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# Twelfth Report: 1983-1984 to the Legislature and Supreme Court

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# judicial council



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# alaska judicial council

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EXECUTIVE DIRECTOR  
Francis L. Bremson

NON-ATTORNEY MEMBERS  
Mary Jane Fate  
Robert H. Moss  
Renee Murray

ATTORNEY MEMBERS  
James B. Bradley  
James D. Gilmore  
Barbara L. Schuhmann

CHAIRMAN, EX OFFICIO  
Jay A. Rabinowitz  
Chief Justice  
Supreme Court

TWELFTH REPORT: 1983-1984  
TO THE  
LEGISLATURE AND SUPREME COURT

March, 1985

NCJRS

JAN 12 1988

ACQUISITIONS

THE ALASKA JUDICIAL COUNCIL (1983-1984): MEMBERS & TERMS

CHAIRMEN

Edmond W. Burke  
Chief Justice (1981-1984)  
Jay A. Rabinowitz  
Chief Justice (1984-1987)

ATTORNEY MEMBERS

James B. Bradley (1981-1986)  
James D. Gilmore (1984-1990)  
Barbara Schuhmann (1982-1988)  
Joseph L. Young (1975-1984)

NON-ATTORNEY MEMBERS

Mary Jane Fate (1981-1987)  
John Longworth (1977-1983)  
Robert H. Moss (1974-1985)  
Renee Murray (1983-1989)

COUNCIL STAFF

1983-1984

Francis L. Bremson, Executive Director  
Teresa W. Carns, Senior Staff Associate  
Robert J. Walker, Research Analyst  
Sharilyn Mumaw, Research Analyst  
Cathryn D. Wells, Research Associate  
Sheila R. Vonesh, Administrative Assistant  
Kathryn A. Friedle, Secretary

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## PART I

### INTRODUCTION

#### A. The Twelfth Report: The First Twenty-Five Years

This is the Twelfth Report to the Supreme Court and Legislature published by the Judicial Council in the 25 years since statehood. In addition to a review of judicial selection, retention evaluation, and Council research conducted during 1983 and 1984, the report also includes a series of special appendices summarizing Council activities conducted over the past 25 years, including: a roster of Council members 1959 - 1984 (Appendix B); a log of all judicial nominations and appointments since statehood (Appendix E); a list of all major recommendations issued by the Council (Appendix L); and indices of statutory (Appendix A) and case law references (Appendix S) to the Council and its research over this period.

#### B. Establishment of the Judicial Council

Delegates to Alaska's Constitutional Convention established the Judicial Council for two purposes: to nominate candidates for supreme and superior court judgeships, and to conduct studies to improve 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. (Appendix A provides constitutional and statutory references to all mandated Judicial Council functions.)

### C. 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.

The Council's membership changed significantly during 1983 and 1984. In 1983, Renee Murray was appointed by Governor Bill Sheffield to fill the seat vacated by John Longworth. James Gilmore was appointed by the Bar Association in 1984 to succeed attorney member Joseph L. Young. Jay A. Rabinowitz was elected Chief Justice in 1984, for the third time. Appendix B contains an historical log of the Council's membership since statehood.

### D. Organization & Administration of the Council

Guidelines for conducting Council functions are contained in a set of bylaws, which were initially adopted in 1959 and have been reviewed and modified by Councils since that time. In 1983, the Council completed its first major revision in ten years. These revisions updated the Council's policies on judicial selection and retention election evaluations;

established guidelines for Council research; and resolved a number of administrative and procedural issues which had arisen in recent years regarding voting, public meetings, and public record requirements (Attached as Appendix C is a copy of the Council's current bylaws as revised in May, 1983.)

The bylaws establish four Council Committees: Finance, Audit & Administration, Selection & Retention, Programs & Research, and Legislation (Appendix D). Each Council member serves on two Committees, as assigned by the Chairman. This Committee structure enables each Council member to participate more fully in the diverse projects undertaken by the Council.

Judicial Council activities are primarily funded by the Legislature from the General Fund; however, the Council is eligible to receive grants from other sources and has conducted much of its past research under grants from the federal government. 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 an executive director, senior staff associate, research associate, administrative assistant and secretary. Additional temporary staff are employed from time to time as required for major research projects.

PART II

JUDICIAL SELECTION & RETENTION 1983 - 1984

A. Judicial Selection

Sixteen judicial positions were filled during 1983 and 1984, the largest number of vacancies to be filled since 1967-1968. Three new superior court seats (one in Valdez, two in Anchorage) and two new district court positions (both in Anchorage) were created by the 13th Legislature. The remaining eleven vacancies occurred as a result of retirements, resignations and non-retention of two judges in the 1982 general elections. (Appendix E provides a log of all judicial appointments since statehood, including names of applicants and nominees.)

The Council met in Anchorage on February 15-16, 1983 to nominate candidates for three District Court seats, two in Anchorage and one in Ketchikan. Natalie Finn and William Fuld were subsequently appointed by Governor Sheffield to Anchorage vacancies that arose from the non-retention of Judges Brewer and Vochoska in the 1982 general elections. George Gucker was appointed by the Governor to the Ketchikan District Court following Judge Keene's appointment to the Superior Court in Wrangell.

On May 26, 1983, the Council nominated candidates for the Supreme Court seat which opened when Justice Roger Connor retired in 1983. Judge Daniel A. Moore, Jr. of the Anchorage Superior Court was appointed by Governor Sheffield to this seat. The Superior Court vacancy created by his appointment was filled by the Governor on January 11, 1984 with the appointment of Karen Hunt.

The Council met on May 16, 1984 in Juneau to nominate candidates for the Juneau District Court seat left open by the resignation of Judge Gerald O. Williams and for the newly-created Valdez Superior Court position. Linn Asper was appointed to fill the Juneau District Court vacancy. Judge John Bosshard, III (who had served for eight years as District Court Judge in Valdez) was appointed to the Valdez Superior Court seat.

Applicants for six Anchorage judicial positions were considered at the Council's September 25-26, 1984 meeting. Of the four district court positions, two had been created by the legislature in 1984, one existed as a result of the retirement of Judge Warren Tucker, and one resulted arose from Judge Beverly Cutler's appointment to the Palmer Superior Court. Both superior court positions had been established by the Legislature in 1984. Martha Beckwith, Ralph Stemp, David Stewart and Michael White were appointed to the district court positions; Rene Gonzalez and Joan Katz were appointed to the superior court seats.

The Judicial Council met in Fairbanks on December 17, 1984 and in Anchorage on December 18, 1984 to nominate candidates for three additional positions. Judges Ralph Moody (Superior Court, Anchorage) and Stephen Cline (District Court, Fairbanks) had elected not to file for retention in August of 1984, thereby creating two vacancies. Judge Warren Taylor (Fairbanks Superior Court) announced his retirement in October, 1984. Appointments to these three positions were announced by Governor Sheffield in early 1985, with Margaret (Meg) Greene appointed to the Fairbanks Superior Court, Christopher Zimmerman appointed to the Fairbanks District Court and Peter Michalski appointed to the Anchorage Superior Court.

## B. Judicial Selection Procedures

During 1983 and 1984 the Judicial Council continued efforts to improve the judicial selection process, including revision of the bar survey; use of counsel questionnaires; increased public participation; and training.

### (1) Bar Survey

The survey of active Bar Association members regarding the qualifications of each applicant was reviewed in depth. Statistical analysis of survey rating patterns was undertaken to determine what improvements could be made. The Council is presently considering changes, as a result, in some of the criteria used on the survey. Written analysis of survey findings has been improved with graphic presentations, addition of more statistical tests, and changes in the format of the report.

### (2) Counsel Questionnaires

Brief questionnaires were sent to opposing counsel and/or judges in recent cases in which applicants had participated. The questionnaires requested comments on the nature of the respondents' experience with the applicant, the quality of the applicant's work, the applicant's temperament, and his/her diligence. This procedure was extremely effective in providing substantive, objective evaluation data.

### (3) Public Participation

Public comment on judicial selection was encouraged. In the course of processing each vacancy, press releases were issued three different times. In addition, the Council reiterated its policy of meeting whenever possible in the area or community to be served by the judgeships to be filled, particularly to facilitate participation in the process by community representatives.

(4) Other Selection-related Activities; Seminar

Other activities conducted included development of a more comprehensive application form; more extensive analysis of applicants' writing samples; review of bar admission and discipline files for each applicant; and credit and criminal history record checks; as well as a one-day training seminar for Council members and staff on model judicial selection procedures, conducted by the American Judicature Society in September, 1983. The seminar covered all aspects of merit selection processes, including recruitment of applicants, investigation of qualifications, interviewing of applicants, and voting and nomination criteria. The seminar served as the basis for additional revisions in the Council's selection procedures. It also provided the impetus for the development of specific interview questions for applicants, and for the adoption of new interview procedures. (A summary of the primary features of the Council's selection process and the time frame associated with each significant event in the process appears at Appendix F.)

C. Retention Election Evaluations

Statutes enacted in 1975 authorized the Judicial Council to evaluate each judge or justice eligible to stand for retention in the general elections, to recommend for or against retention of each judicial officer evaluated, and to publicly disseminate its findings (See Appendix A). Alaska remains the only retention election jurisdiction with this degree of judicial evaluation authority prescribed by statute.

Procedures used by the Council to evaluate sitting judges and justices are distinct from those used to evaluate the qualifications of applicants for judicial office. Retention evaluations include mail surveys of all active

members of the Alaska Bar Association and all Alaska peace & probation officers; a review of court and public records; professional and public testimony; and personal interviews. Public participation during the evaluation process is encouraged through public hearings, media presentations and press releases. (See Appendix G, Retention Evaluation Program.)

The retention evaluation process during 1983-84 included three special features:

(1) Retention Consultant Committee

The Council was assisted in retention evaluation design during 1983 and 1984 by the Retention Consultant Committee, an advisory group consisting of three attorneys and three judges not standing for retention (Appendix H).

(2) Nonrespondent Study

Another feature of the 1984 evaluation process was a study conducted following the completion of the bar survey of reasons why some attorneys declined to complete the judicial evaluation questionnaires. That study essentially concluded that nonrespondents tended to be those with the least amount of direct, in-court experience. (Appendix I).

(3) Retention Election Vote Analysis

Finally, a study of voting patterns in judicial retention elections from 1976 to 1984 found evidence of increasing voter reliance on information and recommendations published by the Judicial Council (Appendix J).

Of twenty-three judges who were eligible to stand for retention in 1984, twenty-one elected to file for retention (Appendix K, Retention Election Log of Judges). All twenty-one judges were found qualified by the Council, and all were retained. The Council's evaluations and recommendations regarding these judges appeared in the print and electronic media, in the Lieutenant Governor's Voters' Pamphlet, and in paid advertisements which were published throughout the state shortly before the election.

Judicial evaluation in Alaska has focused on evaluation of judges standing for retention. In 1985, the Council will begin to work with the Supreme Court and the judiciary to develop a program of judicial performance evaluation for additional purposes, such as enabling judges to track and improve their own performance; rewarding and encouraging outstanding performance; improving judicial training curricula and programs; and facilitating internal management of judicial system resources.

## PART III

### RESEARCH & RECOMMENDATIONS

#### A. Introduction

Since statehood, the Judicial Council has conducted studies for the Legislature and Supreme Court which have resulted in adoption of a number of fundamental changes to the justice system, including the establishment of a Family Court division; establishment of the Public Defender agency; adoption of presumptive sentencing; establishment of the Sentencing Guidelines Committee; and revisions to the Court System's fee collection system. (A comprehensive list of major Council recommendations issued over the past 25 years is set out in Appendix L. A complete bibliography of Council publications and reports will be found at Appendix M.)

#### B. Major Studies and Recommendations: 1983 - 1984

The Judicial Council's primary research efforts during 1983 and 1984 focused on analysis of sentences imposed in fish and game and misdemeanor and drunk driving cases during 1980-1981. These studies were undertaken at the request of the Legislature, primarily to determine if evidence of racial disparity observed in earlier Council studies of misdemeanor sentences (1974 - 1976) continued to exist (Appendix O).

Analysis of sentences imposed in all misdemeanor cases indicated that while variations in sentences do occur, there is little evidence that sentence differences are based on any physical characteristics of defendants, such as race, age or sex. Rather, sentence "variations", where they do occur, appear to be based largely on defendants' prior criminal records and histories of completion or non-completion of alcohol treatment.

Perhaps the most significant finding suggested by the misdemeanor study was that defendants who had successfully completed prior alcohol treatment programs were least likely to be recidivists. Since more than half of all criminal offenses in Alaska were alcohol-related, the Council recommended concentration of state and local resources on programs which promote or encourage successful completion of alcohol treatment programs.

Vehicular offenses were the most frequent type of offense in all communities studied. As a result, and because of the substantial public interest in drunk driving offenses, the Council conducted a more detailed analysis of all aspects of the drunk driving offense component of the misdemeanor sample (Appendix P). That study found that, although drunk drivers comprised only 28.7% of all defendants studied, they accounted for two-thirds of the misdemeanor jury trials, 35.8% of the misdemeanor jail days sentenced, and 54.6% of the net misdemeanor fines imposed. Repeat DWI offenders accounted for three-quarters of the total number of DWI jail days served and one-quarter of all misdemeanor jury trials conducted although such persons constituted just 7.5% of the total misdemeanor sample.

The Judicial Council's study of DWI offenses used the data from 1981 both to determine the impact of DWI cases in that year as well as to provide some basis for estimating the possible consequences of new DWI sentencing laws passed in 1982. The Council concluded the 1982 amendments would result in an increase in the actual time to be served by first-time DWI offenders; increased fine revenues from repeat DWI offenders; a larger number of repeat DWI defendants because of broadened definitions in the new law; and more convictions on related charges, such as refusal to submit to a chemical test

and driving with an invalid license. The net effect of these changes, however, was difficult to estimate precisely because of increased law enforcement efforts in various communities and increased community awareness of the problems of drunk driving.

Based on its studies, the Judicial Council recommended to the Governor's Task Force on Drunk Driving (Appendix Q) that justice system resources be focused on efforts to encourage completion of alcohol treatment programs by defendants convicted of alcohol-related offenses. The Council also recommended that compliance with treatment be monitored by appropriate agencies, including the courts. The Judicial Council further recommended development of alternative jail facilities for persons convicted of DWI and other alcohol-related offenses, and development of misdemeanor sentencing guidelines which could take into account jail capacity, legislative intent, community and defendant characteristics, treatment programs, and alternatives to incarceration.

The Judicial Council also analyzed sentences imposed in fish and game cases (Alaska Fish and Game Sentences: 1980-81) (see Appendix N). The Council concluded that fish and game statutes and regulations were unorganized and confusing, and recommended to the Legislature that a commission be constituted to rewrite and classify fish and game offenses. It also suggested that the Legislature consider a sentencing structure similar to presumptive sentencing or that the Supreme Court, through its Sentencing Guidelines Committee, adopt experimental sentencing guidelines for major fish and game offenses.

A third recommendation, which was adopted by the Legislature in 1984, was that a mail-in bail schedule be created for minor offenses. The purpose of this recommendation was to reduce the court system's caseload by eliminating the need to formally process lesser offenses, thereby enabling the court to focus its time and resources on major fish and game violators. The Supreme Court was charged by the Legislature with the development of the mail-in bail schedule.

C. Technical Assistance

In addition to its major studies, the Judicial Council also conducted a variety of short-term research projects either for internal purposes or at the request of other state agencies (Appendix R). Two unpublished studies were prepared for internal use, on peremptory challenges to judges, and on public defender caseload; a research agenda process was initiated and is being maintained; and research design models were developed for several state agencies, focusing on juvenile detention disparities, implementation of local option laws, needed sentencing analysis, and the relationship between alcoholism and recidivism.

D. Research Priorities for 1985-86

During 1985-1986, Council research will be conducted in some or all of the following areas:

1) Fairbanks Closed Circuit Arraignment Project

In November of 1984, the Department of Public Safety completed installation of equipment necessary to televise arraignments of in-custody prisoners in Fairbanks. Cameras and

microphones in the courtroom and a special room at the Fairbanks Correctional Center allow the judge to conduct arraignments without the physical presence of the defendant in the courtroom. All proceedings continue to be electronically transcribed through hook-ups to the Court System's present equipment. The purposes of the present program are to substantially reduce the amount of trooper time required for transportation of prisoners, and to provide better security in the courtroom. The program may be potentially useful in the future to reduce time and costs of arraignments and other court proceedings throughout the state, and to provide better access to justice system resources for bush communities.

At the request of the Presiding Judge for the Fourth Judicial District, the Judicial Council will assist the court over the next year in evaluating the televised arraignment project. The Council will take into account cost-savings of the system for the Department of Public Safety and the Fairbanks Police Department as well as court personnel and attorneys, potential legal issues involved, potential solutions to technical problems, and satisfaction of participants. Evaluation methods will include interviews and collection of data on costs, sentences and bail. The Judicial Council will analyze the effectiveness of the program in Fairbanks, and will assess the feasibility of transferring the program to other court sites throughout the state.

## 2) Child Support Payment Guidelines

Federal legislation passed in 1983 requires states to establish a Commission on Child Support Enforcement. The purpose of the Commission is to establish uniformity in child support payments and enforcement. Alaska's Commission

requested the assistance of the Judicial Council in gathering basic data from which Commission policies and guidelines could be developed. The Council has provided the Commission with an analysis of the feasibility of this research, and will continue to work with the Commission as needed.

### 3) Sentence Monitoring, Child Sexual Abuse Cases

Much of the Council's past research focused on detailed analysis of felony and misdemeanor sentencing patterns. The Council's studies have typically been characterized by collection of detailed data from original case files and other sources. Although such studies are extremely valuable, collection of such data is both costly and time consuming. As a result, the Council has been working with the Department of Law and Department of Public Safety to develop methods of sentence monitoring which can provide more timely and less costly data on sentencing patterns.

The Council's first project in this area will be an analysis of child sexual abuse cases for the last 18 months, using data from the Attorney General's PROMIS system and from Department of Public Safety records on prior record and race (these two factors have been noted in other Council studies to account for important differences in sentences imposed). Although the data from this type of study will be less rich in detail than earlier Council studies, it will allow the legislature, courts, attorneys, and other interested groups to more quickly review the sentencing impacts of new legislation and policies.

#### 4) Judicial Performance Evaluation

A number of Alaska judges have expressed interest in the development of a program of judicial performance evaluation for purposes other than retention. While retention election evaluations provide detailed information about judicial performance to judges and the public, retention evaluations are conducted relatively infrequently, and are not expressly concerned with identifying specific strengths or weaknesses of individual judges for purposes of improving individual performance. In this regard, the Chief Justice has asked the Council to explore the feasibility of developing a program of judicial performance evaluation which will be designed to enable judges to track and improve their own performance on an ongoing basis; reward and encourage outstanding performance in the judiciary; improve judicial training curricula and programs; and enable supervisory judges and justices to better manage judicial resources.

The Judicial Council will begin its work by accumulating information from other jurisdictions which are either carrying out judicial performance evaluations or planning to do so. The Council will then determine the best means of evaluating judicial performance in Alaska. This process anticipates that the judges themselves will determine the overall program design and will identify and select the most viable program alternatives. Program decisions to be made include the frequency of evaluations, the criteria to be used in evaluations, the methodology to be employed, the organization or organizations which will conduct the evaluations, and the various uses of the evaluation data.

5) Misdemeanor Sentencing Guidelines

The Supreme Court's Sentencing Guidelines Committee will begin work in 1985 on the development of misdemeanor sentencing guidelines. The Committee was initially established by the Supreme Court in 1978 to recommend sentence guidelines for offenses not covered by the presumptive sentencing provisions of Alaska's Criminal Code in order to reduce the potential for sentencing disparity and to assure uniformity. The Committee has previously experimented with drug offense guidelines and has drafted fish & game violation guidelines. In developing misdemeanor guidelines, the Committee will consider factors such as characteristics of the offense, characteristics of the offender, community values, jail capacity, and available alternatives to incarceration. The Judicial Council will staff the Committee and provide data analysis assistance.

APPENDIX A

INDEX OF CURRENT LAW  
RELATING TO THE  
ALASKA JUDICIAL COUNCIL

INDEX OF CURRENT LAW  
RELATING TO THE  
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)
15.15.030(10)	Election ballot for judicial retention.
15.15.450	Certification of retention vote.
15.35.030	Approval/rejection of supreme court justice.
15.35.053	Approval/rejection of court of appeals judge.
15.35.060	Approval/rejection of superior court judge.
15.35.100	Approval/rejection of district court judge.
15.58.020(2)	Election pamphlet must contain retention election information from Judicial Council.

ALASKA STATUTES CONTINUED:

- 15.58.050 Information must be filed with lieutenant governor 75 days before retention election.
- 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.
- 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.
- 22.07.080 Restrictions on court of appeals judges.
- 22.10.090 Qualifications of superior court judges.
- 22.10.100 Duty to nominate superior court candidates.
- 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.

ALASKA STATUTES CONTINUED:

- 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.
- 22.30.010 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.
- 39.05.070 Uniformity of appointment process
- 39.05.080 Appointment procedure
- 39.05.100 Qualifications for appointment.
- 39.05.110 Definitions.
- 39.05.120 Commission of office.
- 39.05.130 Oath of Office.
- 39.50.010-.200(b)(15) Report of financial and business interests.
- 44.62.310 Requirement that Council meetings be open to the public.
- 44.62.312 State policy regarding meetings.

APPENDIX B

HISTORICAL ROSTER OF  
ALASKA JUDICIAL COUNCIL MEMBERS

HISTORICAL ROSTER OF ALASKA JUDICIAL COUNCIL MEMBERS

<u>POSITION</u>	<u>RESIDENCE</u>	<u>DATE OF APPOINTMENT</u>	<u>EXPIRATION OF TERM</u>
<u>CHAIRMAN<sup>1</sup> (CURRENT TERM EXPIRES 9/30/87)</u>			
Chief Justice Buell A. Nesbitt		11/29/59	6/18/70
Chief Justice George F. Boney		6/18/70	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	9/30/84
Chief Justice Jay A. Rabinowitz		10/1/84	9/30/87
<u>ATTORNEY MEMBERS</u>			
<u>CURRENT TERM EXPIRES 2/24/86</u>			
E.E. Bailey <sup>2</sup>	Ketchikan	2/24/59	2/24/62
E.E. Bailey	Ketchikan	2/24/62	2/24/68
Frank M. Doogan <sup>3</sup>	Juneau	10/15/68	4/73
Michael L. Holmes <sup>4</sup>	Juneau	5/73	2/24/74
Michael L. Holmes	Juneau	2/24/74	2/24/80
Walter L. Carpeneti <sup>5</sup>	Juneau	2/24/80	2/81
James B. Bradley <sup>4</sup>	Juneau	4/81	2/24/86
<u>CURRENT TERM EXPIRES 2/24/88</u>			
Robert A. Parrish <sup>2</sup>	Fairbanks	2/24/59	2/24/64
William V. Boggess <sup>5</sup>	Fairbanks	2/24/64	4/64
Michael Stepovich <sup>4</sup>	Fairbanks	5/64	2/24/70
Michael Stepovich	Fairbanks	2/24/70	2/24/76
Michael Stepovich <sup>3</sup>	Fairbanks	2/24/76	8/78
Marcus R. Clapp <sup>4</sup>	Fairbanks	8/78	2/24/82
Mary E. Greene <sup>3</sup>	Fairbanks	2/24/82	4/82
Barbara L. Schuhmann <sup>4</sup>	Fairbanks	7/82	2/24/88

HISTORICAL ROSTER OF ALASKA JUDICIAL COUNCIL MEMBERS

<u>POSITION</u>	<u>RESIDENCE</u>	<u>DATE OF APPOINTMENT</u>	<u>EXPIRATION OF TERM</u>
<u>ATTORNEY MEMBERS (CONTINUED)</u>			
<u>CURRENT TERM EXPIRES 2/24/90</u>			
Raymond E. Plummer <sup>2, 3</sup>	Anchorage	2/24/59	9/26/61
Harold Butcher <sup>4</sup>	Anchorage	11/61	2/24/66
George F. Boney <sup>5</sup>	Anchorage	2/24/66	9/68
Lester W. Miller, Jr. <sup>4</sup>	Anchorage	10/15/68	2/24/72
Eugene F. Wiles <sup>3</sup>	Anchorage	2/24/72	3/75
Joseph L. Young <sup>4</sup>	Anchorage	4/75	2/24/78
Joseph L. Young	Anchorage	2/24/78	2/24/84
James D. Gilmore	Anchorage	2/24/84	2/24/90
<u>NON-ATTORNEY MEMBERS</u>			
<u>CURRENT TERM EXPIRES 5/18/85</u>			
Roy J. Walker <sup>2</sup>	Fairbanks	5/18/59	5/18/61
John Cross	Kotzebue	5/18/61	5/18/67
Thomas K. Downes <sup>3</sup>	Fairbanks	5/18/67	1/68
V. Paul Gavora <sup>4</sup>	Fairbanks	10/15/68	5/18/73
Thomas J. Miklautsch <sup>3</sup>	Fairbanks	5/28/73	12/10/74
Robert H. Moss <sup>4</sup>	Homer	12/10/74	5/18/79
Robert H. Moss	Homer	5/18/79	5/18/85
<u>CURRENT TERM EXPIRES 5/18/87</u>			
Jack E. Werner <sup>2</sup>	Seward	5/18/59	5/18/63
Jack E. Werner	Seward	5/18/63	5/18/69
Ken Brady	Anchorage	6/28/69	5/18/75
Ken Brady	Anchorage	5/18/75	5/18/81
Mary Jane Fate	Fairbanks	5/18/81	5/18/87

HISTORICAL ROSTER OF ALASKA JUDICIAL COUNCIL MEMBERS

<u>POSITION</u>	<u>RESIDENCE</u>	<u>DATE OF APPOINTMENT</u>	<u>EXPIRATION OF TERM</u>
<u>NON-ATTORNEY MEMBERS (CONTINUED)</u>			
<u>CURRENT TERM EXPIRES 5/18/89</u>			
Dr. William M. Whitehead <sup>2, 3</sup>	Juneau	5/18/59	12/6/72
Charles W. Kidd <sup>4, 3</sup>	Juneau	4/63	1/64
H. Douglas Gray <sup>4</sup>	Juneau	4/64	5/18/65
H.O. Smith <sup>6</sup>	Ketchikan	5/18/65	6/65
Pete Meland <sup>4</sup>	Sitka	1/66	5/18/71
Oral Freeman <sup>3</sup>	Ketchikan	11/22/71	1/72
Lew M. Williams, Jr. <sup>4</sup>	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 Nesbitt 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

BYLAWS OF THE ALASKA JUDICIAL COUNCIL



## Alaska Judicial Council

NON-ATTORNEY MEMBERS  
MARY JANE FATE  
JOHN E. LONGWORTH  
ROBERT H. MOSS

1031 W. Fourth Avenue, Suite 301  
ANCHORAGE, ALASKA  
99501  
(907) 279-2526

EXECUTIVE DIRECTOR  
FRANCIS L. BREMSON

ATTORNEY MEMBERS  
JAMES B. BRADLEY  
JOSEPH L. YOUNG  
BARBARA L. SCHUHMAN

CHAIRMAN, EX OFFICIO  
EDMOND W. BURKE  
CHIEF JUSTICE  
SUPREME COURT

### BY-LAWS 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 shall 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 shall 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 by-laws.

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.

With respect to any interview requested by the Council, a candidate's travel and per diem expenses will be paid by the Council within limits and according to guidelines established by law. 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 shall 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  
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 XI  
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 XII  
AMENDMENTS

These by-laws 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 revised by-laws adopted by the Judicial Council this twenty-sixth day of May, 1983.

APPENDIX D

COMMITTEES OF THE ALASKA JUDICIAL COUNCIL

## COMMITTEE ON FINANCE, AUDIT AND ADMINISTRATION

The purpose of the Committee on Finance, Audit, and Administration is to provide a direct accountability link between the Council and staff regarding matters of administration and finance. The Committee shall be responsible for monitoring administrative activities of the Council, for reviewing annual budget requests and expenditures, for reporting to the full Council on administrative status of the organization, and for recommending action to the full Council.

In the performance of its functions, the Committee may establish such guidelines and procedures as deemed appropriate to the efficient operation and administration of the Council including, but not limited to, the following:

- . Establish limits on expenditures by the Executive Director or his designee, and monitor compliance with such limits;
- . Establish procedures for prior Council review and approval of out of state travel by Council members and staff, and for prior review and approval of annual budgets and of substantial modifications to such budgets during the fiscal year;
- . Prepare and/or review Council responses to periodic legislative or other authorized audits of Council operations;
- . Establish and monitor the operations of the Council staff personnel system;
- . Review staff leave and travel policies and procedures;
- . Supervise the periodic update of the Council Members Manual and the Council's Administrative Manual;
- . Provide consultation and advice on administrative matters to Council staff between regular meetings; and
- . Report to the full Council on administrative matters at least annually.

COMMITTEE ON JUDICIAL AND PUBLIC DEFENDER  
SELECTION AND RETENTION

The purpose of the Selection and Retention Committee is to provide a direct communication and policy link between staff and Council on an on-going basis. In its supervisory and monitoring capacities, the Committee shall endeavor to insure that staff support activities in the selection and retention areas are consistent with Council goals of selecting the best qualified candidates for appointment; of objectively evaluating judicial performance; and of increasing the degree of public input into the selection and retention processes.

In the performance of its functions, the Selection and Retention Committee may establish such programs as deemed appropriate to the Council selection and retention objectives, including, but not limited to, the following:

- . Experimentation with and establishment of reliable objective criteria for selection and evaluation, including, e.g., percentage of reversals; caseload disposition; number and reasons for peremptions, recusals, disqualifications; use of testing and hypotheticals; etc.;
- . Improved candidate investigation procedures;
- . On-going review and evaluation of relative merits of selection and retention procedures, including fairness of bar poll; cost-effectiveness of attorney interviews; dissemination of bar poll comments; etc.;
- . Screening of applications for judicial vacancies to determine appropriateness of interviewing some or all candidates;
- . Review and modification of selection and retention materials, including vacancy applications; highlight sheet; press releases; public notices; public relations and public information material;
- . Monitoring of solicitation and contracts with selection retention support services contractors;
- . On-going assessment of other uses of evaluation data currently collected and analyzed for retention purposes only, for application to such areas as judicial training and judicial personnel management;
- . Review of materials included in selection/retention section of Council Policy and Procedures Manual (Volume II);

- . Periodic review and evaluation of selection and retention sub-project documentation;
- . Coordination of Council education and training in selection and retention techniques;
- . Bar discipline and Commission on Judicial Conduct liaison;
- . Provide consultation and advice on selection and retention matters to Council staff between meetings; and
- . Report to the full Council periodically on selection and retention related issues of policy and practice.

## COMMITTEE ON PROGRAMS AND RESEARCH

The purpose of the Programs and Research Committee is to provide policy advisory assistance to staff in the conduct of research projects related to the administration of justice.

In the performance of this function, the Committee shall prioritize research programs and recommend projects to the full Council; monitor the progress of research projects; and evaluate all such project efforts.

Activities to be conducted in support of these objectives shall include the following:

- . Supervision of the preparation and periodic modification of the Council's annual and long-range research agenda;
- . On-site review and evaluation of staff and consultant research activities, including review of and compliance with project management plans;
- . Consultation and advice to staff between meetings regarding research policy issues and progress in compliance with project management plans;
- . Report to the full Council on research projects progress at regularly scheduled meetings.

## COMMITTEE ON LEGISLATION

The purpose of the Legislation Committee is to provide policy advisory direction to staff in supporting pending or existing legislation either directly affecting the Council or affecting the administration of justice in Alaska.

In the performance of this function, the Committee may:

- . Recommend policies regarding the types of legislation on which the Council should take positions;
- . Monitor the progress of particular legislation through the legislature;
- . Testify for or against such legislation;
- . Provide liaison assistance with such legislative, judicial, and executive branch and public and private sector agencies as may be deemed appropriate and necessary;
- . Determine legislative priorities for the Council and draft and/or review Council-sponsored legislation;
- . Provide on-going policy advice to staff between meetings; and
- . Periodically report to the full Council on legislative activities, priorities, and status at regularly scheduled meetings.

APPENDIX E

HISTORICAL LOG OF JUDICIAL  
APPOINTMENTS  
1959 - PRESENT

HISTORICAL LOG OF JUDICIAL APPOINTMENTS\*  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
07/16-17/59	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. Nesbitt Thomas B. Stewart	William V. Boggess Robert Boochever John H. Dimond Walter Hodge M.E. Monagle Buell A. Nesbitt	John H. Dimond Walter Hodge Buell A. Nesbitt
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

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
10/12-13/59	Superior - Anchorage	Harold J. Butcher Henry Camarot J. Earl Cooper Al Cottis Roger Cremona Edward V. Davis James M. Fitzgerald Everett W. Hepp Peter J. Kalamarides Verne O. Martin Stanley McCutcheon Raiph E. Moody Buell A. Nesbitt 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 (ii not Juneau)	H.O. Arend Everett W. Hepp

HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
03/12-13/60	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
04/15/60	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
03/17/62	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. Caldenwood Judge Hubert A. Gilbert K. Everett Harris Judge Jay A. Rabinowitz James K. Tallman William Taylor	Burton C. Biss Judge Hubert A. Gilbert	Hubert A. Gilbert

Appendix E-1.3

HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
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
01/7-8/65	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
06/1-2/67	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

Appendix E-1.4

HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
06/1-2/67	Superior - Anchorage (Family)	Harris K. 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 K. 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

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
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 Irwin Ravin	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

Appendix E-1.6

HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
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

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
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. Benjamin O. Walters, Jr.	Edmond W. Burke Victor D. Carlson Judge James A. Hanson Thomas Schulz James K. Singleton, Jr.	Victor D. Carlson

Appendix E-1.8

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

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
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

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG 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

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
07/8/72	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

Appendix E-1.12

HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
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
01/11/75	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
02/12-13/75	Supreme Court Justice	Judge Edmond W. Burke William V. Boggess	Judge Edmond W. Burke William V. Boggess	Edmond W. Burke
02/12-13/75	District - Anchorage	Alexander O. Bryner Gary W. Gantz Laurel Peterson	Alexander O. Bryner Gary W. Gantz Laurel Peterson	Alexander O. Bryner
04/01/75	District - Juneau	Richard A. Bradley Gerald O. Williams	Richard A. Bradley Gerald O. Williams	Gerald O. Williams
04/01/75	District -Wrangell	Duane K. Craske George Gucker Francis van T. Kernan	Duane K. Craske George Gucker Francis van T. Kernan	Duane K. Craske
05/16/75	Public Defender	Douglas A. Fox Brian Shortell Herbert D. Soll Ronald T. West	Douglas A. Fox Brian Shortell Herbert D. Soll	Brian Shortell

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
05/16/75	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
08/20/75	Superior - Kodiak	Roy H. Madsen Milton M. Souter	Roy H. Madsen Milton M. Souter	Roy H. Madsen
08/22/75	District - Fairbanks	Clay Berry Monroe Clayton Stephen R. Cline Francis van T. Kernan Edward Noonan	Monroe Clayton Stephen R. Cline	Monroe Clayton
09/17/75	District - Anchorage	Clay Berry Bruce Bookman Susan Burke Stanley Howitt Laurel Peterson Bruce Tennant	Susan Burke Laurel Peterson	Laurel Peterson
09/18/75	Superior - Anchorage	Russell E. Arnett Judge Victor D. Carlson	Russell E. Arnett Judge Victor D. Carlson	Victor D. Carlson
01/8-9/76	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

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
03/15/76	District - Valdez	John Bosshard, III James D. Ginotti Robin Taylor	John Bosshard, III James D. Ginotti Robin Taylor	John Bosshard, III
08/31/76	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
09/23/76	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 Kemerowski 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
02/1-2/77	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

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
04/14/77	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
06/29/77	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
02/10/78	District - Anchorage	Glen C. Anderson L. Eugene Williams Ethan Windahl	Glen C. Anderson L. Eugene Williams Ethan Windahl	Glen C. Anderson

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
09/17/79	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
09/17/79	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
03/20/80	Superior - Kotzebue	William D. Cook Paul B. Jones Irwin Ravin Edward Welch Richard J. Whittaker	Paul B. Jones Richard J. Whittaker	Paul B. Jones

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
06/20/80	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.
09/15/80	District - Fairbanks	Hershel Crutchfield Robert Downes Jane F. Kauvar	Hershel Crutchfield Robert Downes Jane F. Kauvar	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

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG 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
01/23/81	District - Fairbanks	Hershel Crutchfield Robert Downes Natalie Finn Jane F. Kauvar Christopher E. Zimmerman	Robert Downes Jane F. Kauvar	Jane F. Kauvar
03/31/81	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

HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MIG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
04/28-29/81	Superior - Juneau	Linn H. Asper Walter L. Carpeneti mes 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
05/28-29/81	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
09/03/81	Superior - Kenai	Charles Cranston Charles Merriner Timothy Rogers Andrew R. Sarisky	Chrales Cranston Charles Merriner	Charles Cranston
09/28/81	Superior - Juneau	Walter L. Carpeneti Peter M. Page	Walter L. Carpeneti Peter M. Page	Walter L. Carpeneti

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
09/30/82	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
09/30/82	Superior - Barrow	Michael Jeffery Timothy Stearns	Michael Jeffery Timothy Stearns	Michael Jeffery
09/30/82	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.
02/15-16/83	District - Ketchikan	Barbara Blasco James Bruce Roger Carlson George Gucker Dennis L. McCarty Richard J. Whittaker	Barbara Blasco George Gucker	George Gucker

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
02/15-16/83	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.

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HISTORICAL LOG OF JUDICIAL APPOINTMENTS  
1959 - PRESENT

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
11/29/83	Superior - Anchorage	Cynthia Christianson Lekoy DeVeaux William Erwin Gary W. Gantz William Greene Karen Hunt Joan M. Katz Suzanne Pestinger	Lekoy 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

MTG DATE	POSITION	CANDIDATES	NOMINATED	APPOINTED
9/25-26/84	Anchorage - District (4 positions)	Martha Beckwith Dennis P. Cummings John M. Eberhart Maryann E. Foley David P. Gorman Andy Hemenway Robert D. Lewis Connie J. Sipe (withdrew) D. Ralph Stemp Melvin M. Stephens, II David C. Stewart Michael N. White	Martha Beckwith Andy Hemenway 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

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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
03/27-28/85	Wrangell - Superior	James L. Bruce John B. Gaguine Thomas M. Jahnke Dennis L. McCarty T.W. Patch Drew Peterson John Peterson David T. Walker		

APPENDIX F

JUDICIAL SELECTION PROCEDURES  
OF THE ALASKA JUDICIAL COUNCIL

JUDICIAL SELECTION PROCEDURES  
OF THE ALASKA JUDICIAL COUNCIL

The Alaska Judicial Council is a constitutionally created state agency which evaluates the applications of persons seeking judicial appointment and refers the names of 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 which an applicant must take in order to be considered for a judicial appointment and the steps which are taken by the Judicial Council to insure that applicants are qualified for such appointment.

A. The Application Process

Applicants must first complete the Judicial Council's "Application for Judicial Appointment," which consists of a questionnaire form 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 one year prior to the date of application; or if this is not possible, a certification from the physician who conducted the most recent complete physical examination of the applicant; and (2) a legal writing sample of 5 to 10 pages in length, prepared solely by the applicant within the past five years.

Applicants must submit eight copies of the completed application and appendices to the Judicial Council on or by the date set forth in the notice of vacancy.

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

## B. The Evaluation Process

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

### 1) The Bar Poll

The Judicial Council sends the names of all applicants to an independent organization, Policy Analysts, Ltd. (PAL) which prepares a survey to be sent to 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 11 qualities, including "legal reasoning ability and knowledge of the law" and "integrity", and also asks respondents to rate each candidate as a potential "Good Judge". Survey respondents are asked to 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 are invited to offer narrative comments as well.

Survey responses 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 "Good Judge" or "11-item scale" rating out of 10 candidates). (PAL also collates all comments and forwards these in a separate, confidential report to the Council.)

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 evaluative process and each applicant has the opportunity to discuss the survey results with the Council during the interview. [See below, (5)]

2) Letters of Reference

Letters of reference are also considered by the Council in its evaluative process. Reference letters are treated as confidential and may not be viewed by the applicants.

3) Investigation of Applicants

The Council may verify applicants' educational and employment history and investigate medical, criminal, legal 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 treated as confidential and is used only for the purpose of evaluating fitness for judicial appointment.

4) Screening

Following its review of the applications, investigative and survey data, 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 whom 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.

5) Interviews

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 ratings, reference letters or other information gathered during the investigation.

Following these interviews, the Council submits a panel of nominees to the Governor of those candidates deemed most qualified, provided such panel includes two or more names. (If fewer than two applicants are deemed to be qualified, the Council will decline to submit any names and will re-advertise for the vacancy). 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 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) Written notice of the vacancy is received by the Council. (Day 1).

2) Within 3 days, the position is announced to all members of the Bar Association and the application process begins. (Day 4).

3) The deadline for receiving applications is approximately three weeks after the announcement of the position. (Day 25). The deadline for filing for the current vacancy is \_\_\_\_\_.

4) The names and biographies of applicants are made public immediately after the filing deadline. (Day 25)

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. (Day 25).

6) The Bar Poll is mailed out to all members of the state Bar within three days. (Day 28).

7) Bar members have approximately three weeks to complete and return the Bar Poll. (Day 49). The Bar Polls for the current vacancy must be returned by \_\_\_\_\_. The results are tabulated and analyzed within 14 days following the survey return deadline. (Day 63).

8) The candidates are advised of the bar survey results and the report is made public. (Day 63).

9) Applicant files are screened and applicants selected are advised of the time, date and place of their interviews. (Day 63)

10) Interviews are ordinarily held within the next 30 days (Day 70-93). Interviews for the current judicial vacancy are tentatively scheduled to be held on \_\_\_\_\_. 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. The Governor then has up to 45 days to make an appointment from the list.

APPENDIX G

ALASKA JUDICIAL COUNCIL  
RETENTION EVALUATION PROGRAM

ALASKA JUDICIAL COUNCIL  
RETENTION EVALUATION PROGRAM

I. INTRODUCTION.

Judicial evaluation is formally conducted in Alaska primarily for retention election purposes. The Alaska Judicial Council,<sup>1/</sup> of which the Chief Justice serves ex officio as Chairman, is statutorily vested with the responsibility for conducting retention evaluations.

II. THE EVALUATION PROCESS.

The Council uses a three-part plan to conduct judicial evaluations of all judges eligible for retention in any given election year<sup>2/</sup>:

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<sup>1/</sup> 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 as Chairman. All appointees serve six year, staggered terms; the Chief Justice's term is three years.

<sup>2/</sup> District (limited jurisdiction) Court judges must run on retention one year after appointment and every four years thereafter; Supreme Court, Court of Appeals, and Superior (general jurisdiction) Court justices and judges run three years after initial appointment and ten, eight, and six years thereafter, respectively.

A. A survey of all active members of the Alaska Bar Association; and a survey of all state peace officers and probation officers. Bar Association members are asked to rate each appellate judge or justice from 1 (unacceptable) to 5 (excellent) in nine categories (see Exhibit "A") and each trial court judge from 1 to 5 in 22 categories (see Exhibit "B"). Peace officers do not rate appellate judges, but rate all trial court judges in 18 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 sufficient basis to evaluate.

Bar Association Survey

Appellate court judge evaluation criteria include the following:

1. Legal analysis and scholarship;
2. Clarity and precision;
3. Writing style;
4. Restraint from favoritism;
5. Conscientiousness in rendering legal opinions without regard to possible public criticism;
6. Dignity of demeanor on the bench;
7. Avoidance of actual or apparent impropriety;
8. Preparation for and attentiveness to oral argument; and
9. Integrity.

Attached as Exhibit "D" is the Bar Association's evaluation of one Justice who stood for retention in 1984.

Bar Association members evaluate trial judges according to the following criteria:

- Legal reasoning ability and comprehension;
- Knowledge of civil and criminal substantive law, evidence, and procedure;
- Performance as a civil and criminal motions judge;
- Consideration of all relevant factors and consistency in sentencing;
- Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism;
- Equal treatment of all parties;
- Restraint from favoritism toward prosecution or defense in criminal cases or toward plaintiff or defendant in civil cases;
- Restraint from pre-judging outcome of the case;
- Settlement skills;
- Sense of basic fairness and justice;
- Human understanding and compassion;
- Talent and ability for cases involving children and family;
- Freedom from arrogance;
- Courtesy;
- Dignity of demeanor on the bench;
- Ability to maintain proper control over courtroom;
- Conducts self in a manner free from impropriety or the appearance of impropriety;

- Punctuality in opening court and keeping appointments;
- Willingness to work diligently;
- Reasonable promptness in making rulings and rendering decisions;
- Integrity.

Peace & Probation Officers Survey

Peace and probation officers evaluate according to most of the same criteria, except that 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 1984. Following the Council's review, quantitative evaluations of all judges who have filed for retention are made public.

B. Secondly, brief narrative questionnaires are submitted to 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 on aspects of judicial performance. Questionnaire responses tend to track closely with the quantitative results of the Bar survey, but are frequently more substantive and tend to elicit candid yet confidential assessments. Counsel questionnaire results are summarized and submitted to the Council for review. (Exhibit G)

C. Thirdly, the Judicial Council asks each judge and justice to complete a personal questionnaire regarding his/her judicial performance, health, and judicial and non-judicial 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 and Alaska Public Offices Commission records, the Council meets to formally evaluate each judge standing for retention. Evaluation data is submitted on the Council's retention worksheet (Exhibit I). The Council votes either to recommend for or against retention and then, by statute, forwards its recommendations (along with a summary of the Bar Association members and Peace and Probation Officers survey results) to the Lieutenant Governor, who includes the Council's recommendations and findings, along with the judges' personal statements, 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 1984 Official Election Pamphlet, which includes a description of merit selection, an introduction to the Council's evaluations, sample judge statements and sample Judicial Council recommendations and survey summaries regarding a Supreme Court Justice and trial court judge.

The public release of the Council's recommendations may be followed by press releases, public service television and radio spots, public appearances and selected speeches by

Council members and staff and paid advertisements to better apprise the public about the 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, i.e., that judges so appointed never seem to lose on retention. Indeed, until recently, that criticism was borne out not only by our experience in Alaska, but 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 and 1984, however, judges recommended "against" by the Council were not retained while judges recommended for retention were retained.

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. First, 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 that segment of the electorate that believes judges and lawyers are a "fraternity" which controls judicial appointments and retention.

2. Secondly, 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 have tended to have 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 so doing, such candidates may have unintentionally undermined some of their own potential support.

3. Thirdly, reliance by the electorate on Judicial Council recommendations has increased each election year. As mentioned earlier, candidates recommended not be retained in years prior to 1982 were retained by narrower margins than were those judges recommended for retention. Increased public information and public education efforts in 1982 were designed

to maximize the impact of Council recommendations on that increasingly growing segment of the electorate which indicates that it relies upon the Council and the election pamphlet for information and guidance.<sup>3/</sup>

4. Finally, the factor perhaps least subject to duplication was the fact that Alaska voters in 1982 faced a number of extremely controversial ballot issues, including proposed constitutional amendments, which generated a great deal of voter interest<sup>4/</sup> in all aspects of the election and, presumably, most likely led to greater voter study and investigation of the candidates and of 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 retention<sup>5/</sup> 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, and a leading newspaper issued an editorial calling for the non-retention of one judge recommended for retention by

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3/ A study of voting patterns commissioned by the Council in 1979 found that in excess of 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/ 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.

the Council. Although the Council did not formally respond to such election eve challenges to certain judges whom the Council had recommended be retained, the Council did reiterate its recommendation that all (21) eligible judges be retained in newspaper ads which appeared statewide the day prior to the election.

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. All judges were retained by an affirmative vote of 62-75%, except for the one judge opposed by a major Anchorage daily newspaper, who was also retained, but by a lesser margin (58%).

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

Although judicial evaluation in Alaska has historically been conducted only for purposes of retention, the possibility of evaluating judicial performance for purposes other than retention is currently a subject of growing interest among Alaska justices and judges. Mechanisms and procedures already in place could be modified to provide the Court System with information which it could utilize to enhance its ability to assess the strengths and weaknesses of 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 identification and assignment of judges according to judges' substantive and administrative interests and skills.

ALASKA JUDICIAL COUNCIL  
EVALUATION OF THE JUDICIARY  
SURVEY OF THE ALASKA BAR ASSOCIATION  
P.O. BOX 1248  
Ann Arbor, MI 48106

In cooperation with the Alaska Bar Association, the Alaska Judicial Council is sponsoring this survey to obtain information for use in its evaluation of judges facing retention election in November, 1984. Information is also being obtained from Alaska Peace Officers and Probation Officers.

All responses to this survey will be aggregated for the sole purpose of statistical analysis. The identity of individual respondents will remain strictly confidential. A self-addressed stamped envelope is provided for return of your completed questionnaire. The number on the envelope will be used for administrative purposes only. DO NOT sign either the completed questionnaire or the envelope.

IMPORTANT: PLEASE COMPLETE AND RETURN THIS QUESTIONNAIRE NO LATER THAN APRIL 30. It is necessary for you to return the form even if you cannot rate any judge.

SECTION I: Please check the appropriate box or supply the indicated information.

1. I have been a member of the Alaska Bar Association for \_\_\_\_ years.
2. My practice is composed of:  
    \_\_\_\_% civil work  
    \_\_\_\_% criminal work  
    \_\_\_\_\_100%
3. My practice is composed of \_\_\_\_% litigation and trial work, including preparation for case settlement or trial.
4. The majority of my work is conducted in the  
  
1.  First      2.  Second      3.  Third      4.  Fourth Judicial District
5. I am 1.  A private practitioner      4.  A state court judge  
    2.  An employee of a private business corporation      5.  Other than above  
    3.  An employee of a government branch or agency

SECTION II: In the following pages, please rate only those judges for whom you have a sufficient basis for evaluation. YOUR EVALUATION MAY BE BASED UPON GENERAL REPUTATION AND/OR FIRST-HAND EXPERIENCE. If you believe you have an insufficient basis to make an evaluation, mark the appropriate box.

All questions relate only to the qualities of the judge or justice in the performance of judicial duties. The first set of items on each page asks for your experience before each judge. Please check the appropriate lines beneath the judge's name. For the remaining items which are evaluative criteria, please use the following rating scale:

1. Unacceptable: Lacking in this quality
2. Deficient: Does not meet acceptable standards
3. Acceptable: Satisfactory performance
4. Good: Better than satisfactory performance
5. Excellent: Meets the highest standards for the court

SECTION III: For your convenience in locating individual judges whom you can evaluate, the questionnaire has been organized by judicial district as follows:

- Page 3: Supreme Court Justice Compton and Intermediate Appellate Court  
Judges Bryner, Coats, and Singleton.  
Page 4: First Judicial District: Judges Carpeneti, Pegues, Schulz, & Gucker  
Page 5: Second Judicial District: Judges Jones and Tunley  
Page 6: Third Judicial District: Judges Carlson, Cranston, Madsen, & Moody  
Page 7: Third Judicial District: Judges Ripley, Serdahely, & Shortell  
Page 8: Third Judicial District: Judges Anderson, Finn, Fuld, & Mason  
Page 9: Fourth Judicial District: Judges Blair and Cline

APPELLATE JUDGES

SUPREME COURT

Justice Allen T. Compton

1. Amount of your experience before this justice or judge?

Substantial \_\_\_\_\_  
Limited \_\_\_\_\_  
None \_\_\_\_\_

2. How many of this justice or judge's opinions have you read?

Most \_\_\_\_\_  
Some \_\_\_\_\_  
None \_\_\_\_\_

For the following questions use this scale, or indicate by checking "Can't Rate" that you have insufficient basis for evaluation:

Justice Allen T. Compton

- 1. Unacceptable Lacking in this quality
- 2. Deficient Does not meet acceptable standards
- 3. Acceptable Satisfactory performance
- 4. Good Better than satisfactory performance
- 5. Excellent Meets the highest standards for the court

Rating Can't Rate

QUALITY OF WRITTEN OPINIONS

- 3. Legal analysis and scholarship
- 4. Clarity and precision
- 5. Writing style
- 6. Restraint from favoritism
- 7. Conscientiousness in rendering legal opinions without regard to possible public criticism

GENERAL CHARACTERISTICS

- 8. Dignity of demeanor on the bench
- 9. Conducts self in a manner free from impropriety or the appearance of impropriety
- 10. Preparation for, and attentiveness to counsel's oral arguments
- 11. Integrity

INTERMEDIATE COURT OF APPEALS

Judge Alexander O. Bryner

Judge Robert G. Coats

Judge James K. Singleton, Jr.

Substantial \_\_\_\_\_  
Limited \_\_\_\_\_  
None \_\_\_\_\_

Substantial \_\_\_\_\_  
Limited \_\_\_\_\_  
None \_\_\_\_\_

Substantial \_\_\_\_\_  
Limited \_\_\_\_\_  
None \_\_\_\_\_

Most \_\_\_\_\_  
Some \_\_\_\_\_  
None \_\_\_\_\_

Most \_\_\_\_\_  
Some \_\_\_\_\_  
None \_\_\_\_\_

Most \_\_\_\_\_  
Some \_\_\_\_\_  
None \_\_\_\_\_

Judge Alexander O. Bryner

Judge Robert G. Coats

Judge James K. Singleton, Jr.

Rating Can't Rate

Rating Can't Rate

Rating Can't Rate

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

FIRST JUDICIAL DISTRICT

SUPERIOR COURT

DISTRICT COURT

	SUPERIOR COURT						DISTRICT COURT	
	Judge Walter L. Carpeneti		Judge Rodger W. Pegues		Judge Thomas E. Schulz		Judge George L. Gucker	
1. Have you had trials or motions before this judge?	Trials ___	Trials ___	Trials ___	Trials ___	Trials ___	Trials ___	Trials ___	Trials ___
	Motions ___	Motions ___	Motions ___	Motions ___	Motions ___	Motions ___	Motions ___	Motions ___
	Both ___	Both ___	Both ___	Both ___	Both ___	Both ___	Both ___	Both ___
	None ___	None ___	None ___	None ___	None ___	None ___	None ___	None ___
2. Nature of your experience before this judge?	Criminal ___	Criminal ___	Criminal ___	Criminal ___	Criminal ___	Criminal ___	Criminal ___	Criminal ___
	Civil ___	Civil ___	Civil ___	Civil ___	Civil ___	Civil ___	Civil ___	Civil ___
	Mixture ___	Mixture ___	Mixture ___	Mixture ___	Mixture ___	Mixture ___	Mixture ___	Mixture ___
	None ___	None ___	None ___	None ___	None ___	None ___	None ___	None ___
3. Amount of your experience before this judge?	Substantial ___	Substantial ___	Substantial ___	Substantial ___	Substantial ___	Substantial ___	Substantial ___	Substantial ___
	Limited ___	Limited ___	Limited ___	Limited ___	Limited ___	Limited ___	Limited ___	Limited ___
	None ___	None ___	None ___	None ___	None ___	None ___	None ___	None ___
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation:								
1. <u>Unacceptable</u> Lacking in this quality	Judge Walter L. Carpeneti		Judge Rodger W. Pegues		Judge Thomas E. Schulz		Judge George L. Gucker	
2. <u>Deficient</u> Does not meet acceptable standards								
3. <u>Acceptable</u> Satisfactory performance								
4. <u>Good</u> Better than satisfactory performance								
5. <u>Excellent</u> Meets the highest standards for the court								
	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate	Rating	Can't Rate
<b>LEGAL ABILITY</b>								
4. <u>Legal reasoning ability and comprehension</u>								
5. <u>Knowledge of substantive law, evidence, and procedure</u>								
6. <u>Performance as a motions judge (discovery, suppression, summary judgement, and the like)</u>								
7. <u>Settlement skills</u>								
<b>IMPARTIALITY</b>								
8. <u>Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism</u>								
9. <u>Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like</u>								
10. <u>Restraint from favoritism toward either side in any dispute</u>								
11. <u>Restraint from prejudging outcome of the case</u>								
<b>JUDICIAL TEMPERAMENT</b>								
12. <u>Sense of basic fairness and justice</u>								
13. <u>Human understanding and compassion</u>								
14. <u>Freedom from arrogance</u>								
15. <u>Courtesy</u>								
16. <u>Dignity of demeanor on the bench</u>								
17. <u>Conducts self in a manner free from impropriety or the appearance of impropriety</u>								
18. <u>Integrity</u>								
19. <u>Consideration of all relevant factors in sentencing</u>								
20. <u>Talent and ability for cases involving children and families</u>								
<b>ADMINISTRATIVE SKILLS</b>								
21. <u>Ability to maintain proper control over courtroom</u>								
22. <u>Punctuality in opening court and keeping appointments</u>								
23. <u>Willingness to work diligently</u>								
24. <u>Reasonable promptness in making rulings and rendering decisions</u>								
<b>OVERALL JUDICIAL PERFORMANCE</b>								
25. <u>Overall judicial performance</u>								

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

ALASKA JUDICIAL COUNCIL  
EVALUATION OF THE JUDICIARY  
SURVEY OF ALASKA PEACE OFFICERS AND PROBATION OFFICERS  
P.O. BOX 1248  
Ann Arbor, MI 48106

In cooperation with the - Alaska Peace Officers Association, the Alaska Judicial Council is sponsoring this survey to obtain information for use in its evaluation of judges facing retention election in November, 1984. Information is also being obtained from members of the Alaska Bar Association.

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IMPORTANT: PLEASE COMPLETE AND RETURN THIS QUESTIONNAIRE NO LATER THAN APRIL 30. It is necessary for you to return the form even if you cannot rate any judge.

SECTION I: Please check the appropriate box or supply the indicated information.

1. My current position in law enforcement is:

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Correctional officer     | 4. <input type="checkbox"/> Federal officer  |
| 2. <input type="checkbox"/> Alaska police officer    | 5. <input type="checkbox"/> Other than above |
| 3. <input type="checkbox"/> Probation/parole officer | _____  |

2. I have been a peace officer or probation officer in Alaska for \_\_\_ years.

3. The majority of my work is conducted in the:

1.  First    2.  Second    3.  Third    4.  Fourth Judicial District

SECTION II: In the following pages, please rate only those judges for whom you have a sufficient basis for evaluation. YOUR EVALUATION MAY BE BASED UPON GENERAL REPUTATION AND/OR FIRST-HAND EXPERIENCE. If you believe you have an insufficient basis to make an evaluation, mark the appropriate box.

All questions relate only to the qualities of the judge in the performance of judicial duties. The first set of items on each page asks for your experience before each judge. Please check the appropriate lines beneath the judge's name. For the remaining items which are evaluative criteria, please use the following scale:

1. Unacceptable: Lacking in this quality
2. Deficient: Does not meet acceptable standards
3. Acceptable: Satisfactory performance
4. Good: Better than satisfactory performance
5. Excellent: Meets the highest standards for the court

SECTION III: For your convenience in locating individual judges whom you can evaluate the questionnaire has been organized by judicial district as follows:

- Page 3: First Judicial District: Judges Carpeneti, Pegues, Schulz, & Gucker  
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Page 5: Third Judicial District: Judges Carlson, Cranston, Madsen, & Moody  
Page 6: Third Judicial District: Judges Ripley, Serdahely, & Shortell  
Page 7: Fourth Judicial District: Judges Anderson, Finn, Fuld, & Mason  
Page 8: Fourth Judicial District: Judges Blair and Cline

FIRST JUDICIAL DISTRICT

	SUPERIOR COURT						DISTRICT COURT	
	Judge Walter L. Carpeneti		Judge Rodger W. Pegues		Judge Thomas E. Schulz		Judge George L. Gucker	
1. Have you had trials or motions before this judge?	Trials _____ Motions _____ Both _____ None _____							
2. Nature of your experience before this judge?	Criminal _____ Civil _____ Mixture _____ None _____							
3. Amount of your experience before this judge?	Substantial _____ Limited _____ None _____							
For the following questions use this scale, or indicate by checking "Can't Rate" that you have an insufficient basis for evaluation: 1. <u>Unacceptable</u> Lacking in this quality 2. <u>Deficient</u> Does not meet acceptable standards 3. <u>Acceptable</u> Satisfactory performance 4. <u>Good</u> Better than satisfactory performance 5. <u>Excellent</u> Meets the highest standards for the court	Judge Walter L. Carpeneti		Judge Rodger W. Pegues		Judge Thomas E. Schulz		Judge George L. Gucker	
	Rating	Can't Rate						
<b>IMPARTIALITY</b>								
4. <u>Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism</u>								
5. <u>Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like</u>								
6. <u>Restraint from favoritism toward either side in any dispute</u>								
7. <u>Restraint from pre-judging outcome of the case</u>								
<b>JUDICIAL TEMPERAMENT</b>								
8. <u>Sense of basic fairness and justice</u>								
9. <u>Human understanding and compassion</u>								
10. <u>Freedom from arrogance</u>								
11. <u>Courtesy</u>								
12. <u>Dignity of demeanor on the bench</u>								
13. <u>Conducts self in a manner free from impropriety or the appearance of impropriety</u>								
14. <u>Integrity</u>								
15. <u>Consideration of all relevant factors in sentencing</u>								
16. <u>Talent and ability for cases involving children and families</u>								
<b>ADMINISTRATIVE SKILLS</b>								
17. <u>Ability to maintain proper control over courtroom</u>								
18. <u>Punctuality in opening court and keeping appointments</u>								
19. <u>Willingness to work diligently</u>								
20. <u>Reasonable promptness in making rulings and rendering decisions</u>								
<b>OVERALL JUDICIAL PERFORMANCE</b>								
21. <u>Overall judicial performance</u>								

If you have any comments which you believe would assist the Judicial Council in its evaluations, please note them here. Please identify the judge to whom they refer. These statements are entirely optional and anonymous. If more space is needed, attach an additional sheet of paper.

## The Rating of Justice Allen T. Compton

The membership of the Alaska Bar Association was the only survey population which evaluated Justice Allen T. Compton in the 1984 Alaska Judicial Survey. Of the 1065 lawyers who returned questionnaires, no more than 662 rated him on any one item. Of this number, 561 indicated they had some experience before this justice, and no more than 520 evaluated him on any one item. A total of 814 lawyers indicated that they had read an opinion written by this justice.

The mean ratings for Justice Compton by members of the ABA are presented in Table I-1, for all raters and for those who indicated they had appeared professionally before him. He was given an average rating of "Acceptable" or better on all nine items by all lawyers who rated him as well as by the subset who indicated they had professional appearances before him. His ratings by the two groups of lawyers were virtually identical; the differences in the means for all raters and the experienced ones were 0.1 for two items and zero for the other seven.

Justice Compton received an average rating of "Good" or better on five items. These included conscientiousness, dignity of demeanor on the bench, personal conduct, preparation for and attentiveness to counsel's oral arguments, and integrity.

The percentagized distributions of the ratings for each item in the survey--for all raters and for the experienced ones--are given in Table I-2. On no item did more than 7% of the respondents rate the justice less than "Acceptable." At least 64% of the respondents rated the justice "Good" or better on each item. More than three-quarters of the respondents rated him in this fashion on the set of criteria related to his general characteristics. Almost half (47%) rated him "Excellent" on "Integrity."

TABLE I-1

MEAN RATINGS OF JUSTICE ALLEN T. COMPTON  
BY THE ALASKA BAR ASSOCIATION RESPONDENTS\*

Questionnaire Item	All Raters	Experienced Raters
QUALITY OF WRITTEN OPINIONS		
Legal analysis and scholarship	3.8 (662)	3.7 (520)
Clarity and precision	3.8 (658)	3.8 (516)
Writing style	3.8 (653)	3.8 (512)
Restraint from favoritism	3.9 (605)	3.9 (497)
Conscientiousness in rendering legal opinions without regard to possible public criticism	4.0 (587)	4.0 (476)
GENERAL CHARACTERISTICS		
Dignity of demeanor on the bench	4.1 (573)	4.1 (515)
Conducts self in a manner free from impropriety	4.1 (576)	4.1 (503)
Preparation for and attentiveness to counsel's oral arguments	4.0 (549)	4.0 (503)
Integrity	4.3 (580)	4.2 (502)

\*The mean rating for the justice on each item is based upon the number of valid responses, coded as follows: 1-Unacceptable (Lacking in this quality); 2-Deficient (Does not meet acceptable standards); 3-Acceptable (Satisfactory performance); 4-Good (Better than satisfactory performance); 5-Excellent (Meets the highest standards for the court). Respondents who declined to rate the justice because they felt they had an insufficient basis for evaluation or who left the item blank were excluded from the calculation of the mean ratings. The actual number of respondents on which the mean rating is based is indicated in parentheses.

DISTRIBUTIONS OF THE RATINGS OF JUSTICE ALLEN T. COMPTON  
BY THE ALASKA BAR ASSOCIATION RESPONDENTS\*

Questionnaire Item	Unacceptable	Deficient	Acceptable	Good	Excellent	N
<b>QUALITY OF WRITTEN OPINIONS</b>						
Legal analysis and scholarship	1%	5	30	47	18	(662)
	1%	5	30	46	18	(520)
Clarity and precision	1%	4	32	45	19	(658)
	1%	4	32	44	20	(516)
Writing style	1%	2	34	45	19	(653)
	**%	2	34	45	19	(512)
Restraint from favoritism	2%	4	27	37	30	(605)
	2%	5	27	36	29	(497)
Conscientiousness in rendering legal opinions without regard to possible public criticism	1%	4	23	40	32	(587)
	2%	3	23	41	31	(476)
<b>GENERAL CHARACTERISTICS</b>						
Dignity of demeanor on the bench	1%	2	20	38	40	(573)
	1%	2	19	38	40	(515)
Conducts self in a manner free from impropriety or the appearance of impropriety	1%	2	19	38	39	(576)
	1%	2	18	39	39	(503)
Preparation for, and attentiveness to counsel's oral arguments	1%	2	21	43	32	(549)
	1%	2	21	44	32	(503)
Integrity	1%	2	15	34	48	(580)
	1%	2	15	35	47	(502)

\*Rows may not total to 100 percent due to rounding. The distribution contained in the first row for each item is based upon all respondents who rated the justice. The second distribution is based upon those who indicated they have appeared professionally before the justice.

\*\*Less than .5 percent.

## The Ratings of Judge James R. Blair

The average ratings of Judge James R. Blair by members of the ABA and the peace and probation officers are given in Table V-1. The ratings are based upon a maximum of 298 lawyers who volunteered information on any one item, of whom a maximum of 259 said they had professional appearances before him. In addition, there was a maximum of 95 peace and probation officers who volunteered information on any one item, of whom a maximum of 89 indicated they had professional appearances before him.

The members of the ABA rated Judge Blair with an average evaluation of "Acceptable" or better on 21 of 22 items in their survey and an average rating of "Good" or better on 2 items. Judge Blair's average rating on "Overall judicial performance" was 3.4 among all lawyers, as well as among those who indicated they had appeared professionally before him. His average rating on "Integrity" was 3.8 among both groups of lawyers. He also received high ratings (4.1) for his ability to maintain control over the courtroom and punctuality. He received an average rating of 2.7 for "Freedom from arrogance."

The peace and probation officers gave Judge Blair an average rating of "Acceptable" or better on all 18 items on their survey, and an average rating of "Good" for personal conduct, integrity, ability to control the courtroom, and punctuality. His average rating on "Overall judicial performance" was 3.8 among all the peace and probation officers as well as among those who had professional appearances before him. His average rating on "Integrity" was 4.1 among both groups.

Data are presented in Table V-2 for the percentagized distributions of the ratings of Judge Blair for each item in the survey of members of the Alaska Bar Association. On 14 items, a majority of ABA respondents rated Judge Blair as "Good" or better. Half of the respondents rated him "Good" or "Excellent" on "Overall judicial performance," and two-thirds gave him equivalent ratings for "Integrity." More respondents (45%) rated him less than "Acceptable" on "Freedom from arrogance," compared to 25% who rated him higher than that level. One-quarter to one-third of those surveyed rated him less than "Acceptable" on two items related to impartiality, although clear majorities rated him "Acceptable" or higher.

The percentagized distribution of the ratings of Judge Blair by the peace and probation officers are presented in Table V-3. A majority of these respondents rated Judge Blair "Good" or "Excellent" on all items except "Freedom from arrogance," and as few as 10% or less of the respondents rated him as less than "Acceptable" on 15 of the 18 items in their survey.

Mean Ratings of Judge James R. Blair

By Two Survey Populations\*

TABLE V-1

Questionnaire Item	Survey of Alaska Bar Association		Survey of Alaska Peace Officers	
	All Raters	Exper. Raters	All Raters	Exper. Raters
OVERALL JUDICIAL PERFORMANCE	3.4 (293)	3.4 (258)	3.8 ( 92)	3.8 ( 86)
LEGAL ABILITY	3.7 (298)	3.7 (259)		
Legal reasoning ability and comprehension				
Knowledge of substantive law, evidence, and procedure	3.8 (295)	3.8 (259)		
Performance as a motions judge (discovery, suppression, summary judgement, and the like)	3.6 (284)	3.6 (256)		
Settlement skills	3.4 (168)	3.4 (146)		
IMPARTIALITY	3.5 (271)	3.5 (243)	3.8 ( 92)	3.8 ( 86)
Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism				
Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like	3.5 (271)	3.5 (243)	3.8 ( 94)	3.8 ( 88)
Restraint from favoritism toward either side in any disputes	3.3 (284)	3.2 (253)	3.8 ( 94)	3.8 ( 88)
Restraint from prejudging outcome of the case	3.1 (279)	3.0 (250)	3.7 ( 93)	3.7 ( 87)
JUDICIAL TEMPERAMENT	3.3 (287)	3.3 (255)	3.7 ( 93)	3.7 ( 87)
Sense of basic fairness and justice				
Human understanding and compassion	3.1 (271)	3.1 (241)	3.6 ( 92)	3.6 ( 86)
Freedom from arrogance	2.7 (289)	2.7 (258)	3.4 ( 92)	3.4 ( 86)
Courtesy	3.2 (290)	3.2 (259)	3.6 ( 95)	3.6 ( 89)
Dignity of demeanor on the bench	3.6 (287)	3.6 (257)	3.9 ( 94)	3.9 ( 88)
Conducts self in a manner free from impropriety or the appearance of impropriety	3.7 (275)	3.7 (246)	3.9 ( 90)	4.0 ( 84)
Integrity	3.8 (272)	3.8 (243)	4.1 ( 88)	4.1 ( 82)
Consideration of all relevant factors in sentencing	3.5 (150)	3.4 (129)	3.8 ( 87)	3.8 ( 81)
Talent and ability for cases involving children and families	3.4 (127)	3.3 (110)	3.7 ( 49)	3.7 ( 46)

Mean Ratings of Judge James R. Blair

By Two Survey Populations\*

TABLE V-1 (Continued)

Questionnaire Item	Survey of Alaska Bar Association		Survey of Alaska Peace Officers	
	All Raters	Exper. Raters	All Raters	Exper. Raters
<b>ADMINISTRATIVE SKILLS</b>				
Ability to maintain proper control over courtroom	4.1 (280)	4.1 (250)	4.1 ( 91)	4.1 ( 85)
Punctuality in opening court and keeping appointments	4.1 (263)	4.1 (235)	4.0 ( 88)	4.0 ( 82)
Willingness to work diligently	3.6 (259)	3.6 (231)	3.9 ( 77)	3.9 ( 71)
Reasonable promptness in making rulings and rendering decisions	3.9 (276)	3.9 (247)	3.8 ( 83)	3.8 ( 78)

\*The mean ratings for this judge on each item in each survey are based upon two tabulations of the responses. The first mean is based upon the total number of valid responses from the relevant population (lawyers or peace and probation officers) who rated the judge. The second is based upon the number of valid responses from the relevant population for individuals who indicated that they had some personal professional experience in the judge's court. The original responses were coded as follows: 1-Unacceptable (lacking in this quality); 2-Deficient (Does not meet acceptable standards); 3-Acceptable (Satisfactory performance); 4-Good (Better than satisfactory performance); and 5-Excellent (Meets the highest standards for the court). Respondents in each survey who declined to rate the judge because they felt they had an insufficient basis for evaluation or who left the item blank were excluded from the calculation of the mean ratings. The actual number of respondents upon which each mean rating is based is indicated in parentheses. No entry indicates that the survey did not include that item.

Distribution Of The Ratings of Judge James R. Blair  
 By The Alaska Bar Association Respondents\*

TABLE V-2

Questionnaire Item	RATING					N
	Unacceptable	Deficient	Acceptable	Good	Excellent	
OVERALL JUDICIAL PERFORMANCE	7% 7%	13 12	30 31	35 36	15 14	(293) (258)
LEGAL ABILITY	2%	5	30	45	17	(298)
Legal reasoning ability and comprehension	2%	5	32	45	16	(259)
Knowledge of substantive law, evidence, and procedure	2% 2%	3 3	29 30	45 46	21 20	(295) (259)
Performance as a motions judge (discovery, suppression, summary judgement, and the like)	4% 4%	7 6	33 35	35 34	21 20	(284) (256)
Settlement skills	8% 8%	5 5	39 43	34 32	14 12	(168) (146)
IMPARTIALITY	8%	9	27	34	21	(271)
Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism	7%	10	28	34	21	(243)
Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like	7% 7%	11 12	29 30	32 32	20 20	(271) (243)
Restraint from favoritism toward either side in any dispute	10% 9%	17 18	29 30	26 26	18 17	(284) (253)
Restraint from prejudging outcome of the case	13% 14%	19 19	29 30	24 24	14 13	(279) (250)
JUDICIAL TEMPERAMENT	10%	11	33	28	17	(287)
Sense of basic fairness and justice	10%	10	35	28	17	(255)
Human understanding and compassion	11% 11%	19 18	28 30	29 30	12 11	(271) (241)
Freedom from arrogance	22% 22%	23 23	28 29	18 17	9 8	(289) (258)
Courtesy	12% 13%	15 14	29 30	29 29	14 14	(290) (259)
Dignity of demeanor on the bench	5% 5%	9 9	29 29	37 37	20 19	(287) (257)
Conducts self in a manner free from impropriety or the appearance of impropriety	6% 5%	7 7	24 24	35 36	28 28	(275) (246)
Integrity	5% 4%	6 7	22 23	33 32	33 34	(272) (243)
Consideration of all relevant factors in sentencing	9% 9%	9 9	29 31	36 34	18 16	(150) (129)
Talent and ability for cases involving children and families	9% 9%	8 8	34 36	34 34	15 13	(127) (110)

Distribution Of The Ratings of Judge James R. Blair

By The Alaska Bar Association Respondents\*

TABLE V-2 (Continued)

Questionnaire Item	RATING					N
	Unacceptable	Deficient	Acceptable	Good	Excellent	
ADMINISTRATIVE SKILLS	1%	0	23	38	37	(280)
Ability to maintain proper control over courtroom	1%	0	24	37	38	(250)
Punctuality in opening court and keeping appointments	1%	1	22	40	36	(263)
	1%	1	22	40	35	(235)
Willingness to work diligently	5%	8	29	32	25	(259)
	6%	8	30	32	25	(231)
Reasonable promptness in making rulings and rendering decisions	1%	3	26	41	29	(276)
	1%	4	26	40	28	(247)

\*\*Rows may not add to 100 percent due to rounding. The distribution contained in the first row for each item is based upon all respondents who rated the judge. The second distribution is based upon those who indicated that they have appeared professionally before the judge.

Distribution Of The Ratings of Judge James R. Blair  
 By Alaska Peace Officer Respondents\*

TABLE V-3

Questionnaire Item	RATING					N
	Unacceptable	Deficient	Acceptable	Good	Excellent	
OVERALL JUDICIAL PERFORMANCE	2%	3	28	43	23	( 92)
	2%	2	29	42	24	( 86)
IMPARTIALITY	4%	3	29	39	24	( 92)
Conscientiousness in finding facts and/or interpreting the law without regard to possible public criticism	5%	3	28	38	26	( 86)
Equal treatment of all parties regardless of race, ethnic background, sex, social or economic status, and the like	2%	4	30	39	24	( 94)
	2%	5	30	38	26	( 88)
Restraint from favoritism toward either side in any dispute	4%	5	28	36	27	( 94)
	5%	6	28	33	28	( 88)
Restraint from prejudging outcome of the case	3%	4	31	38	24	( 93)
	3%	3	33	34	25	( 87)
JUDICIAL TEMPERAMENT	3%	6	30	34	26	( 93)
Sense of basic fairness and justice	3%	7	30	33	26	( 87)
Human understanding and compassion	2%	5	41	33	18	( 92)
	2%	5	42	31	20	( 86)
Freedom from arrogance	8%	10	35	33	15	( 92)
	7%	10	35	31	16	( 86)
Courtesy	3%	7	34	38	18	( 95)
	3%	7	34	37	19	( 89)
Dignity of demeanor on the bench	1%	4	27	41	27	( 94)
	1%	5	26	40	28	( 88)
Conducts self in a manner free from impropriety or the appearance of impropriety	2%	0	26	46	27	( 90)
	2%	0	26	43	29	( 84)
Integrity	1%	2	18	39	40	( 88)
	1%	2	20	35	41	( 82)
Consideration of all relevant factors in sentencing	2%	7	24	41	25	( 87)
	2%	6	25	40	27	( 81)
Talent and ability for cases involving children and families	6%	8	18	43	24	( 49)
	7%	9	20	41	24	( 46)
ADMINISTRATIVE SKILLS	2%	0	23	35	40	( 91)
Ability to maintain proper control over courtroom	2%	0	24	32	42	( 85)
Punctuality in opening court and keeping appointments	1%	3	26	33	36	( 86)
	1%	2	27	30	39	( 82)
Willingness to work diligently	1%	4	25	44	26	( 77)
	1%	3	25	42	28	( 71)
Reasonable promptness in making rulings and rendering decisions	4%	1	30	41	24	( 83)
	4%	1	31	38	26	( 78)

\*\*Rows may not add to 100 percent due to rounding. The distribution contained in the first row for each item is based upon all respondents who rated the judge. The second distribution is based upon those who indicated that they have appeared professionally before the judge.

(Judge)  
COUNSEL QUESTIONNAIRE  
RE:

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

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

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

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4. Was the matter handled in a timely fashion?

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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 \_\_\_\_\_.

\_\_\_\_\_  
Signature Line (Optional)

JUDGE

Eight questionnaires were returned for Judge

I. JUDICIAL TEMPERAMENT

Good: 3  
Generally good, but can be abrupt or short: 4  
Poor: 1

Descriptive phrases included:

"Considerate and responsive."  
"Has a somewhat short fuse, but when he gets mad, it's usually justified."  
"Sometimes has a tendency to cut off testimony and argument, but so do all judges."

II. LEGAL ABILITY

Good or excellent: 8

Comments included:

"Excellent grasp of legal and factual issues": 3  
"Usually has a proper handle on the law and facts of the case; disagreed with him on this one."

III. IMPARTIALITY

Yes, judge rules fairly: 7

Descriptive phrases included:

"I still think he was wrong but he was fair."  
"Generally, excellent."  
"His view of the facts was slanted by his personal view of the applicable law."

IV. ADMINISTRATIVE SKILLS

Judge is timely and decisive: 8

Comments included:

"Is prepared, decisive and prompt."  
"Timeliness and decisiveness are his strongest characteristics."

V. OVERALL JUDICIAL PERFORMANCE

Comments included:

"I support Judge Blair's retention."

"Conducts himself appropriately in every respect."

C O N F I D E N T I A L

REVISED QUESTIONNAIRE

Candidates for Judicial Retention

Alaska, 1984

April 9, 1984

- \_\_\_\_\_
- a) Number of years on bench: \_\_\_\_\_ b) Date appointed to current position: \_\_\_\_\_  
c) Address: Office: \_\_\_\_\_ Home: \_\_\_\_\_  
Phone: Office: \_\_\_\_\_ Home: \_\_\_\_\_  
d) Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

2. What types of cases have you handled during your present term?

\_\_\_\_\_ % Civil  
\_\_\_\_\_ % Criminal  
100% Total

On a separate sheet of paper please assess your judicial performance during your present term in one or two paragraphs. Appropriate criteria could include: satisfaction with your judicial role, specific contributions to the judiciary or the field of law, increases in legal knowledge and judicial skills, or other measures of judicial abilities which you believe to be important.

Appellate Judge

Please attach a list of five opinions you have written during your present term in office, including the name (and file number, if known) of each case and the names and addresses of all counsel participating in the case. Please attach copies of each. Please also give citations if the opinions were reported as well as citations to any appellate review of such opinions.

Trial Judge

Please attach a list of five cases over which you have presided during your present term of office. The list may include trials, cases in which a written or oral opinion was rendered, or a combination of these types of cases. The list should include the name (and file number, if known) of each case, together with names and addresses of all counsel appearing in each case. Please give citations if any of the cases were reported or were reviewed by an appellate court.

3. a) (OPTIONAL) Have you obtained professional health services during your most recent term in office for aid in dealing with any physical, mental or behavioral condition which condition, if untreated, would have prevented you from continuing to effectively perform your judicial duties? Yes \_\_\_ No \_\_\_. If yes, please describe in detail, giving dates, name(s) of attending health service professionals, and all facts.

6. To the best of your knowledge, have any actions been taken against you during your most recent term by the Commission on Judicial Conduct or its predecessor, the Judicial Qualifications Commission? Yes \_\_\_ No \_\_\_. If yes, please make any comments about the nature of these cases or actions taken by the Commission which you believe the Judicial Council should consider in its evaluation of your judicial performance.

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

- a) had a tax lien or other collection procedure instituted against you by federal, state, or local authorities? Yes \_\_\_ No \_\_\_.
- b) been a party to or otherwise involved in any legal proceeding? Yes \_\_\_ No \_\_\_.  
(Include all proceedings in which you were a party in interest, a material witness, were named as co-conspirator or co-respondent, and any grand jury investigation in which you figured as a subject or in which you appeared as a witness.)
- 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.

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8. Are you now an officer or director or otherwise involved in the management of any business enterprise, partnership, non-profit corporation, or educational or other institution? Yes \_\_\_ No \_\_\_. If yes, please provide details including the name of the organization, nature of its business, title or other description of your position, the nature of your duties and term of your service.

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9. Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 1984 retention elections.

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Signature of Judge

Typed Name

Date

(APPELLATE JUDGE)  
 JUDICIAL RETENTION WORKSHEET

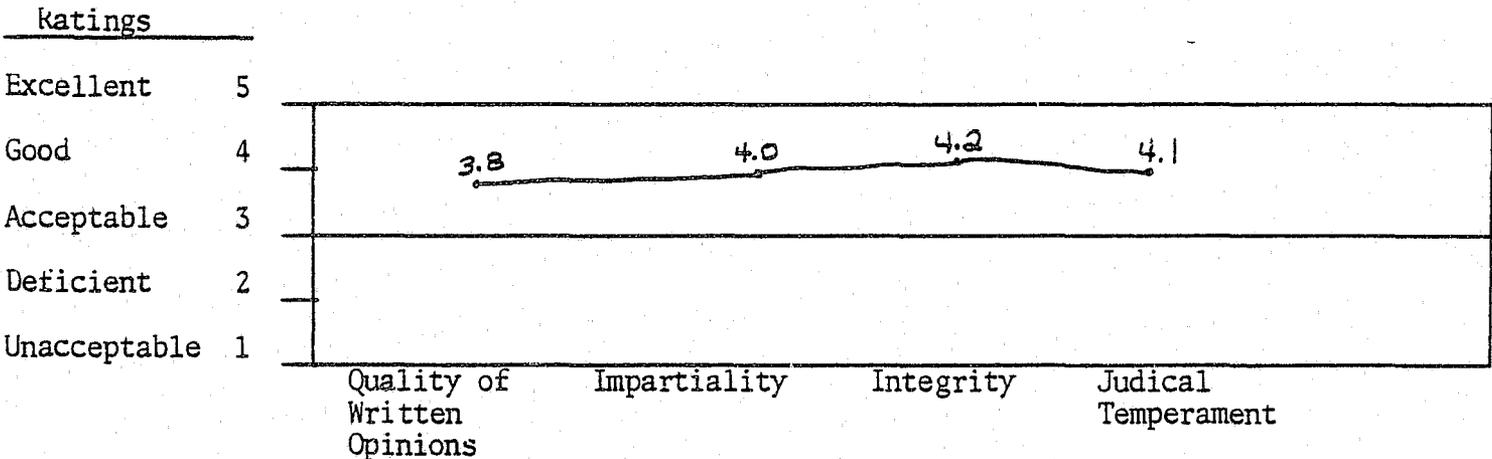
\_\_\_\_\_  
 Court

1. Years in this position: 3 1/2 Date of next retention election: 1994

2. Prior judicial positions: Superior Court Number of years: 5

	<u>1984</u>	<u>Prior</u>
3. Bar Survey	<u>OK</u>	<u>OK (Superior Court)</u>
4. Public and Private Records	<u>OK</u>	
5. Court Performance data		
6. Professional and citizen input	<u>OK</u>	
7. Interview	<u>N/A</u>	<u>N/A</u>
8. Overall Evaluation		<u>Qualified (Superior Court)</u>

Survey Summary Scores



(TRIAL COURT JUDGE)  
 JUDICIAL RETENTION WORKSHEET

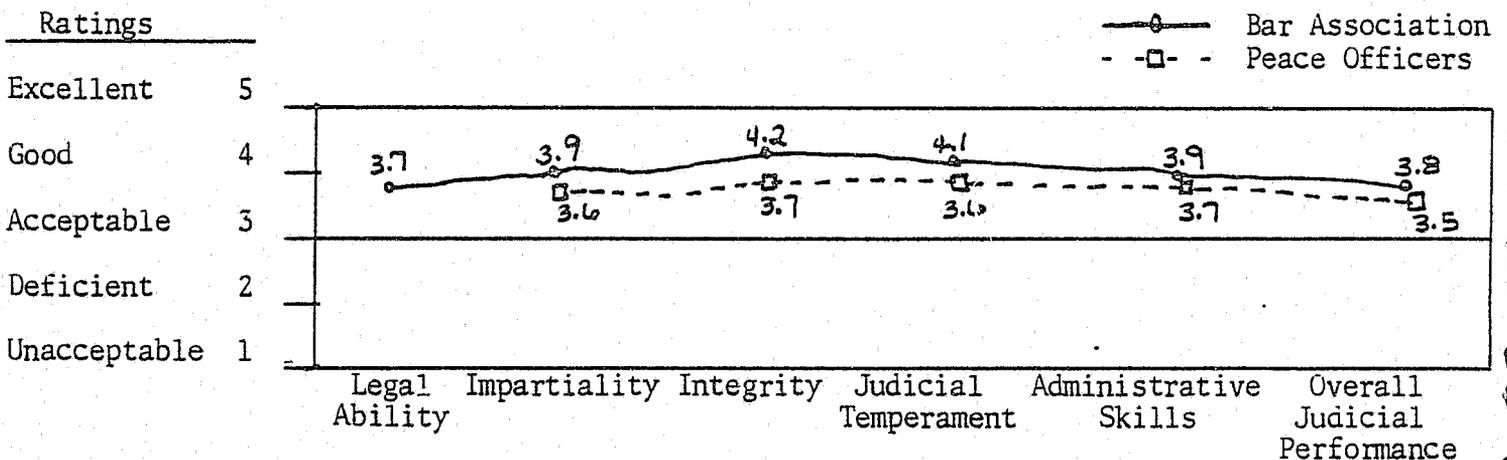
\_\_\_\_\_ Court  
 \_\_\_\_\_ Judicial District

1. Years in this position: 3 1/2 Date of next retention election: 1990

2. Prior judicial positions: None Number of years: N/A

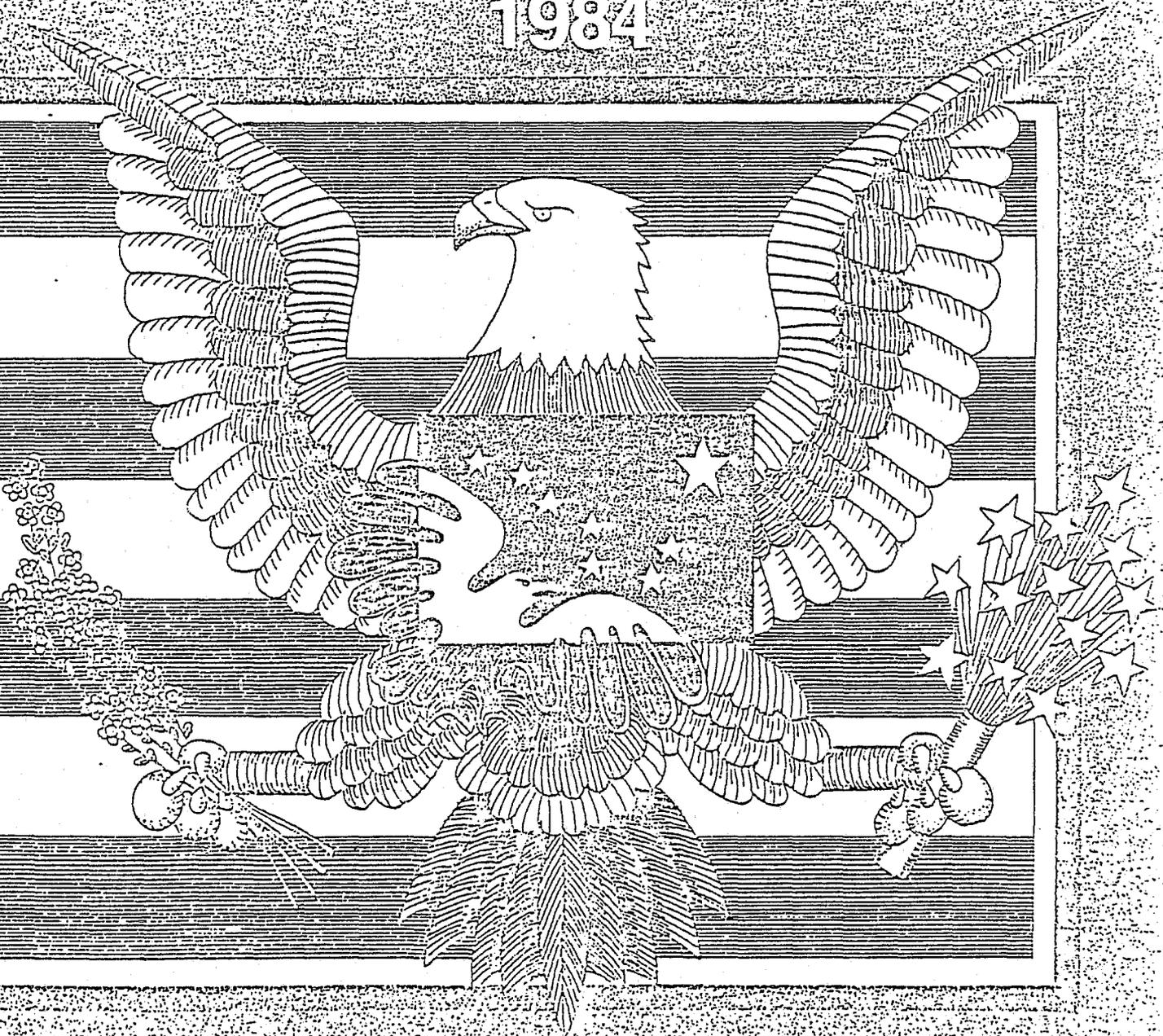
	1984	Prior
3. Bar Survey	OK	N/A
4. Peace and Probation Officers Survey	OK	N/A
5. Public and Private Records	OK	
6. Court Performance data		
7. Professional and citizen input	OK	
8. Interview	N/A	
9. Overall Evaluation		N/A

Survey Summary Scores

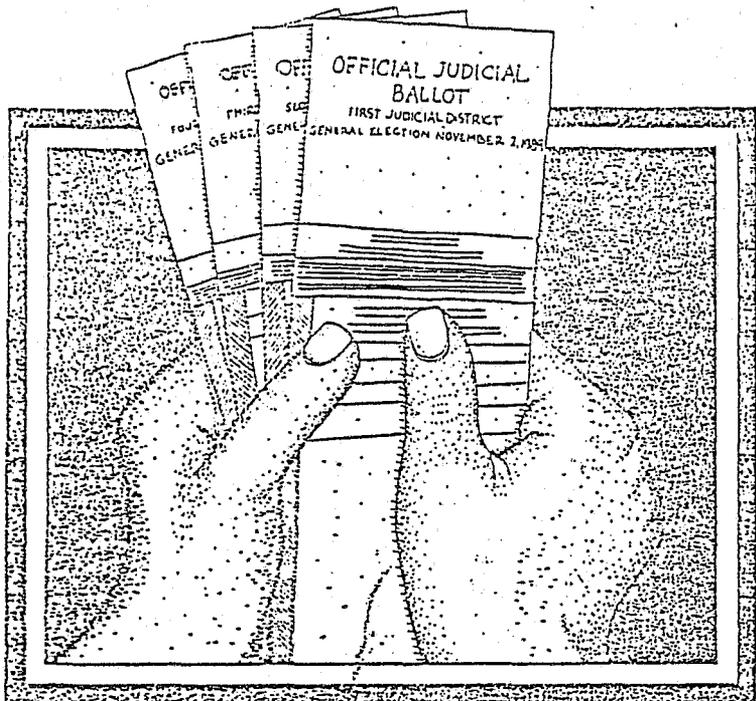


# State of Alaska OFFICIAL ELECTION PAMPHLET

1984



Pamphlet 11-101-2 State of Alaska Election Administration



# JUDICIAL RETENTION ELECTIONS:

Know the system.  
Know the candidates.

# 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 non-partisan and unopposed. Each judge stands for retention based on his or her record of judicial performance; in addition, 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, is printed on the page facing the Alaska Judicial Council's evaluation of that judge's performance.

For the 1984 General Election, the Judicial Council has evaluated one supreme court justice, three judges of the Court of Appeals, and seventeen trial judges. The following twenty-one judges were all found to be QUALIFIED, and are all recommended for retention:

## SUPREME COURT

Justice Allen T. Compton

## COURT OF APPEALS

Judge Alexander O. Bryner  
Judge Robert Coats  
Judge James K. Singleton, Jr.

## SUPERIOR COURT

Judge Walter L. (Bud) Carpeneti, First Judicial District  
Judge Rodger W. Pegues, First Judicial District  
Judge Thomas E. Schulz, First Judicial District  
Judge Paul B. Jones, Second Judicial District  
Judge Charles R. Tunley, Second Judicial District  
Judge Victor D. Carlson, Third Judicial District  
Judge Charles K. Cranston, Third Judicial District  
Judge Roy H. Madsen, Third Judicial District  
Judge J. Justin Ripley, Third Judicial District  
Judge Douglas J. Serdahely, Third Judicial District  
Judge Brian Shortell, Third Judicial District  
Judge James R. Blair, Fourth Judicial District

## DISTRICT COURT

Judge George L. Gucker, First Judicial District  
Judge Glen C. Anderson, Third Judicial District  
Judge Natalie K. Finn, Third Judicial District  
Judge William H. Fuld, Third Judicial District  
Judge John D. Mason, Third Judicial District

Editor's Note: Only information regarding the supreme court justice, appellate court judges and judges serving the districts pertinent to this pamphlet 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). 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 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 1984.

### 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 recommendation to vote "YES" or "NO" to retain each judge.

### SECTION II: SOURCES OF EVALUATION INFORMATION.

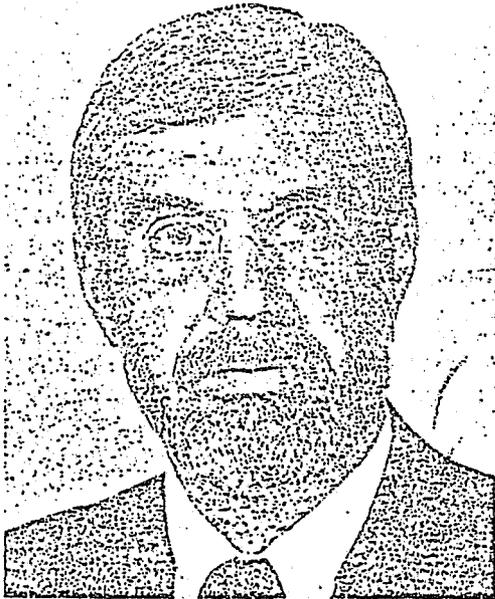
A. Information other than Surveys. Information regarding judicial performance was based on sources available to the Judicial Council at the time of its recommendations. These sources included: Bar and Peace Officer mail surveys, a review of court and public records, professional and public testimony 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 1,065 members of the Bar Association and 600 peace and probation officers. There are four summary scores for each supreme court justice and Court of Appeals judge, and six summary scores for each superior and district court judge. Peace and probation officers were not asked to evaluate appellate judges or the legal abilities of trial court judges.

Administration of the surveys was conducted wholly by the Center of Political Studies, Institute for Social Research, University of Michigan at Ann Arbor 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

**SUPREME COURT JUSTICE  
ALLEN T. COMPTON**



**RESIDENCE ADDRESS:** 1435 West 12th Avenue  
Anchorage  
**MAILING ADDRESS:** 1435 West 12th Avenue  
Anchorage, AK 99501

**EDUCATION:**

*School:*

Pembroke Country Day School; Kansas City, Missouri; 1952-1956; Diploma

*College/University:*

University of Kansas; Lawrence, Kansas; 1956-1960; B.A.

*Post-Graduate:*

University of Colorado; Boulder, Colorado; 1960-1963; LL.B.

**MILITARY SERVICE:**

Marine Corps Reserve; 6 years; E-4; Honorable Discharge

**POLITICAL AND GOVERNMENT POSITION(S):**

Superior Court Judge, First Judicial District, February 1976 to January 1981; Supreme Court Justice, January 1981 to present

**BUSINESS AND PROFESSIONAL POSITION(S):**

Private and Public Practice of Law, 1963-1976

**OTHER ORGANIZATION MEMBERSHIP(S):**

American, Alaska, Colorado, Juneau (Past-President), Anchorage Bar Associations; American Judicature Society; American Judges Association

**OTHER:**

Governor's Commission on the Administration of Justice; Alaska Supreme Court Public Information and Pattern Criminal Jury Instruction Committees; Alaska Judicial Council Pre-Sentence Report Revision Committee; Judicial Qualifications Commission; National Judicial College, Reno, Nevada; Regular Session, 1977; Criminal Evidence and Civil Litigation Sessions, 1980; Institute for Judicial Administration, New York University; Senior Appellate Judges Seminar, 1984

**DATE OF BIRTH:**

2/25/38

**PLACE OF BIRTH:**

Kansas City, Missouri

**LENGTH OF RESIDENCY IN ALASKA: 13 years**

Juneau 1971-1983

Anchorage 1983 to present

(Paid for by the Candidate)

# JUSTICE ALLEN T. COMPTON SUPREME COURT

Years in Current Position: 3. Date of Next Retention Election: 1994.

## I. JUDICIAL COUNCIL EVALUATION

The Alaska Judicial Council finds Justice Allen T. Compton to be QUALIFIED for the position of Supreme Court Justice.

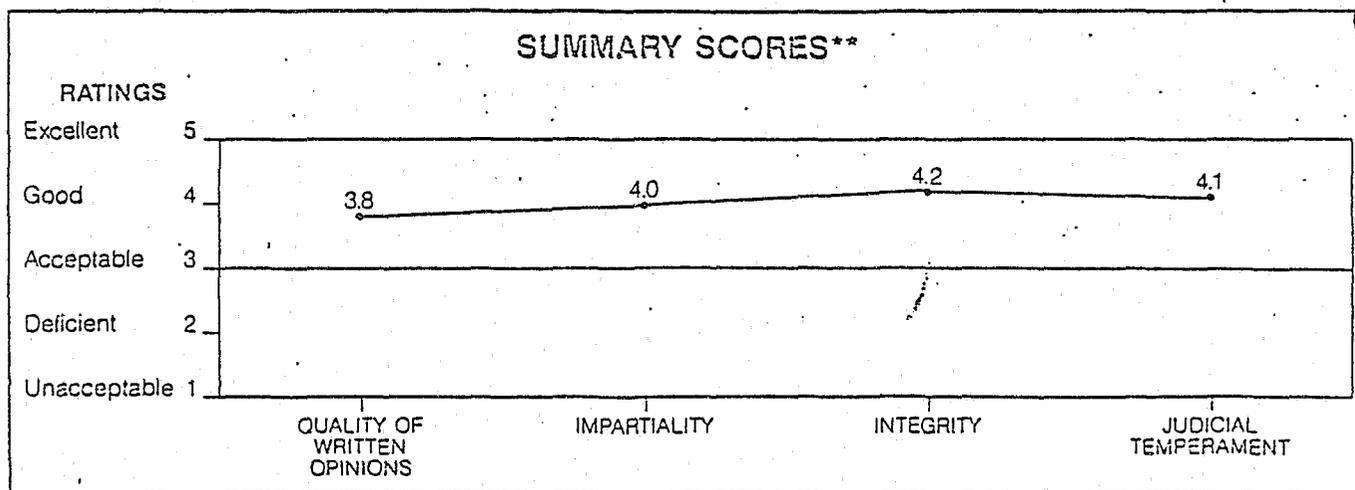
The Judicial Council's Recommendation:  
Vote "YES" to retain Justice Allen T. Compton.

## 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 Association mail survey, a review of court and public records, professional and public testimony and personal interviews.

B. Bar Association Mail Survey. The following graph shows the mail survey responses of the Bar Association members.

Justice Allen T. Compton



\*\* The ratings shown are based upon average scores from respondents who used the following scale: 5 = excellent (meets the highest standards for the court); 4 = good (better than satisfactory performance); 3 = acceptable (satisfactory performance); 2 = deficient (does not meet acceptable standards); 1 = unacceptable (lacking in this quality).

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.

**SUPERIOR COURT JUDGE  
JAMES R. BLAIR  
Fourth Judicial District**



**RESIDENCE ADDRESS:** S.R. 31448  
Fairbanks  
**MAILING ADDRESS:** S.R. 31448  
Fairbanks, AK 99701

**DATE OF BIRTH:**  
8/1/39  
**PLACE OF BIRTH:**  
Winterset, Iowa  
**NAME OF SPOUSE:**  
Shirley G.  
**CHILDREN:**  
James (22), Ken (21), Kurt (21), Jason (15), Kristina (8)

**LENGTH OF RESIDENCY IN ALASKA:** 17 1/2 years  
Fairbanks 1967 to present

**EDUCATION:**

*College/University:*

The Colorado College; Colorado Springs, Colorado; Graduated 1962; B.A. (History)

*Post-Graduate:*

Colorado University; Boulder, Colorado; Graduated 1967; J.D.

**SPECIAL INTERESTS:**

Youth Sports; woodworking; photography

**OTHER:**

National Judicial College; Reno, Nevada: 1975, 4 weeks; 1977, 2 weeks; 1979, 2 weeks; 1980, 1 week; 1983, 4 weeks; 1984, 2 weeks

**STATEMENT**

I was appointed to the Superior Court in February of 1975 and retained in the 1978 election. My duties are primarily performed in Fairbanks and other communities in the Fourth Judicial District. During my ten years on the bench, I have always tried to protect and respect the

individual rights of defendants, victims and litigants, the rights of the community and the rights of citizens called in to serve as jurors and witnesses. I hope the voters will allow me to continue to do the same in the future.

(Paid for by the Candidate)

**JUDGE JAMES R. BLAIR**  
**SUPERIOR COURT**  
**Fourth Judicial District**

Years in Current Position: 9. Date of Next Retention Election: 1990.

**I. JUDICIAL COUNCIL EVALUATION**

The Alaska Judicial Council finds Judge James R. Blair to be **QUALIFIED** for the position of Superior Court Judge.

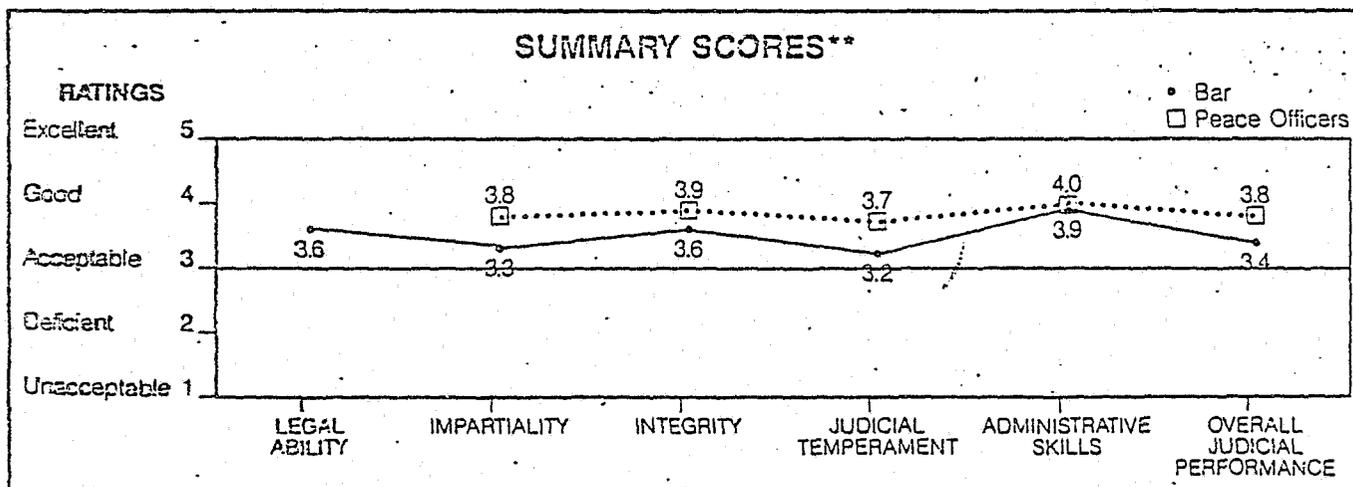
The Judicial Council's Recommendation:  
Vote "YES" to retain Judge James R. Blair.

**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 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 James R. Blair



\*\* The ratings shown are based upon average scores from respondents who used the following scale: 5 = excellent (meets the highest standards for the court); 4 = good (better than satisfactory performance); 3 = acceptable (satisfactory performance); 2 = deficient (does not meet acceptable standards); 1 = unacceptable (lacking in this quality).

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.

(Paid for by the Candidate)

APPENDIX H

1984 RETENTION CONSULTANT COMMITTEE MEMBERS

1984 RETENTION CONSULTANT COMMITTEE MEMBERS

HONORABLE JAY HODGES  
Superior Court Judge, Fairbanks

HONORABLE JOHN BOSSHARD III  
Superior Court Judge, Valdez

HONORABLE DUANE CRASKE  
Superior Court Judge, Sitka

SUSAN A. BURKE  
Attorney, Juneau

ROBERT J. MAHONEY  
Attorney, Anchorage

JAMES D. DeWITT  
Attorney, Fairbanks

APPENDIX I

NONRESPONDENT SURVEY

NONRESPONDENT STUDY:  
1984 Retention Survey  
Response Rate Study  
March 1, 1985

Sharilyn Mumaw  
Research Analyst

## Executive Summary

The Alaska Judicial Council has conducted a Judicial Evaluation Retention Survey among all Alaska Bar Association members every two years since 1976. The response rate to these surveys has been high with returns of 57% (1984) and 56% (1982). Typical mail-out surveys have response rates averaging around 50% or less. The hypothesis for the present study was that the majority of nonrespondents were attorneys with less recent court experience or familiarity with the judges than the respondents, but who were otherwise fairly similar to the respondents.

Since the Alaska Judicial Evaluation Survey does not involve a sample of lawyers, errors in estimate of scores or ratings given by the respondents cannot be evaluated using statistical sampling theory. Nevertheless, it is important to understand the representativeness of the data obtained through the survey by determining how similar or dissimilar the nonrespondents are to those who participated in the survey. In anticipation of conducting this methodological study, information was preserved during the Alaska Judicial Council Evaluation Survey on which Third District lawyers had responded and which had not. This permitted the selection of a sample of known respondents and known nonrespondents as the basis for this study.

About three months after the mailout of the 1984 Retention Survey, a telephone survey was conducted among a sample of 454 Alaska Bar Association members all from the Third Judicial District, approximately one-half of whom had not returned the 1984 Judicial Retention Survey. The sample was drawn in the Third District so that the Council staff could conduct this research project on a cost-effective basis using local telephone calls. Response to the telephone survey was excellent, with only 4 refusals to participate and 32 attorneys who could not be contacted. In general, the telephone survey results confirmed the study's main hypothesis, although the findings were not conclusive.

Members of the Alaska Bar Association who did not respond to the 1984 Retention Survey were typically slightly older, and had been members of the Bar and residents of the state for a longer time than the Bar members who did respond. The nonrespondents were also somewhat less likely to have spent much time in court before a judge within the past year. The nonrespondents were significantly less likely to have handled criminal cases and much more likely than respondents to have been engaged in "other", non-legal work. In general, then, the nonrespondents appeared to be attorneys whose practice did not take them into court as frequently as the respondents.

The data indicate the study's hypothesis has validity. However, it is important to note that even the statistically significant differences between respondents and nonrespondents do not represent large actual differences. For example, the mean age for respondents was 37 years, while for nonrespondents it was 39 years. Thus, the findings suggest that although real differences between the groups can be found, the differences are not likely to be great enough to affect the validity of the Judicial Evaluation Retention Survey.

Reasons given by the nonrespondents for not filling out the Retention Survey tended to support the results given by the demographic data. Forty percent said they did not know the judges or didn't go to court often enough to rate the judges. Another 31% stated that they tried to fill out the survey but ran out of time. However, 36% of the nonrespondents incorrectly stated that they had returned the Retention Survey. Consequently, these individuals were not asked why they had not returned the survey, although they were asked the demographic questions.

It is important to note that there was no difference between the willingness of the respondents and nonrespondents to complete this telephone survey. Only four of the 422 attorneys who could be reached by phone refused to speak with the Alaska Judicial Council interviewer. This supports the hypothesis that nonrespondents to the Judicial Retention Survey were not necessarily opposed to the survey process. Most appeared to believe that they lacked the information needed, because of their type of practice, to evaluate judicial performance adequately.

APPENDIX J

1976 - 1984 JUDICIAL RETENTION ELECTION  
VOTE ANALYSIS



# alaska judicial council

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

EXECUTIVE DIRECTOR  
Francis L. Bremson

NON-ATTORNEY MEMBERS  
Mary Jane Fate  
Robert H. Moss  
Renee Murray

December 28, 1984

ATTORNEY MEMBERS  
James B. Bradley  
James D. Gilmore  
Barbara L. Schuhmann

CHAIRMAN, EX OFFICIO  
Jay A. Rabinowitz  
Chief Justice  
Supreme Court

## M E M O R A N D U M

TO: Retention Consultant Committee

INFO: Judicial Council

FROM: Staff

RE: 1976 - 1984 Judicial Retention Election Vote Analysis

This memo has been prepared to assist the Judicial Council, its Retention Consultant Committee and others in the analysis of voting patterns in judicial retention elections since 1976. Section A presents voting patterns by year and by judicial district. Section B compares voter interest in judicial retention with interest in other elected positions.

The analysis shows that, in general, voting patterns in judicial retention elections tend to vary both by year and by judicial district. The percentage of voters who appear to oppose all judges is highest in the Third Judicial District (about 35-40%) and noticeably lower (about 20-30%) in the other three districts. Although influences on the voting patterns cannot be supported by statistical evidence, it does appear that both the Council's evaluations and other public support or opposition (including that provided by the judicial candidate himself) can affect the vote significantly.

Voter turnout for judicial retention elections was gauged by comparing vote totals for the U.S. House of Representatives race with vote totals for Supreme Court seats. It is reasonably high, ranging from 79.0% in 1984 to 87.4% in 1980. Thus, it appears that voters are both interested in and to a large extent, somewhat knowledgeable about, judicial retention elections in Alaska.

#### Section A: Voting Patterns

Table 1 indicates the percentage of "yes" votes received by each judge standing for retention in the years during which the Judicial Council has evaluated judges eligible for retention. The table permits comparisons by level of court, judicial district, judge, and year. The analysis which follows provides some possible explanations for the variations by judge and judicial district.

##### 1) Variation by judge

Eighteen judges have stood for retention at least twice in the same position between the years of 1976 and 1984. Judge Anderson's vote percentage improved between 1980 and 1984 (from 63.7% to 72.4%). Judge Keene's vote also improved, from 73.9% in 1978 to 76.4% in 1982. Judge Schulz's vote stayed about the same (74.8% in 1978 and 74.1% in 1984). Judge Mason's vote dropped between 1976 and 1980 (63.7% to 57.8%) but stayed about the same in 1984 as in 1980 (58.1% in 1984).

Although each of the other thirteen judges "lost" a percentage of "yes" votes between their first and second retention elections, in each case the loss is at least partially explicable. Three (Williams, Brewer and Vochoska) were opposed by the Council during both of their retention elections. Three were opposed in ad campaigns in 1984 (Blair, Carlson and Ripley). Two had very low survey scores in both retention election years (Madsen and Tucker).

Section A: Voting Patterns\*

Table 1

Percent of "Yes" Votes by Judge and Year  
(1976-1984 Retention Vote Analysis)

Court	1976		1978		1980		1982		1984	
Supreme Court	Boochever	67.5%	Burke Rabinowitz	68.6% 67.8%	Matthews	53.5%	Connor	61.5%	Compton	69.7%
Court of Appeals	-----	-----	-----	-----	-----	-----	-----	-----	Bryner Coats Singleton	68.8% 68.2% 69.1%
1st Dist. - Super. Ct.	Stewart	72.8%	Schulz	74.8%	Compton Craske	76.1% 70.4%	-----	-----	Schulz Pegues Carpeneti	74.1% 75.4% 77.0%
1st Dist. - Dist. Ct.	Craske	78.2%	Keene	73.9%	Williams	59.1%	Keene	76.4%	Gucker	67.9%
	Williams	71.5%	Taylor	75.1%						
2nd Dist. - Super. Ct.	-----	-----	-----	-----	-----	-----	-----	-----	Jones Tunley	75.6% 71.4%
3rd Dist. Super. Ct.	Buckalew	62.2%	Carlson	67.4%	Hanson	54.7%	Buckalew	59.9%	Carlson	63.6%
	Kalamarides	64.2%	Madsen Moody Ripley	64.1% 64.6% 67.8%	Rowland	61.0%	Johnstone Souter	52.0% 56.4%	Ripley Serdahely Shortell Cranston Madsen	64.2% 68.1% 67.4% 65.1% 62.1%
3rd Dist. - Dist. Ct.	Bryner Mason	66.2% 63.7%	Brewer Bosshard	55.6% 67.1%	Anderson Mason	63.7% 57.8%	Andrews Bosshard	66.1% 57.9%	Anderson Finn	72.4% 72.4%
	Peterson	68.3%	Cutler Hornaday Tucker Vochoska	69.5% 66.6% 64.9% 51.6%			Brewer Cutler Hornaday Tucker Vochoska	45.5% 63.0% 59.8% 54.5% 42.3%	Fuld Mason	68.3% 58.1%
4th Dist. - Super. Ct.	-----	-----	Blair	73.4%	Cooke Hodges Taylor Van Hoomissen	68.4% 65.7% 72.8% 72.3%	-----	-----	Blair	65.4%
4th Dist. - Dist. Ct.	Clayton	75.9%	Connelly Miller	74.3% 62.2%	Cline	55.5%	Connelly Crutchfield Kauvar	71.8% 67.9% 68.7%	-----	-----

\* See following page for footnotes to Table 1.

The remaining five judges (Bosshard, Cutler, Hornaday, Connelly and Buckalew) all stood for their second retention elections in 1982. As Tables 2 & 3 suggest, both 1980 and 1982 may have been years of unusually high voter concern about judges. Council recommendations against two judges in each year, and adverse publicity about other judges may have caused a "coat-tail" effect, in which all judges in those districts experienced some vote loss.

2) Variations by judicial district and court type

The Supreme Court's typical range (excluding Matthews) appears to be 61-69%. Justice Connor's imminent retirement in 1982 and the general low vote percentages for judges in the Third Judicial District may have affected his vote. If so, the range would be much narrower: 67-69% yes votes. The Court of Appeals in its 1st year of evaluation appears to be similar to Supreme Court.

---

Footnotes, Table 1

1. Opposed by Chuck Imig in extensive Anchorage newspaper campaign for about two weeks prior to election.
2. Council recommended Williams not be retained in both '76 and '80.
3. Low ratings in surveys + recent public censure by Supreme Court.
4. High publicity regarding court case over questioned appointment date; no Council evaluation but some unfavorable press.
5. Last-minute ad campaign against "lenient" sentencing countered by heavy law-enforcement support, and Council publicity for all judges.
6. Council recommended non-retention in 1978 and 1982.
7. Anchorage Daily News recommended against retention; Council recommended for.
8. Drop between 1978 and 1984 possibly due to two separate ad campaigns against retention in 1984, Council recommended retention in both years.
9. Council recommended against retention.

The First District Superior Court range is 70-77%. The District Court range appears to be in the 70's also. Judge Williams was opposed by the Council in '76 and '80, and both times mounted highly visible campaigns for retention. Judge Gucker was found qualified in 1984, but published survey scores from peace officers were very low.

The Second District Superior Court appears similar to First and Fourth District Superior Courts. Judges in these districts typically receive "yes" votes in the mid-to-high 60s percent range or low 70s. The Fourth District District Court vote percentages also tend to be high 60s and 70s. Judge Cline in 1980 (Council recommended against retention), and Judge Miller in 1978 (no known reason for the relatively low "yes" vote percentage) appear to be exceptions.

The typical range for Third Judicial District Superior Court is somewhat lower than for the other three districts. The highest vote is Judge Serdahely's in 1984, with 68.1%. Votes for the two judges in 1980 and three in 1982 were all 61.0% or less.

Third District District Court votes range from 72.4% yes (Judges Anderson and Finn in 1984) down to 42.3% (Judge Vochoska in 1982). A mid-60s range would appear to be typical, but there seems to be more variation, both within a given year and over a period of years, than for any other court in the state.

Finally, the mean (average) percentage of "yes" votes for all judges in the 1st, 2nd and 4th districts (years 1976 through 1984) is 71.2%. The mean for all judges in the 3rd district for the same years is 62.1%, a difference of 9.1 percentage points.

Table 2

"Yes" Vote Ranges, By Year  
(1976-1984 Retention Vote Analysis)

1976 -	No judge fell below 62% yes votes. (10 judges total)	
1978 -	Two judges (both found unqualified by Council) received fewer than 56% yes votes; otherwise, no judge fell below 62% yes votes. (18 judges total)	
1980 -	Matthews (ad campaign against)	53.5%
	Williams (Council recommended against)	59.1%
	Hanson (adverse publicity)	54.7%
	Mason (low ratings in surveys)	57.8%
	Cline (Council recommended against)	55.5%
	5 of 13 judges with ratings below 61.0%	
	8 of 13 judges with ratings above 61.0%	
1982 -	Buckalew	59.9%
	Johnstone (adverse publicity)	52.0%
	Souter	56.4%
	Bosshard	57.9%
	Brewer (Council recommended against)	45.5%
	[not retained]	
	Hornaday (some adverse publicity)	59.8%
	Tucker (low survey scores)	54.5%
	Vochoska (Council recommended against)	42.3%
	[not retained]	
	8 of 15 judges rated below 61.0%	
	7 of 15 judges rated above 61.0%	
1984 -	Mason (adverse publicity)	58.1%
	All other judges (20) above 61.0%	

Table 3

% "yes" votes (trial judges only)  
(1976-1984 Retention Vote Analysis)

	<u>1976</u>	<u>1978</u>	<u>1980</u>	<u>1982</u>	<u>1984</u>
3rd District	64.9%	63.9%	59.3%	55.7%	66.2%
1st, 2nd, 4th Districts	74.6%	72.3%	67.5%	71.2%	72.4%

The figures in Tables 2 and 3 may indicate that 1980 and 1982 were anomalous years, with greater-than-usual concern about judges. Voters in the Third Judicial District appear much more likely to express such concerns than voters in the other three districts. A quick scan of precinct-level votes in the Third District for 1984 also suggests that smaller communities in this District may account for disproportionate shares of "no" votes. A more detailed analysis could provide the foundation for additional public information work by the Council in these outlying areas.

A separate analysis (Table not included) compared the judges' Bar & Peace Officer survey scores for "overall judicial performance" to "yes" vote percentages. There does not appear to be any strong correlation between survey scores and vote percentages. However, there does appear to be a relationship since 1980 between the Council's recommendation and the vote percentages.

Another finding suggested by the voting patterns is that voters may be relying on the Judicial Council's recommendations in increasing numbers. In 1984, the recommendations were published not only in the Voters' Pamphlet, but also in feature articles by both Anchorage papers shortly before election day, in large ads paid for by the Council in papers throughout the state, and in other news articles throughout the state between August and October. Thus, despite the unusual number of campaigns against retention of specific judges, all but one of the judges were retained with over 60% of the vote.

Finally none of the campaigns against judges in 1984 started more than a week prior to the election. None of them had the visibility or additional press coverage generated by Imig's campaign against Matthews in 1980 or campaigns by judges

responding to the Council's recommendations against their retention. None of them were able to build on any degree of general public interest in law-and-order issues, since there were few such issues in the 1984 campaigns at national, state or local levels.

Section B: Voter Turnout

Voter turnout and percentages voting for judges are also of interest. Because the U.S. House of Representatives race is the only statewide contest which occurs every two years, the number of voters for that position is used as a comparison to gauge voter interest in judicial positions.

Table 4

	<u>Column A</u>		<u>Column B</u>		<u>Column C</u>	
	Number of registered voters who went to polls	% of all registered voters in Alaska	Number and percent of Column A voters who voted in U. S. House of Represent. Race		Number and % of Column A voters who voted for or against supreme court justices standing for retention	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
<u>1976</u>	127,877	(61.7%)	118,208	(92.5%)	108,538	(84.9%)
<u>1978</u>	129,705	(54.3%)	124,187	(95.7%)	a) 107,647 (83.0%) b) 107,707 (83.0%)	
<u>1980</u>	162,653	(62.8%)	154,618	(95.1%)	142,086	(87.4%)
<u>1982</u>	199,358	(74.9%)	181,084	(90.8%)	169,515	(85.0%)
<u>1984</u>	211,009	(69.1%)	204,381	(96.9%)	166,746	(79.0%)

With the exception of 1984, where the base figures provided by Division of Elections are somewhat confusing, voter turnout in the Alaska Supreme Court retention elections has been about 85% of all persons voting. The comparison race (U.S. House) pulls about 91% to 97% of the vote. This suggests that most voters who go to the polls are interested in judicial retention. More public information might increase the proportion of voters casting ballots in the judicial retention elections.

APPENDIX K

RETENTION LOG

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
ALLEN T. COMPTON	12/12/80	84	94
WARREN W. MATTHEWS	5/26/77	80	90
DANIEL A. MOORE, JR.	7/10/83	--	86
JAY A. RABINOWITZ	2/21/65	68, 78	88

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. CARPENETI	10/15/81	84	90
DUANE K. CRASKE	9/24/76	80	86
HENRY C. KEENE	11/10/82	--	86*
RODGER W. PEGUES	6/11/81	84	90
THOMAS E. SCHULZ	11/16/73	78, 84	90

\* Retirement effective 6/30/85.

RETENTION ELECTION LOG  
CONTINUED

B. SECOND JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
MICHAEL I. JEFFERY	10/28/82	--	86
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
S. J. BUCKALEW, JR.	6/20/73	76, 82	88
VICTOR D. CARLSON	10/8/75	78, 84	90
CHARLES K. CRANSTON	10/15/81	84	90
BEVERLY W. CUTLER	10/28/82	--	86
RENE GONZALEZ	11/08/84	--	88
KAREN L. HUNT	1/10/84	--	88
KARL S. JOHNSTONE	10/8/79	82	88
JOAN KATZ	11/08/84	--	88
ROY H. MADSEN	9/17/75	78, 84	90
PETER A. MICHALSKI	01/31/85	--	88
J. JUSTIN RIPLEY	6/27/75	78, 84	90
MARK C. ROWLAND	2/22/77	80	86
DOUGLAS J. SERDAHELY	12/12/80	84	90
BRIAN C. SHORTELL	12/12/80	84	90
MILTON M. SOUTER	1/23/78	82	88

RETENTION LOG  
CONTINUED

D. FOURTH JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
JAMES R. BLAIR	01/31/75	78, 84	90
CHRISTOPHER R. COOKE	11/15/76	80	86
MARY E. "MEG" GREENE	01/14/85	--	88
JAY HODGES	09/28/76	80	86
GERALD J. VAN HOOMISSEN	11/5/70	74, 80	86

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
LINN ASPER	6/22/84	--	86
GEORGE L. GUCKER	3/31/83	84	88

B. SECOND JUDICIAL DISTRICT

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

C. THIRD JUDICIAL DISTRICT

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

D. FOURTH JUDICIAL DISTRICT

JUDGE	APPOINTED	PRIOR RETENTION ELECTIONS	NEXT RETENTION ELECTION
HUGH H. CONNELLY	12/30/68	70, 74, 78, 82	86
H. ED CRUTCHFIELD	10/30/80	82	86
JANE KAUVAR	02/18/81	82	86
CHRISTOPHER ZIMMERMAN	02/01/85	--	86

APPENDIX L

A SUMMARY OF PROGRAMS & RECOMMENDATIONS OF  
THE JUDICIAL COUNCIL SINCE STATEHOOD: 1959-1984

A Summary of Programs and Recommendations of  
The Judicial Council Since Statehood: 1959-1984

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. 110, 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, SLA 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 non-criminal.
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 (revisions in process, 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; to be designed by supreme court).
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 misdemeanor sentencing guidelines (currently under consideration by Sentencing Guidelines Committee).

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).

APPENDIX M

ALASKA JUDICIAL COUNCIL  
MAJOR STUDIES AND REPORTS

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 Results 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. Has 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 virtual disappearance of 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. (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. (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 study of legislative sanctions 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. The Alaska Judicial Council in Case Law. (April, 1984). Chronological listing of all case references to the Council; an annotated listing of all cases citing Council functions; and an annotated listing of all cases citing Council research, reports and publications.
57. Report of the Results of the 1984 Alaska Judicial Survey. Prepared for the Judicial Council by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1984 general election.
58. 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. (Sep. 4, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage Superior Court and District Court judge positions.

59. 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.
60. 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.

APPENDIX N

FISH & GAME SENTENCES: 1980-81

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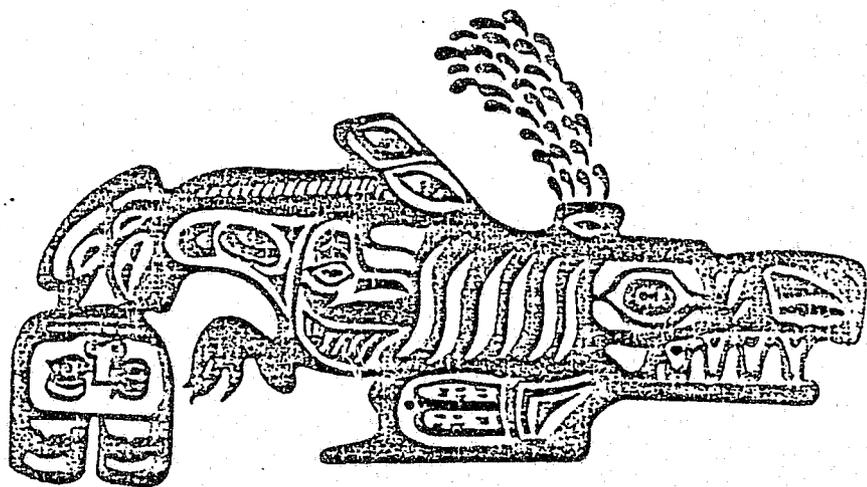
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# Alaska Fish and Game Sentences: 1980-81

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Alaska Judicial Council  
April 1983



## INTRODUCTION

In the spring of 1981, the Alaska Judicial Council released a preliminary statistical report analyzing fish and game sentences certified in the years 1977 through 1979. The data analyzed in the report was supplied by the Department of Public Safety's Division of Fish and Wildlife Protection and thus, since it was not collected in a scientific manner, it would not be able to withstand scientific scrutiny. Even though this report was limited in scope, it noted that statistically significant differences existed in sentence outcomes that could not be "explained" by the factors available in analysis. The report identified three potential problem areas: (1) that otherwise similarly convicted defendants received disparate sentences depending upon the court location; (2) that the sentences imposed for the more serious commercial fishing offenses appeared insufficient to deter future misconduct; and (3) that many district court judges and magistrates lacked a sufficient technical understanding of major violations.

In late summer of 1981, the Alaska Court System's Fish and Game Sentencing Guidelines Subcommittee was established to investigate problems with fish and game sentencing. The Subcommittee was composed of judges and magistrates with extensive experience in fish and game violations including District Court Judges Robin Taylor, Chairman (Wrangell), Henry Keene (Ketchikan), James Hornaday (Homer), and Steven Cline

(Fairbanks); Superior Court Judge Roy Madsen of Kodiak; and Magistrate Skip Slater (Nenana). In addition, Alaska Judicial Council staff served as technical advisors to the Subcommittee. In carrying out their mandate, the Subcommittee held public hearings in Kodiak, Homer, Anchorage, Ketchikan, Dillingham, Naknek, Fairbanks and Bethel. Testimony was received from Fish and Wildlife Protection personnel, Fish and Game biologists, local Fish and Game Advisory Board Members, District Attorneys, defense attorneys, commercial fishermen's organizations, professional hunting and guiding organizations, commercial processors, resource conservation organizations, commercial fishermen, sport fishermen, sport hunters, community leaders, and others interested in fish and game resources.

Testimony at public hearings indicated that past sentencing practices of the courts have resulted in a lack of public respect and concern for fish and game laws. Participants also testified that (1) sentences in fish and game cases have been far too lenient to be an effective deterrent to future misconduct; (2) the complex nature of most major fish and game violations requires an educated and informed judiciary; (3) fish and game statutes and the regulations promulgated thereunder are incomprehensible to the average citizen; and (4) there is a need for a mail-in bail schedule for administrative and de minimus offenses.

In early summer of 1982, the Senate Special Committee on Alaska Fisheries was asked to gather information on the industry. Members appointed to the Committee were: Senator

Dick Eliason of Sitka, Chairman; Senator Nels Anderson, Jr. of Dillingham; and Senator Bob Mulcahy of Kodiak. The Committee held public hearings in Dutch Harbor/Unalaska, Kodiak, Dillingham, Kotzebue, Bethel, Ketchikan, Petersburg, Cordova, Anchorage and Kenai/Soldotna.

The Committee's final report of January 1983 concluded that disparity in court decreed fines and sentences around the state created an enforcement problem. The final report went on to state that fishermen themselves are in favor of heavy penalties for repeat offenders with permit suspension being a possibility. Also, the Committee found that educational programs may be needed for judges to adequately understand the industry and requested that the Judicial Council make recommendations for changes in the fish and game area.

SUMMARY OF FINDINGS  
1983 JUDICIAL COUNCIL  
FISH AND GAME SENTENCING REPORT

In February 1983, the Alaska Judicial Council completed a descriptive multivariate sentencing analysis of major commercial fishing, game and subsistence offenses. The purpose of this summary is to highlight some of the most significant findings. These statistical findings confirm the testimony given repeatedly at the public hearings during the past two years.

1. Alaska Statutes Title 16 and Chapter 5 of the Alaska Administrative Code are confusing, unorganized and often unintelligible. This is partially due to duplication and contradictions in fish and game laws.
2. The judge imposing sentence for a major commercial fishing or game conviction is the single most important factor in determining the sanction to be levied. The judge is a more important factor than either the seriousness of the offense or the offender's prior record of fish and game convictions.
3. Offenders who plead guilty or nolo contendere (no contest) are fined less than those offenders who are convicted by a jury.
4. A non-resident of Alaska convicted of a major commercial fishing violation will receive more severe sanctions than Alaska residents convicted

of the same or similar offense. Also, non-residents are more often required to post bail and in higher amounts than are Alaska residents.

5. Conviction for a major game violation led to a jail sentence far more often than did conviction for a major commercial fishing violation.
6. Illegally taken fish or game were forfeited after conviction more frequently than was equipment seized at the time of the violation.

## RECOMMENDATIONS

These recommendations have been developed by the Judicial Council based on the statistical findings as well as testimony from the public hearings held during the past year.

1. It is recommended that the Legislature create a Code Revision Commission to rewrite and codify laws and administrative regulations pertaining to the regulation of fish and game resources. Also, offense classifications similar to those in Alaska's new Criminal Code should be developed.
2. (a) It is recommended that the Legislature consider a fish and game sentencing scheme, similar to presumptive sentencing, for major fish and game violation convictions and/or;  
(b) the Supreme Court adopt experimental sentencing guidelines for major fish and game offense convictions to determine whether or not the desired uniformity and deterrent aspects of sentencing can be achieved by this approach.
3. It is recommended that the Supreme Court and Legislature create a mail-in bail schedule for administrative and de minimis offenses which would allow the court to focus its time and resources on major offenses.

4. It is recommended that the Legislature consider legislation which would allow limited entry and/or interim use permit suspension as a sanction for repeat major commercial fishing offense violators.
5. It is recommended that Court System Administration develop an ongoing educational program for magistrates and judges in the area of fish and game law. This program is necessary to insure that the complex and technical aspects of major fish and game violations are easily understandable by the sentencing authority.
6. It is recommended that the Court System Administration develop a procedure to provide more information about the defendant for use by judges in major fish and game offense sentencings. This will insure that the judges have adequate pertinent information at their disposal at the time of sentencing.

## CONCLUSION

The Judicial Council's sentencing study on major fish and game offense convictions identified disparity in sentencing, and also strongly indicated that many sentences have been far too lenient to serve as a deterrent.

The most significant factor contributing to these problems lies with the Statutes and Administrative Code. The laws governing fish and game regulation are unorganized and are often incomprehensible. A good example of this is that commercial fishing laws, as presently structured, make few distinctions between serious violations which threaten direct and immediate damage to the fishery resources and minor offenses of an entirely different nature. In order for judges to impose sanctions which fit the crime, they must be able to understand the crime and have adequate information at hand before sentencing.

The Judicial Council's recommendations not only address disparity in sentencing, but also address deterrence to enhance the maintenance of Alaska's fishery resources on the sustained yield principal. This principal is the goal embodied in the State Constitution (Article VIII, § 4). The protection of fish and game resources for the people of this state is at least as important as the elimination of disparity in sentencing. In order to achieve the ultimate goal of protection, the profit motive must be taken away from offenders.

APPENDIX C

ALASKA MISDEMEANOR SENTENCES: 1981

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# Alaska Misdemeanor Sentences: 1981

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December, 1983

alaska judicial council

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## EXECUTIVE SUMMARY

This report presents an analysis of sentences imposed by Alaskan judges and magistrates in misdemeanor cases during 1981. The purposes of the study were to determine whether sentencings varied by court or defendant, and to explain why such variations did (or did not) occur. The study was funded by the state's legislature as part of its continued monitoring of state sentencing patterns.

The study looked at two types of relationships:

- 1) between defendant characteristics and sentence length; and
- 2) between community characteristics and sentence length.

Although we found that physical characteristics of the defendant such as age, race and sex did not affect sentences, the defendant's prior criminal history and past failure to complete treatment for alcohol problems had very significant effects. Financial status was also tied to sentence length, with less wealthy offenders receiving slightly longer sentences for vehicular and disorderly conduct offenses.

A second set of important findings related sentence length to community characteristics. The study found that sentences for certain types of offenses committed by similarly-situated defendants varied somewhat from urban (Anchorage, Fairbanks, and Juneau) to rural areas (Barrow, Bethel, Kodiak, Nome and Sitka). However, this factor did not play as large a role in sentence length as did the defendants' past histories of criminal behavior and alcohol treatment.

Specific findings include:

- 1) There is a direct relationship between alcohol abuse and a pattern of continuing criminal conduct. 86.6% of misdemeanor defendants with prior alcohol problems also had a record of prior convictions.

2) In general, defendants with alcohol problems who had either not been referred to, or who had not completed alcohol treatment programs in the past, received substantially longer sentences for most types of offenses than defendants who had no alcohol problems or who had completed a treatment program. On the other hand, the data suggests that among defendants with prior alcohol problems, those who had successfully completed prior alcohol treatment were least likely to be recidivists.

3) Nearly two-thirds of misdemeanor offenders (65.2%) were sentenced to at least one day in jail. All persons convicted of driving while intoxicated spent at least 3 days in jail.

4) The effect of community characteristics was most noticeable for violent and vehicular offenses. Defendants convicted of violent misdemeanors in rural areas were more likely to go to jail and had longer sentences than those in urban areas. On the other hand, Anchorage and Fairbanks defendants convicted of vehicular misdemeanors tended to receive slightly longer jail sentences than those in smaller communities.

Fines appeared to follow a different pattern. For all types of offenses except vehicular, defendants in Bethel, Nome, and Barrow were considerably less likely to have a fine imposed than in other communities studied. The fines required of defendants in these areas tended to be lesser amounts than those imposed on defendants in other communities, for all types of offenses.

(Interviews with judges, attorneys, and other criminal justice system personnel suggest that our findings of variation in sentencing by community are at least partially due to both consideration of community values and to the amount and type of justice system resources which were available in these areas during the period studied. Significant changes which have occurred during the intervening two years in both the level of resources available and community values could mean that the reasons for some 1981 variations may no longer exist.)

## CONCLUSIONS AND RECOMMENDATIONS

Our conclusions from these findings are, first, that despite justice system changes, some patterns appear to be extremely stable, notably the relationship among alcohol problems, treatment, and criminal offenses. Second, the combination of factors which do affect sentences considered in light of those which do not (such as race and sex) suggest that both the judiciary and other criminal justice system personnel are attempting to enforce the law in a manner which is both responsive to society's need for protection as well as to the differing cultural and administrative resources and needs among different areas of the state.

Based on our findings, we recommend that:

1) The judiciary, Department of Corrections, and other criminal justice agencies work together to assure uniform and quick access to alcohol treatment programs for convicted defendants, as a means of reducing recidivism. At the same time, the justice system must recognize that reduction of legal and administrative barriers to admission to alcohol treatment programs should be accompanied by the kinds of incentives which will motivate offenders to complete treatment.

2) The effects of "local option" laws, increased legislative sanctions for DWI, and other relevant attempts to reduce the incidence of alcohol-related crime which do not involve the treatment of offenders should be monitored and evaluated during the next two years in terms of their cost-effectiveness, ability to motivate offenders, and effectiveness in reducing recidivism. The legislature, executive branch agencies administering these programs, and municipal governments need such evaluations as the basis of future policy decisions. In the long run, resources should be focussed on programs and practices which motivate offenders to change patterns of behavior.

3) Guidelines for misdemeanor sentences which recognize the value of incentives such as expungement of criminal records following the successful completion of treatment should be developed by the judiciary. Such guidelines should be flexible enough to permit judges to take legislative intent, community and defendant characteristics, jail capacity, and treatment program alternatives into consideration when imposing sentence. Development and publication of these guidelines would benefit both the judiciary and the public by providing a clear statement of factors relevant to sentencing and consequences of conviction.

APPENDIX P

DWI SENTENCES: 1981

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Alaska Misdemeanor Sentences: 1981

Special Report on

Driving While Intoxicated Sentences

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March, 1984

Alaska Judicial Council

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## Executive Summary

The offense of driving while intoxicated (DWI)\* has a greater impact on Alaska's criminal justice system than any other single misdemeanor offense. Persons convicted of DWI comprised the largest individual set of defendants in our sample of 1981 misdemeanor convictions. Although only 28.7% of all defendants studied, they accounted for two-thirds of the jury trials, 35.8% of the jail days sentenced, and 54.6% of the net fines imposed. The impact of repeat DWI offenders was even more disproportionate to their number since three-quarters of the DWI jail days and one-quarter of all misdemeanor jury trials were associated with DWI recidivists who constituted just 7.5% of the total misdemeanor sample.

New laws, effective on October 17, 1983, imposed stiffer penalties for DWI than those mandated in 1981. Thus, additional analysis of the 1981 DWI offenses was undertaken both to determine the impact of DWI cases in that year as well as to provide some basis for estimating the possible consequences of the 1983 provisions for the criminal justice system.

DWI defendants tended to be older, employed, and were more likely to be caucasian than other misdemeanants. Their cases were also processed differently, with more "own recognizance" releases, more attorney representation and greater likelihood of a jury trial than other misdemeanants.

DWI sentences were extremely consistent throughout the state. Most first-time DWI (74.3%) offenders were sentenced to the mandatory three-day minimum and required to

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\* Throughout this report, the term DWI is used to refer to any state or municipal offense with substantially the same elements and penalties as AS 28.35.030.

pay relatively substantial fines (as compared to other misdemeanors). Repeat DWI offenders had a mean sentence length of 33.7 days, and their fines were higher than those imposed on first-time DWI offenders. In short, our data indicates that DWI sentencing practices in 1981 were consistent throughout the state and reflected the 1981 mandatory requirements, facts which should facilitate the system's ability to measure the impact on the system of the newer (1983) sentencing laws.

Based on the data available about 1981 DWI cases throughout the state, the most noticeable impacts of the 1983 amendments to the law may be:

a) A potential increase in the actual time to be served by first-time DWI offenders;

b) Increased fine revenues from repeat DWI offenders, but probably little increase associated with first-time DWI offenders;

c) A larger number of repeat DWI defendants because of the broadened definitions in the new law; and

d) More convictions on related charges such as refusal to submit to a chemical test and driving with an invalid license.

The net effect of these changes on the criminal justice system is difficult to estimate precisely, because of increased law enforcement efforts in various communities and increased community awareness of the problems of drunk driving.

Additional specific findings from the data include:

1. All convicted DWI defendants went to jail.

First-time DWI offenders (73.4% of all DWI defendants) were sentenced to an average of 4.2 days; repeat DWI offenders (26.6% of the DWI sample) were sentenced to a mean of 33.7 days.

Nearly all first-time DWI offenders (95.8%) paid a fine, with a mean value of \$268.60. Only 78.6% of repeat DWI offenders paid fines, but the mean value for such defendants was significantly higher (\$461.40).

2. Of a total 13,060 misdemeanor jail days, first-time DWI offenders accounted for 1,193 days (9.1%); repeat DWI offenders accounted for 3,466 days or 26.5%.
3. Two-thirds of all misdemeanor trials were for DWI defendants. DWI defendants were more than twice as likely as other misdemeanor defendants to go to trial and 98% of such trials were to juries.
4. Significantly more defendants convicted on DWI charges had obtained private attorney representation than had misdemeanants convicted on other misdemeanor charges. Many fewer DWI defendants represented themselves in court without an attorney than did other types of misdemeanants.
5. Most DWI defendants were required to complete either alcohol treatment (51.5%) or education programs (19.6%) as an additional condition of their sentence.
6. There were few significant differences in the demographic characteristics of first-time and repeat DWI offenders. However, a significantly lower proportion of females were repeat DWI offenders (7.8%) than were first-time DWI offenders (16.2%).
7. Repeat DWI offenders were more likely than first-time DWI offenders to have refused to take a breathalyzer, to have been represented by an attorney and to have gone to trial. Although most (73.4%) repeat DWI offenders had been referred for alcohol treatment in the past, very few (11%) had completed such treatment. About 40% had not attended or not completed programs to which they were referred, and 21.5% were receiving treatment for alcohol problems at the time of their sentencing on the DWI charge.

8. Sentencing practices were uniform across all court locations, although fewer DWI repeat offenders appeared in Nome, and fines imposed in Bethel, Barrow and Nome were somewhat lower than fines imposed in other areas.
9. Only 29.5% of the DWI convictions studied arose from events in which property was damaged, and in only 6.9% of the DWI cases was a victim physically harmed.

ALASKA JUDICIAL COUNCIL  
March 21, 1984

MISDEMEANOR & DWI STUDY RECOMMENDATIONS

1.) Completion of Treatment Programs to Reduce Recidivism

Focus justice system resources on effort to encourage completion of alcohol treatment programs by defendants convicted of alcohol-related offenses and to monitor compliance with treatment requirements. Enact legislation encouraging treatment for persons convicted of alcohol-related offenses other than DWI.

2.) Factors Affecting Recidivism

To determine the most cost-effective means of reducing recidivism, conduct analysis of relative effects of completion of alcohol treatment, mandatory sentences and local option laws on misdemeanor recidivism, particularly as recidivism relates to demands on justice system resources.

3.) Alternative Jail Facilities

Evaluate cost and effectiveness of alternative jail facilities specifically designed to provide alcohol programs for persons convicted of DWI and of other alcohol-related offenses, which programs motivate offenders to change patterns of behavior.

4.) Misdemeanor Sentencing Guidelines

Develop misdemeanor sentencing guidelines related to jail capacity, legislative intent, community and defendant characteristics, treatment programs and alternatives to incarceration.

APPENDIX Q

RECOMMENDATIONS FOR LEGISLATIVE ACTION



# alaska judicial council

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Supreme Court

## RECOMMENDATIONS FOR LEGISLATIVE ACTION

Presentation to The  
Governor's Task Force on  
Drunk Driving

November 27, 1984

## RECOMMENDATIONS FOR LEGISLATIVE ACTION

### 1.) Completion of Treatment Programs to Reduce Recidivism

Focus justice system resources

- 1) on efforts to encourage completion of alcohol treatment programs by defendants convicted of alcohol-related offenses; and
- 2) to monitor compliance with treatment for persons convicted of alcohol-related offenses, including DWI.

The legislature should consider two changes:

- a) statutes related to driving offenses other than DWI should encourage referrals to ASAP for alcohol problem evaluation; and
- b) development of programs for enhanced monitoring of persons for whom treatment is required. Several options can be considered, including additional resources for enforcement of court orders requiring treatment, misdemeanor probation officers, and private misdemeanant probation programs.

### 2.) Factors Affecting Recidivism

To determine the most cost-effective means of reducing recidivism, conduct analysis of the relative effects of completion of alcohol treatment, mandatory sentences and local option laws on misdemeanant recidivism, particularly as recidivism relates to demands on justice system resources. At least one major study is near completion, which may answer some of the questions raised here. However, the legislature should assure that a comprehensive evaluation of all program inter-relationships is completed.

RECOMMENDATIONS FOR LEGISLATIVE ACTION  
(CONTINUED)

3.) Alternative Jail Facilities

Evaluate cost and effectiveness of alternative jail facilities specifically designed to provide alcohol programs for persons convicted of DWI and of other alcohol-related offenses, which programs motivate offenders to change patterns of behavior.

4.) Misdemeanor Sentencing Guidelines

Develop misdemeanor sentencing guidelines related to jail capacity, legislative intent, community and defendant characteristics, treatment programs and alternatives to incarceration. Such guidelines will be especially useful for driving-related offenses which are not covered by mandatory minimum sentences. A legislative resolution, supporting the work of the Supreme Court's Sentencing Guidelines Committee, would encourage both the development and use of such guidelines.

APPENDIX R

RESEARCH/TECHNICAL ASSISTANCE

1983 - 1984

RESEARCH/TECHNICAL ASSISTANCE

1983

<u>#</u>	<u>Date</u>	<u>Subject</u>	<u>#</u>	<u>Agency</u>
83-01	02/03	Perempt. Challenge to Judges	-01	Rep. Bussell (Leg.)
83-02	02/04	Alaska Judicial Council	-02	Anch. Chamber of Commerce
83-03	02/14	Sentencing Guidelines	-03	Maryland Court System
83-04	03/16	Retention Election Districts Legislation	-04	Rep. Bussell, Sen. Ray, Chairman of House/Senate Judiciary Committees (Leg.)
83-05	03/21	Fish & Game Sentencing Study	-05	Fish & Game Boards
83-06	03/28	Fish & Game Data Analysis (Rubenstein)	-06	Commissioner Collinsworth (Executive)
83-07	04/22	Juv. Just. Recommends. of AJC	-07	Sen. Josephson (Leg.)
83-08	04/27	Retention Election Districts Legislation	-08	Rep. Bussell (Leg.)
83-09	05/06	Fish & Game Sentencing Analysis	-09	Gregory Cook, (Bar)
83-10	06/16	Fish & Game Study (Walker)	-10	In House
83-11	09/09	Retention in Alaska	-11	<u>Judicature</u>
83-12	09/14	Juvenile Detention Analysis	-12	HHS/DFYS (Arnold) (Exec.) McLaughlin
83-13	09/23	Jud. Select. Survey Analysis	-13	In House
83-14	10/07	Sentencing Guidelines Proposal	-14	Judge Schulz (Ct. System)
83-15	10/19	Retention	-15	Sitka Chamber of Commerce
83-16	11/09	AJC Research Agenda	-16	In House
83-17	12/05	Judicial Selection Group)	-17	Midkiff, Petersburg (Citz.)
83-18	12/83	Jud. Select. Survey Analysis	-18	In House
83-19	12/16	Female Jurors; Victims (Leg)	-19	Marla Berg, House Fin. Com.
83-20	12/21	Elected Judges	-20	S. Toomey, Daily News (Media)
83-21	12/27	AJC Research Data Base & Capabilities RE: Sentencing Analysis	-21	Havelock, CJWG, Atty. Gen. (Exec.)

RESEARCH/TECHNICAL ASSISTANCE

1984

<u>#</u>	<u>Date</u>	<u>Subject</u>	<u>#</u>	<u>Agency</u>
84-01	02/17	Relationship Between Alcohol Treatment & Recidivism	-01	Rep. Clocksin (Leg.)
84-02	03/02	Misdemeanor Report	-02	Anchorage Bar Association
84-03	03/23	Design of Study of Relat. Between Alcoholism and Recidivism	-03	Rep. Clocksin (Leg.)
84-04	03/29	(Alaska Judicial Council)	-04	Anch. Crime Comm. (Chamber)
84-05	05/10	Design of Study of Feasibility of Evaluative Local Option Law Impact	-05	SOADA (Exec.)
84-06	05/22	Selection Survey - Voting Patterns	-06	In House
84-07	05/22	Retention Survey Results Analysis	-07	In House
84-08	06/05	Jud. Retent. Eval. in AK	-08	AK Conf. of Judges (JUD)
84-09	06/25	The AK Judicial Council	-09	Minorities in Just. Prog. (UAA)
84-10	08/84	"Refining the Process" (Ret.)	-10	<u>State Court Journal</u>
84-11	09/24	AJC Research Agenda	-11	In House
84-12	10/84	"Merits of Merit Selection"	-12	House Research Agency (Leg.)
84-13	10/24	AJC Research Agenda	-13	In House
84-14	11/84	AJC in Case Laws & Opinions	-14	In House
84-15	11/27	Recommendations For Legis. Action Re: Drunk Driving	-15	Governor's Task Force on Drunk Driving (Exec./Leg.)
84-16	09/84	Draft Retention Leg. Rev.	-16	K. Forsythe (Ct. System)
84-17	12/84	Leave Policy Recommendations	-17	K. Jackson; F. Raye (Ct. System; Exec. Branch)
84-18	12/04	PD Caseload Analysis	-18	Waring (OMB/Exec.)

APPENDIX S

THE ALASKA JUDICIAL COUNCIL  
IN CASE LAW & OPINION

THE ALASKA JUDICIAL COUNCIL  
IN CASE LAW & OPINION

Rev. November, 1984

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I. CHRONOLOGICAL INDEX OF ALASKA SUPREME COURT, COURT OF APPEALS AND ATTORNEY-GENERAL OPINION\* REFERENCES TO ALASKA JUDICIAL COUNCIL.

1. In re: Mackay 416 P.2d 823 (1966) - Council role in drafting bar integration rules in 1964; at 844.
2. Wade v. Noland, 414 P.2d 689 (1966) - Reference to Constitutional Convention proceedings; at 694.
3. Begich v. Jefferson, 441 P.2d 27 (1968) - No council member, except chief justice, may hold other office or position of profit under state or federal government. Const., art. IV, sec. 8; at 31.
4. Delahay v. State, 476 P.2d 908 (1970) - Council complied with district judge nomination statute by nominating four persons for three vacancies.
5. State v. Chaney, 477 P.2d 441 (1970) - Council role in shaping and enactment of 1969 sentence review statute; n.5.
6. In re: GMB, 483 P.2d 1006 (1971) - Council's judicial nomination function, Const., art. IV, sec. 5; n.8.
7. Perrin v. State, 543 P.2d 413 (1975) - Council's role in enactment of 1969 sentencing review statute; n.3.
8. Coleman v. State, 553 P.2d 40 (1976) - Reference to Council's 1975 Grand Jury study; n.39.
9. State v. Sears, 553 P.2d 907 (1976) - Reference to Council's 1975 Report on 1973 Sentences (B. Cutler); dissent, n.4.
10. Buchanan v. State, 554 P.2d 1153 (1976) - Reference to Council's 1975 Grand Jury Report; n.45.
11. "Confirmation of Members of Boards and Commissions", 1977 Op. (Inf.) Att'y Gen.(Feb. 3; no file no.) - Constitution requires legislative confirmation of nominees to judicial council.
12. Buchanan v. State, 561 P.2d 1197 (1977) - Reference to Council's 1975 Grand Jury Report; n. 41.
13. Carman v. State, 564 P.2d 361 (1977) - Reference to Council's 1975 Bail in Anchorage study; n.10.

\* AG Ops 1977 - present only

14. Elliott v. State, 590 P.2d 881 (1979) - Reference to Council's 1977 study on Felony Sentencing Patterns (1974-76); dissent, n.3.
15. Campbell v. State, 594 P.2d 65 (1979) - Reference to 1978 Report on Racial Disparity in Sentencing; n.9.
16. Bell v. State, 598 P.2d 908 (1979) - Reference to 1978 Racial Disparity Sentencing study; n.35.
17. Brookins v. State, 600 P.2d 12 (1979) - Reference to 1977 study of Felony Sentencing Patterns (1974-76); n.12.
18. Buckalew v. Holloway, 604 P.2d 240 (1979) - Defines "term of office" as used in Constitution as applied to judicial council and to judges; n.13.
19. "Contract Proposal from Alaska Judicial Council", 1980 Op. (Inf.) Att'y Gen. (Jan. 28; No. J-66-417-80) - The Council is authorized by constitution (art. IV, Sec. 8-9) to conduct studies to improve the administration of justice, such as an evaluation of an anti-alcohol program; and express statutory authority exists for one agency of the state to contract with another for such purposes (AS 44.65.010 - 040).
20. Johnson v. State, 607 P.2d 944 (1980) - Cites both Racial Disparity and Felony Sentencing (1974-76) studies; n.7.
21. Oxereok v. State, 611 P.2d 913 (1980) - District court judges appointed from list of two or more candidates nominated by the judicial council (AS 22.15.170); at 916.
22. Coleman v. State, 621 P.2d 869 (1980) - Cites 1974-76 Felony Sentencing Patterns study (1977); n.29.
23. "Appointment of Acting Public Defender", 1981 Op. (Inf.) Att'y Gen. (Jan. 12; No. J-66-463-81) - Council and Governor to fill public defender vacancy as soon as possible. (AS 18.85.050).
24. Law v. State, 624 P.2d 284 (1981) - Cites 1974-76 Felony Sentencing Patterns study (1977); n.9.

25. "Stipend for Coastal Policy Council Members", , 1981 Op. (Inf.) Att'y Gen. (Mar. 9; No. J-66-532-81) - Transportation and per diem expenses of board and comission members are as defined at AS 39.20.180; per diem payable to member even in city of his residence; per diem not solely for incidental travel expenses, but partial compensation for time spent on official business away from other employment.
26. APOC v. Marshall, 633 P.2d 227 (1981) - Cites APOC regulation formerly requiring notice to Council of judge's failure to file conflict of interest report; n.19.
27. Juneby v. State, 641 P.2d 823 (1982) - Reference to 1974-76 Felony Sentencing Patterns study (1977) and to 1973 Sentencing study (1975); n.6.
28. "Per Diem for ARLF Board Members", 1982 Op. (Inf.) Att'y Gen. (Apr. 1; No. A66-423-82) - References to AS 39.20.180-190; state employee who is a member of the judicial council not entitled to per diem in his city of residence; board member not a state employee or agency head is entitled to per diem "for each day or portion of a day spent in actual meeting or on official business, wherever held".
29. "Applicability of AS 39.20.185, 1982 Op. (Inf.) Att'y Gen. (Oct. 25; No. 366-781-82) - A state employee who is (also) a member of the judicial council (i.e., the chief justice) is not entitled to per diem for attending council meetings in his city of residency.
30. "Retirement of Justice for Incapacity", 1982 Op. (Inf.) Att'y Gen. (Dec. 27; No. 366-332-82) - Division of Retirement and Benefits may wish to consult with Council in development of standards for determining if judge is incapacitated.
31. Hudson v. Johnstone, 660 P.2d 1180 (1983) - Council compensation to be prescribed by law. Const., art IV, sec. 13; judicial "terms of office" construed; at 1182.
32. Division of Elections v. Johnstone, 669 P.2d 537 (1983) - Council's compliance with evaluation requirements of AS 22.10.150 waived.

33. Acevedo v. North Pole, 672 P.2d 130 (1983) - Prohibition against dual office holding by Council member, Const., art IV, sec. 8; n.9.
34. Graybill v. State, 672 P.2d 138 (1983) - Reference to Council's 1983 study of 1981-82 Fish & Game Sentences; n.3.
35. Hornaday v. Rowland, 674 P.2d 1333 (1983) - Governor appoints to judicial district only, not to a particular court location; Council to nominate at least two persons for each vacancy (AS 22.15.170).
36. "Disclosure of Correspondence Concerning a Judicial Appointment", 1984 Op. (For.) Att'y Gen. (Jan. 5; No. 366-350-84) - Where Council member requested copy of a letter to the governor regarding a judicial applicant, governor could release portion relating to Council member but need not release the portion relating to the candidate; failure to assure confidentiality to sources could produce a "chilling effect." Nero v. Hyland, 386 A.2d 846 (NJ 1978), at 852.
37. "Residence and Active Practice of Law Requirements for District Judicial Appointees", 1984 Op. (Inf.) Att'y Gen. (July 19; No. 366-624-84) - (1) Minimum three year active practice requirement of AS 22.15.160(a) not met where applicant concededly not engaged in active practice for a portion of the three year period immediately preceding appointment; (2) Two-pronged test of compliance with residency requirement (as defined in AS 01.10.055) is physical presence plus evidence of intent to make a home in the state indefinitely and not accept benefit of residency in another jurisdiction; (3) time requirement of AS 22.15.160 met if applicant would be qualified within the maximum number of days possible under the statute (AS 22.15.170).
38. Harrison v. State, Slip Op., August 31, 1984 - Reference to Alaska Felony Sentences: 1976 - 1979 (1980) (pp 45-48, 65-67), citing significant relationship between alcohol and crime, especially in rural Alaska.

39. "Confidentiality of Records of the Alaska Judicial Council", 1984 Op. (Inf.) Att'y Gen. (Oct. 5; No. 366-625-84) - Although Council records are public and subject to disclosure under AS 09.25.110-120, constitutional concepts and provisions regarding right to privacy, separation of powers and deliberative process privilege are "state laws" which create exceptions [09.25.120(4)] to the general rule. Sharing of confidential letters of reference regarding judicial applicants with the Governor is not a breach of confidentiality because judicial selection is an "executive branch" function, although determination of whether and to what extent such information should be shared is solely in the Council's discretion.
40. Wood v. Superior Court, \_\_\_ P.2d \_\_\_, (No. 2884 - Oct. 30, 1984) - Reference to Council's 1976-79 Felony Study re: relation between sentence length and counsel type, at n. 10.

II. CASE LAW AND ATTORNEY GENERAL OPINION\* REFERENCES TO CONSTITUTIONAL AND STATUTORY PROVISIONS REGARDING THE ESTABLISHMENT AND FUNCTIONS OF THE JUDICIAL COUNCIL.

A. Council Members (Const., art. IV, sec. 8, 13; art. XV, sec. 16)

1. Dual office-holding: No member of the judicial council, except the chief justice, may hold any other office or position of profit under the United States or the State. Const., art. IV, sec. 8; except for service in the armed forces of the United States or the State, Const., art. XIII, sec 3. Begich v. Jefferson, 441 P.2d 27, 31 (1968); Acevedo v. North Pole, Slip Op., 672 P.2d 130 (1983); n.9.
2. Position of Profit. "Position of profit" means any other salaried non-temporary employment under the United States or the State of Alaska. Begich v. Jefferson, 441 P.2d 27, 31 (1968).
3. Term of Office. "The word 'term' in the Constitution is used to describe a definite period of service of...members of the judicial council." Const., art. IV, sec. 8; Buckalew v. Holloway, 604 P.2d 240 (1979); n.13.
4. Compensation. "[M]embers of the judicial council shall receive compensation as prescribed by law." Const., art. IV, sec. 13. Hudson v. Johnstone, 660 P.2d 1180, 1182 (1983).
5. Appointment. The Alaska Constitution requires legislative confirmation of nominees to the judicial council. 1977 Op. (Inf.) Att'y Gen. (Feb. 3; no file no.)
6. Per Diem. A state employee who is (also) a member of the judicial council (i.e., the chief justice) is not entitled to per diem in his city of residency. (AS 39.20.185); 1982 Op. (Inf.) Att'y Gen. (Oct. 25; No. 366-781-82). However, a Council member who is not a state employee or agency head is entitled to per diem "for each day or portion of a day spent in actual meeting or on official business, wherever held." 1982 Op. (Inf.) Att'y Gen. (April 1; No. A66-423-82). The justification for this policy is that per diem is intended not solely as reimbursement for incidental travel expenses, but as partial compensation for time spent on official business away from other employment. 1981 Op. (Inf.) Att'y Gen. (March 9; No. J66-532-81).

\* AG Ops 1977 - present only

- B. Judicial & Public Defender Selection  
Const., art. IV, sec. 5; AS 18.85.050; 22.05.080; 22.07.070;  
22.10.100; 22.15.170)
1. Duty to nominate supreme court justices and superior court judges. Const., art. IV, sec. 5; Division of Elections v. Johnstone, 669 P.2d 537 (1983); Hornaday v. Rowland, 674 P.2d 1333 (1983); In re: GMB, 483 P.2d 1006 (1971).
  2. Duty to nominate district court judges. AS 22.15.170; Oxereok v. State, 611 P.2d 913 (1980); Delahay v. State, 476 P.2d 908 (1970), appeal dismissed, 402 U.S. 901, 28 L. Ed. 2d 642 (1971); Hornaday v. Rowland, 674 P.2d 1333 (1983).
  3. Duty to nominate public defender. AS 18.85.050; 1981 Op. (Inf.) Att'y Gen. (Jan. 12; No. J66-463-81).
  4. Two or more names. By sending governor four nominations for three vacancies, Judicial Council complied with statute (AS 22.15.170) requiring that Council nominate at least two persons for each position. Delahay v. State, 476 P.2d 908 (1970). Referring to the minutes of the Constitutional Convention, the Court noted that the framers "intended to maximize the role of the judicial council in the selection of judicial candidates." 1 Proceedings of the Alaska Constitutional Convention, at 683-684, Dec. 12, 1955. Delahay, 476 P.2d 908, 914 (1970).
  5. Effective date of appointment. Appointment of district judge was effected on the date governor sent a letter to that effect to the Chief Justice. Delahay v. State, 476 P.2d 908 (1970).
  6. Appointment to judicial district. Governor appoints to a judicial district only, not to a particular court location, Hornaday v. Rowland, 674 P.2d 1333 (1983).

7. Confidentiality of Council Records. Although Council records are public and subject to disclosure under AS 09.25.110-120, constitutional concepts and provisions regarding right to privacy, separation of powers and deliberative process privilege are state laws which create exceptions to the general rule [AS 09.25.120(4)]. Sharing of confidential letters of reference regarding judicial applicants with the Governor is not a breach of confidentiality because judicial selection is an "executive branch" function, although determination of whether and to what extent such information should be shared is solely in the discretion of the Council. 1984 Op. (Inf.) Att'y Gen. (Oct. 3; No. 366-625-84). Where Council member requested copy of a letter to the governor regarding a judicial applicant, Governor could release portion relating to Council member but need not release the portion relating to the candidate; failure to assure confidentiality to sources could produce a "chilling effect." Nero v. Hyland, 386 A.2d 946 (NJ 1978), at 852. 1984 Op. (For.) Att'y Gen. (Jan. 5; No. 366-350-84).

8. "Residence and Active Practice of Law Requirements for District Judicial Applicants". (1) Minimum three year active practice requirement of AS 22.15.160(a) not met where applicant concededly not engaged in active practice for a portion of the three year period immediately preceding appointment; (2) Two-pronged test of compliance with residency requirement (as defined in AS 01.10.055) is physical presence plus evidence of intent to make a home in the state indefinitely and not accept benefit of residency in another jurisdiction; (3) time requirement of AS 22.15.160 met if applicant would be qualified within the maximum number of days possible under the statute (AS 22.15.170). 1984 Op. (Inf.) Att'y Gen. (July 19; No. 366-624-84).

C. Judicial Retention (Const., art. IV, sec. 9; AS 22.05.100; 22.07.060; 22.10.150; 22.15.195)

1. Duty to evaluate justices and judges on retention. Judicial Council to evaluate supreme court justices, superior court judges and district court judges on retention. Const., art IV, sec. 6; AS 22.10.150, 22.15.195; Division of Elections v. Johnstone, 669 P.2d 537 (1983); Hornaday v. Rowland, 674 P.2d 1333 (1983).

2. Appointment. For retention purposes, the term "appointment," as used in art. IV, sec. 6 of the Alaska Constitution, means the date of designation by the governor, as opposed to the date service entered into. Division of Elections v. Johnstone, 669 P.2d 537 (1983); See, also, Delahay v. State, 476 P.2d 908 (1970).

3. Term of office. "Term", as used in art. IV, sec. 4 and 13, refers to "any limitation on a period of service," including "service at the pleasure of," as opposed to the use of "term" elsewhere in the Constitution to denote a particular period of service for the Governor, Secretary of State, legislators, and judicial council. Buckalew v. Holloway, 604 P.2d 240 (1979), n.13; accord, Hudson v. Johnstone, 660 P.2d 1180, 1184 (1983); concurring opinion of Rabinowitz argues "terms" last from one retention election to the next, citing 1 Proceedings of the Constitutional Convention 585-86, that the terms delineated in art. IV, sec. 6 constituted a rejection of the federal system of life tenure in which judges serve no "term". Hudson, 660 P.2d 1180, 1185-86.
4. Compliance waived. Where Council did not conduct evaluation of judge who filed for retention two months late because of judge's, Council's and Court System's erroneous beliefs that judge was not eligible for retention, judge's compliance with filing statute and Council's compliance with evaluation statute were deemed "waived", on the theory "that where a new decision has been rendered on an issue of constitutional law, and where the effect of that decision is to place a litigant in violation of related statutory provisions, application of those statutes may be waived if circumstances exist which would otherwise justify a purely prospective ruling regarding the constitutional issue. Division of Elections v. Johnstone, 669 P.2d 537 (1983); ref. to AS 22.10.150 and Const., art. IV, sec. 5, 9.
5. Purpose of retention. The purpose of art. IV, sec. 6 is to operate as a compromise between life tenure and the desire to make state court judges accountable. Division of Elections v. Johnstone, 669 P.2d 537 (1983), citing Minutes of Constitutional Convention at 584, 586.
6. Prohibition against dual office-holding by judges. Art. IV, sec. 14: "Supreme Court justices and superior court judges while holding office may not practice law, hold office in a political party, or hold any other office or position of profit under the United States, the State, or its political subdivision." Acevedo v. North Pole, 672 P.2d 130, (1983), n.9.

7. [Conflict of Interest. Former APOC regulation (6 AAC 29.120(c)) required APOC to notify judicial council of judge's failure to file annual conflict of interest report. APOC v. Marshall, 633 P.2d 227 (1981). Regulations revised October, 1981 to require notice to Judicial Qualifications Commission (now Judicial Conduct Commission) instead of Council. 2 AAC 50.120]

D. Conduct studies to improve the administration of justice and other duties assigned by law (Const., art. IV, sec. 9).

1. Supreme court rules. Council asked to assist Supreme Court in drafting bar integration rules in 1964; In re: Mackay, 416 P.2d 823, 844 (1964), citing Sen. Resolution No. 39 (March 19, 1963).
2. Sentencing legislation. Council assisted legislature in drafting Alaska's 1969 sentencing review statute. State v. Chaney, 447 P.2d 441 (1970); Perrin v. State, 543 P.2d 413 (1975).
3. Reapportionment. Members of Reapportionment Board could arguably be "nominated by the judicial council." J. Hellenthal, Chairman of Constitutional Convention, cited in Wade v. Noland, 414 P.2d 689 (1966).
4. Judicial Incapacity. Division of Retirement and Benefits may wish to consult with Council in development of standards for determining if judge is incapacitated. 1982 Op. (Inf.) Att'y Gen. (Dec. 27; No. 366-332-82)
5. Studies. Council authorized by the Constitution to conduct studies to improve the administration of justice (art. IV, Sec. 8-9), including evaluation of anti-alcohol program; and express statutory authority (AS 44.65.010-040) exists for one agency to contract with another state agency to conduct such studies. 1980 Op. (Inf.) Att'y Gen. (Jan. 28; No. J66-417-80).

(For other case law references to judicial council research, see below, Sec. III.)

III. ALASKA JUDICIAL COUNCIL STUDIES CITED IN APPELLATE DECISIONS BY ALASKA STATE COURTS.

- A. Supreme court rules. In preparing 1964 Supreme Court Rules placing the bar in the judicial branch, Court asked Council to assist in draft, according to Sen. Resolution No. 39 (March 19, 1963), cited at In re: Mackay, 416 P.2d 823, 844 (1964).
- B. Sentencing legislation. "Comprehensive study" by the Alaska Judicial Council "played a significant role in the shaping and enactment of Alaska's [1969] sentencing review statute" (AS 12.55.120, SLA 1969, Ch. 117), State v. Chaney, 447 P.2d 441 (1970), n.5; Perrin v. State, 543 P.2d 413 (1975), n.3.
- C. Grand Jury Study. Rubenstein, M., The Grand Jury in Alaska: Tentative Recommendations to The Judicial Council (February, 1975), cited for proposition that grand jury may no longer be fulfilling its intended functions and should be replaced by the preliminary hearing procedure, regardless of the existence of a previous indictment for the same offense. Coleman v. State, 553 P.2d 401 (1976), n.39; Buchanan v. State, 554 P.2d 1153 (1976), n.45, revised and republished, 561 P.2d 1197 (1977), n.41. Buchanan also cites "unanimous action by the Alaska Judicial Council on March 15, 1976, endorsing the proposition that all felony prosecutions include preliminary examinations," Id., n.41.

- D. 1973 Sentencing Study. Cutler, B., Sentencing in Alaska: A Description of the Process and Summary of Statistical Data for 1973 (March, 1975); p. 84 cited by Justice Connor, dissenting, to support proposition that only 6% of all felonies in Alaska are disposed at trial. State v. Sears, 553 P.2d 907 (1976), dissent, n.4; report cited generally in support of proposition that legislature, in the drafting of the state's presumptive sentencing scheme in 1978, was concerned with eliminating disparity in sentencing of similarly situated offenders and with making criminal sentencing a predictable, internally consistent process, referring to Sen. Journal Supplement No. 47, at 148, 1978 Sen. Journal 1399, 1978 House Journal 1716. Juneby v. State, Alaska App., 641 P.2d 823 (1982), n.6.
- E. Bail in Anchorage Report. bail in Anchorage (March, 1975), cited regarding evils of prolonged pre-trial detention, in support of finding of trial court error in conducting ex parte bail hearing in camera. Carman v. State, 564 P.2d 361 (1977), n.10.
- F. 1973-76 Felony Sentencing Study. Alaska Felony Sentencing Patterns: A Multivariate Statistical Analysis (1974-76) (April 1977); Tables I and VIII cited by Chief Justice Boochever, dissenting, in support of appellant's contention that narcotics sentence imposed was far in excess of mean sentence imposed on defendants with similar charges and similar prior records, Elliott v. State, 590 P.2d 881 (1979), dissent, n.3; cited as "Preliminary Report" in opinion rejecting appellant's contention that 10 year penalty for robbery exceeds 5 year mean in study; court noted study was of "instructional value," but was not intended to set guidelines. Brookins v. State, 600 P.2d 12 (1979), n.12, remanded for reduction of sentence for other reasons; cited as "Preliminary Report," in opinion rejecting appellant's claim of racial bias in sentencing for drug conviction, Johnson v. State, 607 P.2d 944 (1980), n.7; cited in opinion rejecting appellant's contention that sentence imposed for rape conviction exceeded mean by 50%, and was motivated by racial bias, Coleman v. State, 621 P.2d 869 (1980), n.29 at 886; Table I, p.2, cited in support of Supreme Court's decision to reverse and remand for imposition of reduced sentence as authority for mean sentence for larceny being one-half of the sentence imposed, Law v. State, 624 P.2d 284 (1981), n.9; cited generally in support of proposition that legislature was concerned with reducing sentencing disparity and with making sentencing a predictable and consistent process, Juneby v. State, Alaska App., 641 P.2d 823 (1982), n.6.

- G. Racial Disparity Study. Judicial Council Findings Regarding Possible Racial Impact in Sentencing (Sept. 6, 1978); Table VII-4 cited in Supreme Court opinion rejecting appellant's claim of racial bias in sentencing, noting that no evidence was offered by this particular defendant to demonstrate that he had been denied a fair sentencing procedure or received an inordinately higher sentence because of his race, Campbell v. State, 594 P.2d 65 (1979), n.9; court ruled that Tables VII-4 to VII-7 in study findings cited by appellant to show that black defendants receive significantly higher sentences for burglary, larceny and receiving stolen property was not, by itself, sufficient to prove racial bias in sentencing of this particular defendant. Bell v. State, 598 P.2d 908 (1979), n.35; cited in opinion rejecting appellant's claim of racial bias in sentencing for drug conviction, Johnson v. State, 607 P.2d 944 (1980), n.7.
- H. Alaska Felony Sentences: 1976 - 1979 (1980), cited in support of proposition that crime in the bush is closely correlated to alcohol abuse. Harrison v. State, (Alaska App.) Slip Op., August 31, 1984; cited as support for proposition that felony defendants with assigned counsel received longer sentences than defendants represented by either private counsel or the public defender. Wood v. Superior Court, \_\_\_ P.2d \_\_\_, No. 2884 - Oct. 30, 1984, at n. 10.
- I. Fish and Game Study. Statistical Analysis of Major Fish & Game Offense Sentencing Outcomes (April, 1983), cited in support of court's decision to remand for re-sentencing as authority for disparity in fish and game sentencing patterns and for conclusion that sentence imposed much harsher than mean sentence imposed for similar offenses. Graybill v. State, 672 P.2d 138, n. 3.