Council must publicize its evaluation of each judge and must provide information about the evaluations to the Lieutenant Governor for inclusion in the Official Election Pamphlet. The Council may also make a recommendation about each judge.

Seventeen judges stood for retention in 1988. Two were supreme court justices, nine superior court judges, and six district court judges. Sixteen of the judges were found qualified and recommended for retention. Superior court judge Karl Johnstone was found unqualified and the Council recommended that he not be retained. This was the first time that the Council had found a superior court judge unqualified since it began evaluating judges in 1976. All judges, including Judge Johnstone were retained, although Judge Johnstone received about 10% fewer "yes" votes than did other superior and district court judges (see Appendix G, page G.28-34 for an analysis of the 1988 vote).

Evaluation methods ranged from surveys of all active Bar Association members and peace and probation officers to review of public records and financial conflict disclosure forms from the Alaska Public Offices Commission. Data from the Court System about peremptory challenges, types of cases handled, and cases in which judges were involved as parties or witnesses were reviewed. Up to 15 attorneys with direct experience before each judge were contacted and

asked to fill out a questionnaire assessing the judge's handling of one or more cases in which the lawyer had directly observed the judge. Public input was encouraged during the evaluation process through issuance of press releases to the print and broadcast media. The Council was aided by a Retention Consultant Committee made up of three judges and three attorneys from around the state, with a non-attorney Council member and a non-voting representative of the Alaska Peace Officers Association also participating.

The Council made several significant revisions to its procedures. The bar and peace and probation officer surveys were typeset and sent out in the form of a pamphlet, for greater ease of reading and use. Several of the questions were revised, and criteria were added to the appellate judge's questionnaire to make it more consistent with the trial judges' forms. Response rates for the surveys were about 50% for the Bar Association and 44% for the peace and probation officers. The rates were above average for mail surveys.

Publicity for the Council's recommendations also varied somewhat from prior years. In addition to the press releases, Official Election Pamphlet materials and paid advertisements describing the Council's recommendations for all judges, paid advertisements specifically recommending Justices Rabinowitz and Burke were published. These ads were in response to a campaign against Justice Rabinowitz that was undertaken shortly before the election.

Changes to the Council's retention evaluation procedures were discussed and adopted in 1988 and early 1989. The major differences in the 1990 evaluations will be a longer period of time for the evaluation process (starting in January preceding the general election rather than April); the use of specific, narrative statements giving the Council's reasons for its action if non-retention is recommended; and development of a pilot project using citizens' committees to evaluate judges and advise the Council of their findings. The Council has also asked the legislature to fund biennial evaluations of all judges. The proposed expansion of the evaluations would provide a more reliable foundation for the Council's recommendations during the election and would give judges a tool for improving their performance between elections.

D. PERFORMANCE EVALUATION OF PRO TEM JUDGES

The supreme court amended Administrative Rule 23 in April of 1986 stating new guidelines for appointments of pro tem judges and creating a mechanism to evaluate the fitness of pro tem judges for continued appointment. Pro tem judges are retired judges who may accept temporary assignments by the supreme court to the bench, and who do not stand for retention election. The revised rule's requirement of biennial evaluation was intended to provide greater accountability.

The court established a special committee to draft guidelines for the pro tem evaluations and asked the Judicial Council to provide staff. Members of the committee included two attorneys (James Gilmore, Judicial Council representative and Stanley Ditus, Alaska Bar Association Board of Governors representative), two judges (Third Judicial District Presiding Judge Douglas Serdahely and District Court Judge Glen Anderson), and retired Judge Thomas Stewart as Chairman. The committee met during 1986 and 1987, and sent its final guidelines to the supreme court in July, 1987. The American Bar Association selected Alaska's pro tem evaluation as one of its five judicial performance evaluation pilot projects and provided technical assistance to the committee during its tenure.

Three pro tem judges were evaluated by the supreme court in 1988, with the presiding judges and the Judicial Council submitting information and evaluations to the court. Brief surveys were circulated to members of the Bar in districts in which Judges Stewart, Hanson and Moody had heard cases during the preceding two years. The survey results were tabulated and analyzed by the supreme court. The Council reviewed the survey results and other information and recommended that all three judges be found fit to continue their pro tem service.

PART III
RESEARCH AND RECOMMENDATIONS

A. INTRODUCTION

Alaska's constitution requires the Judicial Council to "conduct studies for the improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature." Since statehood the Council has responded to this mandate by recommending changes to the justice system that have included establishment of the Public Defender agency, adoption of presumptive sentencing and revisions of the court system's fee structure. Two appendices to this report list the Council's major recommendations (Appendix I) and its publications since statehood (Appendix J).

B. MAJOR STUDIES, 1987 AND 1988

The Council's major published report during this period was News Cameras in the Alaska Courts: Assessing the Impact (January, 1988). In addition, the Council released three other studies: a report on the use of the three-judge panel in presumptive sentencing cases, a report on Natives in confinement under the authority of Department of Corrections, and a report on fish and game enforcement. The latter two reports were requested by the legislature in language tied to the Council's FY'88 budget.

1. News Cameras in the Alaska Courts: Assessing the Impact

The supreme court adopted a rule change in mid-1985 that eliminated the requirement that a defendant consent to news camera coverage of criminal court hearings. The court asked the Judicial Council to evaluate the effects of the rule change on the media and the courts. The original one-year term of the experimental rule was extended for an additional one and one-half years to permit analysis of the effects of the rule on coverage of two major murder trials.

The study found that courts had a good working relationship with the media. Initial problems with the experimental plan were resolved by formal and informal arrangements between local courts and media representatives. After the plan took effect, the number of court-related newsclips on the nightly news in Anchorage increased substantially. Newspapers also increased the number of in-court photos used; stories accompanying in-court photos were longer than other stories on similar topics.

The Council found few significant problems with the new media plan. The Council recommended that the media plan should incorporate procedures allowing the media to challenge a denial of camera access. Other recommendations included replacing "requests" for coverage by the media with "notice" of coverage, making sketch artists subject to standards established by the plan, giving judges the discretion to consider the possible effects of pretrial publicity in other cases than the case being covered, and broadening the scope of the plan to include a wider range of cases. The full executive summary from the report is Appendix K of this report.

The Council's recommendations were circulated by the supreme court to Alaska Bar Association members for comment. The experimental rule has been extended, based on the Council's findings to allow time for the final rule revisions.

2. Fish and Game Enforcement

The legislature requested that the Council study the issues surrounding enforcement of fish and game regulations and report back at the beginning of the 1988 session. After extensive interviewing and review of proposed legislation, earlier research, agency policy statements, and related records, the Council prepared a summary of general comments and suggestions. The Council found that many of the difficulties stemmed from the multi-agency jurisdiction over the resources, with the Department of Fish and Game, the Department of Natural Resources, and the Department of Environmental Conservation all responsible for issuing permits and enforcing regulations. Because of these overlapping responsibilities and because of the nature of the issues, the Council found that in most instances the required solutions were political and beyond its province. In addition, the Council found that

resources for enforcement of regulations were inadequate and that it was not in a position to recommend policies regarding the allocation of enforcement resources. The Council's findings are Appendix M of this report.

3. Native Alaskans in Confinement

A second request from the legislature in 1988 was that the Council work with the Department of Corrections to assess the problems experienced by Native Alaskans in confinement. The Council reported to the legislature that 34% of the state's prison population was Alaska Native (an additional 12% of the prison population was Black, Hispanic, or Asian. Sixteen percent of Alaska's population was Native, and 6.9% was other non-Caucasians). Fully 14.4% of the Native Alaskans in confinement were confined for Sexual Assault in the First Degree; another 15% had been convicted of other sexual offenses. The Council found that the Department of Corrections was responsive to the concerns expressed by various groups and had implemented a number of programs, including affirmative hiring plans, to address the issues raised. The Council concluded that it could not adequately evaluate the quality or successfulness of the programs for Natives, but suggested that any evaluation would have to be sensitive to the cultural and linguistic differences between Natives and other groups.

4. Three-Judge Panel Sentences

The Council responded to increasing interest about the decisions of the three-judge panel by undertaking a brief analysis of the published decisions of the panel. The 68 decisions reviewed included all decisions made between May of 1985 and November of 1987. The panel heard cases referred by judges who believed that manifest injustice would result if the presumptive sentence were imposed in that case. The 68 cases referred were about 2% of all sentenced cases during the period studied. The Council found that sentences were reduced or made non-presumptive in 75% of the referred cases. In the other 25%, either the original sentence was imposed or the defendant's sentence was higher than the presumptive sentence. About one-third (33.9%) of the cases heard by the panel involved a sexual offense. About one-quarter (23.5%) were first-degree robbery cases, 20.6% were first-degree assault offenses and 8.8% were manslaughter convictions.

C. STATUS OF EARLIER COUNCIL RECOMMENDATIONS

The Council's Thirteenth Biennial Report contained recommendations for a new court rule on grand juries and for revision of rules for the use of televised hearings. Both the recommended rules and revisions have been adopted by the supreme court. The grand jury rule (Criminal Rule 6.1) became effective January 15, 1989 and the revisions to the televised hearings rule (Criminal Rule 38.2) became effective July 15, 1988.

The Council recommended that televised arraignments and other hearings be used in all courts. By the end of 1988, the Department of Public Safety in cooperation with the court and Department of Corrections had installed cables, remodeled the Sixth and C Street jail, and made most of the other arrangements necessary to have a video arraignment system working in Anchorage by the summer of 1989. The Department of Public Safety has also set aside funds for a video arraignment system in Juneau.

D. RESEARCH IN PROGRESS

The Council undertook two major research projects in 1987, an assessment of rural justice needs and programs, and an evaluation of the interactions between the state Attorney General's ban on plea bargaining and presumptive sentencing. The Council also worked with the court system on designing a follow-up study of the Anchorage civil case "Fast Track" program, and with the court and state and local bar associations on a survey of bar members. Each of these projects will be worked on or completed during the next two years.

1. Rural Justice

Judicial Council staff designed a two-year project that would, in the first year, compile all previous research in the area of rural justice, list all programs that have addressed rural justice issues, assess their relative success or failure, and evaluate recent community-based dispute resolution in Alaska's villages. The second year will be devoted to developing pilot programs with different communities that will address their fundamental justice needs.

The Council has received research assistance from the Department of Community and Regional Affairs staff and from University of Alaska student interns. A proposal for additional funding is pending with the State Justice Institute. The added funds would enable the bibliographic and evaluation work to be completed more expeditiously, and would provide travel funds and staff assistance for the pilot programs to be developed during the second phase of the project.

2. Plea Bargaining/Presumptive Sentencing

Funding for the evaluation of the ban on plea bargaining and its interaction with presumptive sentencing came from the State Justice Institute. The two-year project began in July of 1988; the final report will be completed by June of 1990. The project is staffed by the Council with the Institute for Social and Economic Research at the University of Alaska acting as the research consultant.

The evaluation has two major components: an analysis of the history of the plea bargaining ban since its promulgation in 1975, and a cross-sectional study of felony case dispositions between 1984 and 1987. The historical analysis will rely on interviews and secondary sources of data to describe the development of the ban, its relationships with other major criminal justice policies, and the effects of other events such as increased revenues during the early 1980s on the ban. The cross-sectional study will merge data from the prosecutor, police, and corrections computerized management information systems and analyze charge reductions and dismissals, sentences, and other aspects of case dispositions. The cross-sectional study will also include a more in-depth look at a sample of 1,700 cases to determine the timing of charge reductions and the influence of additional factors on sentences.

3. Anchorage "Fast Track" Program

The Anchorage Superior Court adopted an experimental program under Civil Rule 16.1 in 1985 to speed up the processing of civil cases by assigning relatively simple cases to a special group of judges. "Fast Track" cases had time limits, notice provisions and discovery rules that did not apply to cases that were more complex (complex cases were defined as those expected to take

more than ten days at trial). The Council analyzed 1984 case disposition data to provide a baseline for evaluation of the new rule. The median disposition time was 555 days.

The Council will be working with the court to compile and analyze data from more recent years to determine whether the median disposition times have been reduced. Variables studied will be those included in the baseline data together with bankruptcy status of the case and whether the case was assigned to the Fast Track program. The Council and court may also talk with attorneys and court personnel, and look at related data such as length of trials to assess the success of the program.

4. Bar Membership Survey

The Council initiated planning in 1987 for a survey of Alaska Bar Association members. The survey will question Bar members about their demographic characteristics such as age, gender, and location of practice; about the economic conditions of their practices, including salaries paid to associates and nonlawyer personnel; about their views of bar association activities and continuing legal education courses; and about perceived barriers to applying for judicial positions. Both the court system and the Alaska Bar Association Board of Governors have committed funds to the project; the Tanana Valley and Juneau Bar Associations have also made financial commitments. Completion of the survey will require additional funding from other sources. The Council hopes to compile and analyze the data during 1989.

E. ADMINISTRATION

The Judicial Council's responsibilities in 1987 and 1988 extended beyond its judicial selection and evaluation and research functions. Participation in legal system planning and monitoring committees, technical assistance to the public and other governmental bodies, and liaison with the legislature all required commitment of Council time and resources. These additional activities are briefly described below. This section also covers staff changes, bylaws revisions and other administrative matters that arose during 1987 and 1988.

1. Committee Participation

The Council holds membership on three justice system groups: the Criminal Justice Working Group, the Video Arraignments Task Force, and the University of Alaska Anchorage Justice Center Advisory Board. The Criminal Justice Working Group is comprised of the heads of executive branch agencies involved with justice issues, and the directors of the court system and Judicial Council. It meets periodically to resolve questions that affect the justice system as a whole. The Video Arraignments Task Force includes the agencies participating in the development of a video arraignment system for Anchorage. Through its membership, the Council monitors the process and provides technical assistance and information. The UAA Justice Center Advisory Board is oriented to providing suggestions to the Justice Center staff about justice system research issues.

2. Technical Assistance

The Judicial Council is called upon to provide assistance and information to a wide variety of community groups and public interests. In 1987 and 1988, staff spent about nine hours each month answering questions from other agencies, referring citizens to appropriate agencies, advising nonprofit citizen's groups about the justice system, and providing information to organizations in other states about Alaska's judicial selection and retention methods or about the Council's research. In addition, staff responded to questions from citizens and applicants or judges about the selection and retention evaluation processes.

3. Legislative Liaison

The legislature looks to the Council for information about a wide range of topics. During the past two years, legislators, their staffs or the legislative research agencies called on Council staff for testimony and written materials about presumptive sentencing, the three-judge panel, plea bargaining, misdemeanor sentencing, the grand jury, tort reform, minorities, and rural justice. In addition, the Council regularly responds to requests for information about judicial selection and retention evaluation of judges.

4. Staff Changes

The Council's former Executive Director, Francis L. Bremson, left in January of 1987 for a position with the federal courts. The Council's Director since April of 1987 has been Harold M. Brown. Mr. Brown served as the state's Attorney General from mid-1985 to December, 1986; as Alaska Bar Association President in 1984-1985; and as partner of a Ketchikan law firm from 1977 to 1985.

5. Bylaws Changes

The Council adopted a new bylaw in March of 1987 relating to access to Council records. The bylaw is Article XI, and is included in Appendix C. In January of 1989 the Council approved a revision of Article VIII, Section (C)3, that made Council payment of travel expenses for judicial and Public Defender applicants permissive rather than dependent upon available funding. No other revisions are currently proposed.

APPENDIX A

CONSTITUTIONAL AND STATUTORY REFERENCES TO THE JUDICIAL COUNCIL

**CATALOGUE OF CURRENT LAW
RELATING TO
ALASKA JUDICIAL COUNCIL**

ALASKA CONSTITUTION:

ARTICLE IV, SECTION 5	Duty to nominate supreme court justices and superior court judges.
ARTICLE IV, SECTION 6	Retention.
ARTICLE IV, SECTION 7	Judicial vacancy.
ARTICLE IV, SECTION 8	Composition of Judicial Council and manner of appointment of members, necessity of four votes.
ARTICLE IV, SECTION 9	Duty to conduct studies to improve the administration of justice.
ARTICLE IV, SECTION 13	Compensation of Judicial Council members to be prescribed by law.
ARTICLE XV, SECTION 16	First Judicial Council.

ALASKA STATUTES:

01.10.055	Residency requirements for judicial applicants.
09.25.110-120; (39.51.020)	Inspection and copying of public records, including applications for public employment; (compliance without penalty).
15.13.010	Judges to file retention reports with APOC.
15.15.030(10)	Election ballot for judicial retention.
15.15.450	Certification of retention vote.
15.35.030	Approval/rejection of supreme court justice.
15.35.040	Retention filing date for supreme court.
15.35.053	Approval/rejection of court of appeals judge.
15.35.055	Retention filing date for court of appeals.
15.35.060	Approval/rejection of superior court judge.
15.35.070	Retention filing date for superior court.

ALASKA STATUTES CONTINUED:

- 15.35.080 Determination of judicial district in which to seek approval.
- 15.35.100 Approval/rejection of district court judge.
- 15.35.110 Retention filing date for district court.
- 15.58.020(2) Election pamphlet must contain retention election information from Judicial Council.
- 15.58.030(g) August 7 deadline for judges to file photograph and statement for OEP.
- 15.58.050 Information must be filed with lieutenant governor no later than August 7 of the year in which the general election will be held and should include a description of any public reprimand, public censure or suspension received during the evaluation period by a judge standing for retention.
- 15.58.060(c) Judicial Council does not have to pay for space in election pamphlet.
- 18.85.030 Duty of Council to nominate public defender candidates.
- 18.85.050 Duty to nominate public defender candidates as soon as possible if vacancy occurs mid-term.
- 22.05.070 Qualifications of supreme court justices.
- 22.05.080 Duty to nominate supreme court justice candidates; vacancy occurs 90 days after election at which rejected or for which judge failed to file for retention.
- 22.05.100 Duty to provide information to public on supreme court justice on retention.
- 22.05.130 Restrictions on supreme court justice.
- 22.07.040 Qualifications of court of appeals judges.
- 22.07.060 Duty to provide information to public on court of appeals judge on retention.
- 22.07.070 Duty to nominate court of appeals judge candidates; vacancy occurs 90 days after election at which rejected or for which judge failed to file for retention.
- 22.07.080 Restrictions on court of appeals judges.

ALASKA STATUTES CONTINUED:

- 22.10.090 Qualifications of superior court judges.
- 22.10.100 Duty to nominate superior court candidates; vacancy occurs 90 days after election at which rejected or for which judge failed to file for retention.
- 22.10.120 Council to designate judicial district in which appointee to reside and serve.
- 22.10.150 Duty to provide information to public on superior court judge on retention.
- 22.10.180 Restrictions on superior court judges.
- 22.15.160 Qualifications of district court judges.
- 22.15.170 Duty to nominate district court judge candidates; vacancy occurs 90 days after election at which rejected or for which judge failed to file for retention.
- 22.15.195 Duty to provide information to the public on district court judge on retention.
- 22.15.210 Restrictions on district court judges.
- 22.20.037 Judicial Council employees subject to state laws regarding leave, retirement, travel; annual salary survey.
- 22.25.010 Copy of declaration of judge incapacity to be filed with Council.
- 22.30.011 Responsibilities of the Commission on Judicial Conduct include public or private reprimand of a judge or referral to the Supreme Court for suspension or removal.
- 22.30.010 Council members may not serve on both Council and Commission on Judicial Conduct simultaneously.
- 24.20.075 Legislative recommendations of the Council to be reviewed by the Code Revision Commission.
- 24.55.330 Judicial Council subject to jurisdiction of Ombudsman.
- 39.05.035 Commission of office.
- 39.05.045 Oath of office.

39.05.070	Uniformity of appointment process.
39.05.080	Appointment procedure.
39.05.100	Qualifications for appointment.
39.05.200	Definitions.
39.20.110	Per Diem.
39.20.120	Allowable expenses.
39.20.130	Mileage.
39.20.140	Travel costs and travel out-of-state.
39.20.150	Advances.
39.20.160	Regulations.
39.20.170	Construction.
39.20.180	Transportation and per diem reimbursement of council members.
39.20.185	Per diem--when not entitled to.
39.20.190	Definitions.
39.20.200-.350	Leaves of absence.
39.23.240	State Officers Compensation Commission.
39.25.080	Public records.
39.25.090	State Personnel Act.
39.25.100	Classified service.
39.25.110(2), (10)	Staff exempt from coverage of State Personnel Act; Council members exempt.
39.25.178	Employee political rights.
39.27.011(a), Sec. 6	Cost of living increases for ch. 87 SIA 1985 employees of judicial branch.
39.30; 39.35; 39.45	Insurance and supplemental employee benefits; public employees' retirement system; public employees' deferred compensation program (refer to statutes).

ALASKA STATUTES CONTINUED:

39.50.010-.200(b) (15)

Report of financial and business interests.

44.62.310

Requirement that Council meetings be open to the public.

RESOLUTIONS

S. Res. 5am (8/16/85)

Council to study grand jury.

RULES OF COURT

Adm.R.23(a-b) (9/15/86)

Pro tem judge performance evaluation by Council.

44.62.312

State policy regarding meetings.

ADMINISTRATIVE CODE

2 AAC 37.010

Judicial retirement for incapacity.

STATE ADMIN. REGULATIONS

7602-7684

Travel and moving.

APPENDIX B

JUDICIAL COUNCIL MEMBERSHIP

**MEMBERS OF THE
ALASKA JUDICIAL COUNCIL**

<u>COUNCIL MEMBERS</u>	<u>APPOINTMENT EFFECTIVE</u>	<u>EXPIRATION DATE</u>
WARREN W. MATTHEWS CHIEF JUSTICE ALASKA SUPREME COURT 303 "K" STREET, ROOM 515 ANCHORAGE, ALASKA 99501 264-0618	10/1/87	9/30/90
WILLIAM T. COUNCIL ATTORNEY MEMBER 424 N. FRANKLIN STREET JUNEAU, ALASKA 99801 586-1786 (Ofc) 586-6523 (Res)	2/24/86	2/24/92
LEONA OKAKOK NON-ATTORNEY MEMBER P.O. BOX 957 BARROW, ALASKA 99723 852-2611/EXT. 234 (Ofc) 852-7650 (Res)	7/31/87	5/18/93
JAMES D. GILMORE ATTORNEY MEMBER 310 "K" STREET, SUITE 308 ANCHORAGE, ALASKA 99501 279-4506 (Ofc)	2/24/84	2/24/90
DR. HILBERT J. HENRICKSON NON-ATTORNEY MEMBER 3612 TONGASS ROAD KETCHIKAN, ALASKA 99901 225-5144 (Ofc) 225-5858 (Res)	8/13/85	5/18/91
RENEE MURRAY NON-ATTORNEY MEMBER 605 W. 42ND AVENUE ANCHORAGE, ALASKA 99503 561-1725 (Ofc) 561-8796 (Res)	8/08/83	5/18/89
DANIEL L. CALLAHAN ATTORNEY MEMBER 613 CUSHMAN STREET FAIRBANKS, ALASKA 99701 456-1136 (Ofc) 452-8867 (Res)	2/24/88	2/24/94

JUDICIAL COUNCIL ATTORNEY AND NON-ATTORNEY MEMBERS SERVE TERMS OF SIX YEARS. THE CHIEF JUSTICE SERVES A THREE-YEAR TERM.

HISTORICAL ROSTER OF ALASKA JUDICIAL COUNCIL MEMBERS

<u>POSITION</u>	<u>RESIDENCE</u>	<u>APPOINTMENT EFFECTIVE</u>	<u>EXPIRATION OF TERM</u>
<u>CHAIRMAN¹ (CURRENT TERM EXPIRES 9/30/90)</u>			
Chief Justice Buell A. Nesbett		11/29/59	06/18/70
Chief Justice George F. Boney		06/18/70	11/16/72
Chief Justice Jay A. Rabinowitz		11/16/72	11/16/75
Chief Justice Robert Boochever		11/16/75	11/16/78
Chief Justice Jay A. Rabinowitz		11/16/78	11/17/81
Chief Justice Edmond W. Burke		11/16/81	09/30/84
Chief Justice Jay A. Rabinowitz		10/01/84	09/30/87
Chief Justice Warren W. Matthews		10/01/87	09/30/90
<u>ATTORNEY MEMBERS</u>			
<u>CURRENT TERM EXPIRES 2/24/92</u>			
E.E. Bailey ²	Ketchikan	02/24/59	02/24/62
E.E. Bailey	Ketchikan	02/24/62	02/24/68
Frank M. Doogan ³	Juneau	10/15/68	04/73
Michael L. Holmes ⁴	Juneau	05/73	02/24/74
Michael L. Holmes	Juneau	02/24/74	02/24/80
Walter L. Carpeneti ⁵	Juneau	02/24/80	02/81
James B. Bradley ⁴	Juneau	04/81	02/24/86
William T. Council	Juneau	02/24/86	02/24/92
<u>CURRENT TERM EXPIRES 2/24/94</u>			
Robert A. Parrish ²	Fairbanks	02/24/59	02/24/64
William V. Boggess ⁵	Fairbanks	02/24/64	04/64
Michael Stepovich ⁴	Fairbanks	05/64	02/24/70
Michael Stepovich	Fairbanks	02/24/70	02/24/76
Michael Stepovich ³	Fairbanks	02/24/76	08/78
Marcus R. Clapp ⁴	Fairbanks	08/78	02/24/82
Mary E. Greene ³	Fairbanks	02/24/82	04/82
Barbara L. Schuhmann ⁴	Fairbanks	07/82	02/24/88
Daniel L. Callahan	Fairbanks	02/24/88	02/24/94

HISTORICAL ROSTER OF ALASKA JUDICIAL COUNCIL MEMBERS

<u>POSITION</u>	<u>RESIDENCE</u>	<u>APPOINTMENT EFFECTIVE</u>	<u>EXPIRATION OF TERM</u>
<u>ATTORNEY MEMBERS (CONTINUED)</u>			
<u>CURRENT TERM EXPIRES 2/24/90</u>			
Raymond E. Plummer ^{2, 3}	Anchorage	02/24/59	09/26/61
Harold Butcher ⁴	Anchorage	11/61	02/24/66
George F. Boney ⁵	Anchorage	02/24/66	09/68
Lester W. Miller, Jr. ⁴	Anchorage	10/15/68	02/24/72
Eugene F. Wiles ³	Anchorage	02/24/72	03/75
Joseph L. Young ⁴	Anchorage	04/75	02/24/78
Joseph L. Young	Anchorage	02/24/78	02/24/84
James D. Gilmore	Anchorage	02/24/84	02/24/90
<u>NON-ATTORNEY MEMBERS</u>			
<u>CURRENT TERM EXPIRES 5/18/91</u>			
Roy J. Walker ²	Fairbanks	05/18/59	05/18/61
John Cross	Kotzebue	05/18/61	05/18/67
Thomas K. Downes ³	Fairbanks	05/18/67	Mid-1968
V. Paul Gavora ⁴	Fairbanks	10/15/68	05/18/73
Thomas J. Miklautsch ³	Fairbanks	05/28/73	12/10/74
Robert H. Moss ⁴	Homer	12/10/74	05/18/79
Robert H. Moss	Homer	05/18/79	05/18/85
Dr. Hilbert J. Henrickson	Ketchikan	08/13/85	05/18/91
<u>CURRENT TERM EXPIRES 5/18/93</u>			
Jack E. Werner ²	Seward	05/18/59	05/18/63
Jack E. Werner	Seward	05/18/63	05/18/69
Ken Brady	Anchorage	06/28/69	05/18/75
Ken Brady	Anchorage	05/18/75	05/18/81
Mary Jane Fate	Fairbanks	05/18/81	05/18/87
Leona Okakok	Barrow	07/31/87	05/18/93

HISTORICAL ROSTER OF ALASKA JUDICIAL COUNCIL MEMBERS

<u>POSITION</u>	<u>RESIDENCE</u>	<u>APPOINTMENT EFFECTIVE</u>	<u>EXPIRATION OF TERM</u>
<u>NON-ATTORNEY MEMBERS (CONTINUED)</u>			
<u>CURRENT TERM EXPIRES 5/18/89</u>			
Dr. William M. Whitehead ^{2, 3}	Juneau	5/18/59	12/6/62
Charles W. Kidd ^{4, 3}	Juneau	4/63	1/64
H. Douglas Gray ⁴	Juneau	4/64	5/18/65
H.O. Smith ⁶	Ketchikan	5/18/65	6/65
Pete Meland ⁴	Sitka	1/66	5/18/71
Oral Freeman ³	Ketchikan	11/22/71	1/73
Lew M. Williams, Jr. ⁴	Ketchikan	4/73	5/18/77
John Longworth	Petersburg	5/18/77	5/18/83
Renee Murray	Anchorage	8/8/83	5/18/89

¹ The Judicial Council initially submitted nominations for the position of Chief Justice; there was no limitation on the Chief Justice's term. Chief Justice Nesbett and Chief Justice Boney were nominated and appointed in this manner. The Constitution was amended on August 25, 1970 to provide for the election of the Chief Justice by the Justices of the Supreme Court for a three-year term; the Amendment further provided that a Chief Justice may not be re-elected to consecutive terms.

² Appointed to initial staggered term.

³ Resigned during term.

⁴ Appointed to complete unexpired term.

⁵ Resigned during term to apply for judicial office.

⁶ Denied legislative confirmation.

APPENDIX C

CURRENT COUNCIL BYLAWS

BYLAWS OF THE ALASKA JUDICIAL COUNCIL

ARTICLE I POLICIES

Section 1. Concerning Selection of Justices, Judges, and Public Defender.

The Judicial Council shall endeavor to nominate for judicial office and for public defender those judges and members of the bar whose character, temperament, legal ability and legal experience are demonstrated to be of the highest quality. The Council shall actively encourage qualified members of the bar to seek nomination to such offices, and shall endeavor to prevent political considerations from outweighing fitness in the judicial and public defender nomination processes.

Section 2. Concerning Retention of Judges.

Pursuant to the provisions of Alaska Statutes Title 15 and 22, the Council may recommend the retention in judicial office of incumbent justices and judges found to be qualified through such means of judicial performance assessment as deemed appropriate; and may recommend against retention of justices and judges found to be not qualified through such survey and assessment processes. The Council shall endeavor to prevent political considerations from outweighing fitness in the judicial retention process.

ARTICLE II MEMBERSHIP

Section 1. Appointment; Limitation of Term.

Members of the Council shall be appointed and shall serve their terms as provided by law; however, a member whose term has expired shall continue to serve until his/her successor has been appointed. Council members may be appointed to successive terms; however, no Council member should serve more than two full terms or one unexpired term and one full term.

Section 2. Effective Date of Appointment.

(A) Non-Attorney Members. The effective date of a non-attorney member's appointment to the Council shall be the day following the effective date of the vacancy in the seat to which appointed, if appointed prior to such date; or the date of or specified in the gubernatorial letter of appointment, if appointed

after such date. Non-attorney members shall have full voting rights effective upon said appointment date, unless and until denied confirmation by the legislature.

(B) Attorney Members. The effective date of an attorney member's appointment shall be the day following the effective date of the vacancy in the seat to which appointed, if appointed prior to such date; or the date of or specified in the letter of appointment from the Board of Governors of the Alaska Bar Association, if appointed after such date.

(C) Chief Justice. The effective date of the Chief Justice's appointment is the effective date of his or her election to the post of Chief Justice.

Section 3. Oath of Office.

The Chairman of the Council shall administer the oath of office to each new member, following a determination by the Council that the person selected has met the qualifications for membership as set forth by law.

Section 4. Vacancies.

At least 90 days prior to the expiration of the term of any Council member, or as soon as practicable following the death, resignation, or announced intent to resign of any Council member, the Executive Director shall notify the appropriate appointing authority and request that the appointment process be initiated immediately to fill the existing or impending vacancy.

Section 5. Disqualification.

(A) Candidacy of Council Member. Any member of the Judicial Council who seeks appointment to a judicial office or the office of public defender must resign from the Council as of the date of the application and should not accept reappointment to the Council for a period of two years thereafter.

(B) Attendance at Regular Meetings. Council members shall attend all regular meetings of the Council unless excused by the Chairman for good cause. If a member is absent without good cause for two consecutive meetings, the Chairman shall formally request the resignation of such member.

Section 6. Expenses; Compensation.

Council members shall be reimbursed for travel and other expenses incurred while on Council business and may receive compensation as otherwise provided by law.

**ARTICLE III
OFFICERS**

Section 1. Officers Specified.

(A) The officers of the Council shall be the Chairman, Vice-Chairman and Executive Director.

(B) Chairman. The Chief Justice of the Alaska Supreme Court is the Chairman of the Alaska Judicial Council.

(C) Vice-Chairman. The Vice-Chairman will be the member of the Judicial Council whose current term will first expire.

(D) Executive Director. The Council by concurrence of four or more of its members may designate an Executive Director to serve at the pleasure of the Council.

Section 2. Duties and Powers.

(A) Chairman. The Chairman shall preside at all meetings of the Council and perform such other duties as may be assigned by the Council. In the absence of an Executive Director or Acting Director, the Chairman will serve as Acting Director.

(B) Vice-Chairman. The Vice-Chairman shall preside at meetings of the Council in the absence of the Chairman. The Vice-Chairman shall perform such other duties as usually pertain to the office of the Chairman when the Chairman is unavailable to perform such functions.

(C) Executive Director. The Executive Director shall keep a record of all meetings of the Council; shall serve as chief executive officer of the Council; shall be responsible to the Council for planning, supervising and coordinating all administrative, fiscal and programmatic activities of the Council; and shall perform such other duties as may be assigned. The Executive Director may receive compensation as prescribed by the Council and allowed by law.

(D) Acting Director. In the event of the incapacity, disability, termination or death of the Executive Director, the Council may appoint an Acting Director, and may impose such limits on the authority of said Acting Director as it deems advisable, until such time as a new Executive Director can be found, or until such time as the incapacity of the Executive Director can be cured. Should the Council choose not to appoint an Acting Director or otherwise fail to appoint, the Chairman of the Council will, ex officio, serve as Acting Director until a replacement can be found.

**ARTICLE IV
MEETINGS**

Section 1. Public Sessions; Public Notice.

All meetings of the Judicial Council shall be open to the public, except as hereinafter specifically provided. At least three days prior to any such meeting to be held in Anchorage, Fairbanks, or Juneau, public notice of date, time, and place of the meeting and of general topics to be considered shall be given through paid advertisements in major newspapers of general circulation in all three cities; for meetings to be held elsewhere in the state, paid public notice shall be provided at least three days in advance in the newspaper or newspapers of general circulation in such other areas as well as in the newspapers of general circulation in Anchorage, Fairbanks, and Juneau. When the notice requirements of this section are determined by the Council to be unreasonable, the Council is authorized to meet after such other period and utilizing such other form of public notice as it deems reasonable under the circumstances.

Section 2. Participation by Telecommunications.

It shall be the policy of the Judicial Council to meet in person, where practicable. When, however, in the opinion of the Chairman, circumstances exist warranting a telephone conference among members between meetings, or the personal attendance of one or more Council members at a regularly scheduled meeting has been excused for good cause, a member or members may participate in regular or special meetings by teleconference subject to the following requirements: that reasonable public notice under Article IV, Section 1, and adequate notice to members under Article IV, Section 8, have been given; that at least one member is present at the time and location publicly announced for any such meeting; and that adequate teleconference or other electronic communication means are available. Teleconferencing may be used to establish quorums, receive public input and, if all voting individuals have a substantially equal opportunity to evaluate all testimony and evidence, to vote on actions.

Section 3. Regular Meetings.

The Council shall hold not fewer than two meetings per year, at times designated by the Council, to consider problems which may affect the Council and concern the administration of justice in the State of Alaska.

Section 4. Special Meetings.

When a vacancy in the office of justice, judge, or public defender actually occurs or is otherwise determined to be lawfully impending, the Chairman shall call a special meeting of the Judicial Council within the time-frame required by law. The Chairman shall also call a special meeting of the Council upon the request of four or more members to consider such business as may be specified in the request; at such meeting, the Council may also consider such other business as may come before the Council with the consent of four or more of the members present. The Chairman shall fix the time and place of such meeting not more than 30 days from the date of receipt of such request.

Section 5. Public Hearings.

The Council may hold public hearings on all matters relating to the administration of justice as it deems appropriate and in such places as it determines advisable.

Section 6. Executive Sessions.

The Council may determine as permitted by law whether its proceedings will be conducted in executive session. This determination must be made in a session open to the public and the decision to hold an executive session must be supported by the concurrence of four or more members. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session, unless auxiliary to the main question. No action may be taken in executive session.

Section 7. Place of Meeting.

Insofar as may be practicable, meetings should be held in the area of the State most directly affected by the subject matter under consideration, or elsewhere as determined advisable.

Section 8. Notice of Meeting: Waiver.

Written notice of each meeting shall be mailed to all members of the Council as far in advance as practicable but in any event not less than five days before the date fixed for each meeting. Presence at a meeting of the Council without objection shall constitute waiver of notice.

**ARTICLE V
VOTING AND QUORUM**

Section 1. Voting.

All members of the Council present shall be entitled to vote on all matters coming before the Council, except that the Chairman shall only vote when to do so would change the result. The Council shall act by concurrence of four or more members. All votes shall be taken in public session. Any member can vote in the affirmative or negative or abstain on any matter; however, a member who wishes to abstain shall indicate his or her intention to do so prior to the question being called and shall disclose the reasons for such proposed abstention.

Section 2. Conflict of Interest; Disqualification.

No member may vote on any matter in which he or she has a substantial personal or pecuniary interest. In addition, any member of the Council who believes that his or her personal or business relationship to any applicant for a judicial or public defender vacancy or to any judge or justice being evaluated for retention purposes might prevent such member from fairly and objectively considering the qualifications of such person, or might otherwise involve a conflict of interest or create the appearance thereof, shall disclose the circumstances of such actual or apparent conflict to the Council and shall disqualify himself or herself from discussing or voting on the nomination or retention of said person.

Section 3. Quorum.

Four members of the Council shall constitute a quorum for the transaction of business at any meeting.

Section 4. Rules of Order.

Robert's Rules of Order Revised will govern the meetings of the Council insofar as they do not conflict with these bylaws.

**ARTICLE VI
COMMITTEES**

Section 1. Standing Committees.

The Council shall establish such standing committees from time to time as may be deemed appropriate for the efficient and effective conduct of Council business. Standing committee assignments shall be made annually by the Chairman. The function

of each committee shall be to monitor Council activities between meetings, to provide guidance and advice to staff, and to report to the Council at regularly scheduled meetings regarding the committees' areas of oversight. Each committee shall include at least one attorney and one non-attorney member. To the maximum extent possible, Council members should be permitted to serve on the committee or committees of their choice. The following standing committees shall be established:

- (A) Finance, audit, and administration;
- (B) Programs and research;
- (C) Judicial and public defender selection and retention;
- (D) Legislation.

Section 2. Ad Hoc Committees.

The Chairman may direct the establishment of ad hoc committees from time to time as may be deemed appropriate. Ad hoc committees shall report to the Council on their activities and may make recommendations for Council action.

**ARTICLE VII
RESEARCH AND INVESTIGATION**

The Council shall initiate studies and investigations for the improvement of the administration of justice. These studies and investigations may be conducted by the entire Council, by any of its members or by its staff as directed by the Council. The Council may hire researchers and investigators and may contract for the performance of these functions. A topic for any study or investigation may be proposed at any meeting of the Council by any member without prior notice.

**ARTICLE VIII
PROCEDURE FOR SUBMITTING JUDICIAL AND PUBLIC DEFENDER
NOMINATIONS TO THE GOVERNOR**

Section 1. Notice of Vacancy; Recruitment.

Whenever a vacancy to be filled by appointment exists, or is about to occur, in any supreme court, court of appeals, superior court, or district court of this state, or in the office of public defender, the Council, by mail or by such other publication means as may be appropriate, shall notify all active members of the Alaska Bar Association of the vacancy, and shall invite applications from qualified judges or other members of the bar of this state for consideration by the Council for recommendation to

the Governor. Council members may also encourage persons believed by such members to possess the requisite qualifications for judicial or public defender office to submit their applications for consideration and may cooperate with judicial selection committees of the state or local bar associations or of such other organizations as may be appropriate in the identification and recruitment of potential candidates.

Section 2. Application Procedure.

The Council shall establish and publish forms and procedures for the solicitation, evaluation, and nomination of candidates for vacancies in the offices of justice, judge, and public defender. Each applicant for a judicial or chief public defender position shall obtain and complete an application for appointment provided by the Council and shall comply with all the requirements therein. Such application may request such information as deemed appropriate to a determination of qualification for office, including but not limited to the following: family and marital history; bar and/or judicial discipline history; criminal record; involvement as a party in litigation; credit history; physical and mental condition and history; academic and employment history; military record; and representative clientele.

Section 3. Evaluation and Investigation of Applicants' Qualifications.

(A) Judicial Qualifications Polls. The Judicial Council may conduct judicial qualifications polls in such form and manner as may be prescribed by the Council and cause the same to be circulated among the members of the Alaska Bar Association. If the Alaska Bar Association conducts a qualifications poll satisfactory to the Council, the Council may recognize such poll. The Judicial Council may conduct such other surveys and evaluations of candidates' qualifications as may be deemed appropriate.

(B) Investigation. The Council and its staff shall investigate the background, experience, and other qualifications of an applicant under consideration for a judicial or a public defender vacancy, and may call witnesses before it for such purposes.

(C) Candidate Interviews; Expenses. The Council may, when and where it deems desirable, conduct a personal interview with one, some, or all applicants for any judicial or public defender vacancy. Candidates requested to appear before the Council for such interviews shall appear in person; when, however, a candidate for good cause shown is unable to personally attend such interview, the Council may arrange for an interview by telephone or other electronic communication means with such applicant, and such alternative interview as may be appropriate, including but not limited to interview of such candidate by a committee of the Council at such other time and place as may be convenient.

A candidate's expenses for judicial or Public Defender office are that candidate's responsibility. The Council may reimburse candidates for travel expenses in the Council's discretion. The cost of a telephone interview requested by the Council shall be paid by the Council.

Section 4. Nomination Procedure; Recommendation of Best Qualified Candidates.

The Council shall carefully consider whether or not each person under consideration possesses the qualities prescribed in Article I, Section 1, hereof, and shall determine whether each such person is so qualified. The Council shall then submit a panel of names in alphabetical order to the Governor of the candidates it considers most qualified, provided such panel includes two or more names; if fewer than two applicants are determined to be qualified, the Council shall decline to submit any names and shall re-advertise for the position.

ARTICLE IX
REVIEW OF JUDICIAL PERFORMANCE

Section 1. Retention Election Evaluation.

Prior to each general election in which one or more justices or judges has expressed his or her intention to be a candidate for retention election, the Council shall conduct evaluations of the qualifications and performance of such justices and judges and shall make the results of such evaluations public. Such evaluations may be based upon the results of a judicial performance survey conducted among all active members of the Alaska Bar Association. Such evaluations may also be based upon such other surveys, interviews, or research into judicial performance as may be deemed appropriate including, but not limited to, any process which encourages expanded public participation and comment regarding candidate qualifications.

Section 2. Recommendation.

Based upon such evaluative data, the Council may recommend that any justice or judge either be retained or not be retained. The Council may actively support the candidacy of every incumbent judge recommended to be retained, and may actively oppose the candidacy of every incumbent judge whom it recommends not be retained.

Section 3. Judicial Performance Evaluation.

The Council may conduct such additional evaluations of judges, other than at the time of retention elections, at such times and in such a manner as may be appropriate, and make the results of such additional evaluations public.

**ARTICLE X
EXTRA-COUNCIL COMMUNICATIONS**

All written communications between a Council member and any other person or organization regarding the qualifications of any candidate or the performance of any judicial officer should be forwarded to all other members; all oral communications regarding such matters should be shared with other members without unreasonable delay.

Persons who wish to communicate with the Council should be advised of the Council's bylaws and policies regarding confidentiality and extra-Council communications. Council members should encourage persons who wish to communicate support for or concerns about particular candidates to the Council to do so in writing.

All communications and deliberations among Council members regarding the qualifications of any candidate or the performance of any judicial officer shall be kept confidential in accordance with law and Council bylaws.

**ARTICLE XI
ACCESS TO COUNCIL RECORDS**

Section 1. Public Records.

All records of the Judicial Council, unless confidential or privileged, are public as provided in AS 09.25.110. The public shall have access to all public records in accordance with AS 09.25.120.

Public Records include:

1. Council bylaws and policy statements;
2. Minutes of Council meetings;
3. Final Council reports;
4. Financial accounts and transactions;
5. Library materials; and
6. All records other than those excepted in this bylaw.

Section 2. Right to Privacy.

Materials that, if made public, would violate an individual's right to privacy under Art. I, Section 22 of the Alaska Constitution shall be confidential. Confidential materials are not open for public inspection and include:

1. Solicited communications relating to the qualifications of judicial or public defender vacancy applicants, or judicial officers;
2. Unsolicited communications relating to the qualifications of a judicial or public defender applicant or judicial officer, where the source requests confidentiality;
3. Those portions of the "application for judicial appointment" and "judge questionnaire" that reveal sensitive personal information entitled to protection under law;
4. Investigative research materials and internal communications that reveal sensitive personal information entitled to protection under law; and
5. Contents of Council employees' and members' personnel records, except that dates of employment, position titles, classification and salaries of present and/or past state employment for all employees are public information. In addition, application forms, resumes and other documents submitted to the Judicial Council in support of applications for any position with the Council grade 16 or above are public information.

Section 3. Deliberative Process.

Materials that are part of the deliberative process of the Judicial Council, including those prepared by Council employees, are privileged and confidential if their disclosure would cause substantial and adverse effects to the Council that outweigh the need for access. These materials generally include drafts and computations prior to final document approval, internal memoranda conveying personal opinions, and other pre-decisional documents not incorporated into public records under this bylaw.

Section 4. Other Information.

Information required or authorized to be kept confidential by law is not a public record.

Section 5. Privileged Communications.

Communications that are legally privileged are not public information. These communications include but are not limited to communications between the Council and its attorney made for the purpose of facilitating the rendition of professional legal services to the Council.

Section 6. Release of Information.

If a record contains both disclosable and nondisclosable information, the nondisclosable information will be deleted and the disclosable information will be disclosed. Information that otherwise would not be disclosable may be released to the subject of that information or to the public if it is in a form that protects the privacy rights of individuals and does not inhibit candid debate during the decision-making process.

**ARTICLE XII
OFFICE OF JUDICIAL COUNCIL**

The Council shall designate an office of the Council in such location as it deems appropriate. Records and files of the Council's business shall be maintained by the Executive Director at this location.

**ARTICLE XIII
APPROPRIATIONS**

The Council will seek such appropriations of funds by the Alaska Legislature and other funding sources as it deems appropriate to carry out its constitutional and statutory functions.

**ARTICLE XIV
AMENDMENTS**

These bylaws may be altered or amended by the Judicial Council by concurrence of four or more members, provided reasonable notice of proposed amendments has been provided to all Council members.

These bylaws adopted by the Alaska Judicial Council, this 15th day of February 1966; amended November 10, 1966; June 18, 1970; March 30, 1972; February 15, 1973; May 26, 1983; December 10, 1986; March 19, 1987; January 14, 1989.

APPENDIX D

JUDICIAL SELECTION PROCEDURES

ALASKA JUDICIAL COUNCIL

JUDICIAL SELECTION PROCEDURES

The Alaska Judicial Council is a constitutionally created state agency that evaluates the applications of persons seeking judicial appointment and nominates at least two qualified applicants to the Governor for appointment to fill existing or impending vacancies. The following is a brief summary of the judicial selection process—the steps that an applicant must take in order to be considered for a judicial appointment and the steps that are taken by the Judicial Council to insure that applicants are qualified for appointment.

A. The Application Process

Applicants must first complete the Judicial Council's "Application for Judicial Appointment," which consists of a questionnaire and two appendices. These appendices request: (1) a physician's certification of the applicant's good health based upon the results of a complete physical examination, preferably one conducted within six months prior to the date of application; and (2) a legal writing sample of five to ten pages in length, prepared solely by the applicant within the past five years.

Applicants must submit eight copies of the completed questionnaire and writing sample to the Judicial Council on or by the date set forth in the notice of vacancy. Applicants should have the physician return the signed original medical certificate directly to the Judicial Council by the date set forth in the notice of vacancy. The Council will make the additional copies.

Applicants are also encouraged to review the Code of Judicial Conduct (Alaska Rules of Court) during the evaluation period.

B. The Evaluation Process

Once the application deadline has passed, the Judicial Council begins its evaluation process.

1) The Bar Poll

An independent organization, Policy Analysts, Ltd. (PAL) surveys all active members of the Alaska Bar Association. The Bar Survey asks Bar members to rate each candidate on a five point scale [1 (Poor) to 5 (Excellent)] on 6 criteria: Professional competence, integrity, judicial temperament, fairness, and suitability of experience and overall professional performance. Survey respondents indicate whether their numerical ratings are based upon direct professional experience, other personal contacts, or reputation. Respondents may also decline to evaluate any candidate due to insufficient knowledge. Respondents with direct professional experience are asked to give brief narrative answers to three additional questions regarding the applicant's legal ability, comportment, diligence, and other qualities. All respondents are invited to offer narrative comments which could assist the Council in its evaluation.

Completed survey forms are returned directly to PAL, which prepares a statistical analysis of all survey responses, including average ratings for each quality for each candidate by range (i.e., excellent, good, acceptable, deficient, poor). Although respondents do not rate candidates in comparison to each other, PAL does prepare an analysis showing relative quantitative rankings among candidates (e.g., 2nd highest average rating out of 10 candidates). Comments from the bar survey are not shared with the individual applicant. They are distributed only to Council members. Where one or two isolated comments regarding substantive concerns are received, such comments are ordinarily brought to the candidate's attention, with the statement that the Council may wish to inquire about such matters at the interview. Council staff may also be asked to investigate and obtain documentation about such comments.

After all applicants have been notified of the survey results, the survey report is released to the public. Survey results are used by the Council members in the evaluation process and each applicant interviewed has the opportunity to discuss the survey results with the Council during the interview. [See below, (4)]

2) Letters of Reference

Letters of reference are also solicited by the Council in its evaluation process. These reference letters are treated as confidential and may not be viewed by the applicants. The Council does not forward solicited letters of reference to the Governor for nominees. Letters of reference not solicited by the Council may be forwarded to the Governor.

3) Investigation of Applicants

The Council may verify applicants' educational and employment history and investigate medical, criminal, civil, credit and professional discipline history. Supreme Court Order 489, effective January 4, 1982, authorizes the Council to review bar applications and bar discipline records. During the course of its investigation, the Judicial Council may also seek information on candidate qualifications from such other public or private groups or individuals as may be deemed appropriate. Information gathered during the Council's investigation is used only for the purpose of evaluating fitness for judicial appointment.

4) Interviews

Following its review of applications, survey data and other information, the Council schedules candidate interviews. As a general rule, the Council prefers to interview all candidates; however, the Council may decline to interview any candidate who it finds to be unqualified. The Council may also decide not to interview candidates who have been recently interviewed for other vacancies, where the Council believes it has sufficient information upon which to base its evaluations. The Council will ultimately review and vote on the qualifications of all applicants, whether or not interviewed.

The final stage of the evaluation process is a 1/2 hour applicant interview with the full Council. Applicants invited to interview are asked about their judicial philosophy and are given an opportunity to respond to or explain any information of importance gathered during the investigation.

Following these interviews, the Council submits as nominees to the Governor, the names of two or more of those candidates deemed most qualified. Thereafter, the applicants are notified and the Council's nominations are made public. The Governor then has 45 days to appoint a nominee from the list to fill the judicial vacancy.

C. Timing of Judicial Selection Procedures

From the time the Council receives notice of a vacancy to the final applicant interviews, the judicial selection process usually takes a minimum of 10 weeks. Once the names of the nominees have been submitted, the Governor has up to 45 days to appoint.

The outline below describes the timing of the major procedures followed during the judicial selection process:

- 1) Notice of the vacancy is received by the Council.
- 2) Within one week, the position is announced to all members of the Bar Association and the application process begins.
- 3) The deadline for receiving applications is approximately two to three weeks after the announcement of the position. The deadline for the current vacancy is _____.
- 4) The names and biographies of applicants are made public immediately after the filing deadline.
- 5) The Judicial Council begins its investigation process, requesting letters of reference, disciplinary histories for each applicant, and such other records as may be deemed appropriate.
- 6) The Bar Survey is mailed out to all active members of the Alaska Bar within three days following the close of applications.

- 7) Bar members have approximately three weeks to complete and return the Bar Survey. The results are tabulated and analyzed within 14 days following the survey return deadline.
- 8) The candidates are advised of the bar survey results and the report is made public.
- 9) Applicant files are screened and applicants selected are advised of the time, date and place of their interviews.
- 10) Interviews are ordinarily held within the next 30 days. Interviews for the current judicial vacancy are scheduled for _____ in _____.

Council members vote following the interviews. The Governor and the candidates are immediately notified of the Council's vote and a press release is then issued.

- 11) The following day, the names of nominees are formally submitted to the Governor, along with copies of nominees' applications and a copy of the Bar Survey. Letters of reference not solicited by the Council may also be sent to the Governor. The Governor then has up to 45 days to make an appointment from the list.

ALASKA JUDICIAL COUNCIL

PROCEDURES ON THE DAY OF THE INTERVIEW

PRIOR TO THE INTERVIEW:

1. Interview times are scheduled as far in advance as possible. Candidates should advise the Council immediately if a conflict requires a change in schedule.

2. Interviews are generally conducted in Anchorage, in the Supreme Court Conference Room, Fifth Floor, 303 "K" Street, Anchorage, Alaska; interviews may, however, be conducted in other locations as deemed appropriate by the Council.

3. Candidates should plan to arrive 5-10 minutes prior to the interview time scheduled. A Council staff person will be stationed in the reception area. Please provide this staff person with a telephone number where you can be reached between 3:00 and 5:00 p.m. on the day of the interview, so that you may be personally notified of the Council's decision.

THE INTERVIEW:

1. Interviews are scheduled at thirty minute intervals.

2. Interviews are ordinarily conducted in executive session, although an applicant may request that the interview be conducted in public session.

3. During the interview, Council members may ask questions about an applicant's reputation, background, experience and judicial philosophy.

FOLLOWING THE INTERVIEW:

1. Following completion of all interviews, the Council meets in executive session to evaluate all candidates.

2. The Council votes its nominations in public session. The approximate time of the vote is published in the newspaper several days prior to the interviews. Generally, the Council returns to public session to vote within two hours after the last interview.

3. The Council telephones the Governor's office to advise of the names of candidates nominated.

4. The Council telephones all applicants to advise of its decision.

5. The Council issues a press release regarding its nominations. (Steps 3, 4, & 5 all occur within approximately one hour following the Council's vote.)

6. On the day following the interview and nomination, formal notice of Council action is sent to each applicant and the Governor. A copy of each nominee's application and the Bar Survey are included with the Council's letter of nomination. Letters of reference not solicited by the Council may also be included.

Please notify the Council if you have any further questions about the selection process.

APPENDIX E

CURRENT BAR SURVEY FORM FOR JUDICIAL SELECTION

(Sample Pages)



alaska judicial council

1031 W. Fourth Avenue, Suite 301, Anchorage, Alaska 99501 (907) 279-2526
FAX (907) 276-5046

EXECUTIVE DIRECTOR
Harold M. Brown

NON-ATTORNEY MEMBERS
Hilbert J. Hennickson, M.D.
Renee Murray
Leona Orakok

March 17, 1989

ATTORNEY MEMBERS
Daniel L. Callahan
William T. Council
James D. Gilmore

CHAIRMAN, EX OFFICIO
Warren W. Matthews
Chief Justice
Supreme Court

Dear Member of the Alaska Bar Association:

Attached is the bar survey for applicants for the two current judicial vacancies: Anchorage Superior Court and Juneau District Court.

The Council encourages narrative comments on each candidate. In addition to the space for comments at the bottom of each page, additional pages have been provided for your use. If these are not sufficient please attach separate pages as needed. Comments from the bar survey are not shared with the individual applicant. They are distributed only to Council members. When comments regarding substantive concerns are received, such comments are ordinarily brought to the candidate's attention, with the statement that the Council may wish to ask the candidate about the subject of the comment.

Due to the need to fill these vacancies quickly, we ask that you complete and return the survey form no later than April 5, 1989 to Policy Analysts, Ltd., 2001 Banbury Circle, Anchorage, Alaska 99504.

Sincerely,

A handwritten signature in dark ink, appearing to read "Harold M. Brown", with a long horizontal line extending to the right.

Harold M. Brown
Executive Director

Introduction

Validation of Responses

A self-addressed, stamped envelope is enclosed for the return of your completed evaluation. Place the completed survey inside the envelope marked "Confidential" and seal the envelope. Then use the self-addressed stamped envelope, being sure to sign in the space provided. The return envelope **MUST BE SIGNED** in order for your survey to be counted. [In the last bar survey, 22 unsigned surveys were excluded from the tabulation.]

Confidentiality

All responses will be aggregated solely for statistical analysis. The identity of individual respondents will remain strictly confidential. Responses to the demographic questions are also confidential. Demographic data is critical to our analysis; strict guidelines are followed to protect the identities of all respondents.

Return Date

Please complete and return this survey no later than April 5, 1989, to:
Policy Analysts, Ltd., 2001 Banbury Circle, Anchorage, Alaska 99504.

* * * * *

Demographic Questions

1. Type of Practice
Which of the following best describes your practice? (Circle One)
 1. Private, solo
 2. Private, office of 2-5 attorneys
 3. Private, office of 6 or more attorneys
 4. Private corporate employee
 5. State judge or judicial officer
 6. Government
 7. Public service agency or organization
 8. Other (specify) _____
2. Length of Practice
How many years have you been practicing law? _____ years
3. Length of Residence
How many years have you lived in Alaska? _____ years
4. Cases Handled
The majority of your practice consists of (Circle One)
 1. Prosecution
 2. Mainly criminal
 3. Mixed criminal and civil
 4. Mainly civil
 5. Other (specify) _____
5. Location of Practice
In which judicial district is most of your work conducted? (Circle One)
 1. First district
 2. Second district
 3. Third district
 4. Fourth district

Please consider each of the following candidates. If you do not have sufficient knowledge to evaluate a candidate, please go to the next candidate.

Basis for Evaluation

Which of the following best describes the basis for your evaluation of this candidate? (Check One)

- Direct Professional Experience Reputation
 Other Personal Contacts Insufficient knowledge to evaluate this candidate (go to next candidate)

Please rate the candidate on each of the following qualities by circling the number that best represents your evaluation. Candidates should be evaluated on each quality separately. Use the ends of the scale as well as the middle. The tendency to rate an applicant "excellent" or "poor" on every trait should be avoided since each person has strengths and weaknesses. If you cannot rate the candidate on any one quality, leave that one blank.

1. Professional Competence	1	2	3	4	5
	POOR	DEFICIENT	ACCEPTABLE	GOOD	EXCELLENT
	Lacking in knowledge and/or effectiveness.	Below-average performance occasionally.	Possesses sufficient knowledge and required skills.	Unusually knowledgeable and effective.	Meets the highest standards for knowledge and effectiveness.
2. Integrity	1	2	3	4	5
	POOR	DEFICIENT	ACCEPTABLE	GOOD	EXCELLENT
	Unconcerned with propriety and/or appearance; or acts in violation of codes of professional conduct.	Appears lacking in knowledge of codes of professional conduct and/or unconcerned with propriety or appearance at times.	Follows codes of professional conduct; respects propriety and appearance of propriety at all times.	Above-average awareness of ethics; holds self to higher standards than most.	Outstanding integrity and highest standards of conduct
3. Fairness	1	2	3	4	5
	POOR	DEFICIENT	ACCEPTABLE	GOOD	EXCELLENT
	Often shows strong bias for or against some persons or groups.	Displays, verbally or otherwise, some bias for or against groups or persons.	Free of substantial bias or prejudice towards groups or persons.	Above-average ability to treat all persons and groups impartially.	Unusually fair and impartial to all groups.
4. Judicial Temperament	1	2	3	4	5
	POOR	DEFICIENT	ACCEPTABLE	GOOD	EXCELLENT
	Often lacks compassion, humility or courtesy	Sometimes lacks compassion, humility or courtesy.	Possesses appropriate compassion, humility and courtesy.	Above-average compassion, humility and courtesy	Outstanding compassion, humility and courtesy.
5. How Suitable Is This Candidate's Experience for This Particular Vacancy?	1	2	3	4	5
	POOR	DEFICIENT	ACCEPTABLE	GOOD	EXCELLENT
	Has little or no suitable experience	Has less than suitable experience.	Has suitable experience.	Has highly suitable experience.	Has the most suitable experience possible
6. Overall Professional Performance	1	2	3	4	5
	POOR	DEFICIENT	ACCEPTABLE	GOOD	EXCELLENT
	Seldom meets standards of the profession	Occasionally falls short of professional standards.	Consistently meets professional standards	Often exceeds professional standards	Meets highest standards of the profession.

Comments: The Council is particularly interested in your assessment of the candidate's:

- Professional Skills (legal reasoning, knowledge of the law, legal experience, writing and speaking skills);
- Temperament (courtesy, compassion, freedom from arrogance, humility, self-control, sense of humor, tolerance);
- Diligence (Conscientiousness, promptness, effective management skills).

*Please be candid. All comments are confidential. Use additional comment space on pages 16, 17, 25 and 26.

APPENDIX F

JUDICIAL APPOINTMENT LOG

HISTORICAL LOG OF JUDICIAL APPOINTMENTS*
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
7/16-17/59	Supreme Court (3 positions)	William V. Boggess Robert Boochever J. Earl Cooper Edward V. Davis John H. Dimond John S. Hellenthal Walter Hodge Verne O. Martin M.E. Monagle Buell A. Nesbett Thomas B. Stewart	William V. Boggess Robert Boochever John H. Dimond Walter Hodge M.E. Monagle Buell A. Nesbett	John H. Dimond Walter Hodge Buell A. Nesbett
10/12-13/59	Superior - Ketchikan	Floyd O. Davidson James M. Fitzgerald Verne O. Martin E.P. McCarron Thomas B. Stewart James von der Heydt Walter E. Walsh	E.P. McCarron Thomas B. Stewart James von der Heydt Walter E. Walsh	James von der Heydt Walter E. Walsh
10/12-13/59	Superior - Nome	James M. Fitzgerald Hubert A. Gilbert Verne O. Martin James von der Heydt	Hubert A. Gilbert Verne O. Martin	Hubert A. Gilbert

* The Judicial Council has attempted to compile an accurate listing of applicants, nominees and appointees to judgeship since statehood. Please notify the Council if you know of changes or additions that should be made to this list.

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
10/12-13/59	Superior - Anchorage	Harold J. Butcher Henry Camarot J. Earl Cooper Al Cottis Roger Cremo Edward V. Davis James M. Fitzgerald Everett W. Hepp Peter J. Kalamarides Verne O. Martin Stanley McCutcheon Ralph E. Moody Buell A. Nesbett Raymond Plummer William W. Renfrew Thomas B. Stewart James von der Heydt	Harold J. Butcher J. Earl Cooper James M. Fitzgerald Stanley McCutcheon Edward V. Davis	Edward V. Davis J. Earl Cooper James M. Fitzgerald
10/12-13/59	Superior - Fairbanks	H.O. Arend William V. Boggess James M. Fitzgerald Everett W. Hepp Verne O. Martin Warren A. Taylor Warren Wm. Taylor James von der Heydt	H.O. Arend William V. Boggess Everett W. Hepp Warren A. Taylor James von der Heydt (if not Juneau)	H.O. Arend Everett W. Hepp

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
3/12-13/60	Supreme Court Justice	Judge H.O. Arend William V. Boggess Edward V. Davis Vern Forbes Verne O. Martin John Maude Robert McNealy M.E. Monagle Ralph E. Moody Warren A. Taylor Judge James von der Heydt	Judge H.O. Arend William V. Boggess M.E. Monagle	H.O. Arend
4/15/60	Superior - Fairbanks	Henry Camarot Roger G. Connor Verne O. Martin Jay A. Rabinowitz William H. Sanders David Talbot Warren A. Taylor George M. Yeager	Jay A. Rabinowitz Warren A. Taylor	Jay A. Rabinowitz
3/17/62	Superior - Anchorage	Clifford Groh Dorothy A. Haaland Ralph E. Moody William H. Sanders	Clifford Groh Ralph E. Moody	Ralph E. Moody
5/23-24/63	Superior - Anchorage	Burton C. Biss Wayne D. Calderwood Judge Hubert A. Gilbert R. Everett Harris Judge Jay A. Rabinowitz James K. Tallman William Taylor	Burton C. Biss Judge Hubert A. Gilbert	Hubert A. Gilbert

**HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT**

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
10/17-18/63	Superior - Nome	Peter J. Kalamarides William H. Sanders L. Eugene Williams George T. Yates	William H. Sanders L. Eugene Williams George T. Yates	William H. Sanders
1/7-8/65	Superior - Fairbanks	Clyde C. Houston Eugene V. Miller Mary Alice Miller J.H. Shortell, Jr. Howard P. Staley Warren Wm. Taylor James E. Fisher Judge William H. Sanders Thomas B. Stewart J. Gerald Williams	Mary Alice Miller Eugene V. Miller Warren Wm. Taylor	Warren Wm. Taylor
Jan. 1965	Supreme Court Justice	W.C. Arnold William V. Boggess Harold J. Butcher Edward V. Davis Judge Ralph E. Moody Judge Jay A. Rabinowitz Judge William H. Sanders	W.C. Arnold William V. Boggess Edward V. Davis Judge Ralph E. Moody Judge Jay A. Rabinowitz	Jay A. Rabinowitz
11/9-10/66	Superior - Juneau	Seaborn J. Buckalew, Jr. James R. Clouse, Jr. Thomas B. Stewart J. Gerald Williams	Thomas B. Stewart J. Gerald Williams	Thomas B. Stewart
06/12/67	Superior - Anchorage (General)	James R. Clouse, Jr. Eben H. Lewis Robert N. Opland Judge William H. Sanders J. Gerald Williams	James R. Clouse, Jr. Eben H. Lewis J. Gerald Williams	Eben H. Lewis

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MIG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
6/1-2/67	Superior - Anchorage (Family)	Harris R. Bullerwell Harold J. Butcher James R. Clouse, Jr. Duane K. Craske Dorothy A. Haaland Judge William H. Sanders J. Gerald Williams L. Eugene Williams Virgil D. Vochoska Verne O. Martin	Harold J. Butcher James R. Clouse, Jr.	Harold J. Butcher
12/5/67	Superior - Ketchikan	Harris R. Bullerwell Duane K. Craske Benjamin T. Delahay, Jr. Judge Hubert A. Gilbert Helen L. Simpson John M. Stern, Jr. Judge William H. Sanders	Duane K. Craske Judge Hubert A. Gilbert John M. Stern, Jr.	Hubert A. Gilbert
2/19-20/68	Superior - Anchorage	James R. Clouse, Jr. Lloyd R. Duggar Verne O. Martin C.J. Occhipinti Judge William H. Sanders Karl L. Walter, Jr. George M. Yeager	C.J. Occhipinti Karl L. Walter, Jr.	C.J. Occhipinti

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MTG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
10/15/68	Supreme Court Justice (2 positions)	Russell E. Arnett William V. Boggess George F. Boney Judge Harold J. Butcher Warren C. Christianson Charles J. Clasby Roger G. Connor Edward V. Davis Benjamin T. Delahay Judge James M. Fitzgerald Wendell P. Kay Judge Ralph E. Moody Robert A. Parrish James K. Tallman William Talmadge	William V. Boggess George F. Boney Charles J. Clasby Roger G. Connor Judge James M. Fitzgerald	George F. Boney Roger G. Connor
11/1/68	District - Juneau	Hartley Crosby William J. Hurley, Jr. W. Bruce Monroe Irwin Ravin	Hartley Crosby W. Bruce Monroe	Hartley Crosby W. Bruce Monroe
11/1/68	District - Sitka	Peter M. Page Irwin Ravin	Peter M. Page	Peter M. Page
11/1/68	District - Fairbanks	Hugh Connelly Benjamin T. Delahay, Jr. William J. Hurley, Jr. Elinor B. Levinson Mary Alice Miller W. Bruce Monroe Irwin Ravin William G. Richards Arthur T. Robson Warren A. Taylor	Hugh Connelly Mary Alice Miller William G. Richards Arthur T. Robson	Hugh Connelly Mary Alice Miller Arthur T. Robson

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MTG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
11/1/68	District - Nome	Maurice Kelliher	Maurice Kelliher	Maurice Kelliher
11/1/68	District - Anchorage	John R. Beard Joseph J. Brewer Richard B. Colins Keifer L. Gray James A. Hanson William J. Hurley, Jr. Paul B. Jones Elinor B. Levinson John D. Mason Peter M. Page Nissel A. Rose Warren A. Tucker Dorothy D. Tyner Virgil D. Vochoska L. Eugene Williams Robert K. Yandell	Joseph J. Brewer James A. Hanson Paul B. Jones Warren A. Tucker Dorothy D. Tyner Virgil D. Vochoska L. Eugene Williams	Joseph J. Brewer James A. Hanson Paul B. Jones Warren A. Tucker Dorothy D. Tyner
11/1/68	District - Ketchikan	Keifer L. Gray William J. Hurley, Jr. Henry C. Keene, Jr. Irwin Ravin	Henry C. Keene, Jr.	Henry C. Keene, Jr.
11/1/68	District - Bethel	Nora Guinn	Nora Guinn	Nora Guinn
4/30/70	Chief Justice	Justice George F. Boney Justice John H. Dimond Judge C.J. Occhipinti	Justice George F. Boney Justice John H. Dimond	Justice George F. Boney

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MTG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
6/18/70	Supreme Court Justice	Robert C. Erwin L.S. Kurtz, Jr. Judge Eben H. Lewis Judge C.J. Occhipinti Robert A. Parrish Judge William H. Sanders	Robert C. Erwin L.S. Kurtz, Jr. Judge Eben H. Lewis Robert A. Parrish	Robert C. Erwin
9/16-19/70	Superior - Sitka	Edmond W. Burke Victor D. Carlson Warren C. Christianson M. Ashley Dickerson Judge James A. Hanson Henry C. Keene, Jr. James Nordale Thomas E. Schulz J.H. Shortell, Jr. James K. Singleton, Jr.	Edmond W. Burke Victor D. Carlson Judge James A. Hanson Thomas Schulz James K. Singleton, Jr.	Victor D. Carlson

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
9/16-19/70	Superior - Anchorage	Seaborn J. Buckalew, Jr. Edmond W. Burke Victor D. Carlson M. Ashley Dickerson William Erwin Marvin Frankel Dorothy A. Haaland Robert E. Hammond Judge James A. Hanson Peter J. Kalamarides Denis Lazarus James Merbs James Nordale Robert N. Opland David Pree Ernest Rehbock Judge William H. Sanders Thomas E. Schulz Sylvia Short J.H. Shortell, Jr. James K. Singleton, Jr. Benjamin O. Walters, Jr.	Seaborn J. Buckalew, Jr. Edmond W. Burke Victor D. Carlson William Erwin Judge James A. Hanson Peter J. Kalamarides Robert N. Opland Thomas E. Schulz James K. Singleton, Jr.	James K. Singleton, Jr.
9/16-19/70	Superior - Kodiak	Edmond W. Burke Victor D. Carlson M. Ashley Dickerson Denis Lazarus Roy H. Madsen James Nordale David Pree Judge William H. Sanders Thomas E. Schulz J.H. Shortell, Jr. James K. Singleton, Jr. Benjamin O. Walters, Jr.	Edmond W. Burke Victor D. Carlson Roy H. Madsen Judge William H. Sanders Thomas E. Schulz J.H. Shortell, Jr. James K. Singleton, Jr.	Edmond W. Burke

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MTG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
9/16-19/70	Superior - Kenai	Seaborn J. Buckalew, Jr. Edmond W. Burke Victor D. Carlson M. Ashley Dickerson Robert E. Hammond Judge James A. Hanson Denis Lazarus William Erwin James Nordale David Pree Judge William H. Sanders Thomas E. Schulz Sylvia Short J.H. Shortell, Jr. James K. Singleton, Jr. Benjamin O. Walters, Jr.	Seaborn J. Buckalew, Jr. Edmond W. Burke Victor D. Carlson William Erwin Judge James A. Hanson Judge William H. Sanders Thomas E. Schulz James K. Singleton, Jr.	James Hanson
9/16-19/70	Superior - Fairbanks	Seaborn J. Buckalew, Jr. Victor D. Carlson Judge Hugh Connelly M. Ashley Dickerson Judge Mary Alice Miller James Nordale Judge William H. Sanders Thomas E. Schulz J.H. Shortell, Jr. James K. Singleton, Jr. Gerald van Hoomissen	Seaborn J. Buckalew, Jr. Victor D. Carlson Judge Mary Alice Miller James K. Singleton, Jr. Gerald van Hoomissen	Gerald van Hoomissen
11/9/70	District - Sitka	Harris R. Bullerwell Roger W. DuBrock Hal R. Horton Thomas B. Payne	Harris R. Bullerwell Roger W. DuBrock Hal R. Horton Thomas B. Payne	Roger W. DuBrock

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MIG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
11/9/70	District - Wrangell	Harris R. Bullerwell Roger W. DuBrock Edith A. Glennon Hal R. Horton John D. Mason Thomas B. Payne	Harris R. Bullerwell Roger W. DuBrock Hal R. Horton	Harris R. Bullerwell
11/9/70	District - Kodiak	Louis Agi Roger W. DuBrock Edith A. Glennon Hal R. Horton John D. Mason Thomas B. Payne	Roger W. DuBrock Hal R. Horton Thomas B. Payne	Hal R. Horton
11/9/70	District - Anchorage	Louis Agi Edith A. Glennon Hal R. Horton John D. Mason Thomas B. Payne William Tull Virgil D. Vochoska L. Eugene Williams	Hal R. Horton John D. Mason Virgil D. Vochoska L. Eugene Williams	John D. Mason
11/28/70	Public Defender	Dick L. Madson Herbert D. Soll	Dick L. Madson Herbert D. Soll	Herbert D. Soll
12/16/71	Supreme Court Justice	Robert Boochever Judge James M. Fitzgerald James Lock Roy H. Madsen	Robert Boochever Judge James M. Fitzgerald Roy H. Madsen	Robert Boochever
11/16/72	Supreme Court Justice	Edgar P. Boyko Judge James M. Fitzgerald Eugene V. Miller Judge Ralph E. Moody	Judge James M. Fitzgerald Judge Ralph E. Moody	James M. Fitzgerald

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
7/8/72	District - Kodiak	Louis E. Agi Benjamin T. Delahay, Jr. Edith A. Glennon Thomas F. Keever Francis van T. Kernan Thomas B. Payne Andrew R. Sarisky Virgil D. Vochoska	Louis Agi Thomas F. Keever Francis van T. Kernan Virgil D. Vochoska	Virgil D. Vochoska
2/15-17/73	Superior - Anchorage	Seaborn J. Buckalew, Jr. Judge Paul B. Jones Peter J. Kalamarides	Seaborn J. Buckalew, Jr. Peter J. Kalamarides	Peter J. Kalamarides
5/3-4/73	Superior - Anchorage	Judge Joseph J. Brewer Seaborn J. Buckalew, Jr. William H. Fuld Dorothy A. Haaland Judge Paul B. Jones James C. Merbs Nissel A. Rose Judge William H. Sanders Andrew R. Sarisky Thomas E. Schulz Judge Dorothy D. Tyner Benjamin O. Walters, Jr.	Seaborn J. Buckalew, Jr. Judge Paul B. Jones Judge William H. Sanders Thomas E. Schulz Benjamin O. Walters, Jr.	Seaborn J. Buckalew, Jr.
8/21/73	District - Nome	Benjamin T. Delahay, Jr. Jon Larson Thomas B. Payne Elmer C. Smith Ethan Windahl	Jon Larson Ethan Windahl	Ethan Windahl

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
9/29/73	Superior - Ketchikan	Judge Roger W. DuBrock Thomas F. Keever A. Fred Miller Judge W. Bruce Monroe Thomas E. Schulz J. Gerald Williams	Judge Roger W. DuBrock Thomas E. Schulz J. Gerald Williams	Thomas E. Schulz
1/11/75	Superior - Fairbanks	James R. Blair Judge Hugh Connelly Judge Roger W. DuBrock	James R. Blair Judge Hugh Connelly Judge Roger W. DuBrock	James R. Blair
2/12-13/75	Supreme Court Justice	Judge Edmond W. Burke William V. Boggess	Judge Edmond W. Burke William V. Boggess	Edmond W. Burke
2/12-13/75	District - Anchorage	Alexander O. Bryner Gary W. Gantz Laurel Peterson	Alexander O. Bryner Gary W. Gantz Laurel Peterson	Alexander O. Bryner
4/01/75	District - Juneau	Richard A. Bradley Gerald O. Williams	Richard A. Bradley Gerald O. Williams	Gerald O. Williams
4/01/75	District - Wrangell	Duane K. Craske George Gucker Francis van T. Kernan	Duane K. Craske George Gucker Francis van T. Kernan	Duane K. Craske
5/16/75	Public Defender	Douglas A. Fox Brian Shortell Herbert D. Soll Ronald T. West	Douglas A. Fox Brian Shortell Herbert D. Soll	Brian Shortell

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
5/16/75	Superior - Anchorage	Judge Victor D. Carlson Robert E. Hammond Richard P. Kerns David Pree J. Justin Ripley Helen L. Simpson Benjamin O. Walters, Jr.	Judge Victor D. Carlson Richard P. Kerns J. Justin Ripley Benjamin O. Walters, Jr.	J. Justin Ripley
8/20/75	Superior - Kodiak	Roy H. Madsen Milton M. Souter	Roy H. Madsen Milton M. Souter	Roy H. Madsen
8/22/75	District - Fairbanks	Clay Berry Monroe Clayton Stephen R. Cline Francis van T. Kernan Edward Noonan	Monroe Clayton Stephen R. Cline	Monroe Clayton
9/17/75	District - Anchorage	Clay Berry Bruce Bookman Susan Burke Stanley Howitt Laurel Peterson Bruce Tennant	Susan Burke Laurel Peterson	Laurel Peterson
9/18/75	Superior - Anchorage	Russell E. Arnett Judge Victor D. Carlson	Russell E. Arnett Judge Victor D. Carlson	Victor D. Carlson
1/8-9/76	Superior - Juneau	Linn H. Asper Joseph D. Balfe Allen T. Compton Judge Roger W. DuBrock Gary W. Gantz James E. Fisher	Joseph D. Balfe Allen T. Compton Judge Roger W. DuBrock	Allen T. Compton

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MIG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
3/15/76	District - Valdez	John Bosshard, III James D. Ginotti Robin Taylor	John Bosshard, III James D. Ginotti Robin Taylor	John Bosshard, III
8/31/76	Superior - Sitka	Joseph D. Balfe Judge Alexander O. Bryner Donald L. Craddick Judge Duane K. Craske Edward Stahla	Judge Alexander O. Bryner Judge Duane K. Craske	Duane K. Craske
9/23/76	Superior - Fairbanks	Judge Monroe Clayton Judge Hugh Connelly Jay F. Hodges	Judge Monroe Clayton Judge Hugh Connelly Jay F. Hodges	Jay F. Hodges
10/18/76	Superior - Bethel	Christopher Cooke Stephen Cooper	Christopher Cooke Stephen Cooper	Christopher Cooke
10/18/76	District - Homer	James P. Doogan, Jr. Henry Holst James C. Hornaday Jack McGee Anita Remerowski David Walker	James P. Doogan, Jr. James C. Hornaday	James C. Hornaday
12/13/76	District - Wrangell	Robin Taylor Larry D. Wood	Robin Taylor Larry D. Wood	Robin Taylor
2/1-2/77	Superior - Anchorage	Judge Alexander O. Bryner Mark C. Rowland Judge Thomas E. Schulz	Judge Alexander O. Bryner Mark C. Rowland Judge Thomas E. Schulz	Mark C. Rowland

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MITG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
4/14/77	Supreme Court Justice	William V. Boggess Warren Matthews Daniel A. Moore, Jr. William G. Ruddy Judge James K. Singleton, Jr.	William V. Boggess Warren Matthews Daniel A. Moore, Jr. William G. Ruddy Judge James K. Singleton, Jr.	Warren Matthews
6/29/77	District - Anchorage	Glen C. Anderson William D. Cook Beverly W. Cutler Richard Lytle James Wolf	Glen C. Anderson William D. Cook Beverly W. Cutler	Beverly W. Cutler
12/14/77	Superior - Anchorage	Bruce A. Bookman William Erwin William H. Fuld Eugene Murphy Milton M. Souter Benjamin O. Walters, Jr. Richard Weinig	Bruce A. Bookman William H. Fuld Milton M. Souter Benjamin O. Walters, Jr.	Milton M. Souter
12/14/77	District - Fairbanks	Robert Blackford Stephen R. Cline Dallas L. Phillips L. Eugene Williams	Stephen R. Cline Dallas L. Phillips L. Eugene Williams	Stephen R. Cline
2/10/78	District - Anchorage	Glen C. Anderson L. Eugene Williams Ethan Windahl	Glen C. Anderson L. Eugene Williams Ethan Windahl	Glen C. Anderson

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MIG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
9/17/79	Superior - Anchorage	Albert Branson Robert Bundy Harland Davis LeRoy DeVeaux Sheila Gallagher Max Gruenberg Karl S. Johnstone Carolyn Jones Judge Laurel Peterson Arthur Robinson Douglas Serdahely Brian Shortell D. Ralph Stemp	Sheila Gallagher Karl S. Johnstone Douglas J. Serdahely Brian Shortell	Karl S. Johnstone
9/17/79	District - Anchorage	Charles R. Avery James Bendell Robert Frenz Lucy Lowden Donald Starks Elaine Vondrasek George Weiss L. Eugene Williams	Charles R. Avery L. Eugene Williams	Charles R. Avery
3/20/80	Superior - Kotzebue	William D. Cook Paul B. Jones Irwin Ravin Edward Welch Richard J. Whittaker	Paul B. Jones Richard J. Whittaker	Paul B. Jones

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
6/20/80	Appellate - Anchorage (3 positions)	Susan A. Burke Alexander O. Bryner Judge James A. Hanson Daniel Hickey Thomas F. Keever Judge Roy H. Madsen Charles Merriner Peter A. Michalski Judge Ralph E. Moody Robert N. Opland A. Lee Petersen Judge Thomas E. Schulz Judge James K. Singleton, Jr. D. Ralph Stemp Judge Warren Wm. Taylor	Alexander O. Bryner Robert G. Coats Judge James A. Hanson Judge Roy H. Madsen Charles Merriner A. Lee Petersen Judge Thomas E. Schulz Judge James K. Singleton, Jr.	Alexander O. Bryner Robert G. Coats James K. Singleton, Jr.
9/15/80	District - Fairbanks	Hershel Crutchfield Robert Downes Natalie Finn Jane F. Kauvar Christopher E. Zimmerman	Robert Downes Jane F. Kauvar Hershel Crutchfield	Hershel Crutchfield
11/1/80	Supreme Court Justice	Judge Victor D. Carlson Judge Allen T. Compton John Havelock Andrew Kleinfeld Arthur Peterson William G. Ruddy Judge James K. Singleton, Jr. Donna Willard	Judge Victor D. Carlson Judge Allen T. Compton Andrew Kleinfeld William G. Ruddy Judge James K. Singleton, Jr.	Allen T. Compton

APPENDIX F.18

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MIG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
11/1/80	Superior - Anchorage (3 new positions)	Judge Glen C. Anderson Stephen C. Branchflower William Donohue Sheila Gallagher Cheri Jacobus Carolyn Jones William Mackey Daniel A. Moore, Jr. Eugene Murphy Arthur Robinson Douglas J. Serdahely Brian Shortell James Wanamaker	Judge Glen C. Anderson William Donohue Sheila Gallagher Carolyn Jones Daniel A. Moore, Jr. Douglas J. Serdahely Brian Shortell James Wanamaker	Daniel A. Moore, Jr. Douglas J. Serdahely Brian Shortell
11/1/80	Superior - Nome	Judge Paul B. Jones Charles Tunley	Judge Paul B. Jones Charles Tunley	Charles Tunley
1/23/81	District - Fairbanks	Hershel Crutchfield Robert Downes Jane F. Kauvar Brett M. Wood Thomas F. Keever	Robert Downes Jane F. Kauvar	Jane F. Kauvar
3/31/81	Public Defender	David Berry Ben Esch Dana Fabe Rene J. Gonzalez Nancy Shaw Sue Ellen Tatter Roy V. Williams	Dana Fabe Rene J. Gonzalez Sue Ellen Tatter Roy V. Williams	Dana Fabe

APPENDIX F.19

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
4/28-29/81	Superior - Juneau	Linn H. Asper Walter L. Carpeneti James Douglas Douglas L. Gregg Peter M. Page Rodger W. Pegues Richard Svobodny Judge Robin Taylor	Walter L. Carpeneti Douglas L. Gregg Peter M. Page Rodger W. Pegues Judge Robin Taylor	Rodger W. Pegues
5/28-29/81	District - Anchorage	Elaine Andrews Thomas Boedecker Stephanie Cole James V. Gould Brigitte McBride Jess Nicholas Robert Rehbock John Scukanec Arthur Talbot Ronald T. West James Wolf Thomas Turnbull	Elaine Andrews Stephanie Cole James V. Gould Jess Nicholas	Elaine Andrews
9/03/81	Superior - Kenai	Charles Cranston Charles Merriner Timothy Rogers Andrew R. Sarisky	Charles Cranston Charles Merriner	Charles Cranston
9/28/81	Superior - Juneau	Walter L. Carpeneti Peter M. Page	Walter L. Carpeneti Peter M. Page	Walter L. Carpeneti

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
9/30/82	Superior - Palmer	Judge Glen C. Anderson Judge Beverly W. Cutler LeRoy DeVeaux Carolyn Jones Charles Merriner Sigurd Murphy Thomas J. Yerbich	Judge Glen C. Anderson Judge Beverly W. Cutler LeRoy DeVeaux	Beverly W. Cutler
9/30/82	Superior - Barrow	Michael Jeffery Timothy Stearns	Michael Jeffery Timothy Stearns	Michael Jeffery
9/30/82	Superior - Wrangell	Richard Folta Judge Henry C. Keene, Jr. Dennis L. McCarty Robin Taylor	Judge Henry C. Keene, Jr. Robin Taylor	Henry C. Keene, Jr.
2/15-16/83	District - Ketchikan	Barbara Blasco James Bruce Roger Carlson George Gucker Dennis L. McCarty Richard J. Whittaker	Barbara Blasco George Gucker	George Gucker

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MIG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
2/15-16/83	District - Anchorage (2 positions)	Allen Bailey Eugene Cyrus Natalie Finn William H. Fuld Eric Hanson Donald Johnson Eugene Murphy Linda O'Bannon Patrick Owen Edward Peterson Robert Rehbock Christine Schleuss Nancy Shaw John Sivertsen Elaine Vondrasek L. Eugene Williams James Wolf Richard L. Yospin	Natalie Finn William H. Fuld Eric Hanson Donald Johnson Eugene Murphy Patrick Owen Christine Schleuss L. Eugene Williams Richard L. Yospin	Natalie Finn William H. Fuld
5/26/83	Supreme Court Justice	Judge Alexander O. Bryner William Donohue Karen Hunt Millard Ingraham Kenneth Jacobus Judge Paul B. Jones Andrew Kleinfeld Judge Daniel A. Moore, Jr. Sandra Saville Judge Douglas J. Serdahely Judge James K. Singleton, Jr. Michael Thomas Donna Willard	Millard Ingraham Andrew Kleinfeld Judge Daniel A. Moore, Jr. Michael Thomas	Daniel A. Moore, Jr.

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
11/29/83	Superior - Anchorage	Cynthia Christianson LeRoy DeVeaux William Erwin Gary W. Gantz William Greene Karen Hunt Joan M. Katz Suzanne Pestinger	LeRoy DeVeaux William Erwin Karen Hunt Joan M. Katz	Karen Hunt
5/16/84	Superior - Valdez	Judge John Bosshard, III Hal P. Gazaway (withdrew) Patrick Owen (withdrew) Gordon J. Tans	Judge John Bosshard, III Gordon J. Tans	John Bosshard, III
5/16/84	District - Juneau	Linn H. Asper Margaret (Peggy) Berck Monte Lee Brice John R. Corso Donald L. Craddick David T. Walker Richard L. Yospin	Linn H. Asper Margaret (Peggy) Berck David T. Walker Richard L. Yospin	Linn H. Asper
9/25-26/84	Anchorage - Superior (2 Positions)	Andrew M. Brown Edward G. (Ted) Burton William Erwin Gail Roy Fraties Judge William H. Fuld Rene J. Gonzalez James V. Gould Joan M. Katz Peter A. Michalski Melvin M. Stephens, II	Edward G. Burton Gail Roy Fraties Rene J. Gonzalez James V. Gould Joan M. Katz Peter A. Michalski	Rene J. Gonzalez Joan M. Katz

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
9/25-26/84	Anchorage - District (4 positions)	Martha Beckwith Dennis P. Cummings John M. Eberhart Maryann E. Foley David P. Gorman Andy Hemerway Robert D. Lewis Connie J. Sipe (withdrew) D. Ralph Stemp Melvin M. Stephens, II David C. Stewart Michael N. White	Martha Beckwith Andy Hemerway D. Ralph Stemp David C. Stewart Michael N. White	Martha Beckwith D. Ralph Stemp David C. Stewart Michael N. White
12/17/84	Fairbanks - District	Teresa L. Foster Michael P. McConahy Thomas A. Miller Randy M. Olsen Daniel T. Saluri Mark I. Wood Christopher E. Zimmerman	Michael P. McConahy Randy M. Olsen Mark I. Wood Christopher E. Zimmerman	Christopher E. Zimmerman
12/17/84	Fairbanks - Superior	Rita T. Allee James P. Doogan, Jr. Mary E. "Meg" Greene Judge Jane F. Kauvar Dick L. Madson Billie D. Murphree Richard D. Savell D. Rebecca Snow Larry D. Wood Christopher E. Zimmerman	Mary E. "Meg" Greene Dick L. Madson	Mary E. "Meg" Greene

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
12/18/84	Anchorage - Superior	Edward G. (Ted) Burton Gail Roy Fraties Judge William H. Fuld Peter A. Michalski Eugene Murphy Benjamin O. Walters, Jr. Thomas J. Yerbich	Edward G. (Ted) Burton Peter A. Michalski Eugene Murphy Benjamin O. Walters, Jr.	Peter A. Michalski
3/27-28/85	Wrangell - Superior	James L. Bruce John B. Gaguine (withdrew) Thomas M. Jahnke Dennis L. McCarty T.W. Patch Drew Peterson John Peterson (withdrew) David T. Walker	Thomas M. Jahnke Dennis L. McCarty David T. Walker	Thomas M. Jahnke
4/7-8/86	Bethel - Superior	Gail Roy Fraties James D. Ginotti L. Ben Hancock Laurie H. Otto Bryan E. Schuler Timothy H. Stearns	Gail Roy Fraties L. Ben Hancock Bryan E. Schuler	Gail Roy Fraties
3/20/87	Fairbanks - Superior	Gary Foster Paul R. Lyle (withdrew) Dick L. Madson (withdrew) Richard D. Savell D. Rebecca Snow Niesje J. Steinkruger Patrick J. Travers Larry C. Zervos Judge Chris E. Zimmerman	Richard D. Savell D. Rebecca Snow Judge Chris E. Zimmerman	Richard D. Savell

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MIG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
6/20/87	Palmer - District	Peter G. Ashman Dennis P. Cummings John Thomas Maltas Daniel Weber Mark I. Wood	Peter G. Ashman Mark I. Wood	Peter G. Ashman
7/14/88	Fairbanks - District	S. Joshua Berger James H. Cannon Patrick B. Cole Monte Engel J. John Franich Raymond Funk James M. Mullen Charles R. Pengilly Kenneth P. Ringstad, Jr. Fleur L. Roberts Larry C. Zervos	James H. Cannon Raymond Funk Charles R. Pengilly Larry C. Zervos	Larry C. Zervos
7/15/88	Fairbanks - Superior	Gary Foster J. John Franich Raymond Funk Judge Jane F. Kauvar Charles R. Pengilly D. Rebecca Snow Niesje J. Steinkruger Judge Christopher E. Zimmerman	D. Rebecca Snow Niesje J. Steinkruger	Niesje J. Steinkruger

HISTORICAL LOG OF JUDICIAL APPOINTMENTS
1959 - PRESENT

<u>MITG DATE</u>	<u>POSITION</u>	<u>CANDIDATES</u>	<u>NOMINATED</u>	<u>APPOINTED</u>
7/16/88	Superior - Anchorage	Louis E. Agi Joseph N. Barcott Harry Branson Dan E. Dennis LeRoy E. DeVeaux R. Stanley Ditus Dana A. Fabe Judge William H. Fuld Nelson G. Page Shannon D. Turner Vincent P. Vitale	Dana A. Fabe Judge William H. Fuld Nelson G. Page	Dana A. Fabe
7/17/88	District - Anchorage	Louis E. Agi Jacob H. Allmaras James A. Crary Dennis P. Cummings John E. Duggan Monte Engel John T. Maltas James Ottinger John A. Scukanec John W. Sivertsen, Jr. Michael L. Wolverton	Jacob H. Allmaras James Ottinger Michael L. Wolverton	Michael L. Wolverton
1/14/89	Public Defender	James H. McComas John B. Salemi	James H. McComas John B. Salemi	John B. Salemi

APPENDIX G

RETENTION EVALUATION PROCEDURES

**ALASKA JUDICIAL COUNCIL
RETENTION EVALUATION PROGRAM**

I. INTRODUCTION

Judicial evaluation is formally conducted in Alaska primarily for retention election purposes. The Alaska Judicial Council¹ is statutorily vested with the responsibility for conducting retention evaluations.

II. THE EVALUATION PROCESS

The Council uses a three-part plan to evaluate all judges eligible for retention in any given election year:²

A. Surveys

The Council surveys all active members of the Alaska Bar Association and all state peace officers and probation officers. Bar Association members under the current survey format are asked to rate each appellate judge or justice from 1 (unacceptable) to 5 (excellent) in twelve categories (see Exhibit A) and each trial court judge from 1 to 5 in 21 categories (see Exhibit B). Peace and probation officers do not rate appellate judges, but rate all trial court judges in 16 categories (Exhibit C). All survey respondents indicate on their questionnaires the amount and nature of their experience before each judge; respondents may decline to rate at all if they lack a sufficient basis to evaluate. The survey format is modified from time to time in a continuing effort to improve the quality of evaluation data.

¹ The Council consists of seven members: three attorney members, appointed by the Board of Governors of the State Bar Association; three non-attorney members, appointed by the Governor and confirmed by the Legislature, and the Chief Justice who serves ex officio as Chairman. All appointees serve six year, staggered terms. The Chief Justice's term is three years.

² District Court (limited jurisdiction) judges must stand for retention at the first general election more than one year after appointment and every four years thereafter; Supreme Court, Court of Appeals, and Superior Court (general jurisdiction) justices and judges stand at the first general election more than three years after initial appointment and ten, eight, and six years thereafter, respectively.

*Bar Association Survey

Appellate court judge evaluation criteria for 1988 included the following:

1. Legal analysis and scholarship;
2. Writing style, clarity and precision;
3. Ability to render legal opinions without regard to possible public criticism;
4. Equal treatment of all parties;
5. Restraint from favoritism;
6. Sense of basic fairness and justice;
7. Avoidance of actual or apparent impropriety;
8. Human understanding and compassion;
9. Courtesy, freedom from arrogance;
10. Dignity of demeanor on the bench;
11. Preparation for and attentiveness to oral argument; and
12. Overall evaluation of justice's abilities.

Attached as Exhibit "D" is the Bar Association's evaluation of one Justice who stood for retention in 1988.

Bar Association members evaluated trial judges in 1988 according to the following criteria:

1. Legal reasoning ability and comprehension;
2. Knowledge of substantive law;
3. Knowledge of evidence and procedure;
4. Performance as a motions judge;
5. Settlement skills;
6. Ability to find facts and/or interpret the law without regard to possible public criticism;
7. Equal treatment of all parties;
8. Restraint from favoritism toward either side in any dispute;
9. Restraint from prejudging outcome of the case;
10. Sense of basic fairness and justice;
11. Conducts self in a manner free from impropriety or the appearance of impropriety;
12. Human understanding and compassion;
13. Courtesy, freedom from arrogance;
14. Dignity of demeanor on the bench;
15. Consideration of all relevant factors and consistency in sentencing;
16. Talent and ability for cases involving children and family;
17. Ability to maintain proper control over courtroom;
18. Punctuality in opening court and keeping appointments;
19. Willingness to work diligently;
20. Reasonable promptness in making rulings and rendering decisions; and
21. Overall judicial performance.

*Peace & Probation Officers Survey

Peace and probation officers evaluate trial judges using most of the same criteria. They are not asked to evaluate the judge's legal reasoning, knowledge of civil and criminal law, or settlement skills. Attached as Exhibit "E" are the quantitative evaluations of the Bar Association members and peace officers regarding one superior court judge who stood for retention in 1988. Following the Council's review, quantitative evaluations of all judges who have filed for retention are made public.

B. Counsel Questionnaires

Brief narrative questionnaires are completed by selected counsel who have appeared before each judge or justice during the current term (Exhibit F). The purpose of the narrative questionnaires is to validate initial survey findings and to obtain further background information on aspects of judicial performance. Questionnaire responses tend to track closely with the quantitative results of the Bar survey but frequently give more substantive assessments. Counsel questionnaire results are summarized and submitted to the Council for review (Exhibit G).

C. Judge's Questionnaire

The Judicial Council asks each judge and justice to complete a personal questionnaire regarding his/her judicial performance, health, and judicial and nonjudicial activities during the current term of office (Exhibit H).

* * * * *

Following a review of the above data, as well as a review by staff of health, credit, criminal, civil, judicial discipline, Alaska Public Offices Commission records and other public records, the Council meets to formally evaluate each judge standing for retention. Evaluation data is summarized on the Council's retention worksheet (Exhibit I). The Council votes either to recommend for or against retention.

The Council forwards its recommendations (along with a summary of the Bar Association members and Peace and Probation Officers survey results) to the Lieutenant Governor. The Council's recommendations and findings, along with the judges' personal statements, are included in the Lieutenant Governor's Official Election Pamphlet, which is sent to every registered voter in the state at least 30 days prior to the election. Attached as Exhibit "J" are excerpts from the State's 1988 Official Election Pamphlet. The excerpts include a description of merit selection, an introduction to the Council's evaluations and sample Judicial Council recommendations and survey summaries regarding a trial court judge.

The public release of the Council's recommendations may be augmented by public service television and radio spots, public appearances and speeches by Council members and staff. Paid advertisements may also be used to better apprise the public about the evaluation process and about the Council's recommendations.

III. HOW HAS IT WORKED?

Whether conducted by a state agency, such as the Alaska Judicial Council, or by state or local Bar Association committees, as occurs in some other retention

states, bar polls and/or retention recommendations have long been subject to the criticism (by proponents of the popular election of judges) that appointment in merit states is tantamount to life tenure. Critics suggest that judges so appointed never seem to lose on retention. Until recently, that criticism was borne out by most experience in Alaska and in Missouri, Colorado, Wyoming and other retention election jurisdictions as well.

In Alaska, prior to 1982, the Council had issued recommendations not to retain certain judges (in 1976, 1978, and 1980). Judges recommended against in those years had, in fact, been retained, although by increasingly narrower margins. In 1982, neither of the judges evaluated as "unqualified" by the Council were retained. In 1988, the one judge evaluated as "unqualified" was retained, although by a substantially narrower margin than other trial court judges.

A. 1982

The reasons for the "success" of the process in 1982 can only be speculated upon, but at least four factors entered into the equation:

1. In 1982 the two judges who received the lowest ratings from the bar also received the lowest ratings from the peace officers. The similarity of the peace officers' evaluations side-by-side with the Bar Association's evaluations in the election pamphlet may have made the bar poll more credible among those voters who believe that judges and lawyers are a "fraternity" that controls judicial appointments and retention.

2. Council recommendations were disseminated widely, although the Council did not aggressively campaign to defeat those judges not recommended for retention. In the past, aggressive campaigns by bar association groups and the Council against retention or re-election of certain candidates may have had the reverse effect on the electorate by generating public sympathy. In 1982, however, judges whom the Council recommended not be retained themselves publicly criticized the Council in their candidates' statements and media advertising; by doing so, the judges may have unintentionally lost some of their potential supporters.

3. Reliance by the electorate on Judicial Council recommendations has increased each election year. Judges with a "vote no" recommendation from the Council in the years before 1982 were retained by narrower margins than were the judges with a "vote yes" recommendation. Increased public information and public education efforts in 1982 were designed to maximize the impact of Council recommendations on that growing group of voters who indicate that they rely upon the Council and the election pamphlet for information and guidance.³

³ A study of voting patterns commissioned by the Council in 1979 found that over 60% of the voting public "discriminated" in judge voting; i.e., they voted both for and against retention of certain judges based upon various types of credible public information available on the candidates, including Council evaluations and election pamphlet materials.

4. Alaska voters in 1982 faced a number of extremely controversial ballot issues, including proposed constitutional amendments, that generated a great deal of voter interest⁴ in all aspects of the election. The heightened voter interest may have led to greater voter interest in the candidates and the materials included in the election pamphlet.

B. 1984

In 1984, by contrast, the Council for the first time recommended that all judges who had filed for retention⁵ be retained. As in 1980, however (when a citizens' group challenged the retention of a Supreme Court justice whom the Council had recommended be retained), a number of trial judges in 1984 were the subjects of grass roots campaigns not to retain. A leading newspaper issued an editorial calling for the non-retention of one judge recommended for retention by the Council. The Council did not formally respond to the election eve challenges to judges whom the Council had recommended be retained. However, the Council did reiterate its recommendation that all (21) eligible judges be retained in newspaper ads that appeared statewide the day prior to the election (Exhibit K).

Nearly 70% of all registered voters voted in the 1984 election, and 79% of all those voting voted for or against retention of one or more judges (Exhibit L). Most judges were retained by an affirmative vote of 62-75%. One judge was opposed by a major Anchorage daily newspaper; he was also retained, but by a lesser margin (58%).

C. 1986

Eighteen judges stood for retention in 1986. All were recommended for retention by the Judicial Council and all were retained by sizeable margins. The lowest percentage of "yes" votes was 67.2% (Exhibit L). None of the judges faced any significant opposition.

D. 1988

Seventeen judges stood for retention in 1988. All but one were recommended for retention; all were retained. The judge who was evaluated as "unqualified" by the council received 58.1% "yes" votes, substantially fewer than other third district judges who received 68-70% "yes" votes (Exhibit L).

One of the two supreme court justices standing for retention was opposed by a citizens' group in a series of newspaper and television advertisements. Newspaper ads supporting the justice were run by another citizens' group and by the Council. He was retained, with 59.0% "yes" votes, as compared to 72.9% "yes" votes for his fellow justice who was also standing for retention. These voting patterns suggest that controversy alone is sufficient to reduce the number of "yes" votes substantially. Voting patterns in 1984 seem to support this conclusion.

⁴ Nearly 75% of Alaska's registered voters cast ballots in the 1982 general election; 85% of these voters voted for or against some judges.

⁵ Of three judges eligible for retention in 1984 who elected not to file, two had been recommended against in prior retention elections.

IV. WHAT IS THE FUTURE OF JUDICIAL EVALUATION IN ALASKA?

Judicial evaluation in Alaska was conducted historically only for purposes of retention. On April 24, 1986 Supreme Court Administrative Rule 23 regarding pro tem appointments of retired judges and justices was amended to provide that judges and justices who serve pro tem will be evaluated every two years by the Judicial Council and the presiding judges under whom the pro tem service was rendered. An evaluation program was developed in 1986 and 1987 for pro tem judges. Three pro tem judges were evaluated in 1988 under the new program.

Mechanisms and procedures already in place could be modified to provide the Court System with information that it could use to enhance its ability to assess the strengths and weaknesses of all judges; to enable judges to track and improve their own performance; to reward and encourage outstanding performance; to improve judicial training curricula and programs; and to enable supervisory judges and justices to better manage judicial resources through improved assignment of judges according to judges' substantive and administrative interests and skills.

SUPREME COURT

JUSTICE JAY A. HARRIS

Basis for Evaluation

- 1 Which of the following best describes the basis for your evaluation of this justice? (CIRCLE ONE)
 - 1 Direct professional experience
 - 2 Written opinions only
 - 3 Social contacts
 - 4 Professional reputation
 - 9 Insufficient knowledge to evaluate this judge (GO ON TO NEXT JUDGE)
- 2 Which best describes the amount of your experience with this judge? (CIRCLE ONE)
 - 1 Substantial
 - 2 Limited
 - 3 None

To rate this justice, circle one number for each criterion. If you lack sufficient knowledge to rate the judge for any one of the criteria, circle 9 (SEE INSIDE FRONT COVER FOR PRECISE DEFINITION OF THE RATING SCALE.)

Legal Ability	Unacceptable	Deficient	Acceptable	Good	Excellent	Insufficient Knowledge
3 Legal analysis and scholarship	1	2	3	4	5	9
4 Writing style, clarity and precision	1	2	3	4	5	9

Impartiality

5 Ability to render legal opinions without regard to possible public criticism	1	2	3	4	5	9
6 Equal treatment of all parties regardless of race, sex, social or economic status	1	2	3	4	5	9
7 Restraint from favoritism	1	2	3	4	5	9
8 Sense of basic fairness and justice	1	2	3	4	5	9

Integrity

9 Conducts self in a manner free from impropriety or the appearance of impropriety	1	2	3	4	5	9
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Judicial Temperament

10 Human understanding and compassion	1	2	3	4	5	9
11 Courtesy, freedom from arrogance	1	2	3	4	5	9
12 Dignity of demeanor on bench	1	2	3	4	5	9
13 Preparation for, and attentiveness to, counsels' oral arguments	1	2	3	4	5	9

Overall Judicial Performance

14 Overall evaluation of justice's legal ability, impartiality, integrity and judicial temperament	1	2	3	4	5	9
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Comments: Please add any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. If more space is needed, use pages 14, 21 and 22 in this survey booklet or attach another sheet of paper.

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SUPREME COURT

JUSTICE EDMOND W. BURKE

Basis for Evaluation

- 1 Which of the following best describes the basis for your evaluation of this justice? (CIRCLE ONE)
 - 1 Direct professional experience
 - 2 Written opinions only
 - 3 Social contacts
 - 4 Professional reputation
 - 9 Insufficient knowledge to evaluate this judge (GO ON TO NEXT JUDGE)
- 2 Which best describes the amount of your experience with this judge? (CIRCLE ONE)
 - 1 Substantial
 - 2 Limited
 - 3 None

To rate this justice, circle one number for each criterion. If you lack sufficient knowledge to rate the judge for any one of the criteria, circle 9 (SEE INSIDE FRONT COVER FOR PRECISE DEFINITION OF THE RATING SCALE.)

Legal Ability	Unacceptable	Deficient	Acceptable	Good	Excellent	Insufficient Knowledge
3 Legal analysis and scholarship	1	2	3	4	5	9
4 Writing style, clarity and precision	1	2	3	4	5	9

Impartiality

5 Ability to render legal opinions without regard to possible public criticism	1	2	3	4	5	9
6 Equal treatment of all parties regardless of race, sex, social or economic status	1	2	3	4	5	9
7 Restraint from favoritism	1	2	3	4	5	9
8 Sense of basic fairness and justice	1	2	3	4	5	9

Integrity

9 Conducts self in a manner free from impropriety or the appearance of impropriety	1	2	3	4	5	9
--	---	---	---	---	---	---

Judicial Temperament

10 Human understanding and compassion	1	2	3	4	5	9
11 Courtesy, freedom from arrogance	1	2	3	4	5	9
12 Dignity of demeanor on bench	1	2	3	4	5	9
13 Preparation for, and attentiveness to, counsels' oral arguments	1	2	3	4	5	9

Overall Judicial Performance

14 Overall evaluation of justice's legal ability, impartiality, integrity and judicial temperament	1	2	3	4	5	9
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Comments: Please add any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. If more space is needed, use pages 14, 21 and 22 in this survey booklet or attach another sheet of paper.

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FIRST JUDICIAL DISTRICT

SUPERIOR COURT

JUDGE THOMAS M. JAHNKE

Basis for Evaluation

1. Which of the following best describes the basis for your evaluation of this judge? (CIRCLE ONE)
 1. Direct professional experience
 2. Social contacts
 3. Professional reputation
 9. Insufficient knowledge to evaluate this judge (GO ON TO NEXT JUDGE)
2. Which best describes the amount of your experience with this judge? (CIRCLE ONE)
 1. Substantial
 2. Limited
 3. None

To rate this judge, circle one number for each criterion. If you lack sufficient knowledge to rate the judge for any one of the criteria, circle 9. (SEE INSIDE FRONT COVER FOR PRECISE DEFINITION OF THE RATING SCALE.)

Legal Ability	Unacceptable	Deficient	Acceptable	Good	Excellent	Insufficient Knowledge
3. Legal reasoning ability	1	2	3	4	5	9
4. Knowledge of substantive law	1	2	3	4	5	9
5. Knowledge of evidence and procedure	1	2	3	4	5	9
6. Performance as a motions judge (e.g., summary judgment, discovery)	1	2	3	4	5	9
7. Settlement skills	1	2	3	4	5	9

Impartiality

8. Ability to find facts and interpret the law without regard to possible public criticism	1	2	3	4	5	9
9. Equal treatment of all parties regardless of race, sex, social or economic status	1	2	3	4	5	9
10. Restraint from favoritism toward either side in any dispute	1	2	3	4	5	9
11. Restraint from prejudging outcome of the case	1	2	3	4	5	9
12. Sense of basic fairness and justice	1	2	3	4	5	9

Integrity

13. Conducts self in a manner free from impropriety or the appearance of impropriety	1	2	3	4	5	9
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Judicial Temperament

14. Human understanding and compassion	1	2	3	4	5	9
15. Courtesy, freedom from arrogance	1	2	3	4	5	9
16. Dignity of demeanor on bench	1	2	3	4	5	9
17. Consideration of all relevant factors in sentencing	1	2	3	4	5	9
18. Talent and ability for cases involving children and families	1	2	3	4	5	9

Administrative Skills

19. Ability to maintain proper control over courtroom	1	2	3	4	5	9
20. Punctuality in opening court and keeping appointments	1	2	3	4	5	9
21. Willingness to work diligently	1	2	3	4	5	9
22. Reasonable promptness in making rulings and rendering decisions	1	2	3	4	5	9

Overall Judicial Performance

23. Overall evaluation of judge's legal ability, impartiality, integrity, judicial temperament and administrative skills	1	2	3	4	5	9
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Comments: Please note any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. If more space is needed, use pages 14, 21 and 22 in this survey booklet or attach another sheet of paper.

FIRST JUDICIAL DISTRICT

DISTRICT COURT

JUDGE GEORGE L. GUCKER

Basis for Evaluation

1. Which of the following best describes the basis for your evaluation of this judge? (CIRCLE ONE)
 1. Direct professional experience
 2. Social contacts
 3. Professional reputation
 9. Insufficient knowledge to evaluate this judge (GO ON TO NEXT JUDGE)
2. Which best describes the amount of your experience with this judge? (CIRCLE ONE)
 1. Substantial
 2. Limited
 3. None

To rate this judge, circle one number for each criterion. If you lack sufficient knowledge to rate the judge for any one of the criteria, circle 9. (SEE INSIDE FRONT COVER FOR PRECISE DEFINITION OF THE RATING SCALE.)

Legal Ability	Unacceptable	Deficient	Acceptable	Good	Excellent	Insufficient Knowledge
3. Legal reasoning ability	1	2	3	4	5	9
4. Knowledge of substantive law	1	2	3	4	5	9
5. Knowledge of evidence and procedure	1	2	3	4	5	9
6. Performance as a motions judge (e.g., summary judgment, discovery)	1	2	3	4	5	9
7. Settlement skills	1	2	3	4	5	9

Impartiality

8. Ability to find facts and interpret the law without regard to possible public criticism	1	2	3	4	5	9
9. Equal treatment of all parties regardless of race, sex, social or economic status	1	2	3	4	5	9
10. Restraint from favoritism toward either side in any dispute	1	2	3	4	5	9
11. Restraint from prejudging outcome of the case	1	2	3	4	5	9
12. Sense of basic fairness and justice	1	2	3	4	5	9

Integrity

13. Conducts self in a manner free from impropriety or the appearance of impropriety	1	2	3	4	5	9
--	---	---	---	---	---	---

Judicial Temperament

14. Human understanding and compassion	1	2	3	4	5	9
15. Courtesy, freedom from arrogance	1	2	3	4	5	9
16. Dignity of demeanor on bench	1	2	3	4	5	9
17. Consideration of all relevant factors in sentencing	1	2	3	4	5	9
18. Talent and ability for cases involving children and families	1	2	3	4	5	9

Administrative Skills

19. Ability to maintain proper control over courtroom	1	2	3	4	5	9
20. Punctuality in opening court and keeping appointments	1	2	3	4	5	9
21. Willingness to work diligently	1	2	3	4	5	9
22. Reasonable promptness in making rulings and rendering decisions	1	2	3	4	5	9

Overall Judicial Performance

23. Overall evaluation of judge's legal ability, impartiality, integrity, judicial temperament and administrative skills	1	2	3	4	5	9
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Comments: Please note any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. If more space is needed, use pages 14, 21 and 22 in this survey booklet or attach another sheet of paper.

FIRST JUDICIAL DISTRICT

SUPERIOR COURT

JUDGE THOMAS M. JAHNKE

Basis for Evaluation

1. Which of the following best describes the basis for your evaluation of this judge? (CIRCLE ONE)
 1. Direct professional experience
 2. Social contacts
 3. Professional reputation
 9. Insufficient knowledge to evaluate this judge (GO ON TO NEXT JUDGE)
2. Which best describes the amount of your experience with this judge? (CIRCLE ONE)
 1. Substantial
 2. Limited
 3. None

To rate this judge, circle one number for each criterion. If you lack sufficient knowledge to rate the judge for any one of the criteria, circle 9. (SEE INSIDE FRONT COVER FOR PRECISE DEFINITION OF THE RATING SCALE.)

	Unacceptable	Deficient	Acceptable	Good	Excellent	Insufficient Knowledge
Impartiality						
3. Ability to find facts and interpret the law without regard to possible public criticism	1	2	3	4	5	9
4. Equal treatment of all parties regardless of race, sex, social or economic status	1	2	3	4	5	9
5. Restraint from favoritism toward either side in any dispute	1	2	3	4	5	9
6. Restraint from prejudging outcome of the case	1	2	3	4	5	9
7. Sense of basic fairness and justice	1	2	3	4	5	9

Integrity

8. Conducts self in a manner free from impropriety or the appearance of impropriety	1	2	3	4	5	9
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Judicial Temperament

9. Human understanding and compassion	1	2	3	4	5	9
10. Courtesy, freedom from arrogance	1	2	3	4	5	9
11. Dignity of demeanor on bench	1	2	3	4	5	9
12. Consideration of all relevant factors in sentencing	1	2	3	4	5	9
13. Talent and ability for cases involving children and families	1	2	3	4	5	9

Administrative Skills

14. Ability to maintain proper control over courtroom	1	2	3	4	5	9
15. Punctuality in opening court and keeping appointments	1	2	3	4	5	9
16. Willingness to work diligently	1	2	3	4	5	9
17. Reasonable promptness in making rulings and rendering decisions	1	2	3	4	5	9

Overall Judicial Performance

18. Overall evaluation of judge's impartiality, integrity, judicial temperament and administrative skills	1	2	3	4	5	9
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Comments: Please note any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. If more space is needed, use pages 13, 19 and 20 in this survey booklet or attach another sheet of paper.

FIRST JUDICIAL DISTRICT

DISTRICT COURT

JUDGE GEORGE L. BUCKNER

Basis for Evaluation

1. Which of the following best describes the basis for your evaluation of this judge? (CIRCLE ONE)
 1. Direct professional experience
 2. Social contacts
 3. Professional reputation
 9. Insufficient knowledge to evaluate this judge (GO ON TO NEXT JUDGE)
2. Which best describes the amount of your experience with this judge? (CIRCLE ONE)
 1. Substantial
 2. Limited
 3. None

To rate this judge, circle one number for each criterion. If you lack sufficient knowledge to rate the judge for any one of the criteria, circle 9. (SEE INSIDE FRONT COVER FOR PRECISE DEFINITION OF THE RATING SCALE.)

	Unacceptable	Deficient	Acceptable	Good	Excellent	Insufficient Knowledge
Impartiality						
3. Ability to find facts and interpret the law without regard to possible public criticism	1	2	3	4	5	9
4. Equal treatment of all parties regardless of race, sex, social or economic status	1	2	3	4	5	9
5. Restraint from favoritism toward either side in any dispute	1	2	3	4	5	9
6. Restraint from prejudging outcome of the case	1	2	3	4	5	9
7. Sense of basic fairness and justice	1	2	3	4	5	9

Integrity

8. Conducts self in a manner free from impropriety or the appearance of impropriety	1	2	3	4	5	9
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Judicial Temperament

9. Human understanding and compassion	1	2	3	4	5	9
10. Courtesy, freedom from arrogance	1	2	3	4	5	9
11. Dignity of demeanor on bench	1	2	3	4	5	9
12. Consideration of all relevant factors in sentencing	1	2	3	4	5	9
13. Talent and ability for cases involving children and families	1	2	3	4	5	9

Administrative Skills

14. Ability to maintain proper control over courtroom	1	2	3	4	5	9
15. Punctuality in opening court and keeping appointments	1	2	3	4	5	9
16. Willingness to work diligently	1	2	3	4	5	9
17. Reasonable promptness in making rulings and rendering decisions	1	2	3	4	5	9

Overall Judicial Performance

18. Overall evaluation of judge's impartiality, integrity, judicial temperament and administrative skills	1	2	3	4	5	9
---	---	---	---	---	---	---

Comments: Please note any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. If more space is needed, use pages 13, 19 and 20 in this survey booklet or attach another sheet of paper.

BASIS FOR EVALUATION/EXPERIENCE WITH JUSTICE

781 Bar members rated Justice Burke. 58% (453 attorneys) based their evaluations on direct professional experience. 30% (232 attorneys) had had substantial experience with this justice.

BASIS FOR EVALUATION OF JUSTICE EDMOND W. BURKE
BY RESPONDENTS FROM THE BAR ASSOCIATION

	FREQUENCY	PERCENT
BASIS FOR EVALUATION		
Direct professional experience..	410	53.5%
Direct experience, et al *.....	35	4.5%
Written opinions only.....	160	21.5%
Written opinions, et al **.....	19	2.4%
Social contacts.....	15	1.9%
Professional reputation.....	46	5.9%
Social & reputation.....	1	.1%
No answer.....	79	10.1%
TOTAL.....	781	100.0%
EXPERIENCE WITH JUDGE		
Substantial.....	232	29.7%
Limited.....	382	48.9%
None.....	19	2.4%
No answer.....	148	19.0%
TOTAL.....	781	100.0%

* Direct experience and one or more of the following:
written opinions, social contacts and professional
reputation.

** Written opinions and either social contacts,
professional reputation or both.

OVERALL JUDICIAL PERFORMANCE

755 Bar members rated Justice Burke on overall judicial performance. 446 had direct professional experience with the justice. 170 had only read the justice's written opinions.

OVERALL RATING OF JUSTICE EDMOND W. BURKE
BY RESPONDENTS FROM THE BAR ASSOCIATION

	Unacceptable		Deficient		Acceptable		Good		Excellent		N
OVERALL JUDICIAL PERFORMANCE	10	1.3%	38	5.0%	195	25.8%	330	43.7%	182	24.1%	755
.....	5	1.1%	22	4.9%	110	24.7%	189	42.4%	120	26.9%	446
.....	1	.6%	8	4.7%	55	32.4%	76	44.7%	30	17.6%	170

Mean

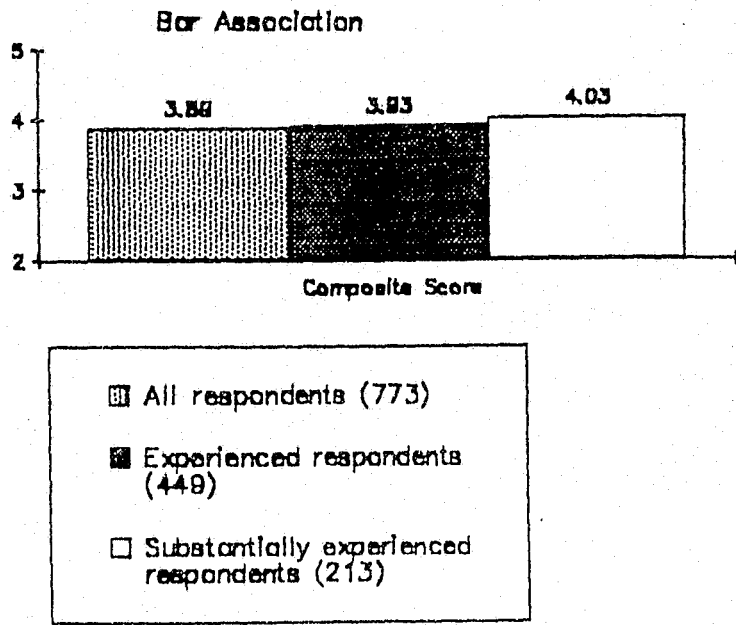
All Bar Members: 3.84 Experienced Bar Members: 3.89 Written opinions: 3.74

JUSTICE EDMOND W. BURKE, cont'd.

GRAPHS OF COMPOSITE SCORES BY LEVELS OF EXPERIENCE WITH JUSTICE

The numbers in parentheses indicate the number of Bar members whose ratings make up the composite score for this justice. These numbers include only those respondents who evaluated the justice on all of the eleven variables included in the composite score. The number of those rating the justice on overall performance is shown in the table on the previous page.

JUSTICE EDMOND W. BURKE



JUSTICE EDMOND W. BURKE, cont'd.

MEAN RATINGS -- JUSTICE BURKE

Justice Burke received his highest ratings from the Bar in the areas of integrity (4.1) and dignity of demeanor on the bench (4.1).

	Range of mean ratings on all variables except overall judicial performance	
Rating Population	LOW	HIGH
All Bar:	3.7	4.1
Experienced Bar only:	3.7	4.1
Read written opinions only:	3.6	4.0

MEAN RATINGS OF JUSTICE EDMOND W. BURKE

by: - Bar Association		
	Mean	N #
LEGAL ABILITY		
Legal analysis & scholarship.....	3.7	762
.....	3.7	444
.....	3.6	181
Writing style, clarity & precision	3.8	740
.....	3.8	435
.....	3.7	179
IMPARTIALITY		
Render opinions without regard to possible public criticism #.....	4.0	724
.....	4.0	437
.....	3.9	153
Equal treatment of parties regardless of race, sex or status #.....	4.0	712
.....	4.0	432
.....	3.8	147
Restraint from favoritism.....	3.9	715
.....	4.0	434
.....	3.8	147
Sense of basic fairness & justice.	3.9	729
.....	4.0	440
.....	3.7	155
INTEGRITY		
Manner free from impropriety or appearance of impropriety #.....	4.1	713
.....	4.1	435
.....	4.0	146

MEAN RATINGS OF JUSTICE EDMOND W. BURKE (continued)

by: - Bar Association		
	Mean	N #
JUDICIAL TEMPERAMENT		
Human understanding & compassion..	3.9	690
.....	4.0	434
.....	3.8	134
Courtesy, freedom from arrogance..	4.0	713
.....	4.1	447
.....	3.8	135
Dignity of demeanor on bench.....	4.1	706
.....	4.1	445
.....	4.0	134
Preparation for, & attentiveness to counsels' oral arguments....	3.7	673
.....	3.7	433
.....	3.7	122

* Question wording has been abbreviated to fit rating table format. See survey instrument in Appendix for complete wording of this question.

** "N" is the number of respondents upon which each rating mean is based. It does not include respondents who could not rate the judge because of insufficient knowledge or who left the item blank.

The means in the first row for each item are based on all respondents who rated the judge. Those in the second row are based only on respondents who indicated they have had direct professional experience with the judge. Those in the third row are based only on respondents who had read written opinions, but had not had direct professional experience.

(continued)

JUDGE THOMAS M. JAHNKE FIRST JUDICIAL DISTRICT SUPERIOR COURT

BASIS FOR EVALUATION/EXPERIENCE WITH JUDGE

234 Bar members and 55 Peace and Probation Officers rated Judge Jahnke. 76% of Bar members (177 attorneys) and 67% of Peace Officers (37 Officers) based their evaluations on direct professional experience. 39% of Bar members (92 attorneys) and 25.5% of Peace Officers (14 Officers) had had substantial experience with this judge.

**BASIS FOR EVALUATION OF JUDGE THOMAS M. JAHNKE
BY BAR ASSOCIATION MEMBERS**

	FREQUENCY	PERCENT
BASIS FOR EVALUATION		
Direct professional experience..	161	68.8%
Direct experience, et al #.....	16	6.8%
Social contacts.....	13	5.6%
Professional reputation.....	26	11.1%
Social & reputation.....	3	1.3%
No answer.....	15	6.4%
TOTAL.....	234	100.0%
EXPERIENCE WITH JUDGE		
Substantial.....	92	39.3%
Limited.....	112	47.9%
None.....	7	3.0%
No answer.....	23	9.8%
TOTAL.....	234	100.0%

* Direct experience and either social contacts, professional reputation or both.

**BASIS FOR EVALUATION OF JUDGE THOMAS M. JAHNKE
BY PEACE AND PROBATION OFFICERS**

	FREQUENCY	PERCENT
BASIS FOR EVALUATION		
Direct professional experience..	36	65.5%
Direct experience, et al #.....	1	1.8%
Social contacts.....	1	1.8%
Professional reputation.....	7	12.7%
No answer.....	10	18.2%
TOTAL.....	55	100.0%
EXPERIENCE WITH JUDGE		
Substantial.....	14	25.5%
Limited.....	31	56.4%
None.....	1	1.8%
No answer.....	9	16.4%
TOTAL.....	55	100.0%

* Direct experience and either social contacts, professional reputation or both.

JUDGE THOMAS M. JAHNKE, cont'd.

OVERALL JUDICIAL PERFORMANCE

217 Bar members rated Judge Jahnke on overall judicial performance, 166 of whom had direct experience with this judge. 51 Peace Officers rated him on overall judicial performance; 36 had direct experience. There are separate tables because the two populations evaluated the judge's overall performance based on different variables, and the results are not comparable. "Legal ability" was included in the definition of overall judicial performance only for the attorneys.

OVERALL RATING OF JUDGE THOMAS M. JAHNKE
BY RESPONDENTS FROM THE BAR ASSOCIATION

	Unacceptable		Deficient		Acceptable		Good		Excellent		N
OVERALL JUDICIAL PERFORMANCE	5	2.3%	12	5.5%	36	16.6%	85	39.2%	79	36.4%	217
.....	3	1.8%	9	5.4%	31	18.7%	60	36.1%	63	38.0%	166
Mean											
All Bar Members: 4.02 Experienced Bar Members: 4.03											

OVERALL RATING OF JUDGE THOMAS M. JAHNKE
BY PEACE AND PROBATION OFFICERS *

	Unacceptable		Deficient		Acceptable		Good		Excellent		N
OVERALL JUDICIAL PERFORMANCE.....	1	2.0%	2	3.9%	9	17.6%	20	39.2%	19	37.3%	51
.....	1	2.8%	2	5.6%	6	16.7%	11	30.6%	16	44.4%	36
Mean											
All Officers: 4.06 Experienced Officers: 4.08											

* The basis for this evaluation is not the same as the basis used by members of the Bar Association.

JUDGE THOMAS M. JAHNKE, cont'd.

MEAN RATINGS -- JUDGE JAHNKE

Judge Jahnke received his highest ratings from both populations in the areas of integrity (4.3), punctuality (4.3, 4.1) and diligence (4.3).

Rating Population	Range of mean ratings of all variables except overall judicial performance	
	LOW	HIGH
All Bar:	3.5	4.3
Experienced Bar only:	3.5	4.3
All Peace Officers:	3.8	4.3
Experienced Officers only:	3.8	4.3

MEAN RATINGS OF JUDGE THOMAS M. JAHNKE

	by: - Bar Association		Peace Officers	
	Mean	N	Mean	N
LEGAL ABILITY				
Legal reasoning ability.....	4.1	228		
.....	4.1	175		
Knowledge of substantive law.....	4.1	225		
.....	4.1	175		
Knowledge of evidence & procedure.....	4.1	212		
.....	4.1	163		
Performance as a motions judge #..	3.9	184		
.....	3.9	151		
Settlement skills.....	3.7	114		
.....	3.7	89		
IMPARTIALITY				
Find facts/interpret law without regard to public criticism #...	4.1	203	3.8	52
.....	4.1	156	3.8	37
Equal treatment of parties regardless of race, sex or status #.....	4.1	205	4.1	50
.....	4.1	158	4.1	36
Restraint from favoritism toward either side in any dispute.....	3.9	209	3.9	51
.....	3.9	162	3.9	37
Restraint from prejudging outcome of the case.....	3.9	206	4.1	49
.....	3.9	160	4.0	36
Sense of basic fairness & justice.....	3.9	213	4.0	50
.....	3.9	164	4.0	37
INTEGRITY				
Manner free from impropriety or appearance of impropriety #.....	4.3	213	4.3	52
.....	4.3	165	4.2	37

JUDGE THOMAS M. JAHNKE, cont'd.

MEAN RATINGS, cont'd.

MEAN RATINGS OF JUDGE THOMAS M. JAHNKE (continued)

	By: Bar Association		Peace Officers	
	Mean	N ⁰⁰	Mean	N ⁰⁰
JUDICIAL TEMPERAMENT				
Human understanding & compassion..	3.7	217	4.1	50
.....	3.7	165	4.1	35
Courtesy, freedom from arrogance..	3.7	216	4.0	51
.....	3.7	164	3.9	36
Dignity of demeanor on bench.....	4.1	205	4.2	51
.....	4.1	168	4.2	37
Consideration of all relevant factors in sentencing.....	3.9	119	4.0	49
.....	4.0	90	4.0	34
Talent and ability for cases involving children & families..	3.5	120	3.8	34
.....	3.5	100	4.0	25
ADMINISTRATIVE SKILLS				
Ability to maintain proper control over courtroom.....	4.2	185	4.2	51
.....	4.1	150	4.3	36
Punctuality in opening court & keeping appointments.....	4.3	181	4.1	47
.....	4.3	145	4.1	33
Willingness to work diligently....	4.3	203	4.3	48
.....	4.3	158	4.3	33
Reasonable promptness in making rulings & decisions *.....	3.9	191	4.0	48
.....	3.9	156	3.9	33

* Question wording has been abbreviated to fit rating table format. See survey instrument in Appendix for complete wording of this question.
 ** "N" is the number of respondents upon which each rating mean is based. It does not include respondents who could not rate the judge because of insufficient knowledge or who left the item blank.
 The means in the first row for each item are based on all respondents who rated the judge. Those in the second row are based only on respondents who indicated they have had direct professional experience with the judge. No entry indicates the survey did not include the item.

TRIAL JUDGE
COUNSEL QUESTIONNAIRE

RE: (NAME OF JUDGE)

1. How would you characterize the judge's/justice's judicial temperament?

2. Did the judge/justice demonstrate a thorough grasp of the legal issues and facts presented in the case?

3. Did the judge/justice rule decisively and fairly in the case before him/her?

4. Was the matter handled in a timely fashion?

Thank you for your assistance. Please return this questionnaire in the enclosed self-addressed stamped envelope to: Alaska Judicial Council, 1031 W. 4th Avenue, Suite 301, Anchorage, Alaska 99501 by _____, 19__.

Signature Line (Optional)

Eleven counsel questionnaires were returned for Judge

I. Judicial Temperament

Excellent	5
Very Good	1
Good	5

"Has very straightforward and concise judicial temperament; addressed remarks directly to client in a courteous manner."

"Able to control her courtroom, polite and listens carefully to attorney's arguments."

"Even tempered and objective; her rulings for the most part were well thought out."

"Impartial and professional"

II. Legal Ability

Judge has a thorough grasp of the issues 11

"Always listens carefully to the arguments and would then issue well reasoned decisions."

"Judge's decision was interwoven with all key facts and issues; demonstrated a keen grasp of not only the applicable law but also the pertinent facts."

"Had a fair grasp of the legal issues and made very sure the defendant's rights were protected."

III. Impartiality

Judge is fair and impartial	10
Parties settled before decision	1

"Her decision was well reasoned, and even though Judge ruled against my client, I was persuaded by her decision."

"Is careful to insure her rulings are in accordance with case law; once she had come to a decision, she would rule decisively."

"Counseled both attorneys in the same fashion; no bias either way."

6. Have any complaints been filed against you with any Bar Association or with the Commission on Judicial Conduct? If so, please state with particularity the details of such complaint and, if available to you, attach a copy of the complaint to this questionnaire.

7. During your most recent term as a judge, have you:

- a) had a tax lien filed or other collection procedure instituted against you by federal, state, or local authorities? Yes ___ No ___.
- b) been involved in a nonjudicial capacity in any legal proceeding whether as a party or otherwise? Yes ___ No ___.
- c) engaged in the practice of law? Yes ___ No ___.
- d) held office in any political party? Yes ___ No ___.
- e) held any other local, state or federal office? Yes ___ No ___.

If your answer to any of the questions above is "yes", please give full details, including dates, facts, and outcomes.

8. Are you now or have you been, during your current term of office, involved in a management capacity in any entity whether for profit or otherwise? Yes ___ No ___.

If yes, please provide details including the name of the organization, nature of its business, whether or not for profit, title or other description of your position, the nature of your duties and term of your service.

9. Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 1988 retention elections.

Signature of Judge

Date

6. Have any complaints been filed against you with any Bar Association or with the Commission on Judicial Conduct? If so, please state with particularity the details of such complaint and, if available to you, attach a copy of the complaint to this questionnaire.

7. During your most recent term as a judge, have you:

- a) had a tax lien filed or other collection procedure instituted against you by federal, state, or local authorities? Yes ___ No ___.
- b) been involved in a nonjudicial capacity in any legal proceeding whether as a party or otherwise? Yes ___ No ___.
- c) engaged in the practice of law? Yes ___ No ___.
- d) held office in any political party? Yes ___ No ___.
- e) held any other local, state or federal office? Yes ___ No ___.

If your answer to any of the questions above is "yes", please give full details, including dates, facts, and outcomes.

8. Are you now or have you been, during your current term of office, involved in a management capacity in any entity whether for profit or otherwise? Yes ___ No ___.

If yes, please provide details including the name of the organization, nature of its business, whether or not for profit, title or other description of your position, the nature of your duties and term of your service.

9. Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 1988 retention elections.

Signature of Judge

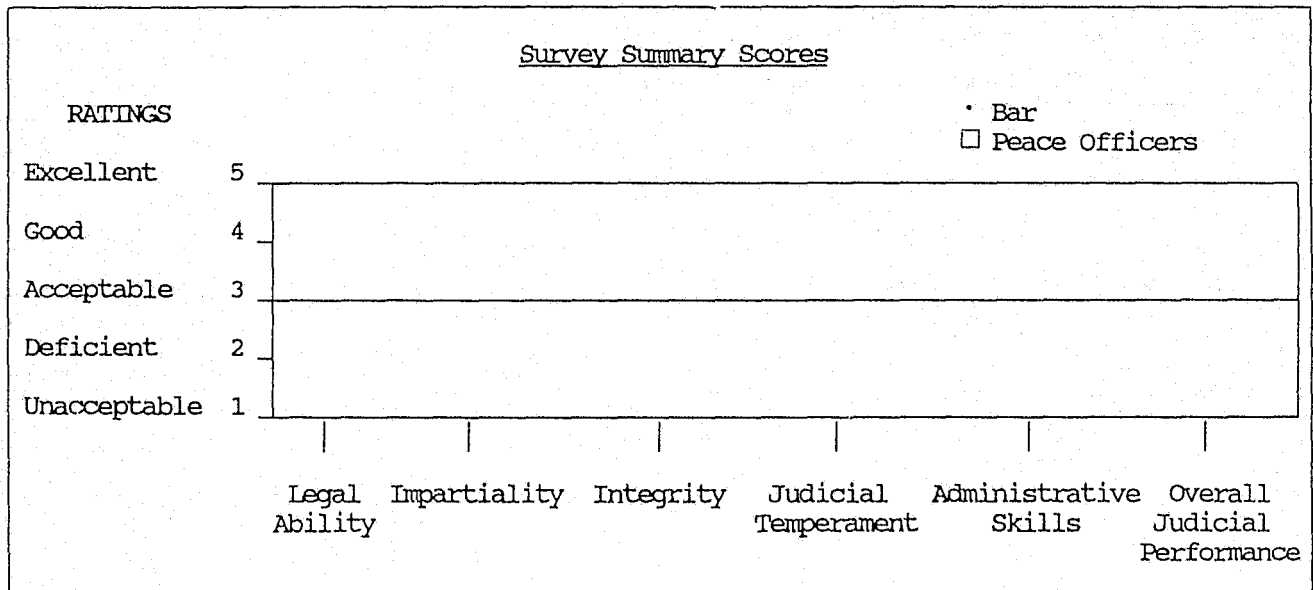
Date

JUDICIAL RETENTION WORKSHEET

 _____ Court
 _____ Judicial District

1. Years in this position: _____ Date of next retention election: _____
 2. Prior judicial positions: _____ Number of years: _____

	<u>1988</u>	<u>Prior</u>
3. Bar Survey	_____	_____
4. Peace and Probation Officers Survey	_____	_____
5. Public and Private Records	_____	_____
6. Court Performance Data	_____	_____
7. Professional and Citizen Input	_____	_____
8. Interview	_____	_____
9. Overall Evaluation	_____	_____



ALASKA'S JUDICIAL RETENTION SYSTEM

Since statehood, Alaska's judges have been appointed by a merit selection system and retained in office through public elections. These procedures were established in the Alaska Constitution and statutes to assure the appointment of qualified judges and the accountability of judges to the public throughout their tenure. Retention elections for judges are both nonpartisan and unopposed. Each judge stands for retention based on his or her record of judicial performance. Information regarding the judge's performance is provided to all voters by the Alaska Judicial Council. If a judge is not retained in office, the position becomes vacant and a new judge is appointed by the merit selection system.

Supreme Court justices stand for retention election three years after appointment and every ten years thereafter. Court of Appeals judges stand for retention election three years after appointment and every eight years thereafter. Superior Court judges stand for retention election three years after appointment and every six years thereafter. District Court judges stand for retention election one year after appointment and every four years thereafter.

The Alaska Judicial Council is required by law to evaluate the performance of each judge standing for retention election and to publish its evaluations in the *Official Election Pamphlet*. The Council may also make recommendations about retention or non-retention of each judge. These evaluations and recommendations are contained in the following pages along with an introductory statement, by the Council, of the methods used in its evaluations. A biographical statement, provided and paid for by the judge if the judge wishes, is printed on the page facing the Alaska Judicial Council's evaluation of that judge's performance.

For the 1988 General Election, the Judicial Council has evaluated two supreme court justices and fifteen trial judges. The following judges were all found to be **Qualified**, and are all recommended for retention:

- Supreme Court:** Justice Edmond W. Burke
Justice Jay A. Rabinowitz
- Superior Court:** Judge Thomas M. Jahnke, First Judicial District
Judge John Bosshard, III, Third Judicial District
Judge Rene J. Gonzalez, Third Judicial District
Judge Karen L. Hunt, Third Judicial District
Judge Joan M. Katz, Third Judicial District
Judge Peter A. Michalski, Third Judicial District
Judge Milton M. Souter, Third Judicial District
Judge Mary E. Greene, Fourth Judicial District
- District Court:** Judge George L. Gucker, First Judicial District
Judge Glen C. Anderson, Third Judicial District
Judge Peter G. Ashman, Third Judicial District
Judge Natalie K. Finn, Third Judicial District
Judge William H. Fuld, Third Judicial District
Judge John D. Mason, Third Judicial District

Judge Karl S. Johnstone, Third Judicial District Superior Court, was found to be **Unqualified** and is not recommended for retention.

Editor's Note: Only information regarding the supreme court justices and judges serving the districts pertinent to this pamphlet is included on the following pages.

EVALUATION OF JUDGES

The Alaska Judicial Council has a statutory duty to conduct evaluations of each judge and justice standing for retention, and to provide information and recommendations to the public about these judges. The Judicial Council was established by the state's constitution as an agency of state government, independent of the Court System, and consists of seven members: three non-attorney members appointed by the Governor and confirmed by the Legislature; three attorney members appointed by the Board of Governors of the Alaska Bar Association; and the Chief Justice, who serves as Chairman of the Council *ex officio*.

Format of Evaluations:

The Judicial Council's evaluations of individual judges appear on the following pages, with the Judicial Council's Evaluation Page on the right-hand, facing the Judge's Statement Page (provided and paid for by each justice or judge at the judge's option). Information regarding judicial performance was based on sources available to the Judicial Council at the time of its recommendations. These sources included: Bar and Peace Officer mail surveys, a review of court and public records, professional and public testimony, investigation by Council staff, and personal interviews. These activities were supervised wholly by the Judicial Council and paid for by the Judicial Council out of the state general fund. Each Evaluation Page contains the following information:

The judge's name, years in the present judicial position, and scheduled date of the next retention election after 1988.

Section I: Judicial Council Evaluation.

The Judicial Council has evaluated each judge as "Qualified" or "Unqualified" to retain his or her judicial office. The Council has also stated its recommendations to vote "Yes" or "No" to retain each judge.

Section II: Sources of Evaluation Information.

A. Information other than surveys. Information regarding judicial performance was based on sources available to the Judicial Council at the time of its recommendations. These sources included: Bar and Peace Officer mail surveys, a review of court and public records, professional and public testimony, investigation by Council staff, and personal interviews.

B. Bar and Peace Officer mail surveys. Survey forms for the evaluation of judges were mailed to all members of the Alaska Bar Association and to all peace and probation officers in the state. The graph in this Section shows average scores from the surveys completed by 1,140 members of the Bar Association and 492 peace and probation officers. There are five summary scores for the supreme court justice and six summary scores for each superior and district court judge. Peace and probation officers were not asked to evaluate the supreme court justices or the legal abilities of trial court judges.

Administration of the surveys was conducted wholly by Mystrom Research, Anchorage under contract to the Judicial Council.

A complete copy of the survey results may be obtained by calling or writing to the Alaska Judicial Council, 1031 West Fourth Avenue, Suite 301, Anchorage, Alaska 99501; (907) 279-2526.

SUPERIOR COURT JUDGE

THOMAS M. JAHNKE, First Judicial District

Years in Current Position: 3

Date of Next Retention Election: 1994

I. Judicial Council Evaluation

The Alaska Judicial Council finds Judge Thomas M. Jahnke to be "Qualified" for the position of Superior Court Judge.

The Judicial Council's Recommendation: Vote "Yes" to retain Judge Thomas M. Jahnke

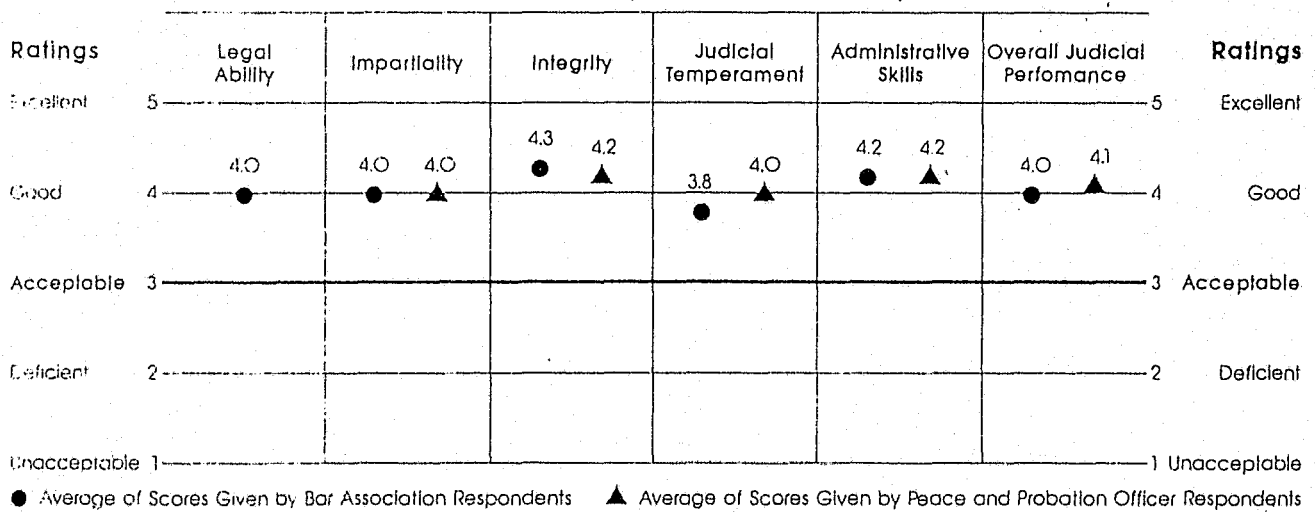
II. Sources of Evaluation Information

A. Information other than Surveys. Information regarding judicial performance was based on sources available to the Judicial Council at the time of its recommendations. These sources included: the Bar and Peace Officer mail surveys, a review of court and public records, professional and public testimony, investigation, by Council staff, and personal interviews

B. Bar and Peace Officer Mail Surveys. The following graph compares the mail survey responses of the Bar Association members and the Peace and Probation officers.

Judge Thomas M. Jahnke

Survey Scores *



* The ratings shown are based upon average scores from respondents who used the following scale: 5 = excellent (consistently exceeds minimum standards for this court); 4 = good (often exceeds minimum standards of performance for this court); 3 = acceptable (meets minimum standards of performance for this court); 2 = deficient (does not always meet minimum standards of performance for this court); 1 = unacceptable (seldom meets minimum standards of performance for this court). The 20 criteria evaluated by Bar members and the 15 criteria evaluated by peace and probation officers have been summarized into five categories (peace and probation officers did not evaluate Legal Ability) The 4 categories of Impartiality, Integrity, Judicial

Temperament and Administrative Skills can be further summarized into a composite score. The composite scores are statistically comparable. For Judge Thomas M. Jahnke, the Bar members' composite score is 4.0 and the Peace Officers' composite score is 4.0. Overall Judicial Performance is a separate criterion. It does not summarize the other scores, and is not statistically comparable between Bar members and peace and probation officers.

EDITOR'S NOTE:

Complete survey results are available by calling or writing to the Alaska Judicial Council at 1031 West Fourth Avenue, Suite 301, Anchorage, Alaska 99501; (907) 279-2526.

**THE ALASKA JUDICIAL COUNCIL
FINDS THE FOLLOWING JUDGES**

QUALIFIED

AND RECOMMENDS A "YES" VOTE ON THEIR RETENTION:

JUSTICE EDMOND W. BURKE, Supreme Court
JUSTICE JAY A. RABINOWITZ, Supreme Court

First Judicial District

JUDGE THOMAS M. JAHNKE, Superior Court
JUDGE GEORGE L. GUCKER, District Court

Third Judicial District

JUDGE JOHN BOSSHARD, III, Superior Court
JUDGE RENE J. GONZALEZ, Superior Court
JUDGE KAREN L. HUNT, Superior Court
JUDGE JOAN M. KATZ, Superior Court
JUDGE PETER A. MICHALSKI, Superior Court
JUDGE MILTON SOUTER, Superior Court
JUDGE GLEN ANDERSON, District Court
JUDGE PETER G. ASHMAN, District Court
JUDGE NATALIE K. FINN, District Court
JUDGE WILLIAM H. FULD, District Court
JUDGE JOHN D. MASON, District Court

Fourth Judicial District

JUDGE MARY E. GREENE, Superior Court

**THE ALASKA JUDICIAL COUNCIL FINDS
JUDGE KARL S. JOHNSTONE, SUPERIOR COURT,
THIRD JUDICIAL DISTRICT,**

UNQUALIFIED

AND RECOMMENDS A "NO" VOTE ON HIS RETENTION

The Alaska Judicial Council has a statutory duty to conduct evaluations of each judge and justice standing for retention, and to provide information and recommendations to the public about these judges. The Council's evaluations were based on information from sources available to the Judicial Council at the time of its evaluation. These sources included the Bar and Peace Officer mail surveys, a review of court and public records, professional and public testimony, investigation by Council staff and personal interviews.

The Judicial Council was established by the state's constitution as an agency of state government, independent of the Court Systems, and consists of seven members: Three non-attorney members appointed by the Governor and confirmed by the Legislature; three attorney members appointed by the Board of Governors of the Alaska Bar Association; and the Chief Justice, who serves as Chairman of the Council Ex-officio.

Paid for by the Alaska Judicial Council, 1031 W. 4th Ave., Suite 301, Anchorage 99501 - 279-2526.



alaska judicial council

1031 W. Fourth Avenue, Suite 301, Anchorage, Alaska 99501 [907] 279-25

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Leona Okak

December 15, 1988

ATTORNEY MEMBER
Daniel L. Callah
William T. Cour
James D. Gilrno

MEMORANDUM

CHAIRMAN, EX OFFICIO
Warren W. Matthe
Chief Justi
Supreme Coi

TO: Judicial Council and Retention Consultant Committee

FROM: Staff *WC*

RE: Analysis of 1988 Retention Vote Patterns

This memo serves as an addendum to the Council's earlier memos that analyzed retention voting patterns between 1976 and 1986. Sixteen of the seventeen judges standing for retention in 1988 were found qualified by the Judicial Council and recommended for retention (Judge Johnstone was found unqualified and the Council recommended against his retention). All judges were retained.

The number of "yes" and "no" votes cast for each judge are shown in Table A. The vote tallies were supplied by the Division of Elections during a November 23, 1988 phone call. "Retention Vote Analysis, Trial Judges", compares the outcomes for 1988 with the "yes" vote percentages in all prior years during which the Council evaluated judges. Table B also shows the survey scores (Overall Judicial Performance, experienced raters) by Bar and Peace and Probation officers for each year. Table C shows the "yes" vote percentages for the supreme court justices for each year since 1976.

The vote percentages, overall, resemble the voting patterns found in 1986 (see attached 1986 vote analysis). Most judges received "yes" vote percentages between 67 and 72%. One judge received 74.3% "yes" votes (Judge Anderson) and two judges received "yes" votes below 60% (Judge Johnstone, 58.1%; Justice Rabinowitz, 59.0%). As in 1986, it can be hypothesized that the relatively high vote percentages indicate a lack of controversy and a high level of public confidence in the judges.

The two judges who received lower percentages of "yes" votes were both involved in some degree of controversy. Judge Johnstone was found unqualified by the Judicial Council and a "no" vote on his retention was recommended. Between the Council's meeting in July and the election in November, frequent letters appeared in the Anchorage newspapers supporting Judge Johnstone's retention. Several articles and one ad (paid for by the Council) appeared that reiterated the Council's position. Justice Rabinowitz was opposed in newspaper and TV ads by a citizens' group that was funded by a combination of tort reform proponents and fundamentalists. Newspaper ads supporting him were run by another citizens' group (primarily attorneys) and the Judicial Council (the Council's ad included both Justice Burke and Justice Rabinowitz). In both instances, the fact of controversy appears to have resulted in a lower percentage of "yes" votes than those given to other judges in comparable positions. In the case of Judge Johnstone, the controversy may also have encouraged a larger number of people to cast a vote, since his total number of votes is over 1,000 more than any other superior court judge.

Table A also shows the number of registered voters, the percentage who actually participated in the 1988 general election, the percentage casting votes in the U.S. House of Representatives race and the percentage voting in the supreme court retention election. Of the registered voters actually voting in 1988, 93.8% voted in the congressional race and 83.5% voted on the retention of Justice Burke. The percentage voting in the congressional race was very similar to the 1986 percentage of 93.5%, and within the range for other years (90.8% to 96.9%). The percentage voting in the retention election was higher than the 79% turnouts in 1984 and 1986, and comparable to the 83% to 87% range found in earlier years.

TABLE A
1988 Retention Vote Totals

<u>DISTRICT</u>	<u>JUSTICE/ JUDGE</u>	<u>"YES" VOTES</u>		<u>"NO" VOTES</u>		<u>TOTAL VOTES</u>
		<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>	
<u>Supreme</u>	Burke	123,878	(72.9%)	45,818	(27.0%)	169,696
	Rabinowitz	99,918	(59.0%)	69,334	(40.9%)	169,252
<u>1st District</u>	Jahnke	18,186	(72.3%)	6,964	(27.6%)	25,150
	Gucker	17,877	(71.1%)	7,294	(28.9%)	25,171
<u>2nd District</u>	(No judges standing for retention)					
<u>3rd District</u>	Bosshard	65,145	(68.6%)	29,814	(31.3%)	94,959
	Gonzalez	61,772	(65.2%)	32,864	(34.7%)	94,636
	Hunt	69,364	(72.3%)	26,519	(27.3%)	95,883
	Johnstone	56,521	(58.1%)	40,723	(41.8%)	97,244
	Katz	66,931	(70.5%)	27,921	(29.4%)	94,852
	Michalski	65,493	(69.9%)	28,198	(30.1%)	93,691
	Souter	64,583	(68.7%)	29,422	(31.2%)	94,005
	Anderson	70,163	(74.3%)	24,196	(25.6%)	94,359
	Ashman	65,860	(70.6%)	27,380	(29.3%)	93,240
	Finn	68,855	(72.8%)	25,643	(27.1%)	94,498
	Fuld	63,682	(68.5%)	29,150	(31.4%)	92,832
	Mason	63,949	(68.2%)	29,785	(31.7%)	93,734
<u>4th District</u>	Greene	24,412	(67.6%)	11,694	(32.3%)	36,106

* * * * *

- | | | | |
|----|---|---------|---------|
| 1. | Total number of Registered Voters: | 292,441 | |
| 2. | Number that actually voted: | 203,132 | (69.4%) |
| 3. | Number that voted in U.S. House race for either Young or Gruenstein* | 190,442 | |
| 4. | % of all who voted, who voted in the U.S. House Race | | (93.8%) |
| 5. | Number and percent of all who voted, who voted for or against Justice Burke | 169,696 | (83.5%) |

* The vote tallies provided did not include write-in votes.

TABLE B
RETENTION VOTE ANALYSIS, TRIAL JUDGES
Alaska Judicial Council, December 7, 1988

Judge	Bar*	1976 PFO	Vote**	Bar	1978 PFO	Vote	Bar	1980 PFO	Vote	Bar	1982 PFO	Vote	Bar	1984 PFO	Vote	Bar	1986 PFO	Vote	Bar	1988 PFO	Vote	
<u>FIRST JUDICIAL DISTRICT SUPERIOR COURT</u>																						
Carpeneti														4.4	3.6	77.0%						
Compton							4.1	4.0	76.1%													
Craske							3.7	3.0	70.4%									3.9	3.2	72.5%		
Jahnke																				4.0	4.1	72.3%
Regnes														3.5	3.7	75.4%						
Schulz														3.8	3.2	74.1%						
Stewart, T.	4.2	3.8	72.8%	3.9	2.6	74.8%																
<u>FIRST JUDICIAL DISTRICT DISTRICT COURT</u>																						
Asper																		4.0	2.2	72.5%		
Craske	3.6	3.7	78.2%																			
Gicker														3.8	2.1	67.9%				3.3	3.1	71.1%
Keene				3.1	3.6	73.9%				3.5	4.1	76.4%										
Taylor, R.				3.8	3.2	75.1%																
Williams	2.3	3.4	71.5%				2.2	3.9	59.1%													
<u>SECOND JUDICIAL DISTRICT SUPERIOR COURT</u>																						
Jeffrey																		3.5	3.5	76.3%		
Jones														3.4	3.5	75.6%						
Tunley														3.8	2.9	71.4%						

* Survey scores are the mean score given by experienced raters (i.e., those who have direct professional experience with the judge) for the criterion "Overall Judicial Performance".
** The percentage shown is the percentage of "yes" votes cast for the judge in the retention election.

TABLE B (Continued)

Judge	1976			1978			1980			1982			1984			1986			1988					
	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote			
THIRD JUDICIAL DISTRICT SUPERIOR COURT																								
Bosshard																			3.2	3.8	68.6%			
Buckalew	3.7	3.1	62.2%							3.9	3.4	59.9%												
Carlson				3.9	3.2	67.4%							3.6	4.1	63.6%									
Cranston													4.1	3.1	65.1%									
Cutler																3.9	3.7	68.9%						
Gonzalez																								
Hanson							3.0	2.8	54.7%										3.5	2.8	65.2%			
Hunt																								
Johnstone																			4.1	3.4	72.3%			
Kalamarides	3.0	3.1	64.2%										not evaluated	52.0%							2.9	3.2	58.1%	
Katz																								
Madsen				2.8	3.1	64.1%										3.1	3.1	62.1%						
Michalski																			3.5	3.9	69.9%			
Moody				3.3	3.6	64.6%																		
Ripley				3.5	3.5	67.8%																		
Rowland							3.8	3.6	61.0%							3.4	3.7	64.2%				3.6	3.9	69.6%
Serdanely																4.1	3.7	68.1%						
Shortell																3.8	3.5	67.4%						
Singleton							4.0	3.3	missing															
Souter										3.6	3.2	56.4%										3.7	3.5	68.7%
THIRD JUDICIAL DISTRICT DISTRICT COURT																								
Anderson							4.1	3.6	63.7%				4.1	3.8	72.4%				4.2	4.0	74.3%			
Andrews										4.1	3.7	66.1%				4.1	4.0	71.2%				4.4	3.4	70.6%
Ashman																3.7	3.7	69.8%						
Beckwith																								
Bosshard				3.6	3.8	67.1%				3.6	3.5	57.9%												
Brewer				2.7	2.7	55.6%				2.6	2.7	45.5%												
Bryner	4.2	2.7	66.2%																					
Cutler				3.8	2.8	69.5%							4.0	3.0	63.0%									
Finn													4.1	4.0	72.4%							4.1	4.0	72.8%
Fuld													3.6	3.7	68.3%							3.5	3.5	68.5%
Hornaday				3.1	3.1	66.6%				3.2	4.1	59.8%				3.1	3.9	67.2%						
Mason	3.3	3.2	63.7%				3.1	3.1	57.8%				3.2	2.8	58.1%							3.2	3.0	68.2%
Peterson	3.6	3.9	68.3%																					
Stemp																3.3	4.0	67.8%						
Stewart, D.																4.0	3.6	70.5%						
Tucker				2.9	2.8	64.9%				2.8	3.1	54.5%												
Vochoska				2.7	2.8	51.6%				2.7	2.4	42.3%												
White																3.8	3.0	70.5%						

EXHIBIT L.5
APPENDIX G.32

TABLE B (Continued)

Judge	Bar	1976 PFO	Vote	Bar	1978 PFO	Vote	Bar	1980 PFO	Vote	Bar	1982 PFO	Vote	Bar	1984 PFO	Vote	Bar	1986 PFO	Vote	Bar	1988 PFO	Vote	
FOURTH JUDICIAL DISTRICT SUPERIOR COURT																						
Blair				3.7	3.7	73.4%							3.4	3.8	65.4%							
Cooke							3.2	2.5	68.4%													
Greene																	3.4	3.2	69.2%	4.2	2.4	67.6%
Hodges							3.5	3.1	65.7%													
Taylor, W.							3.1	3.8	72.8%													
Van Hornisen							3.5	4.1	72.3%								3.4	4.0	72.2%			
FOURTH JUDICIAL DISTRICT DISTRICT COURT																						
Clayton	3.9	3.8	75.9%				3.7	3.3	msng													
Cline							2.5	2.6	59.5%													
Connelly				3.8	4.0	74.3%				3.8	4.0	71.8%					3.6	3.9	74.2%			
Crutchfield										3.7	3.8	67.9%					3.5	3.6	71.3%			
Kauvar										3.6	2.9	68.7%					3.4	3.4	72.0%			
Miller				3.3	3.0	62.2%																
Zimmerman																	4.0	3.8	74.8%			

EXHIBIT L.6
APPENDIX G.33

TABLE C

SUPREME COURT "YES" VOTE PERCENTAGES

Supreme Court

Boochever	1976	67.8%
Burke	1978	68.6%
Rabinowitz	1978	67.8%
Matthews	1980	53.5%
Connor	1982	61.5%
Compton	1984	69.7%
Moore	1986	69.1%
Burke	1988	72.9%
Rabinowitz	1988	59.0%

APPENDIX H

RETENTION LOG OF JUDGES

RETENTION ELECTION LOG

I. SUPREME COURT JUSTICES

RETENTION DATES

First general election held more than 3 years after appointment; every 10 years thereafter.

JUSTICE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
EDMOND W. BURKE	4/4/75	78, 88	98
ALLEN T. COMPTON	12/12/80	84	94
WARREN W. MATTHEWS	5/26/77	80	90
DANIEL A. MOORE, JR.	7/10/83	86	96
JAY A. RABINOWITZ	2/21/65	68, 78, 88	98

II. COURT OF APPEALS JUDGES

RETENTION DATES

First general election held more than 3 years after appointment; every 8 years thereafter.

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
ALEXANDER O. BRYNER	7/30/80	84	92
ROBERT G. COATS	7/30/80	84	92
JAMES K. SINGLETON, JR.	7/30/80	84	92

III. SUPERIOR COURT JUDGES

RETENTION DATES

First general election held more than 3 years after appointment; every 6 years thereafter.

A. FIRST JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
WALTER L. CARPENETTI	10/15/81	84	90
DUANE K. CRASKE	9/24/76	80, 86	92
THOMAS M. JAHNKE	5/11/85	88	94
RODGER W. PEGUES	6/11/81	84	90
THOMAS E. SCHULZ	11/16/73	78, 84	90

**RETENTION ELECTION LOG
(CONTINUED)**

B. SECOND JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
MICHAEL I. JEFFERY	10/28/82	86	92
PAUL B. JONES	5/5/80	84	90
CHARLES R. TUNLEY	12/12/80	84	90

III. SUPERIOR COURT JUDGES

RETENTION DATES

First general election held more than 3 years after appointment; every 6 years thereafter.

C. THIRD JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
JOHN BOSSHARD, III	5/29/84	88	94
VICTOR D. CARLSON	10/8/75	78, 84	90
CHARLES K. CRANSTON	10/15/81	84	90
BEVERLY W. CUTLER	10/28/82	86	92
DANA A. FABE	8/26/88	--	92
RENE J. GONZALEZ	11/08/84	88	94
KAREN L. HUNT	1/10/84	88	94
KARL S. JOHNSTONE	10/8/79	82, 88	94
JOAN M. KATZ	11/08/84	88	94
ROY H. MADSEN	9/17/75	78, 84	90
PETER A. MICHALSKI	01/31/85	88	94
J. JUSTIN RIPLEY	6/27/75	78, 84	90
MARK C. FOWLAND	2/22/77	80, 86	92
BRIAN C. SHORTELL	12/12/80	84	90
MILTON M. SOUTER	1/23/78	82, 88	94
1 SUPERIOR COURT SEAT VACANT AS OF 2/17/89			92

**RETENTION ELECTION LOG
(CONTINUED)**

D. FOURTH JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
GAIL ROY FRATTES	5/22/86	---	90
MARY E. "MEG" GREENE	01/4/85	88	94
JAY F. HODGES	9/28/76	80, 86	92
RICHARD D. SAVELL	4/27/87	---	90
NIESJE J. STEINKRUGER	8/26/88	---	92

IV. DISTRICT COURT JUDGES

RETENTION DATES

First general election held more than 1 year after appointment; every 4 years thereafter.

A. FIRST JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
GEORGE L. GUCKER	3/31/83	84, 88	92
1 DISTRICT COURT SEAT VACANT AS OF 7/31/89			90

B. SECOND JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
NO DISTRICT COURT JUDGES IN THE SECOND JUDICIAL DISTRICT			

**RETENTION ELECTION LOG
(CONTINUED)**

C. THIRD JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
GLEN C. ANDERSON	3/16/78	80, 84, 88	92
ELAINE ANDREWS	6/11/81	82, 86	90
PETER G. ASHMAN	07/31/87	88	92
MARTHA BECKWITH	11/08/84	86	90
NATALIE K. FINN	3/31/83	84, 88	92
WILLIAM H. FULD	3/31/83	84, 88	92
JAMES C. HORNADAY	11/2/76	78, 82, 86	90
JOHN D. MASON	12/7/70	72, 76, 80, 84, 88	92
RALPH STEMP	11/08/84	86	90
DAVID STEWART	11/08/84	86	90
MICHAEL L. WOLVERTON	8/26/88	---	90

D. FOURTH JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
H. ED CRUTCHFIELD	10/30/80	82, 86	90
JANE F. KAUVAR	02/18/81	82, 86	90
LARRY C. ZERVOS	8/26/88	---	90
CHRISTOPHER E. ZIMMERMAN	02/01/85	86	90

1988 RETENTION ELECTION CANDIDATES

JUDGE	APPOINTED	CITY/ JUDICIAL DISTRICT
1. Supreme Court Justice Edmond W. Burke	04/04/75	ANCHORAGE / NA
2. Supreme Court Justice Jay A. Rabinowitz	02/21/65	FAIRBANKS / NA
3. Superior Court Judge Thomas M. Jahnke*	05/11/85	WRANGELL / FIRST
4. Superior Court Judge John Bosshard, III*	05/29/84	VALDEZ / THIRD
5. Superior Court Judge Rene J. Gonzalez*	11/08/84	ANCHORAGE / THIRD
6. Superior Court Judge Karen L. Hunt*	01/10/84	ANCHORAGE / THIRD
7. Superior Court Judge Karl S. Johnstone	10/08/79	ANCHORAGE / THIRD
8. Superior Court Judge Joan M. Katz*	11/08/84	ANCHORAGE / THIRD
9. Superior Court Judge Peter A. Michalski*	01/31/85	ANCHORAGE / THIRD
10. Superior Court Judge Milton M. Souter	01/23/78	ANCHORAGE / THIRD
11. Superior Court Judge Mary E. "Meg" Greene*	01/04/85	FAIRBANKS / FOURTH
12. District Court Judge George L. Gucker	03/31/83	KEETCHIKAN / FIRST
13. District Court Judge Glen C. Anderson	03/16/78	ANCHORAGE / THIRD
14. District Court Judge Natalie K. Finn	03/31/83	ANCHORAGE / THIRD
15. District Court Judge William H. Fuld	03/31/83	ANCHORAGE / THIRD
16. District Court Judge John D. Mason	12/07/70	ANCHORAGE / THIRD
17. District Court Judge Peter G. Ashman*	07/31/87	PALMER / THIRD

* Indicates first time judges for retention in current position.

1990 RETENTION ELECTION CANDIDATES

JUDGE	APPOINTED	CITY/ JUDICIAL DISTRICT
1. Supreme Court Justice Warren W. Matthews	05/26/77	ANCHORAGE / NA
2. Superior Court Judge Walter L. Carpenati	10/15/81	JUNEAU / FIRST
3. Superior Court Judge Rodger W. Pegues	06/11/81	JUNEAU / FIRST
4. Superior Court Judge Thomas E. Schulz	11/16/73	KETCHIKAN / FIRST
5. Superior Court Judge Paul B. Jones	05/05/80	KOTZEBUE / SECOND
6. Superior Court Judge Charles R. Tunley	12/12/80	NOME / SECOND
7. Superior Court Judge Victor D. Carlson	10/08/75	ANCHORAGE / THIRD
8. Superior Court Judge Charles K. Cranston	10/15/81	KENAI / THIRD
9. Superior Court Judge Roy H. Madsen	09/17/75	KODIAK / THIRD
10. Superior Court Judge J. Justin Ripley	06/27/75	ANCHORAGE / THIRD
11. Superior Court Judge Brian C. Shortell	12/12/80	ANCHORAGE / THIRD
12. Superior Court Judge Gail Roy Fraties*	05/22/86	BETHEL / FOURTH
13. Superior Court Judge Richard D. Savell*	04/27/87	FAIRBANKS / FOURTH
14. District Court (Vacant as of 7/31/89)		JUNEAU / FIRST
15. District Court Judge Elaine Andrews	06/11/81	ANCHORAGE / THIRD
16. District Court Judge Martha Beckwith	11/08/84	ANCHORAGE / THIRD
17. District Court Judge (Vacant as of 8/19/89)		HOMER / THIRD
18. District Court Judge Ralph Stemp	11/08/84	ANCHORAGE / THIRD
19. District Court Judge David Stewart	11/08/84	ANCHORAGE / THIRD
20. District Court Judge Michael L. Wolverton*	08/26/88	ANCHORAGE / THIRD
21. District Court Judge H. E. "Ed" Crutchfield	10/30/80	FAIRBANKS / FOURTH
22. District Court Judge Jane F. Kauvar	02/18/81	FAIRBANKS / FOURTH
23. District Court Judge Larry C. Zervos*	08/26/88	FAIRBANKS / FOURTH
24. District Court Judge Christopher E. Zimmerman	08/26/88	FAIRBANKS / FOURTH

* Indicates first time judges for retention in current position.

APPENDIX I

MAJOR RECOMMENDATIONS OF THE JUDICIAL COUNCIL

SUMMARY OF PROGRAMS AND RECOMMENDATIONS OF
THE JUDICIAL COUNCIL SINCE STATEHOOD: 1959-1986

Article 4, Section 9 of Alaska's Constitution states:

"The judicial council shall conduct studies for the improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years."

The topics studied by the Judicial Council at the request of the legislature and supreme court cover as wide a range as the constitutional language mandating these studies. The following list summarizes some of the more important contributions in the years since statehood.

A. Recommendations Relating to the Judiciary and the Courts.

1. Evaluation of judges standing for retention elections and recommendations to the public (1975).
2. Establishment of the Commission on Judicial Qualifications (1968). (Name changed in 1982 to Commission on Judicial Conduct.)
3. Legislation relating to judicial salaries and retirement plans.
4. Increased jurisdictions of district court judges.
5. Court facilities and court management programs.
6. Jury size and length of service.
7. Authority of magistrates.
8. Supervision of the procedure of revising rules of court (1959-1961).
9. Waiver of juvenile jurisdiction in minor traffic cases (Ch. 76, SLA 1961).
10. Establishment of Family Court (Ch. 100, SLA 1967).
11. Appellate review of sentences (Ch. 117, SLA 1969).
12. Coroner-Public Administrator office (Ch. 216, SLA 1970).
13. Constitutional amendment rotating the office of Chief Justice (approved by electorate in 1970).

B. Recommendations Relating to Other Aspects of the Administration of Justice.

1. Compilation of the records of the constitutional convention.
2. Adoption of Rule 40(e) of the uniform rules of the legislature (requiring 2/3 vote of the legislature to change rules of court).
3. Establishment of Public Defender Agency (Ch. 109, SIA 1969).
4. Parole Board autonomy (granted in 1972).
5. Modernization of the state recording system (1966).
6. Various recommendations regarding probation and parole services, including administration of probation by courts.
7. Recommendations regarding juvenile services.
8. Extensive analysis of Bush Justice needs, and recommendations.
9. Monthly statistical reporting system on sentences (established by courts and corrections in 1962).
10. Recommendation for presentence reports in all felony convictions (enacted by court rule in 1974).
11. Reclassification of minor traffic offenses as noncriminal.
12. Presumptive sentencing for second felony offenders (adopted by legislature, 1978).
13. Revision of presentence reports to meet requirements of new criminal code and reduce disparities in sentencing (1981).
14. Establishment of alternative mechanisms for dispute resolution (undertaken by Department of Law, 1980-81).
15. Annual monitoring of felony and misdemeanor sentencing patterns (authorized by legislature, 1980).
16. Development of mail-in bail schedule for minor Fish and Game offenses (authorized by legislature, 1984; adopted by supreme court 1985).
17. Establishment of Code Revision Commission to revise laws and regulations governing fish and game offenses.
18. Focus of justice system resources on efforts to encourage completion of alcohol treatment programs and monitoring of compliance with treatment requirements (similar recommendation adopted by Governor's Task Force on Drunk Driving, 1984).

19. Development of sentencing guidelines for drug offenses (used in 1981 and 1982 until drug law revisions took effect January 1, 1983).
20. Establishment of alternative jail facilities for persons convicted of Driving While Intoxicated and other alcohol-related offenses (currently recommended by Department of Corrections and under consideration by legislature).
21. Use of television for arraignments and other court proceedings on a permanent basis (experimental rule made permanent by supreme court in August, 1986).
22. Adoption of a court rule to provide guidelines for judicial review and dissemination of grand jury reports (recommendation made to supreme court in March, 1987).
23. Revised criteria for judges serving pro tem (court, administrative rule 23).
24. Guidelines for evaluation of pro tem judges (court, administrative rule 23).
25. Revised media plan and judicial canons to permit use of cameras in court proceedings.
26. Adoption of new criminal rule regarding grand jury reports (Criminal Rule 6.1).

APPENDIX J

COUNCIL PUBLICATIONS SINCE STATEHOOD

ALASKA JUDICIAL COUNCIL

MAJOR STUDIES AND REPORTS

1. The First Annual Report. (Jan., 1961). Review of the Council's activities and recommendations during 1960.
2. Second Annual Report. (Jan., 1962). Review of the Council's activities and recommendations during 1962.
3. Alaska Judicial Council Third Report 1962-1963. (Jan., 1964). Review of the Council's activities and recommendations during the period 1962-1963.
4. Alaska Judicial Council Fourth Report 1964-1966. (Jan., 1967). Review of the Council's activities and recommendations during the period 1964-1966.
5. Alaska Judicial Council Fifth Report 1967-1968. (Jan., 1969). Review of the Council's activities and recommendations during the period 1967-1968.
6. Alaska Judicial Council Sixth Report 1969-1970. (Feb., 1971). Review of the Council's activities and recommendations during the period 1969-1970.
7. Alaska Judicial Council Seventh Report 1971-1972. (Feb., 1973). Review of the Council's activities and recommendations during the period 1971-1972.
8. The Alaska Public Defender Agency in Perspective. (Jan., 1974). An analysis of the law, finances, and administration from 1969 to 1974. The report resulted in amendments to Title 18, improving Public Defender services.
9. Report on Policy Considerations for Court Fee Structures. (Feb., 1974). Resulted in changes to court system policies regarding fees collected for adoptions, recording services, and child support.
10. Evaluation of Courts of Limited Jurisdiction. (1974, unpublished). Resulted in establishment of superior court judgeships in Kodiak and Sitka.
11. Judicial Districting. (Jan., 1975). Resulted in creation of Barrow and Bethel service areas by court order.
12. The Grand Jury in Alaska. (Feb., 1975). Resulted in preliminary hearing pilot project in Anchorage and experimental rule change by supreme court.
13. Sentencing in Alaska. (March, 1975). Statistical analysis of felony sentences imposed in 1973.
14. Bail in Anchorage. (March, 1975). Statistical analysis of bail practices for Anchorage felony cases in 1973.
15. 1973 Sentences of Five Years or Longer. (April, 1975). Analysis of factors contributing to lengthy sentences, and the impact of appellate review of sentencing.

16. Report on Repeat Bail Recidivists in 1973. (April, 1975). Case-by-case analysis of defendants who violated bail conditions by committing more than one new crime while on bail for a felony offense.
17. Eighth Report to the Supreme Court and Legislature 1973- 1975. (Feb., 1976). Review of the Council's activities and recommendations during the period 1973- 1975.
18. Preliminary Report of the Alaska Judicial Survey. (Aug., 1976). Prepared for 1976 retention elections by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1976 general election.
19. Alaska Felony Sentencing Patterns: A Multivariate Statistical Analysis -- 1974-1976. (April, 1977). Study requested by the legislature and used to structure presumptive sentencing provisions of the new criminal code. Also resulted in the creation of the Sentencing Guidelines Committee.
20. Interim Report on the Elimination of Plea Bargaining. (May, 1977). Summarized effects of the Attorney General's 1975 ban on plea bargaining as reported by attorneys, judges, and defendants.
21. The Anchorage Citizen Dispute Center: A Needs Assessment and Feasibility Report. (1977). Analysis of dispositions of minor disputes reported to Anchorage Police Department. Recommended establishment of alternative dispute resolution procedures for certain types of situations. Resulted in establishment of a pilot dispute resolution process in Anchorage (1981) through the Department of Law.
22. Ninth Report to Supreme Court and Legislature 1976- 1978. (March, 1978). Review of the Council's activities and recommendations during the period 1976- 1978.
23. Report of the Results of the 1978 Alaska Judicial Survey. (Aug., 1978). Prepared for 1978 retention elections by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1978 general election.
24. A Look Inside: A Pilot Project in Citizen Involvement with the Judicial System. (Oct., 1978). Contributed to citizen participation in all aspects of the justice system, and to revised procedures for the evaluation of judges.
25. Interim Report of the Alaska Judicial Council on Findings of Apparent Racial Disparity in Sentencing. (Oct., 1978). Summary of data accumulated on felony case dispositions and sentencing patterns from Anchorage, Fairbanks, and Juneau (1974-1976) giving evidence of racial and other disparities in sentencing for certain types of offenses. Resulted in legislation creating the Advisory Committee on Minority Judicial Sentencing Practices, and funding of Judicial Council follow-up studies of felonies and misdemeanors. See text of Tenth Report for other effects.

26. The Effect of the Official Prohibition of Plea Bargaining on the Disposition of Felony Cases in Alaska Criminal Courts. (Dec., 1978). [Reprinted by the Government Printing Office, Washington, D.C. as Alaska Bans Plea Bargaining, 1979]. Evaluates the effectiveness and consequences of the Attorney General's 1975 ban on plea bargaining, including the results of over 400 interviews with attorneys, judges, and criminal justice personnel, and 2-year felony statistical study.
27. Alaska Misdemeanor Sentences: 1974-76 Plea Bargaining. (Aug., 1979). Analysis of misdemeanor sentences to determine effect of plea bargaining ban on sentences imposed after trial or plea.
28. "Northrim Survey": An Analysis of the Results of a Survey for the Alaska Judicial Council. (Aug., 1979). Prepared for the Judicial Council by Northrim Associates. Analyzes the findings of a survey of registered voters asked to comment on the 1978 retention election results.
29. Alaska Misdemeanor Sentences: 1974-76 Racial Disparity. (Nov., 1979). Analysis of existence of racial disparity in misdemeanor sentences; shows significant disparity for several categories of offense.
30. Sentencing Under Revised Criminal Code. (Jan., 1980). Probation Officer training manual for the revised criminal code.
31. Survey of Alaska Bar Association Members: Evaluation of Court of Appeals Candidates. (June 12, 1980). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the three Alaska Court of Appeals judge positions.
32. Report of the Results of the 1980 Alaska Judicial Survey. (July, 1980). Prepared for the Judicial Council by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1980 general election.
33. Survey of Alaska Bar Association Members: Evaluation of Fairbanks District Court Candidates. (Aug. 12, 1980). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for Fairbanks District Court judge position.
34. Survey of Alaska Bar Association Members: Evaluation of Three Judicial Positions. (October, 1980). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for judgeships on the Alaska Supreme Court, Anchorage Superior Court, and Nome Superior Court.
35. Survey of Alaska Bar Association Members: Evaluation of Fairbanks District Court Candidates. (Nov. 24, 1980). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for Fairbanks District Court judge position.
36. Alaska Felony Sentences: 1976-1979. (Nov., 1980). Follow-up study requested by the legislature on felony disparities; shows disappearance of most racial disparities. Additional analysis and findings on sentences in rural areas, effects of attorney type, and possible continuing trends from the plea bargaining ban.

37. Tenth Report of the Alaska Judicial Council to the Supreme Court and Legislature 1978-1980. (Feb., 1981). Review of the Council's activities and recommendations during the period 1978-1980.
38. Survey of Alaska Bar Association Members Evaluation of One Judicial Position and One Public Defender Position. (Mar. 19, 1981). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for Juneau Superior Court and Alaska Public Defender positions.
39. Survey of Alaska Bar Association Members Evaluation of Applicants Third Judicial District at Anchorage. (May 20, 1981). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for Anchorage District court judge position.
40. Survey of Alaska Bar Association Members Evaluation of Applicants for the Kenai Superior Court Judgeship. (Aug. 18, 1981). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Kenai Superior Court judge position.
41. Survey of Alaska Bar Association Members Evaluation of Applicants for the Juneau Superior Court Judgeship. (Sep. 16, 1981). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Juneau Superior Court judge position.
42. Recommendations of the Alaska Judicial Council to the Supreme Court Proposing Changes to the Civil Rules to Reduce Excessive Costs and Delays of Civil Litigation. (1981). Details proposed changes to the civil litigation system to reduce deterrents to pursuing or defending claims with a value of under \$25,000 through the implementation of an "economical litigation program".
43. A Preliminary Statistical Description of Fish & Game Sentences. (1981). Reviews data from Fish and Wildlife Protection data tapes; finds sufficient disparities to warrant full-scale statistical analysis.
44. Alaska Prison Population Impact Analysis. (1982). Funded by Division of Corrections. Estimates growth in sentenced felon prison populations based on potential and actual legislative changes.
45. Report of the Results of the 1982 Alaska Judicial Survey. (1982). Prepared for the Judicial Council by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1982 general election.
46. Survey of Alaska Bar Association Members Evaluation of Applicants for the Palmer, Barrow and Wrangell Superior Court Judgeships. (Sep. 17, 1982). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Palmer, Barrow and Wrangell Superior Court Judge positions.
47. Alaska Felony Sentences: 1980. (Dec. 2, 1982). Study requested by the legislature as a continued monitoring of sentence disparities and analysis of the effects of the revised criminal code. Shows disappearance of disparities (racial and attorney type), shortened sentence lengths.

48. Survey of Alaska Bar Association Members Evaluation of Applicants for the District Court Judgeships of the Third Judicial District at Anchorage and the First Judicial District at Ketchikan. (Feb. 14, 1983). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage and Ketchikan District Court Judge positions.
49. Eleventh Report of the Alaska Judicial Council to the Supreme Court and Legislature 1981-1982. (March, 1983). Review of the Council's activities and recommendations during the period 1981-1982.
50. Survey of Alaska Bar Association Members Evaluation of Applicants for the Alaska Supreme Court Justice. (May 5, 1983). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Alaska Supreme Court Justice position.
51. Survey of Alaska Bar Association Members Evaluation of Applicants for the Third Judicial District. Oct. 20, 1983). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage Superior Court Judge position.
52. Statistical Analysis of Major Fish & Game Offense Sentencing Outcomes. (Dec., 1983). Funded by the legislature in 1982 to study sentences imposed on 1980 and 1981 fish and game violators. Found widespread disparities and fluctuations in charging and sentencing patterns. Recommended complete revision of applicable statutes and codes.
53. Alaska Misdemeanor Sentences: 1981. (Dec., 1983). Funded by the legislature to analyze misdemeanor sentences imposed during 1981. Recommended alcohol treatment programs for convicted defendants and increased legislative sanctions for DWI to reduce the incidence of alcohol-related crime.
54. DWI Sentences: 1981. (March, 1984). Additional analysis of DWI (drunk driving) sentences included in the 1981 Misdemeanor Study data base. Types of sentences imposed for DWI convictions and characteristics of offenders are described.
55. Survey of Alaska Bar Association Members Evaluation of Applicants for the District Court, First Judicial District (Juneau) and the Superior Court, Third Judicial District (Valdez). (Apr. 24, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Juneau District Court and the Valdez Superior Court Judge positions.
56. Report of the Results of the 1984 Alaska Judicial Survey. (Aug., 1984). Prepared for the Judicial Council by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1984 general election.
57. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for The Third Judicial District (Anchorage) Superior Court And the Third Judicial District (Anchorage) District Court. (Sept. 4, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage Superior Court and District Court judge positions.

58. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for The Third Judicial District (Anchorage) Superior Court and the Fourth Judicial District (Fairbanks) District Court. (Nov. 9, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage Superior Court and Fairbanks District Court judge positions.
59. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for The Fourth Judicial District (Fairbanks) Superior Court. (Nov. 30, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Fairbanks Superior Court judge position.
60. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for the First Judicial District (Wrangell/Petersburg) Superior Court. (Feb. 25, 1985). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Wrangell/Petersburg Superior Court judge position.
61. Twelfth Report: 1983-1984 to the Legislature and Supreme Court. (March, 1985). Review of the Council's activities and recommendations during the period 1983-1984; and includes historical documentation of Council members, judicial nominees and appointees, etc. over the past 25 years.
62. Interim Evaluation Report Fairbanks Closed Circuit TV Arraignment Program. (Aug. 8, 1985). Interim evaluation of the experimental closed circuit TV arraignment project in Fairbanks. Presents recommendations for improvement of project.
63. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for the Fourth Judicial District (Bethel) Superior Court. (March, 1986). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Bethel Superior Court judge position.
64. Fairbanks Televised Arraignments Final Report. (March 21, 1986). Final evaluation of the use of television for arraignments, plea changes and other proceedings. Based on the report, a permanent court rule allowing televised hearings has been adopted by the Alaska Superior Court.
65. Final Report of the 1986 Alaska Judicial Survey. (August 8, 1986). Prepared for the Judicial Council by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1986 general election.
66. The Investigative Grand Jury in Alaska. (February, 1987). Describes the history of the investigative grand jury and grand jury reports in Alaska. Recommends a new court rule to provide due process protections for persons named in reports, judicial review of reports, and guidelines for publication and dissemination of reports.
67. Alaska Felony Sentences: 1984. (March, 1987). Describes felony sentencing patterns for 1984 cases. Analyzes the impacts of presumptive sentencing and other criminal justice system changes between 1980 and 1986.

68. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for the Fourth Judicial District (Fairbanks) Superior Court. (March, 1987). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Fairbanks Superior Court judge position.
69. Thirteenth Report: 1985-1986 to the Legislature and Supreme Court. (May, 1987). Review of the Council's activities in 1985 and 1986.
70. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for the Third Judicial District (Palmer) District Court, (June, 1987). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Palmer District Court judge position.
71. News Cameras in the Alaska Courts: Assessing the Impact. (January, 1988). Evaluation of the Supreme Court's experimental programs, including statistical analysis of increased news coverage. Based on the report, a revised media plan and judicial canons have been promulgated by the Supreme Court.
72. Survey of the Alaska Bar Association Members Evaluation of Judicial Applicants for the Superior and District Courts, Third Judicial District (Anchorage) and the Superior and District Courts, Fourth Judicial District (Fairbanks). (June, 1988) Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for four judicial vacancies in Anchorage and Fairbanks courts.
73. Report on the 1988 Retention Election Survey. (June, 1988). Prepared for the Judicial Council by Mystrom Research. Presents and analyzes the results of surveys of the Bar Association and of peace and probation officers regarding judges standing for retention in 1988.
74. Survey of Alaska Bar Association Members Evaluation of Applicants for the Position of Public Defender, State of Alaska. (December, 1988). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates the two applicants for the Public Defender vacancy.
75. Survey of Alaska Bar Association Members Evaluation of Applicants for the Superior Court, Third Judicial District (Anchorage) and for the District Court, First Judicial District (Juneau). (April, 1989).
76. Fourteenth Report (I/P). (June, 1989).
77. Rural Justice Needs and Bibliography (I/P). (Summer, 1990).
78. Plea Bargaining Bar/Presumptive Sentencing (I/P). (Summer, 1990).
79. First Survey of Alaska Bar Association Membership (I/P). (Summer, 1989).

APPENDIX K

EXECUTIVE SUMMARY

NEWS CAMERAS IN THE COURTS: ASSESSING THE IMPACT

News Cameras in the Alaska Courts:
Assessing the Impact

January 1988

alaska judicial council



I. The Study

The attached study responds to a request by the Alaska Supreme Court that the Alaska Judicial Council assess the impact of Canon 3(A)(7) of the Code of Judicial Conduct on the media and the courts. At the time that the request was made, the supreme court adopted an amendment to its rule governing cameras in the courtroom that significantly altered the rule's use and impact. Prior to July 1, 1985, a defendant's consent was required before news cameras would be allowed into criminal court. Defendants rarely gave their consent. The rule change adopted by the court in July 1985 eliminated this consent requirement.

Originally adopted for one year, the experimental court rule was ultimately extended to January 15, 1988 to allow a thorough study to be completed. This extension enabled two major murder trials occurring in 1987 to be incorporated into the study. Prior to the Mackay-related trials the Anchorage Media Courtroom had not been used nor had any significant legal issues emerged under the media rule.

Paragraph 3 of the supreme court order leading to this study reads: "...The Alaska Judicial Council shall monitor the impact of the amended canon and media coverage plan upon media coverage of judicial proceedings and upon the courts." As a result, our study attempts to examine the impact of the Media Plan on two entities, the courts and the media, by assessing differences before and after the July 1985 rule change.

The Cameras study is divided into seven parts. The first three sections set the context for an understanding of the analysis that follows. First, a brief history outlines the developing role of media in the courtroom and establishes the issues that have evolved over time. The second section takes a general overview of the current status of cameras in the courtrooms of all fifty states. Part three is a quick look at how these issues have developed in Alaska up to the recent rule change in July 1985. Part four begins the critical analysis of the impact of the rule by looking at how the rule has affected the Alaska courts in each of the four judicial districts and at the appellate level. This section uses data obtained from the "Requests for Media Coverage" that have been filed with the courts as well as incorporating interviews with judges, court personnel, attorneys, and media representatives across the state. Part five examines and interprets data on how the Media Plan has affected the media's coverage of the courts. With the aid of a

clipping service, the Judicial Council was able to monitor Anchorage television news programs on the courts from June 1984 to April of 1987 and to analyze news clippings statewide for selected cases both before and after the rule change. Part six outlines the issues, both legal and administrative, that arose under the Media Plan, and recommends specific changes that address these issues. The study ends with a brief conclusion assessing the merits of the Media Plan.

II. Findings

A. The Media Plan and the Courts

Generally, outside of Anchorage, requests by the media to cover cases are handled informally. Exceptions occur in particular newsworthy cases such as the Peel trial in Ketchikan and the Mackay-related trials in Fairbanks and Anchorage. Regardless of the formality of the request, judges tend to place similar restrictions on the placement of cameras in the courtroom. In addition, judges at times, though rarely, restrict the subject matter of the photos or video tapes.

The Anchorage trial courts have had the most requests for media coverage with a total of 259 requests; 189 were granted without written restrictions and only 15 were completely denied. Cameras have rarely been in use in the appellate courts.

Overall, the courts throughout the state report a good working relationship with the media. Many problems that arose during the first days of increased access to the courts have been addressed by both formal and informal arrangements between the courts and the local media.

B. The Media Plan and the Media

For purposes of this study, the media was divided into electronic media (mostly television) and print media (largely daily newspapers). Television coverage of the courts was analyzed for the period of June 1984 through March 1987. As expected, the number of newsclips on the nightly news in Anchorage increased substantially since the rule change in July 1985. While increased quantity of coverage does not necessarily reflect increased quality of coverage, many television news directors and reporters feel that the increased access has brought with it an increased understanding of court process. In addition, the television stations

preferred the types of video they could get in court to the out-of-court "ambush" shots they got prior to courtroom access.

Several minor technical problems remain for both television cameras and still cameras in the courtroom. These concerns are noted in detail in Part V of the attached study.

Selected cases were studied to assess the impact the plan has had on newspaper coverage of the courts. The most interesting finding parallels those relating to television coverage of the courts. The number of in-court photos uniformly increased since July 1985. Also, when newspapers had in-court photos, their stories were longer.

III. Recommendations

These recommendations address both the legal issues and the technical problems that arose during the course of the study.

1. The Plan should incorporate procedures that give the media the ability to challenge a denial of camera access.
2. Witness objections to camera coverage should be considered on a case by case basis.
3. Proceedings that indirectly include family matters may require consent of the parties for camera coverage but only for the time that those matters are discussed in the proceeding.
4. Camera coverage of sexual offenses should be treated as coverage of a criminal matter except that the victim should not be photographed without the victim's consent.
5. Sketch artists should be subject to standards established under the Media Plan.
6. Judges should have the discretion to ensure the fair administration of justice. This discretion includes the ability to consider possible

pretrial publicity generated by news cameras in severed criminal proceedings.

7. Prior to suspension of media privileges, the individuals or organizations to be disciplined should be entitled to present evidence on their behalf at a hearing before a judge.
8. Camera access to the courts in all cases except family matters should be presumed, subject to reasonable restrictions by the judge under the Media Plan. "Request for Coverage" forms should be changed to "Notice of Coverage."
9. An effort should be made to correct the technical problems that render the media courtroom in Anchorage unusable.
10. Judges and media organizations should be made aware of the Media Plan's policies and provisions.

IV. Conclusions

The July 1985 change in the Media Plan is viewed by a great majority of judges and virtually every member of the press as a great step forward. As mentioned above, our quantitative analysis shows a substantial increase in the coverage of the courts by both the broadcast and print media. And while it is difficult to evaluate the quality of the increased coverage, increased public awareness of the courts and their functions can only be positive.

The few problems that were identified in our study are easily corrected. Most stem from ambiguities in the Plans's provisions. Technical difficulties encountered by the Media were equally minor and could often be overcome with a combination of patience and creativity.

APPENDIX I.

THREE-JUDGE PANEL SENTENCES



alaska judicial council

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March 21, 1988

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MEMORANDUM

CHAIRMAN, EX OFFICIO
Warren W. Matthews
Chief Justice
Supreme Court

TO: Hal Brown

FROM: Teri Carns *TWC*

RE: Three-Judge Panel Decisions: May, 1985 - November, 1987

The three-judge panel was established by AS 12.55.165 -175 to provide consideration for exceptional cases that would otherwise be subject to presumptive sentencing. If the sentencing judge "finds by clear and convincing evidence that manifest injustice would result from failure to consider relevant aggravating or mitigating factors not specifically included in AS 12.55.155 or from imposition of the presumptive term, whether or not adjusted for aggravating or mitigating factors, the court shall ... cause a record of the proceedings to be transmitted to a three-judge panel for sentencing under AS 12.55.175 (AS 12.55.165)." The panel, appointed by the chief justice under criminal rule 32 (e), shall consider the record, the findings of the sentencing judge, and oral testimony (if desired) to supplement the record.

The panel may, if it does not find that manifest injustice would result from the imposition of the presumptive sentence, remand the case to the sentencing court. Or, it may, in the interest of justice, sentence the defendant to any definite term of imprisonment up to the maximum term for the offense, or to any sentence authorized under AS 12.55.015. Sentencing or remanding of a case must be by a majority vote of the panel.

The three-judge panel has been in existence since 1980 when the new criminal code took effect. Panel membership has undergone one major change, in 1985. Current panel members are Judges Brian Shortell (the administrative head of the panel), Rene Gonzalez, and Mary E. Greene, with Judges Peter Michalski

and Jay Hodges as alternates. Attorneys may exercise one peremptory challenge of a panel judge per case, following guidelines similar to those established by court rule for other criminal cases, and may exercise challenges for cause.

The panel is not required to report its findings, except to make a written statement of its findings and conclusions supporting any case remanded to the sentencing court. However, since May of 1985, the panel has written short summaries of every case referred to the panel. The summaries are published twice yearly. Between May of 1985 and November, 1987 the panel reviewed 68 cases. We have analyzed these summaries to obtain the data reported in this memo. In a few instances we have either clarified the summaries (for example, Dancer v. State was reported as an assault case; it is actually sexual abuse of a minor in the first degree) or added information (e.g., no offense was described in the summary for Kuvaas v. State; location of the case was missing for several cases).

Type, Location and Year of Cases

About one-third (35.3%) of the cases referred to the three-judge panel since May of 1985 have involved sexual offenses, typically sexual abuse of a minor in the first degree (Table 1). Nearly half (44.1%) of the panel's cases are either robbery in the first degree or assault in the first degree. Manslaughters, mostly vehicular, constitute 10.3% of the cases, and a handful of various other offenses make up the balance.

Table 2 shows the year in which each case was filed. The majority of the cases referred to the panel to date were originally filed in 1985 and 1986. Because a year or more may pass between the original filing of a felony case and its appearance in a 3-judge panel summary, there are not enough cases yet to determine whether referrals are increasing or decreasing in numbers.

Table 3 compares the number of cases referred to the panel by location with the number of convicted cases in each area in 1984. The table shows that 58.8% of the panel's referrals were made by Anchorage judges, although Anchorage convictions were only 42.6% of the 1984 total. The 1984 data did not include cases from Kenai, Kotzebue and Nome because those communities did not have data in the Department of Law's PROMIS (Prosecutorial Management Information System) system at the time. Had cases from those communities been included, the percentage of 1984 cases for each community listed on Table 3 would have been slightly less, and the differences between that community's percentage of 3-judge panel referrals and its share of cases

would have been greater. Fairbanks, Barrow and Palmer have percentages of referrals similar to their percentages of cases overall in 1984. The other courts have relatively low numbers of referrals, although the numbers are too small for reliable comparisons. The panel has not had any referrals from Bethel, Juneau, Kotzebue, Nome, Sitka and Valdez.

Numbers of Referrals to the Three Judge Panel

One of the most frequently-asked questions regarding the three judge panel has to do with what percentages of certain types of cases are referred to the panel. Tables 4 and 5 draw on data from the Council's earlier report on 1984 felony convictions to provide a basis for this analysis. The data are sufficient to show current proportions, but the time periods are too short to permit analysis of trends over a period of years. Thus, while (as has been suggested) higher percentages of certain types of cases may be referred to the panel as the result of recent appellate court decisions, the cases are too recent and the data too limited to allow an accurate analysis of that hypothesis.

Table 4 focuses on sexual offense cases reported by the panel since May of 1985. Cases are broken out by year that the case was first filed in superior court and by location of the court. All of the five sexual assault cases with adult victims heard by the panel were 1985 cases; three were from Anchorage. For sexual abuse of a minor, there were seven 1984 cases, four 1985 cases, and seven 1986 cases. Cases pending before the panel as of March, 1988 include five sexual abuse of a minor offenders, three first degree robbery offenders, one first degree arson case and one second degree murder case.

Data shown at the bottom of table 4 indicates that for 1984, the 7 offenders referred to the panel were 10.9% of the 64 offenders convicted of comparable offenses (i.e., sexual assault or abuse of a minor in the first degree) in 1984. For that year, two of the seven were remanded to the trial court for imposition of the presumptive sentence and five received a reduced sentence. For purposes of comparison, 1984 robbery convictions were compared to 1985 robbery referrals to the three judge panel. A higher percentage of robbery cases were referred to the panel (17.6%, compared to 10.9% of first degree sexual convictions), and a higher percentage of them received reduced sentences (83.0% had reduced sentences, as compared to 71.4% of the sexual offenders).

Table 5 uses data from the Council's 1984 felony report to estimate the proportion of each specific type of offense referred to the panel as a percentage of all offenses of that type for the

31-month period of May, 1985 through November, 1987. For example, sexual abuse and assault in the first degree constituted 35.3% of the panel's cases during the 31-month period. Based on their proportion of that type of offense projected over that same 31-month period using the technique described in table 5, the sexual assault and abuse in the first degree cases referred to the panel constituted only 15.0% of the 160 first degree sexual assault and abuse cases. For comparison, first degree assault cases were 19.1% of the panel's caseload during the 31-month period, but the cases referred to the panel constituted 43.3% of all the first degree assault cases for the same period. In other words, it can be estimated that approximately 15.0% of the first degree sexual convictions were referred to the three judge panel as compared to 43.3% of the first degree assault convictions. Nearly three times as many first degree assault cases were referred to the panel as were first degree sexual cases. Manslaughter (28.0%) and first degree robbery (20.0%) fell between the other two types of referrals.

Column 5 on table 5 shows how the types of cases referred to the three judge panel were related to all felony convictions. For example, the estimated 160 first degree sexual assault and abuse convictions were 4.8% of the estimated 3348 convictions during the 31-month period. The 24 sexual offenders referred to the panel constituted .7% of all estimated convicted offenders during that time period. The total of 68 referrals to the panel during the May, 1985 through November, 1987 period is 2.0% of the estimated 3348 convicted offenders.

Type of Panel Action Taken

An offender may not be referred to the three judge panel for sentencing until the sentencing judge has found by clear and convincing evidence that manifest injustice would result from imposition of the presumptive sentence. AS 12.55.165 is titled "Extraordinary circumstances", indicating that the legislature expected that cases referred to the panel would have been carefully screened by the sentencing judge. However, the panel makes an independent determination of the question of manifest injustice, and may remand a referred case back to the sentencing court for imposition of the presumptive sentence. Or the panel may impose any sentence authorized by law if it independently finds that manifest injustice would result from imposition of the presumptive sentence.

Tables 6 and 7 describe the actions taken by the panel in the 68 cases reviewed in this memo. Table 6 shows the actions taken by specific offense and location of the case. Table 7

provides greater detail about the type of action taken for each specific offense type.

Because the database is small (only 68 cases) and has a high percentage of Anchorage cases (40, or 58.8%), it is difficult to draw any conclusions from Table 6 about the likelihood of a given disposition (e.g., remand, or reduced sentence) occurring for cases from a specific community. The table does indicate that the only urban areas referred manslaughter and misconduct involving a controlled substance cases. Outside of Anchorage and Fairbanks, Palmer and Kenai were the communities most likely to refer cases to the panel. Each community referred three robbery in the first degree cases, and one or two sexual offenders.

Table 7 provides more detail about the types of dispositions made by the panel. In two cases, the sentence was either increased by the panel from the presumptive (robbery in the first degree) or was remanded to the sentencing court with the panel's opinion that the sentencing judge had the authority to impose a higher sentence using aggravating factors (manslaughter). In fourteen additional cases, the panel remanded the case back to the sentencing court for imposition of the presumptive sentence. Over one-third (35.7%) of these cases were robbery in the first degree offenders; another third were sexual offenders. Taken together, the cases remanded to the sentencing court for imposition of the presumptive sentence or given a higher sentence totalled 23.5% of the panel's decisions, or about one-quarter.

The most frequent disposition of panel cases (35 cases; 51.5%) was a reduction of the sentence length. For some offenders, the sentence was also made non-presumptive. For three offenders, the panel left the sentence length the same but made the sentence non-presumptive. By removing the presumptive requirement, the offender became eligible for parole at the discretion of the parole board after one-quarter of the sentence had been served.

Three cases of assault in the first degree had sentences reduced as a result of the case of New v. State, 714 P.2d 378 (Alaska App. 1986). New held that where a manslaughter (5 year presumptive) and a first degree assault charge (7 year presumptive) originated from identical reckless conduct, and where no mitigating or aggravating factors allowed the judge to adjust the presumptive sentences, that imposition of the 7 year presumptive sentence would result in manifest injustice and that the case should be referred to the three judge panel for sentencing. Upon referral, the panel may independently consider

the sentencing record and impose any sentence it would otherwise be authorized to impose. In only one of the three cases, however (New), did the panel reduce the sentence beyond the 5 year presumptive. For New, the panel imposed a 5 year non-presumptive sentence.

While the state may have not opposed the reductions in sentence for the 38 cases described above (excluding the New cases), there is no indication in the panel's summaries of the cases that the state concurred in the sentence reduction. For eleven cases considered by the panel, however, the summaries note that the state conceded that manifest injustice would result if the presumptive sentence were to be imposed. If the eleven cases in which the state concurred with the reduced sentence are combined with the sixteen cases in which the case was remanded to the sentencing court for the presumptive sentence or given a higher sentence, there are 27 cases (39.7%) of 68 in which the state does not appear to have opposed the panel's decision.

Reasons for Panel Actions

The three judge panel summaries usually contain a brief discussion of the reasons for the panel's decision. These reasons are shown on Table 8. For those offenders whose sentence remained the same, the most frequent reason for remand (5 cases) to the sentencing court was that the offender's rehabilitation potential was not good enough, in light of all the circumstances, to warrant a reduction from the presumptive sentence. In four cases, the panel noted that the offense was serious enough to call for imposition of the presumptive sentence. Two offenders had serious criminal histories and two had severe substance abuse problems.

Reasons given for reduction of sentence focussed on the defendant's potential for rehabilitation. In 23 cases, either this factor was mentioned or Smith v. State (711 P.2d 561 (Alaska App. 1985)) was cited. In the eleven cases described as "state conceded manifest injustice," the underlying reason for the state's position was usually the defendant's potential for rehabilitation. Smith held that where the youthful first offender has exceptionally favorable prospects of rehabilitation and absence of statutory aggravating or mitigating factors addressing this potential do not allow its consideration by the sentencing court, then the sentencing court is expressly authorized to refer the case to the three judge panel.

Reasons given less often for reducing cases included the offender's need for mental or physical treatment, and satisfaction of the goals of sentencing by imposition of a lower

sentence. The former reason was cited for the offenders convicted of first degree arson, first degree custodial interference, and for two offenders convicted of sexual abuse of a minor who were elderly and in need of hospitalization. The latter reason was given for four offenders who were subject to sentencing as third felony offenders. Two were sentenced to 15 years each on sexual assault in the first degree and sexual abuse of a minor in the first degree; one was sentenced to ten years for sexual abuse of a minor in the first degree; and the fourth was sentenced to five years non-presumptive for misconduct involving controlled substances in the second degree (sale of a small amount of heroin, no profit, defendant elderly).

Table 9 shows the panel's actions in relationship to the prior criminal records of the offenders referred. Three-quarters of the offenders had no prior felony convictions; about one-quarter of those (12 of 52 or 23.1%) did not have their sentences reduced. About one-fourth of the referred offenders had one or more prior felony convictions; again, one-quarter of those offenders (4 of 16) did not have their sentences reduced. For purposes of comparison, 9.8% of all the offenders convicted of charges filed in 1984 had prior felony records (Alaska Felony Sentences: 1984). Because there is no significant difference in the percentages of the two groups receiving no sentence reductions, the table indicates that prior record is not related to the likelihood of receiving a given outcome from the panel.

Range of Sentences Imposed by Panel

The panel may impose any sentence authorized by statute. Table 10 shows the statutory range of sentences for the five most common offenses referred to the panel, together with the highest, average (mean) and lowest sentences imposed by the panel for the 68 cases studied. The table excludes seven offenders convicted of misconduct involving controlled substances (3 cases), misconduct involving weapons (2 cases), custodial interference (1 case) and arson (1 case).

The table takes into account only the actual amount of time to serve, excluding any suspended time or probationary periods. For example, a sentence of 5 years with 3 suspended is shown as 2 years. The same net amount of time to serve (e.g., 2 years in the example above) was used to calculate average (mean) sentences for each type of offense. It should also be kept in mind that some of the sentences were presumptive, either because the panel had remanded the case to the sentencing judge for imposition of the presumptive sentence or had reduced the amount of time to be served but left the sentence presumptive. Other sentences had been made non-presumptive by the panel to make the offender

eligible for parole at the discretion of the parole board after one-quarter of the jail term imposed had been served. This difference in the types of sentences could not be taken into account in this table. Only the actual time to serve was considered.

The lowest sentence for any offender referred to the three judge panel and shown on table 10 was one year in jail (two other offenders were sentenced to shorter terms; both had been convicted of misconduct involving weapons in the first degree). The highest sentence imposed by the panel was 30 years for four counts of sexual abuse of a minor (the actual sentence was 48 years with 18 suspended; the offender had three prior felonies; the original sentence was 78 years). The mean sentences for all offenses except assault in the first degree tended to be similar to the first offender presumptive sentences for the respective offenses. For example, the mean sentence for sexual abuse of a minor was 7.1 years; the presumptive sentence for first offenders was 8 years (the sentence could be enhanced to 10 years if the offender had used a dangerous weapon or caused serious physical injury during the commission of the offense). The mean sentence for sexual assault in the first degree (adult victims) was 10.4 years, higher than the enhanced first offender presumptive sentence of 10 years.

Class A offenders referred to the panel were also likely to have sentences close to the first offender presumptive of five years (seven years if the offender used a dangerous weapon, caused serious physical injury or directed the behavior at peace officers or certain other public employees while they were engaged in official duties). The presumptive sentence for manslaughter is five years; the seven year provisions do not apply. Only one of the seven manslaughter offenders received less than 5 years from the panel. She was sentenced to five years with three suspended, bringing the mean sentence for manslaughter down to 4.6 years.

Other Class A offenders with cases referred to the panel included first degree robbery offenders and first degree assault. Most of the the first degree robbery offenders used a weapon and would have been subject to the 7-year presumptive sentence. Their mean sentence from the three judge panel of 4.9 years was very close to the 5-year presumptive sentence for first degree robbery without a dangerous weapon. Finally, the mean sentence for first degree assault was 3.5 years; equal to the "minimum" statutory sentence possible for first offenders if statutory mitigators had been used.

TABLE 1

Types of Offenses Referred to 3-Judge Panel
(March 21, 1988)

<u>Offense</u>	<u>No. of Offenders Referred</u>	<u>% of All Referred Offenders</u>
Sexual Assault I/ Sex Abuse I (Victim is minor)	19	27.9%
Sexual Assault I (adult victim)	5	7.4%
		} 35.3%
Robbery I	17	25.0%
Assault I	13	19.1%
		} 44.1%
Manslaughter (6 vehicular; 1 non)	7	10.3%
Misc. involving Controlled Substance II	2	2.9%
MICS III	1	1.5%
Misconduct involving Weapons I	2	2.9%
Custodial Interference	1	1.5%
Arson I	<u>1</u>	<u>1.5%</u>
	68	100.0%

TABLE 2

Year Originally Filed, Cases Referred to 3-Judge Panel
(March 21, 1988)

<u>Year Filed</u>	<u>N</u>
1981	1
1982	1
1983	3
1984	12
1985	26
1986	23
1987	1
Unknown	<u>1</u>
	68

TABLE 3

Court Location of Cases Referred to 3-Judge Panel
(March 21, 1988)

<u>Court Location</u> *	<u>N</u>	<u>%</u>	<u>% of 1984 Convictions by Court Location</u> **
Anchorage	40	58.8%	42.6%
Fairbanks	14	20.6%	19.6%
Kenai (KN)	4	5.9%	N/A
Ketchikan (KE)	1	1.5%	3.3%
Kodiak	1	1.5%	4.4%
Barrow	2	2.9%	3.8%
Palmer	5	7.4%	8.5%
Unknown	<u>1</u>	<u>1.5%</u>	<u>--</u>
	68	100.1%	

* Superior Court locations with no referrals to the 3-judge panel during this period were Bethel, Juneau, Kotzebue, Nome, Sitka and Valdez.

** Comparison data taken from Alaska Felony Sentences: 1984, published by the Alaska Judicial Council in 1987. The comparison data did not include cases from Kenai, Nome and Kotzebue.

TABLE 4

3-Judge Panel Sexual Offense Cases
(March 21, 1988)

	<u>Sexual Assault I/Abuse I (Minor)</u>	<u>Sexual Assault I (Adult)</u>
Anchorage 1982	1	
1984	5	
1985	3	3
1986	2	
Fairbanks 1984	1	
1985	1	
1986	3	
Kodiak 1984	1	
Palmer 1985		1
1986	1	
Kenai 1985		1
Unknown Location 1986	<u>1</u>	<u>—</u>
	19	5

<u>N of Sexual Assault I/ Sexual Abuse I Convictions Statewide of Cases Filed in 1984</u>	<u>N of Cases Filed in 1984 with Sexual Assault/ Abuse Convictions that were referred to 3-Judge Panel</u>	<u>% of 1984 Comparable Convictions</u>	<u>N & % with Same Sentence (e.g., the pres.)</u>	<u>N & % w/reduced Sentence</u>
64	7	10.9% of 64	2 (28.6%)	5 (71.4%)

Same for Robbery I,
1985 (0 referred 1984)

(1984) 34	(1985) 6	17.6% of 34	1 (17%)	5 (83%)
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TABLE 5
Comparison of 3-Judge Panel Cases to Other Cases in Same Period
(March 21, 1988)

Type Offense	N ref. to 3-Judge, 1. 1985-1987	% of Panel Cases 2. 1985-1987	% of all cases this type, 3. 31-month period*	Est. N, this type case, 4. 31-month period**	Est. this type case as % of all convictions 5. for 31-month period***
Sex. Asslt. I/ Abuse I	19	27.9%			
Sex. Asslt. I (adult)	5	7.4%			
Robbery I	17	25.0%		85	2.5%
Assault I	13	19.1%		30	0.9%
Manslaughter	7	10.3%		25	0.7%
Misconduct re Control. Subs. II	2	2.9%		45	1.3%
MICS III	1	1.5%		275	8.2%
Misconduct re Weapon I	2	2.9%		23	0.7%
Custodial Interference I	1	1.5%		3	0.1%
Arson I	1	1.5%		3	0.1%
	68	100.0%	10.5%	649	19.3%

* The percentages in Column 3 were derived by dividing the N from column 1 (N referred to 3-judge panel in 1985-1987) by the N from Column 4 (the estimated N of the same type of cases for the entire 31-month period). For example, 16 Robbery I cases were decided by the 3-judge panel during the study. For approximately the same period, there were an estimated 85 Robbery I convictions statewide. Thus an estimated 18.8% of the Robbery I convictions were referred to the 3-judge panel by the sentencing judge.

** The N (number) of convictions for this offense in 1984 (see Alaska Felony Sentences: 1984, Appendix A for base data) was multiplied by 2.5 to obtain a conservative estimate of the number of convictions for the same offense in the period May, 1985-November, 1987 covered by the available 3-judge panel decisions.

*** The N of all convictions for the 31-month period May, 1985-November, 1987 was estimated by a) increasing the N of 1984 cases studied (N=1128) by 13% to account for Kenai, Nome and Kotzebue cases not on PROMIS (N=1275); b) increasing 1275 by 2% (the % of increase in felony dispositions in the 1986 Court Report between FY'84 and FY'85) (new N = 1300); c) 31 months = 108 (1300 \cdot .12 to obtain N of cases/mo.) x 31 = 3348 cases in the May, 1985 to November, 1987 period.

The two periods do not overlap entirely, of course. The cases are reported in the period during which they were decided by the 3-judge panel. Typically, the offenses actually occurred a year or more prior to that time. The data presently available indicate that the number of convictions levelled off in 1986 and has declined very slightly in 1987. Therefore, these estimates are reasonable approximations of the numbers and types of felony convictions during the study period.

The data at present do not allow analysis of trends in the numbers and types of cases referred to the panel.

TABLE 6

Three-Judge Panel Action, by Offense and Location
(March 21, 1988)

<u>Type of Offense</u>	<u>Panel Action</u>	<u>Location of Case</u>								<u>Total</u>
		<u>Anchorage</u>	<u>Fairbanks</u>	<u>Palmer</u>	<u>Kenai</u>	<u>Kodiak</u>	<u>Ketchikan</u>	<u>Barrow</u>	<u>Unknown</u>	
Sexual Assault I Sex. Abuse I (Minor)	Presumptive Sentence	1	1			1				3
	Reduced Sentence	10	4	1					1	16
Sexual Assault I (Adult Victim)	Presumptive Sentence	1		1						2
	Reduced Sentence	2			1					3
Robbery I	Presumptive or Increased Sentence	3	1		2					6
	Reduced Sentence	5	2	3	1					11
Assault I*	Presumptive Sentence	1	1							2
	Reduced Sentence	8	1				1	1		11
Manslaughter**	Presumptive or Increased Sentence	1	1							2
	Reduced Sentence	4	1							5
MICS II ⁺	Presumptive Sentence	1								1
	Reduced Sentence	1								1
MICS III ⁺⁺	Presumptive Sentence		1							1
Misconduct re Weapon I	Reduced Sentence		1					1		2
Custodial Interference I	Reduced Sentence	1								1
Arson I	Reduced Sentence	<u>1</u>	—	—	—	—	—	—	—	<u>1</u>
		40	14	5	4	1	1	2	1	68

APPENDIX L.13

* One Assault I conviction was vehicular.
 ** Six Manslaughters were vehicular; one was non-vehicular.
 + Misconduct Involving controlled Substance in the Second Degree (one offender sold dilaudid; one sold heroin.)
 ++ Misconduct Involving Controlled Substance in the Third Degree (offender sold cocaine).

TABLE 7
Three-Judge Panel: Action Taken, by Specific Offense
(March 21, 1988)

Type of Offense	Sentence increased or remand to trial court for increase	Remand to trial court for imposi- tion of the pre- sumptive sentence	State concedes "manifest injustice," sentence is lower than presumptive	Sentence length is same as pre- sumptive but sen- tence is made non- presumptive	Assault I reduced*	Sentence length is reduced (plus sentence may be non-presumptive)	Total
Sexual Assault I (minor)/ Sexual Abuse I		3				16	19
Sexual Assault I (adult)		2		1		2	5
Robbery I	1	5	5			6	17
Assault I**		2	4		3	6	15
Manslaughter***	1		2	2			5
Misc. re Controlled Substance II		1				1	2
MICS III		1					1
Misconduct re Weapons I						2	2
Custodial Interference I						1	1
Arson I						1	1
Total:	2 (2.9%)	14 (20.6%)	11 (16.2%)	3 (4.4%)	3 (4.4%)	35 (51.5%)	68 (100.0%)
		23.5%		76.5%			

* Sentence reduced per New v. State, 714 P.2d 378 (Alaska App. 1986).

** Includes 2 offenders who are shown in other tables as Manslaughter offenders.

*** Excludes 2 offenders who are shown on this table as Assault I.

TABLE 8

Reasons for Three-Judge Panel Action
(March 21, 1988)

<u>Reason</u>	<u>Number of</u> <u>Offenders</u>	<u>Percentage of</u> <u>Total Panel Cases</u>
A. Offender's sentence stayed <u>the same or was increased</u>		
1. Rehabilitation potential not good enough in light of all circumstances	5	7.4%
2. Serious criminal history	2	2.9%
3. Present offense warrants the presumptive sentence	4	5.9%
4. Serious drug or alcohol abuse problems	2	2.9%
5. Other reason	<u>3</u>	<u>4.4%</u>
Subtotal:	16	23.5%
B. Offender's sentence was <u>reduced to some degree</u>		
1. Excellent potential for rehabilitation	21	30.9%
2. <u>Smith/King</u> cited*	2	2.9%
3. <u>New</u> cited**	3	4.4%
4. State conceded manifest injustice	11	16.2%
5. Goals of sentencing satisfied by lower sentence	4	5.9%
6. Offender has serious mental or physical need for treatment	4	5.9%
7. No reasons specified	4	5.9%
8. Other	<u>3</u>	<u>4.4%</u>
Subtotal:	52	76.5%

} 33.8%

* Smith v. State, 711 P.2d 561 (Alaska App. 1985)
** New v. State, 714 P.2d 378 (Alaska App. 1986)

TABLE 9

Three-Judge Panel Disposition by Prior Record
(March 21, 1988)

	<u>No Prior Felony Convictions</u>	<u>One or more</u> <u>Prior Felony Convictions</u>
Sentence not reduced	12	4
Sentence reduced	<u>40</u> 52 (76.5%)	<u>12</u> 16 (23.5%)

TABLE 10

Range of Sentences from Three-Judge Panel
Compared to Statutory Ranges, by Offense
 (March 21, 1988)

Offense	<u>Three-Judge Panel Range of Sentences</u>			<u>Statutory Range of Sentences</u>			
	Highest Sentence from Panel	Mean ("Average") Sentence from Panel	N of Offenders	Lowest Sentence from Panel	Statutory Maximum	Statutory First Felony Offender Presumptive*	Statutory First Felony Offender "Minimum"**
Sex Abuse I/ Sex Assault I (Minor Victim)	30 yr.	7.1 yr.	(19)	1 yr.***	30 yr.	8-10 yr.	4-5 yr.
Sex Assault I (Adult Victim)	15 yr.	10.4 yr.	(5)	4 yr.	30 yr.	8-10 yr.	4-5 yr.
Robbery I	10 yr.	4.9 yr.	(17)	2 yr.	20 yr.	5- 7 yr.	2.5-3.5 yr.
Assault I	7 yr.	3.5 yr.	(13)	1 yr.	20 yr.	7 yr.	3.5 yr.
Manslaughter	5+ yr.**	4.6 yr.	(7)	2 yr.	20 yr.	5 yr.	2.5 yr.

* The presumptive sentence for first felony offenders is 8 years (Sexual Abuse of Minor I and Sexual Assault I) or 5 years (Class A offenses; e.g., Robbery I, Assault I, Manslaughter), unless the offender possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, in which case the first felony offender presumptive sentence is 10 years for the sexual offenses (AS 12.55.125(i)(2)) and 7 years for the Class A offenses (AS 12.55.125(c)(2)). See *New v. State*, 714 P.2d 378 (Alaska App. 1986) for exceptions; also AS 12.55.125(c)(2).

The presumptive sentence for second felony offenders is 15 years for the sexual offenses, and 10 years for the Class A offenders. The presumptive for third and subsequent felony offenders is 25 years for the sexual offenders and 15 years for the Class A offenders.

** "Minimum" is defined for purposes of this table as the term to which the presumptive can be reduced through use of mitigating factors without referral to the three-judge panel. The panel can reduce any presumptive sentence to no time to serve.

*** Offender was in poor health and required long-term hospitalization.

**** Offender was remanded to trial court for imposition of presumptive sentence increased by aggravators to an unknown term of years.



APPENDIX M

FISH AND GAME ENFORCEMENT



alaska judicial council

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January 18, 1988

Honorable Ben Grussendorf
Speaker of the House of Representatives
P.O. Box V
Juneau, Alaska 99811

CHAIRMAN, EX OFFICIO
Warren W. Matthews
Chief Justice
Supreme Court

RE: Legislative Intent/Title 16 Regulation Enforcement and Adjudication - "It is the intent of the legislature that the Alaska Judicial Council will work closely with the Departments of Public Safety, Fish and Game and Natural Resources in order to review and report to the legislature on the adequacy of Title 16 enforcement, prosecution and adjudication."

Dear Speaker Grussendorf:

At the request of the legislature and with the assistance of the Departments of Public Safety, Fish and Game and Natural Resources, the Judicial Council has undertaken a general review of Title 16 enforcement. Judicial Council staff conducted approximately thirty-five interviews; examined prior Judicial Council reports on Fish and Game sentencing practices; and collected and examined data, written comments, proposed Title 16 legislation, studies, records and other information from executive branch agencies, legislators, municipal and borough officials, and other interested persons.

A request for a report on the adequacy of Title 16 enforcement covers the full range of all fish and game enforcement activities from the Bering Sea to the Portland Canal. In addition, it could call for analysis of natural resource permitting procedures, water quality guidelines and enforcement controls, and regulations under the Forest Practices Act. Given the broad scope of the legislature's request, the Judicial Council's final report to the legislature on the adequacy of Title 16 enforcement will be limited to reflections upon comments and general observations of interested parties. The Council was not given funds necessary to undertake collection and evaluation of data either supporting or disproving the opinions advanced by most commentators.

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RE: Legislative Intent/Title 16
January 18, 1988
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PUBLIC SAFETY. Representatives of the Department of Public Safety were particularly concerned with two aspects of Title 16 enforcement. The first involved technical difficulties in understanding and enforcing Title 16 laws and regulations promulgated thereunder. Gaining a working knowledge of permitted and illegal activities and the penalties associated with them is a time-consuming undertaking. Second, Public Safety commentators expressed great frustration with legal processes. While recognizing the problems encountered by understaffed and underfunded district attorneys, they still felt that there were too many instances of cases being dropped, falling through the cracks, or being disposed of in a manner inconsistent with previous dispositions or existing bail forfeiture schedules. The distinction between a "violation" (intent need not be proven) and a misdemeanor (intent to commit the crime must be proven) is not appreciated by many Public Safety officers. They generally believe that many commercial users of fish and game consider charges arising under Title 16 a mere nuisance with penalties being nothing more than a business expense.

NATURAL RESOURCES. The Department of Natural Resources' relationship with Title 16 enforcement is significant because that executive branch agency, along with the Department of Environmental Conservation, shares overlapping jurisdictional responsibilities with the Department of Fish and Game. Mining (including oil exploration) and forestry undertakings are good examples of the type of activities which often require Title 16 permits involving all three agencies in either the permitting process or subsequent enforcement. The relationship between resource agencies is dynamic. To assure efficiency and consistency in the process that interprets Alaska Coastal Management requirements where two or more state agency or federal permits are required, regulations were adopted, creating within the Governor's office, the Division of Governmental Coordination (DGC). The DGC is responsible for coordinating state permit determinations. As a consequence, the permitting process has become less tedious and more efficient. Nevertheless, problems reportedly exist in the enforcement of post-permit requirements and in post-permit modifications in the field to meet unanticipated circumstances.

FISH AND GAME. Comments and criticisms of Title 16 provisions and their enforcement run the entire gamut of regulation in this extremely broad and complex area. Almost every resource activity is regulated in some aspect by reference to Title 16. If, for example, a logger or developer wishes to do any work in an anadromous fish stream a Title 16 permit must first be received from the Department of Fish and Game. Title 16 also provides guidance on diverse activities such as: permitted hunting activities; the use of subsistence-taken fish for commercial bait;

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the salvage or sale of meat from wild animals or undersize commercially-caught king salmon; the identification of harvest areas where the taking of specific species of fish is allowed by certain user groups at times and places established by regulation or emergency order.

Throughout this state, local advisory boards consisting of representatives of the various user groups flood the Board of Fish and Game with recommended changes or additions to existing regulations. Dozens of interest groups lobby for additional protection of their interests. Each year Title 16 or its regulations undergo modifications as a result of these efforts. Generally speaking, requests for Title 16 modification present "political questions" calling for allocation of finite resources among user groups, or regulation of resource activities. The effort over the past several years to adopt "habitat" regulations is a good example of the "political" process involved.

An additional ingredient in the process of Title 16 regulation and enforcement is the tension between various executive branch agencies whose mandates may conflict. A delicate equilibrium, requiring adjustment from time to time, typifies executive branch resource agency relationships.

Any discussion of the adequacy of Title 16 enforcement, prosecution and adjudication must acknowledge that, except under narrow and specific circumstances, substantive recommendations in most Title 16 areas require the making of "political" decisions that are outside the province of the Alaska Judicial Council.

Having said all this, two problem areas referred to by many commentators deserve brief mention here. One problem is the legal and practical difficulty of securing convictions involving a culpable mental state--that is, proving beyond a reasonable doubt that the defendant had an "awareness or consciousness of wrongdoing" at the time he committed the offense. The Alaska Supreme Court has ruled that persons charged with criminal conduct--as opposed to a petty offense--are entitled to a trial by jury, to court-appointed counsel, and must be convicted under a standard that calls for an "awareness or consciousness of wrongdoing." The big question is where to draw the line between petty offense--requiring nothing more than proof of violation--and more serious criminal conduct. Courts generally resolve this question by examining the potential penalty and herein lies the rub. If the State wishes to extract a fine in excess of \$1,000, for example, and/or time in jail upon conviction, then the higher standard will probably apply. If the higher standards apply, convictions are more difficult to get, trials are lengthier and costlier to both prosecution and defense and, depending upon the

Hon. Ben Grussendorf
RE: Legislative Intent/Title 16
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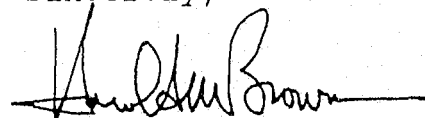
number of cases, the judicial system may not be able to accommodate the number of trials. The result, reportedly, is the dismissal of many cases involving serious penalties. But, without penalties that are meaningful for certain types of offenses, illegal activity may increase as competitors for the resource determine that they cannot afford not to violate the law. The payment of a small fine is rationalized as nothing more than the unfortunate expense of doing business. The problem requires a political solution, that is, a decision whether or not to dedicate the resources necessary to obtain convictions for fish and game offenses requiring proof under the higher standard and a decision whether to increase the penalties for certain types of illegal activity.

The second problem area dealt with disagreements about the role Fish and Game should play in the regulation of activities outside of the mean high water channels of anadromous fish streams. Naturally, Fish and Game is concerned with possible effects of non-point pollution of anadromous fish streams. Likewise DNR and DEC are concerned with non-point pollution. To date, the political question has been resolved in favor of regulation by the Department of Environmental Conservation (DEC) and the Board of Forestry established in the Department of Natural Resources, Division of Forestry. DEC has been designated as the lead agency responsible for enforcement of regulations dealing with non-point pollution.

Most commentators expressed dissatisfaction with the level of enforcement activity in all areas of Title 16 regulation. Almost without exception, however, enforcement decisions seem dependent upon available resources. While policy decisions no doubt underlie budget allocations within executive branch agencies, we found no evidence of an intentional disregard or refusal to engage in enforcement activities when the budget resources were available to do so.

The Judicial Council appreciates this opportunity to comment upon the adequacy of Title 16 enforcement, prosecution and adjudication.

Sincerely,

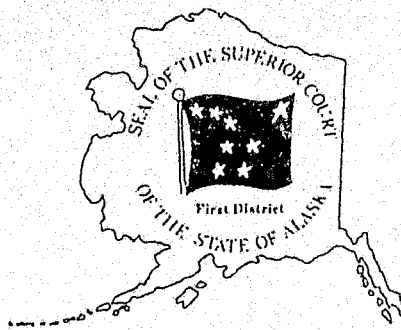


Harold M. Brown
Executive Director

HMB/jmz:242

APPENDIX N

PRO TEM EVALUATION GUIDELINES



Superior Court
State of Alaska

FIRST JUDICIAL DISTRICT
DIMOND COURT HOUSE, BOX U
JUNEAU, ALASKA
99811-4100

(907) 465-3426

August 12, 1987

CHAMBERS OF
THOMAS B. STEWART, PRESIDING JUDGE
(RETIRED)

Chief Justice Jay A. Rabinowitz
Alaska Supreme Court
303 "K" Street
Anchorage, Alaska 99501

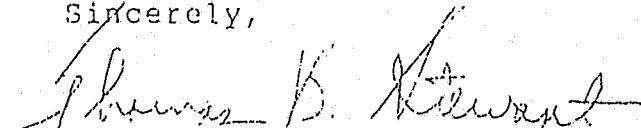
Dear Chief Justice Rabinowitz:

It is with great pleasure that the Pro Tem Judge Performance Evaluation Special Committee transmits to the Supreme Court its proposed guidelines for the evaluation of pro tem judges. You asked that the committee develop appropriate procedures, schedules and criteria for these performance evaluations, using the American Bar Association's Judicial Performance Evaluation Guidelines to the maximum extent possible. The guidelines generated by this committee were designed within that framework.

The enclosed materials include the guidelines for pro tem judge performance evaluations, a general commentary together with a minority report, and a proposed questionnaire for use in surveys of Bar Association members. You will note that the guidelines propose that a standing Advisory Committee be established (guidelines 2-4). That committee would have a different function and membership than the present committee. It may be appropriate for the standing Advisory Committee to take on the future responsibilities related to the design of more specific forms and procedures related to the actual implementation of this program.

We would like to thank you for the opportunity to serve on this committee. Judicial performance evaluation is of special interest to each of the members. We encourage the court also to consider the development of judicial performance evaluation programs for other types of judicial adjuncts and judges. Please let us know if we can be of further service to the court.

Sincerely,


Judge Thomas B. Stewart
Chairman

APPENDIX N.1

Enclosures

**PROPOSED GUIDELINES
FOR
PRO TEM JUDGE PERFORMANCE EVALUATION**

Submitted to the Alaska Supreme Court
by
Pro Tem Judge Performance Evaluation Special Committee

Honorable Thomas B. Stewart, Chairman

August 12, 1987

PREFACE

Retired judges serving pro tem on special assignment from the Supreme Court have made important contributions to Alaska's courts for many years. They have played the role envisioned for them by the delegates to Alaska's Constitutional Convention who remarked: "...it is fair to presume that...their services and experience would be of great benefit to the state...".* However, a specific system of accountability and evaluation for pro tem judges (comparable in purpose to retention elections and their associated judicial evaluations) was not considered until 1985.

Members of the Alaska Bar raised questions regarding the accountability of retired judges serving pro tem in early 1985. Coincidentally, the American Bar Association was, at the same time, developing guidelines for judicial performance evaluations. In 1986, the Alaska Supreme Court promulgated Court Order #690, "Amending Administrative Rule 23 Relating to Retired Judge Pro Tem Appointment and Evaluation". By that time, the ABA's Guidelines for the Evaluation of Judicial Performance had been adopted. Alaska was invited to be an ABA pilot site, testing the ABA's guidelines in the context of the pro tem judge evaluations required by Court Order #690.

The Pro Tem Judge Performance Evaluation Special Committee was appointed in June of 1986 to develop guidelines for Alaska's program. The Committee was chaired by retired Judge Thomas B. Stewart, with members Judge Douglas Serdahely (Presiding Judge, Third Judicial District), Judge Glen Anderson (District Court Judge, Third Judicial District), R. Stanley Ditus (Board of Governors, Alaska Bar Association), and James D. Gilmore (attorney member, Alaska Judicial Council). Because of the Judicial Council's extensive background in evaluation of judges standing for retention elections the Supreme Court asked that the Council's Executive Director serve as Reporter to the Committee. Funding for the Committee's work came from the Court System and Judicial Council.

* Delegate McLaughlin, Minutes of the Constitutional Convention, 702-703.

The Committee's purpose and objectives were summarized by Chief Justice Rabinowitz in his April 1986 letter to all judges regarding the program:

"...Administrative Rule 23(b) now provides for a procedure whereby the performance of pro tem judges will be reviewed by the Chief Justice. The review will occur every two years and will follow an evaluation by the Alaska Judicial Council, a survey of members of the Bar and judges, and a evaluation by the Presiding Judge. I have asked the Alaska Judicial Council to establish a committee to develop appropriate procedures, schedules and criteria for the performance evaluations. To the maximum extent possible, the system to be developed will utilize the Judicial Performance Evaluation Guidelines adopted by the American Bar Association in August, 1985."

The Committee's work, as a result, has followed closely the guidelines established by the ABA. However, both the criteria and methodologies set out for use in pro tem judge evaluations are necessarily somewhat different from those that might be used to evaluate regular judges.

The guidelines that follow begin with a general commentary on some of the issues related to the evaluation and use of pro tem judges, and a minority report. The guidelines themselves are divided into five main sections. Within the sections, brief commentaries are provided where needed. It should be emphasized that these guidelines do not substitute for or add to the Code of Judicial Conduct. Evaluation guidelines are not designed to determine a need for judicial discipline.

The Committee would like to thank the Judicial Council and its staff for their many hours of work on this project. The American Bar Association's Special Committee on Evaluation of Judicial Performance and its Project Director, Judith White McBride have also provided extremely valuable assistance. Finally, the Committee wishes to acknowledge the leadership and contributions of Chief Justice Jay A. Rabinowitz, who chaired the ABA's task force on Methodology and Uses/Purposes and who has actively supported the development of judicial performance evaluations in Alaska.

**PRO TEM JUDGE PERFORMANCE EVALUATION
SPECIAL COMMITTEE MEMBERS**

The Honorable Thomas B. Stewart, Chairman
Retired Superior Court Judge

The Honorable Douglas J. Serdahely
Presiding Judge, Superior Court
Third Judicial District

The Honorable Glen Anderson
District Court Judge
Third Judicial District

R. Stanley Ditus
Board of Governors
Alaska Bar Association

James D. Gilmore
Attorney Member
Alaska Judicial Council

ALASKA JUDICIAL COUNCIL STAFF

Harold M. Brown, Executive Director

Francis L. Bremson, Past Executive Director (1983 - 1987)

Teresa W. Carns, Senior Staff Associate

Marla N. Greenstein, Staff Attorney

Josefa M. Zywna, Administrative Assistant

PRO TEM JUDGE PERFORMANCE EVALUATION GUIDELINES

GENERAL COMMENTARY

Chief Justice Jay Rabinowitz asked the Judicial Council to establish a committee to "develop appropriate procedures, schedules and criteria" for the performance evaluation of pro tempore judges. The Chief Justice also requested that the performance evaluation system utilize the Guidelines for the Evaluation of Judicial Performance adopted by the House of Delegates of the American Bar Association in July 1985. All pertinent rules relating to pro tem judicial appointments have been attached as an appendix to these guidelines.

Alaska's Guidelines for the Evaluation of Judicial Performance follow the format of the American Bar Association guidelines. Like the ABA guidelines, ours fall into five parts:

- Part I Goal and Uses
- Part II Administration and Support
- Part III Criteria
- Part IV Methodology
- Part V Uses and Dissemination

Individual guidelines are often followed by specific commentary where the rationale for the guidelines needed further explanation.

During the course of the Special Committee's work, several general areas of concern were discussed. While the Committee recognized that its central purpose was to establish evaluation guidelines for pro tem judges, other issues relating to the quality of pro tem appointments emerged.

The Committee strongly recommends that some initial eligibility standards for pro tem service be established. In addition, all retired judges should be eligible for pro tem service if they meet those initial eligibility standards. While the Committee recognizes that financial considerations often legitimately play a part in the assignment of pro tem judges to certain locations within the state, an effort should be made to rotate use of all eligible retired judges.

The two attorney members of the Committee believed that Article 4, Sections 6 and 7 of the Alaska Constitution require that retired judges serving pro tem should stand for retention election. A majority of the Committee disagreed. The majority were of the opinion that retention elections would be costly and less effective than general reviews by the Chief Justice. Retention elections could be unfair in those instances where judges served a majority of their appointments away from their home districts. In addition, a formal retention procedure would discourage pro tem judges from serving, especially those appointed to a limited number of cases. Finally, the judges who supervise and appoint pro tem judges must stand for retention themselves.

Voters could remove the judges if they improperly evaluated or assigned pro tem judges. The entire Committee agreed that at a minimum, a list of all pro tem judges should be published in the Official Election Pamphlet to inform the voters of their pro tem status. The Committee also agreed that the election pamphlet should contain a brief description of the pro tem evaluation program.

The attorney members of the Committee also felt that the supreme court should consider granting additional peremptory challenges to parties when their case has been assigned to a pro tem judge. The Committee took no position on this suggestion.

If pro tem judges continue to be used extensively in the Alaska Court System, other changes in the law may be required. Specifically, the Committee would recommend that the Commission on Judicial's Conduct jurisdiction over pro tem judges be clarified and defined. In addition, APOC requirements and reporting requirements under Code of Judicial Conduct Canon 6(c) should be extended to include active pro tem judges.

PRO TEM JUDGE SPECIAL COMMITTEE
MINORITY REPORT

The two practicing non-judicial attorney members of the Pro Tem Judge Performance Evaluation Special Committee, though assisting the committee in attempting to develop appropriate procedures, schedules and criteria for the performance evaluation of pro tempore judges, remain steadfast in their opinion that Article IV, Sections 6 and 7 of the Alaska Constitution require that the retired judges serving pro tem should stand for retention election in the same manner as all other judges.

Article IV, Sections 6 and 7 of the Alaska Constitution, provide:

Section 6. Approval or Rejection. Each supreme court justice and superior court judge shall, in the manner provided by law, be subject to approval or rejection on a nonpartisan ballot at the first general election held more than three years after his appointment. Thereafter, each supreme court justice shall be subject to approval or rejection in a like manner every tenth year, and each superior court judge, every sixth year.


Section 7. Vacancy. The office of any supreme court justice or superior court judge becomes vacant ninety days after the election at which he is rejected by a majority of those voting on the question, or for which he fails to file his declaration of candidacy to succeed himself.

It is clear that the foregoing provisions of the Alaska Constitution require that three years after the first appointment, every judge and justice must submit his name to the


voters of this state for approval or rejection. Once approved each superior court judge and supreme court justice must stand for proper approval and go before the voters for reconfirmation every six and ten years, respectively. While the Constitution insulates judges and justices from partisan politics or competitive campaigns for election or re-election, nonetheless the primary purpose of these provisions is to make all judges and justices responsible to the people.

It is the minority view that in no manner was it intended that a superior court judge or supreme court justice, by retiring, could attain for such judge or justice a lifetime appointment and circumvention of the Constitutional Requirement for popular reconfirmation by the voters every six and ten years, respectively. In effect, Supreme Court Orders No. 690 and 691 would permit the Chief Justice of the Alaska Supreme Court to disregard the Constitutional Requirement for popular reconfirmation and create the potential for lifetime tenure for the Alaska judiciary in derogation of an express Constitutional Mandate.

DATED: July 22, 1987.



R. Stanley Ditus
Committee Member



James D. Gilmore
Committee Member

PRO TEM JUDGE PERFORMANCE EVALUATION
POLICIES AND PROCEDURES

PART I: GOALS AND USES

1-1: The primary purpose of this program is to provide information to enable the Chief Justice to determine the continuing eligibility of retired judges and justices to serve pro tem, as required by Administrative Rule 23(b).

Commentary: The purpose of this program is to provide a system of accountability for judges who do not stand for retention. Secondary purposes of the program are to facilitate assignment of pro tem judges, to help determine training and education needs, and to provide information for self-improvement. Although initially to be limited to retired judges serving pro tem, this program may be expanded in the future to encompass evaluation of other judicial personnel.

1-1.1: Performance evaluation information should also be utilized to enable supervisory judges to assign retired judges to appropriate assignments.

Commentary: The information should be made available to the assigning judges to facilitate the assignment of pro tem judges to specific types of cases for appropriate lengths of time suitable to the judge's circumstances.

1-1.2: Other possible uses of performance evaluation information may include determination of training and education needs, and self-improvement.

Commentary: These uses are more important for evaluating other types of judges in future programs. The Special Committee recognizes that the self-improvement goal may assume greater prominence in performance evaluation of regular judges.

1-2: The program should encourage qualified retired judges to serve when and as available.

Commentary: The system to be designed should not discourage qualified judges from remaining eligible for recall to judicial service.

PART II: ADMINISTRATION AND SUPPORT

2-1: The ultimate authority for the development and implementation of this program is vested in the Alaska Supreme Court.

Commentary: The performance evaluation is vested in the supreme court to preserve judicial integrity and independence, and in recognition of its supervisory authority over the judiciary.

2-2: Responsibilities for the day-to-day operations and policies of the program are shared by the Chief Justice, Presiding Judges and Judicial Council. These entities will provide a performance review of the participating judges using the methodology outlined in Part IV of these guidelines.

Commentary: Implementation of the program depends upon appropriation of adequate funding to the court system and Judicial Council. Council appropriations are necessary for staff support and operation of the program. Court system funding is necessary for support of the Advisory Committee and expenses of the Chief Justice and Presiding Judges in the operation of the program.

2-3: The Judicial Council staff shall provide staff support to each of the responsible agencies and persons for the limited purposes of this program.

2-4: A standing Advisory Committee shall be established to serve in an advisory capacity to the Supreme Court; to the Chief Justice, Presiding Judges, and Judicial Council; and to the Judicial Council staff on policy and procedural matters related to criteria,

methodology and each agency's or individual's role. The Advisory Committee shall also conduct an on-going evaluation of the program. The Advisory Committee shall be composed of five persons, including two judges appointed by the Chief Justice, one of whom must be a retired judge; two attorneys appointed by the Alaska Bar Association Board of Governors; and one non-attorney member of the Alaska Judicial Council appointed by the Judicial Council. Members shall be appointed for three-year, staggered terms.

Commentary: The Advisory Committee is created to promote cohesiveness and continuity in the program. By including a non-attorney on the committee, it is hoped that the average citizen's concerns will become a part of the evaluation process.

PART III: CRITERIA

Retired judges who maintain eligibility for pro tem judicial service are subject to the Canons of Judicial Conduct.

Commentary: The Committee believes that retired judges who maintain eligibility for pro tem judicial service should be subject to the jurisdiction of the Commission on Judicial Conduct. However, the uses of judicial performance evaluation do not include discipline (see Guideline 5-5). In addition, they should comply with the reporting requirements for regular judges of the APOC and Canon 6(C) of the Code of Judicial Conduct.

3-1: A judge should be evaluated on his/her integrity, including the following performance measures:

3-1.1: Avoidance of impropriety and appearance of impropriety;

3-1.2: Freedom from personal bias;

3-1.3: Ability to decide issues based on the law and the facts without regard to the identity of the parties or counsel, the popularity of the decision, and without concern for or fear of criticism; and

3-1.4: Impartiality of actions.

3-2: A judge should be evaluated on his/her knowledge and understanding of the law including:

3-2.1: The issuance of legally sound decisions;

3-2.2: The substantive, procedural, and evidentiary law of the jurisdiction;

3-2.3: The factual and legal issues before the court; and

3-2.4: The proper application of judicial precedents and other appropriate sources of authority.

3-3: A judge should be evaluated on his/her communication skills including:

3-3.1: Clarity of bench rulings and other oral communications;

3-3.2: Quality of written opinions with specific focus on clarity and logic, and the ability to explain clearly the facts of a case and the legal precedents at issue; and

3-3.3: Sensitivity to impact of demeanor and other nonverbal communications.

3-4: A judge should be evaluated on his/her preparation, promptness, attentiveness, and control over proceedings including:

3-4.1: Courtesy to all parties and participants;

3-4.2: Willingness to permit every person legally interested in a proceeding to be heard, unless precluded by law or rules of court; and

3-4.3: Judicial temperament.

3-5: A judge should be evaluated on his/her effectiveness in working with other judges and court personnel including:

3-5.1: When part of a multi-judge panel, exchanging ideas and opinions with other judges during the decision-making process;

3-5.2: Soundly critiquing the work of colleagues; and

3-5.3: Facilitating the performance of administrative responsibilities of other judges and of the court.

Commentary: This criterion is important in both trial and appellate courts.

3-6: A judge should be in good physical and mental health.

Commentary: A judge should not have physical or mental health problems that would adversely affect performance as a judge.

PART IV: METHODOLOGY

4.1: Pro tem judges should be evaluated once every twelve to eighteen months when possible, and in any case, no less frequently than once every twenty-four months.

Commentary: Administrative Rule 23(b) requires evaluation every two years. A frequency of once every 12-18 months should occur because of the turnover every few years of the chief justice and presiding judges. This schedule is also appropriate because most pro tem judges serve for short periods and on an irregular schedule. For pro tem judges who sit more frequently or for longer terms, evaluations could occur at shorter intervals.

4-1.1: Presiding judge evaluation tasks described below should be done on a continuous basis. Judicial Council evaluation tasks described below should be undertaken on an annual or biennial basis, as appropriate.

Commentary: If the pro tem judge has been assigned to handle only a few cases, the presiding judge or his/her designee should contact the attorneys who appeared before the judge as soon as practicable. If the pro tem judge was assigned to a lengthier period of service involving a larger number of attorneys, the Judicial Council should include these attorneys in a survey evaluation of the judge. Other performance evaluation information such as peremptory challenges and management of the assigned calendar may also be compiled on an ongoing basis. Court system personnel should assume

the responsibility of compiling information regarding the cases on which the pro tem judge served so that persons associated with these cases can be contacted during the evaluation.

4-2: Methodologies chosen should measure the criteria set out in Part III of these Guidelines.

4-3: Methods chosen for judicial performance evaluation should emphasize the collection and use of data and methods of analysis that are free from bias and that are fair to the judge being evaluated.

4-4: Sources of evaluation information should include attorneys, judges, court personnel and the judge being evaluated. Additional sources that provide personal and current information may be used as appropriate.

4-4.1: Attorneys providing information for the evaluation of pro tem judges should have current, direct experience with the judge being evaluated.

Commentary: Attorneys participating in the evaluations of pro tem judges, whether by written questionnaire or oral interview, should have appeared before the judge within the past two years or have other reasonably current personal experience with the judge that would permit an evaluation to meet this guideline. If views of other attorneys are solicited (e.g., through a survey mailed to all members of the Bar Association, the amount and type of experience with the judge should be clearly stated by each respondent

and respondents with less direct and current experience should be given less weight in the final evaluation.

4-4.2: Judges who have current personal experience with the pro tem judge being evaluated may provide information to the presiding judge, the Judicial Council or the Chief Justice through letters or personal contacts.

Commentary: Judges may evaluate using each of the criteria listed. Their insights may be especially useful in assessing administrative and legal skills.

4-4.3: Court personnel participating in pro tem judge evaluations may include, as appropriate, local magistrates, area court administrators, and other personnel who have worked with the judge being evaluated.

Commentary: In addition to responding to interview questions or written questionnaires, court personnel may provide other types of information. Peremptory challenges, challenges for cause, and ability to handle the assigned calendar are types of information that could be provided by these sources.

4-4.4: The judge being evaluated may be asked to participate in the performance evaluation.

Commentary: Individual judges may be comfortable with varying levels of participation. At a minimum, judges should

be asked to discuss their service informally with the presiding judge, and should be asked to assess their satisfaction with the pro tem experience at a personal and administrative level.

In addition, judges should be given the opportunity to comment, if they wish, on their work on specific cases, their legal abilities, their willingness to continue to serve pro tem, and their goals for continued service.

Before the presiding judge reports to the chief justice regarding his or her evaluation of the pro tem judge, that evaluation should be shared with the pro tem judge and the pro tem judge should be given a chance to comment.

4-4.5: Other sources of evaluation information may include medical information, credit reports and public records. New sources of evaluation information may be developed.

Commentary: Public records such as court files, APOC files and Commission on Judicial Conduct public records may provide information that aids in the evaluation of judicial performance. Medical doctors may need to assist in evaluations of health in some instances. New sources of evaluation information may be developed or become available. It is anticipated that a variety of information sources, to be used on an as-needed basis, will provide a better

foundation for judicial performance evaluations than would a few, strictly defined sources of information.

4-5: Methods of collecting and synthesizing information should be appropriate to the person or group conducting the evaluation.

Commentary: The methodologies described below anticipate very different roles for the Judicial Council and the presiding judge(s) in the evaluation of a pro tem judge's performance. However, these distinctions are intended to suggest only functional differences. The Council and the presiding judge(s) should share information as necessary and appropriate.

4-5.1: The Judicial Council should survey as many attorneys as practicable who appeared before the pro tem judge being evaluated during the evaluation period. The Council may also survey other attorneys, but the more experienced respondents should be clearly distinguished in the reports of survey results.

4-5.2: The presiding judge(s) evaluating the pro tem judge should interview attorneys, other judges and court personnel either directly or through his or her designee. The presiding judge(s) should consider all information gathered from these sources and then should interview the judge being evaluated.

4-6: The Judicial Council and presiding judge(s) should each make a recommendation to the chief justice regarding the eligibility of the pro tem judge being

evaluated to continue serving pro tem. The chief justice should review these recommendations, and may meet with the judge being evaluated as well as obtaining additional information from any appropriate source. The chief justice should then make the determination of eligibility for continued service required by Administrative Rule 23(b).

4-7: The confidential or public nature of information collected during the judicial performance evaluation process shall be specified for each type of information compiled, and shall comply with applicable laws and regulations.

4-7.1: Interviews and questionnaires provided by attorneys, court personnel, doctors and others having reasonable expectation of confidentiality under applicable laws and regulations shall be confidential, except that the information obtained may be aggregated for purposes of statistical analysis and reported publicly in a form that does not allow identification of individual respondents.

4-7.2: Information provided during the course of evaluation that is otherwise public (e.g., number of peremptory challenges) remains public information.

4-7.3: The results of any statistical analysis of survey data conducted by the Judicial Council shall be made public after the evaluation has been completed. The chief justice's determination of eligibility to continue pro tem service is also public.

4-8: The performance evaluation program has been developed systematically and may be implemented in progressive stages. The program should remain flexible so that it can be modified. The standing Advisory Committee shall assess the program periodically.

PART V: USES AND DISSEMINATION

5-1: Information disseminated to the public should include the results of the statistical analysis of the survey data compiled by the Judicial Council, the chief justice's determinations of eligibility to continue pro tem service and a description of the program of pro tem judicial performance evaluation. All other results, data and materials shall be confidential.

5-1.1: Anonymous comments from the surveys should be provided only to the presiding judge(s) participating in the evaluation, to the evaluated judge and to the chief justice.

Commentary: The anonymity of respondents should be preserved to the maximum extent possible. Questionnaires that ask for the respondent's comments should provide a clear description of the distribution of the comments. References in comments to specific cases or persons should be deleted before the comments are disseminated.

5-1.2: The determination of eligibility should be written, and copies should be sent to the judge evaluated, to the presiding judge(s) and the Judicial Council, and to a public file to be kept by the Administrative Director of the Courts.

5-2: Consistent with the secondary goals of improving judicial performance and education, individual results should be provided to the judge evaluated and the judge responsible for the overall performance of the particular court in which the evaluated judge is serving.

5-3: Consistent with the goal of improving the performance of the individual judge and the quality of the judiciary as a whole, the results of the judicial performance evaluation that are disseminated should not give comparative rankings of individual judges.

5-4: If additional uses are made of this evaluation information, the information should be provided in a form suitable to the particular use and consistent with these guidelines.

5-4.1: Fair procedure requires that the judge(s) evaluated have an opportunity to review and comment on evaluation before it is used for purposes other than those described herein.

5-4.2: Under no circumstances should the evaluation process be used to advocate or reflect any particular philosophy.

5-5: The uses of judicial performance evaluation do not include discipline, and the information developed in a judicial evaluation program should not be disseminated to authorities charged with disciplinary responsibility, unless required by law or rules of professional conduct.

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