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# alaska judicial council

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EXECUTIVE DIRECTOR  
William T. Cotton

NON-ATTORNEY MEMBERS  
Hilbert J. Henrickson, M.D.  
Leona Okakok  
Janis G. Roller

ATTORNEY MEMBERS  
Mark E. Ashburn  
Daniel L. Callahan  
William T. Council

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

## Message From the Executive Director

We are pleased to present the Alaska Judicial Council's Fifteenth Report to the Legislature and Supreme Court for the years 1989 and 1990. The Council reports biennially on its dual constitutional responsibilities of nominating candidates for judicial vacancies and of making reports and recommendations to the supreme court and legislature. The report also covers the statutory mandate to evaluate judges standing for retention and nominations for the Public Defender.

This report includes a brief narrative section that summarizes Council activities during 1989 and 1990, and a series of appendices. The appendices include a current listing of statutory and constitutional law affecting the Judicial Council, a log of judicial applicants, nominees and appointees, a log of all sitting judges and their retention election dates, and summaries of Council procedures for judicial selection and retention evaluation. Summaries of the Council's major reports during 1989 and 1990 also are included as appendices.

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

Very truly yours,

A handwritten signature in cursive script that reads "William T. Cotton".

William T. Cotton  
Executive Director

130441

**U.S. Department of Justice  
National Institute of Justice**

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**Fifteenth Report: 1989-1990**

**To The**

**Legislature and Supreme Court**

**April 1991**

# **The Alaska Judicial Council (1989-1990): Members and Terms**

## **CHAIRPERSON**

Jay A. Rabinowitz  
Chief Justice (1990-1993)

Warren W. Matthews  
Chief Justice (1987-1990)

## **ATTORNEY MEMBERS**

Daniel L. Callahan (1988-1994)

William T. Council (1986-1992)

Mark E. Ashburn (1990-1996)

James D. Gilmore (1984-1990)

## **NON-ATTORNEY MEMBERS**

Hilbert J. Henrickson, M.D. (1985-1991)

Leona Okakok (1987-1993)

Janis G. Roller (1989-1991)

Renee Murray (1983-1989)

## **COUNCIL STAFF**

1989-1990

William T. Cotton, Present Executive Director

Harold M. Brown, Past Executive Director

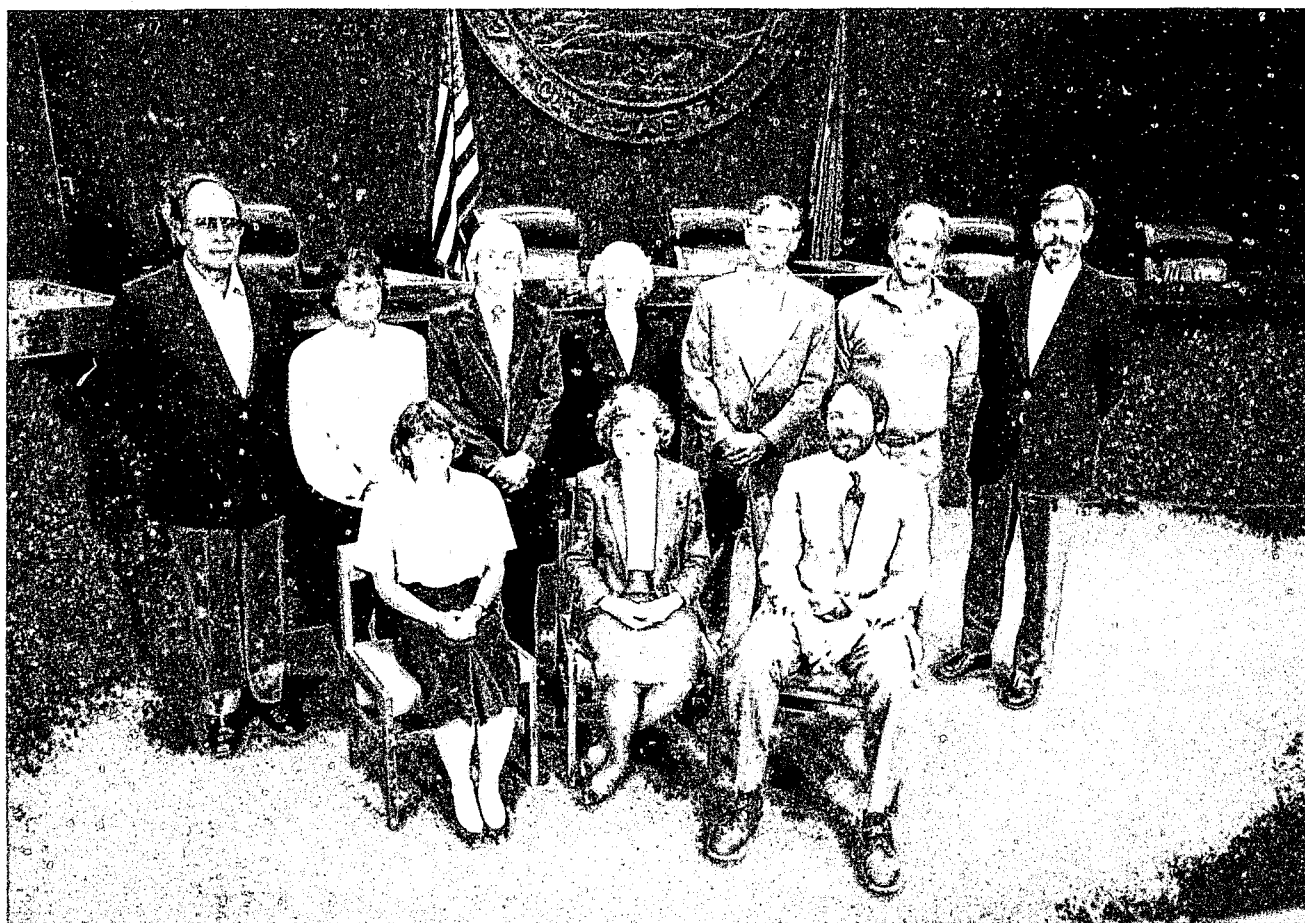
Teresa W. Carns, Senior Staff Associate

Susanne D. Di Pietro, Staff Attorney

Marla N. Greenstein, Past Senior Staff Attorney

Josefa M. Zywna, Administrative Assistant

Judy Whittaker, Mediation Project Secretary



## Judicial Council Membership, 1990

Members, left to right (standing)

Dr. Hilbert J. Henrickson, Leona Okakok, Daniel L. Callahan, Janis Roller  
Chief Justice Warren W. Matthews, Mark E. Ashburn, William T. Council

(seated)

Susanne D. Di Pietro (Staff Attorney), Teresa W. Carns (Senior Staff Associate),  
William T. Cotton (Executive Director)

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# **Part I**

## **Introduction**



## **Part I**

### **Introduction**

Alaska's Constitution established the Alaska Judicial Council and required it to "make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years" (Article IV, Section 9). This is the Judicial Council's Fifteenth Report to the legislature and the supreme court since statehood. It summarizes the Council's activities in 1989 and 1990 in judicial selection and evaluation and in research. The report includes appendices that describe the Council's membership (Appendix B), judicial selection procedures (Appendix D), retention election evaluation procedures (Appendix G), and judicial nominations and appointments since statehood (Appendix F). Executive summaries or excerpts from the major reports published by the Council are also included as Appendices K through P.

#### **A. Purposes of the Judicial Council**

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

## **B. Council Membership**

Article IV, Section 8 of Alaska's Constitution establishes the membership of the Council as three non-attorney members appointed by the Governor, three attorney members appointed by the Board of Governors of the Alaska Bar Association, and the Chief Justice of the Supreme Court of Alaska who serves, ex officio, as Chairperson. The Constitution provides that all appointments shall be made "with due consideration to area representation and without regard to political affiliation." Non-attorney member appointments are subject to confirmation by a majority of both houses of the legislature, while attorney members are appointed by the Board of Governors of the Alaska Bar Association following advisory elections conducted among bar members within local judicial districts. Members are appointed for six-year staggered terms.

New members of the Council are Janis Roller of Anchorage, Dan Callahan of Fairbanks, and Mark Ashburn of Anchorage. Ms. Roller was appointed by Governor Cowper to fill the non-attorney seat vacated by Renee Murray of Anchorage. Ms. Roller resigned from the Council in February, 1991. Mr. Callahan was appointed by the Board of Governors to replace attorney Barbara Schuhmann of Fairbanks. Mr. Ashburn was appointed by the Board of Governors to replace attorney James Gilmore of Anchorage.

## **C. Organization and Administration of the Council**

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

Judicial Council activities are funded primarily by the legislature from the general fund. The Council may receive grants from other sources and has conducted much of its research with federal funding. In 1988, the federally-funded State Justice Institute made a grant to the Judicial Council of \$188,000 for evaluation of Alaska's ban on plea

bargaining and its relationship to presumptive sentencing. The grant has resulted in a report and several journal articles published in 1990 and 1991.

The Judicial Council's staff currently includes the executive director, senior staff associate, staff attorney, administrative assistant, and secretary. Additional temporary staff are employed as required for major research projects. Further, the Council executive director supervises the three staff persons of the Alaska Sentencing Commission.

## **Part II**

### **Judicial Selection and Evaluation 1989-1990**

## **Part II**

### **Judicial Selection and Evaluation 1989-1990**

#### **A. Judicial Selection**

Thirteen judicial vacancies occurred in 1989 and 1990. Five superior court judges retired from the bench in 1990, including Judges Craske (Sitka), Pegues (Juneau), Madsen (Kodiak), Carlson (Anchorage) and Jones (Kotzebue). Bethel superior court judge Gail Fraties died in August, 1989. Four district court judges resigned from the bench for other positions, including Judges Linn Asper (Juneau, 1989), Christopher Zimmerman (Fairbanks, 1990), David Stewart (Anchorage, 1990) and Ralph Stemp (Anchorage, 1990). Two judges moved to other judicial positions. Judge James Singleton of the Court of Appeals was appointed to the federal district court bench in Anchorage; Fairbanks district court judge Larry Zervos was appointed to the superior court vacancy in Sitka. Finally, the legislature created a new superior court judgeship in Kenai.

The Council nominated candidates for nine of these positions in 1989 and 1990, as well as filling the vacancy created in 1988 when Anchorage superior court judge Seaborn Buckalew retired from the bench. In addition, the Council made its nominations for Anchorage superior and district court vacancies (one each) in late January, 1991 and for the Kotzebue superior court in early February, 1991. Two district court seats (one each in Fairbanks and Anchorage) may be filled later in 1991. Appendix F gives the names of applicants, nominees and appointees for these positions, along with all other positions filled since statehood.

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

## **B. Judicial Selection Procedures**

The major change in judicial selection procedures in 1989 and 1990 was the renewed use of public hearings for each judicial vacancy (see Appendix D for a complete description of judicial selection procedures). Public hearings were conducted routinely in the early 1970s, and periodically throughout the Council's history. In 1990, the Council began to set aside a portion of each meeting at which judicial candidates were considered to take public comments and testimony. Participation has ranged from substantial (thirty or more persons attending) to sparse (four to six persons), depending on the community and the number of candidates. Citizens in smaller communities have been particularly interested in the opportunity to speak directly to the Council members.

## **C. Evaluation of Judges**

### **1. Retention Evaluation of Judges.**

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

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

Fourteen judges stood for retention in 1990. An additional seven judges were eligible to stand, but chose to not file for retention or resigned or retired prior to the August 1, 1990 deadline for filing notice with the Division of Elections. One judge who would have stood for retention was appointed to a new judicial position, and will not stand until 1994 for his new position. The judges who stood included one supreme

court justice, seven superior court judges, and six district court judges. All were found qualified and recommended for retention. All of the judges were retained with at least 60% yes votes (see Appendix G for an analysis of the 1990 vote).

The Council made major changes in its procedures for the 1990 retention evaluations (see Appendix G for a complete description of evaluation procedures). The first difference was increased public participation, including use of juror surveys and court watching, extensive use of public hearings throughout the state, greatly increased public education efforts during the evaluation phase, and increased public dissemination of the Council's recommendations immediately before the elections.

Another major change in the 1990 procedures was the inclusion of all sitting judges in the surveys of Alaska Bar Association members and Alaska peace and probation officers. The resulting survey booklets asked respondents to evaluate 52 judges. Despite the magnitude of the task, over 50% of the Bar respondents and slightly fewer peace and probation officers completed evaluations and returned them to the survey contractor. There were no observable problems with the quality of the data compiled that were related to the large size of the survey.

The third major change in the Council's 1990 retention evaluation procedures was beginning the evaluation process in January, 1990 (rather than April) to allow more time for evaluation. The additional time permitted more extensive public hearings, and gave more opportunities for Council staff to meet with community organizations to inform citizens about the retention evaluations. The Council also was able to make an earlier decision on its recommendations to permit the Division of Elections staff more time to prepare materials for the Official Election Pamphlet.

The Council reviewed its existing and new procedures after the 1990 elections, and asked for comments from all judges as well as the Retention Consultant Committee (an advisory committee with three representatives of the Bar, three sitting judges and a peace officer representative). Council members agreed to expand the use of juror

surveys to all retention judges in 1992, to continue to survey Bar members and peace and probation officers for all retention judges and all judges who will be standing at the 1994 retention election, and to continue statewide public hearings during retention evaluations.

2. Performance Evaluation of Pro Tem Judges.

The second evaluation of pro tem judges under Administrative Rule 23 (adopted by the supreme court in 1986) occurred in November, 1990. Judges Asper, Buckalew, Hanson and Stewart were evaluated through a survey of all members of the Alaska Bar Association. Evaluation results for each of the judges were approved by the Council and forwarded to the Chief Justice for his review. Judges Hanson and Stewart had also been evaluated as pro tem judges in 1988; Judges Asper and Buckalew were evaluated as pro tem judges for the first time.

The Council assessed its pro tem evaluation program in early 1991. Members decided to include the pro tem judges on the surveys with judges standing for retention in the future. No other major changes were made to the program.



## **Part III**

# **Reports and Recommendations**

## **Part III**

### **Reports and Recommendations**

#### **A. Introduction**

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

#### **B. Major Reports, 1989 and 1990**

The Council's major work during the past two years include a re-evaluation of Alaska's ban on plea bargaining, a history and analysis of appellate review of sentencing, a selected bibliography of rural justice literature, and a survey of the characteristics and concerns of Alaskan attorneys. Brief descriptions of each project follow. Appendices K through N contain additional materials from each report.

##### **1. Alaska's Plea Bargaining Ban Re-evaluated**

The ban on plea bargaining was instituted in 1975 by then-Attorney General Avrum Gross, and is still the official policy for state prosecutors. It was first evaluated by the Judicial Council in a 1978 study funded by the National Institute of Justice. The two-and-a-half year study to re-evaluate the ban was funded by the State Justice Institute, a federal agency that assists state courts.

The Council's major findings were that the Attorney General's screening and intake policies for charges referred by the police have significantly improved the quality of criminal cases filed in the state's courts; that most attorneys and judges agree that charge bargaining is frequent, despite the policy's prohibition; and that sentence bargaining was substantially curtailed in 1975 and remains very uncommon. The Council based its findings on over 200 interviews with prosecutors, judges, defense attorneys, police and defendants, and on statistical analysis of over 14,000 felony cases referred to prosecutors' offices throughout the state between 1984 and 1987. The Council also relied on data and interviews from its original analysis of the ban which had been published in 1978.

Charge bargaining appears to have occurred more often since 1985, according to the study. Factors that attorneys thought were responsible for more negotiations included changes in personnel in the Attorney General's office and the decline in state revenues in 1986 and 1987. The changes were not consistent throughout the state. The percentage of cases in which one or more charges were reduced or dismissed (indicating the possible presence of negotiations) was 52% of 1987 filed cases in Anchorage as compared to 35% of comparable cases in Fairbanks.

Sentencing changed substantially between the mid-1970s and the mid-1980s. Sixty-nine percent of offenders studied in Anchorage, Fairbanks, and Juneau served some jail time in 1986, as compared to only 51% in 1974-75. In addition to more offenders going to jail, sentence lengths increased. The total months sentenced for the Anchorage, Fairbanks, and Juneau offenders more than tripled between 1974-75, and 1986, going from about 7,400 to about 27,000 months. The total number of offenders sentenced to a jail term only doubled (from 292 in 1975-76 to 594 in 1986). The report suggests that changes in public thinking about crime, in theories about the effectiveness of rehabilitation, and similar societal factors played at least as important a role in the increased sentence lengths as did the ban on plea bargaining and the imposition of presumptive sentencing. The study found that sentences appeared to be fair, with no

evidence of racial disparity or substantial lack of uniformity among sentences imposed by different judges. The Council's recommendations are found in Appendix K.

## 2. Appellate Sentence Review in Alaska

A separate part of the study on plea bargaining and presumptive sentencing that was funded by the State Justice Institute looked at the history of appellate review of sentencing in Alaska and analyzed the interactions between presumptive sentencing statutes and case law on sentencing. The Council's report was published in the December, 1990 edition of the Alaska Law Review. The report found that the Court of Appeals, established in 1980 to handle most criminal appeals, had decided over 1,100 cases in its first ten years of work.

The Court of Appeals took an active role in interpreting the laws regarding sentences imposed under the new criminal code (adopted by the legislature in 1978 and effective January 1, 1980), as well as working to implement the legislature's stated purpose for its new sentencing scheme, which was to eliminate "unjustified disparity in sentences imposed on defendants convicted of similar offenses" (AS 12.55.005). Among the primary tools developed by the Court of Appeals to accomplish these objectives were the Austin guideline (the premise that normally a first felony offender should receive a more favorable sentence than the presumptive sentence for a second offender), benchmark sentences for several types of offenses (including second-degree murder, first offender class B offenders, and serious sexual offenders), and limits on the imposition of consecutive sentences. Appendix N contains a summary of the entire report and its recommendations.

## 3. Rural Justice Bibliography.

The Judicial Council agreed in 1987 to make improvement of access to justice in rural areas one of its priorities. To fulfill its commitment, it has made several applications to the State Justice Institute for funding, has provided technical assistance

and information to rural justice projects around the state as requested, and has compiled a selected bibliography of rural justice materials. The bibliography was largely completed in 1989 and 1990, and will be published in 1991.

Materials for the bibliography were drawn from the Judicial Council's own library, from archives in the University of Alaska libraries (especially those in Anchorage and Fairbanks), from the Court System's libraries, and from the private collections of numerous individuals who have been active in rural justice. General topics covered include courts, territorial justice, alcohol abuse, children and family issues, fish and game matters, alternative dispute resolution methods, and local government structures. More information about the bibliography and selected pages are incorporated as Appendix M.

#### 4. Alaska Bar Membership Survey.

A survey of all active members of the Alaska Bar Association was conducted by the Council, with the cooperation of the court system, the Alaska Bar Association, and several local Bar Associations. The survey collected demographic data about Bar members, information about their types of practices and income, and opinions about continuing legal education and other Bar Association services. The survey provided information that enabled the Council to assess the representativeness of Bar respondents to the Council's judicial selection and retention surveys. The Bar Association obtained information to evaluate the usefulness of its programs, and attorneys throughout the state benefitted from data about law practices in different communities.

The survey found that the "average" Alaskan lawyer was male, between the ages of 36 and 40, caucasian, and working for a private firm in Anchorage. Overall, 75% of the attorneys were male, but of the group that had been practicing six years or less, one-third were female. A larger percentage of women than men were government attorneys, and proportionately more attorneys in rural areas held government jobs than their urban counterparts. The survey also looked at the types of attorneys who applied for judgeships. The average applicant had 17 years of experience as an attorney, compared

to just over 10 years for those who had never applied. Lawyers with government positions were 25% more likely to apply than those in private practice.

### **C. Status of Earlier Council Recommendations**

The Council's Fourteenth Report contained its recommendations for new court rules and procedures related to media coverage of court proceedings. Most of the recommendations were adopted by the court in 1990, as Administrative Rule 50. The present rule appears to be satisfactory to judges, media and attorneys.

A 1987 report on investigative grand juries recommended that the court adopt a new rule (Ak. R. Crim. P. 6.1) regarding reports prepared by investigative grand juries. This rule was adopted by the Alaska Supreme Court effective January, 1989.

A second 1986 report recommended that arrangements and certain other criminal hearings be held without the physical presence of the defendant in certain cases. The defendant would take part in the proceedings from the jail by way of a two-way televised hookup. The use of television improves court security and greatly reduces the state's expenses for transporting prisoners. The Council's Fourteenth Report noted that a video arraignment system was expected to operate in Anchorage by mid-1989. A series of delays have postponed the project, and it was not working at the end of 1990. The Council continues to recommend the use of televised hearings, and to monitor the Anchorage project at the request of the supreme court.

### **D. Work in Progress**

#### **1. Child Visitation Mediation.**

The 1990 Legislature asked the Judicial Council to conduct a pilot program offering mediation services to parents disputing the visitation orders involving their children. The purpose of the project is to evaluate whether resolution of visitation

disputes through mediation rather than litigation results in better protection of the childrens' interests, as well as less litigation and increased reliability of child support payments.

Council staff developed mediation procedures, trained mediators, designed publicity for the program and began offering services by December 1990. At the end of the project's first three months, over 140 parents had asked to participate. About 35% did not qualify for the program, and of the remaining possible participants, 73% were disqualified because domestic violence or a pattern of harassment had marked the relationship.

The Council will report to the legislature in early 1992 about the number of persons served by the program and its effectiveness in meeting the legislature's goals. The report will include analysis of cases served by mediation, analysis of types of cases in which at least one party was interested but could not be served by the program, and a control group of cases in which the Judicial Council program was not tried. The legislature also requested that the Council report on the possible use of fees to support the program and other agencies that could appropriately administer the program on a more permanent basis. The project's handbook is included as Appendix O.

## 2. Alaska Sentencing Commission.

The 1990 legislature established the Alaska Sentencing Commission to evaluate the effect of sentencing laws and practices on the criminal justice system, and to make recommendations for improving sentencing practices. The Commission's fourteen members include the state's Attorney General, Commissioners of Corrections and Public Safety, the head Public Defender, a supreme court justice and superior court judge, designees of the President of the Senate and Speaker of the House, and six public members appointed by the Governor to represent victims' groups, Alaska Native concerns, law enforcement, and academic and rehabilitation expertise. The Commission, pursuant to the enabling legislation, asked the Judicial Council to provide staff direction

and assistance. The Executive Summary of the Commission's first annual report is included as Appendix P.

3. Rural Justice.

Rural areas of Alaska have developed a wide range of alternative dispute resolution mechanisms over the past two decades. Chief among these are village councils and tribal courts. Barrow has established a community-wide mediation project, and other communities have considered a variety of structures that could supplement or complement the services provided through the state court system. The Judicial Council has been asked by the Barrow Mediation project to assist in an evaluation of its cases. The Council has also designed an evaluation program that, if funded, could evaluate the Barrow project and compare it with other rural justice programs. An assessment of the roles of tribal courts and their interactions with the state courts also has been proposed to the legislature for funding in FY'92.

E. Administration

The Judicial Council's responsibilities in 1989 and 1990 extended beyond its judicial selection and evaluation and research functions. Participation in legal system planning and monitoring committees, technical assistance to the public and other governmental bodies, and liaison with the legislature all required commitment of Council time and resources. These additional activities are briefly described below. This section also covers staff changes, bylaws revisions and other administrative matters that arose during 1989 and 1990.

1. Committee Participation

The Council holds membership on three justice system groups: the Criminal Justice Working Group, the Video Arraignments Task Force, and the University of Alaska Anchorage Justice Center Advisory Board. The Criminal Justice Working Group



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

The executive director of the Judicial Council also sits on the Civil Rules Committee and the Public Information Task Force. The Civil Rules Committee was established by the Supreme Court to review all proposed changes to the Alaska Rules of Civil Procedure and to advise the court on these proposals. The Public Information Task Force was established by the court for the purpose of better educating the public about the judicial process.

## 2. Technical Assistance

The Judicial Council is called upon to provide assistance and information to a wide variety of community groups and public interests. In 1989 and 1990, staff responded to the public's need for information by answering questions from other agencies, referring citizens to appropriate agencies, advising nonprofit citizen's groups about the justice system, and providing information to organizations in other states about Alaska's judicial selection and retention methods or about the Council's research. In addition, staff responded to questions from citizens and applicants or judges about the selection and retention evaluation processes.

## 3. Legislative Liaison

The legislature looks to the Council for information about a wide range of topics. During the past two years, legislators, their staffs or the legislative research agencies

called on Council staff for testimony and written materials about presumptive sentencing, the three-judge panel, plea bargaining, misdemeanor sentencing, the grand jury, minorities, rural justice, and alternative dispute resolution. In addition, the Council regularly responds to requests for information about judicial selection and retention evaluation of judges.

#### 4. Staff Changes

The Council's former Executive Director, Harold M. Brown, left in July of 1989 to return to private practice. The Council's Director since January, 1990 has been William T. Cotton. Mr. Cotton had served as Court Rules Attorney for the Supreme Court from February, 1986, and previously worked as an attorney in private practice and as an Alaska Supreme Court law clerk.

## **Appendix A**

### **Catalogue of Current Law Relating to the Alaska Judicial Council**

# **Appendix A**

## **Catalogue 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).
15.13.010	Judges to file retention reports with APOC.
15.15.030(10)	Election ballot for judicial retention.
15.15.450	Certification of retention vote.
15.35.030	Approval/rejection of supreme court justice.

**ALASKA STATUTES (Continued)**

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

**ALASKA STATUTES (Continued)**

- |           |  |
|-----------|--|
| 22.05.080 | Duty to nominate supreme court justice candidates; vacancy occurs 90 days after election at which rejected or for which judge failed to file for retention.  |
| 22.05.100 | Duty to provide information to public on supreme court justice on retention.   |
| 22.05.130 | Restrictions on supreme court justice.   |
| 22.07.040 | Qualifications of court of appeals judges.   |
| 22.07.060 | Duty to provide information to public on court of appeals judge on retention.  |
| 22.07.070 | Duty to nominate court of appeals judge candidates; vacancy occurs 90 days after election at which rejected or for which judge failed to file for retention. |
| 22.07.080 | Restrictions on court of appeals judges.   |
| 22.10.090 | Qualifications of superior court judges.   |
| 22.10.100 | Duty to nominate superior court candidates; vacancy occurs 90 days after election at which rejected or for which judge failed to file for retention.         |
| 22.10.120 | Council to designate judicial district in which appointee to reside and serve.   |
| 22.10.150 | Duty to provide information to public on superior court judge on retention.  |
| 22.10.180 | Restrictions on superior court judges.   |
| 22.15.160 | Qualifications of district court judges.   |
| 22.15.170 | Duty to nominate district court judge candidates; vacancy occurs 90 days after election at which rejected or for which judge failed to file for retention.   |

## 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.
22.30.011	Responsibilities of the Commission on Judicial Conduct include public or private reprimand of a judge or referral to the Supreme Court for suspension or removal.
22.30.010	Council members may not serve on both Council and Commission on Judicial Conduct simultaneously.
24.20.075	Legislative recommendations of the Council to be reviewed by the Code Revision Commission.
24.55.330	Judicial Council subject to jurisdiction of Ombudsman.
39.05.035	Commission of office.
39.05.045	Oath of office.
39.05.070	Uniformity of appointment process.
39.05.080	Appointment procedure.
39.05.100	Qualifications for appointment.
39.05.200	Definitions.
39.20.110	Per Diem.
39.20.120	Allowable expenses.

**ALASKA STATUTES (Continued)**

39.20.130	Mileage.
39.20.140	Travel costs and travel out-of-state.
39.20.150	Advances.
39.20.160	Regulations.
39.20.170	Construction.
39.20.180	Transportation and per diem reimbursement of council members.
39.20.185	Per diem--when not entitled to.
39.20.190	Definitions.
39.20.200-.350	Leaves of absence.
39.23.240	State Officers Compensation Commission.
39.25.080	Public records.
39.25.090	State Personnel Act.
39.25.100	Classified service.
39.25.110(2),(10)	Staff exempt from coverage of State Personnel Act; Council members exempt.
39.25.178	Employee political rights.
39.27.011(a), Sec. 6	Cost of living increases for ch. 87 SLA 1985 employees of judicial branch.
39.30; 39.35; 39.45	Insurance and supplemental employee benefits; public employees' retirement system; public employees' deferred compensation program (refer to statutes).
39.50.010-.200(b)(15)	Report of financial and business interests.



## ALASKA STATUTES (Continued)

44.62.310

Requirement that Council meetings be open to the public.

44.62.312

State policy regarding meetings.

## RESOLUTIONS

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

Council to study grand jury.

## RULES OF COURT

Adm.R.23(a-b)

Pro tem judge performance evaluation by Council.

## ADMINISTRATIVE CODE

2 AAC 37.010

Judicial retirement for incapacity.

## STATE ADMIN. REGULATIONS

7602-7684 (State Administrative  
Manual)

Travel and moving.

**Appendix B**

**Judicial Council Membership**

## Members of the Alaska Judicial Council

Council Members	Appointment Effective	Expiration Date
CHIEF JUSTICE JAY A. RABINOWITZ ALASKA SUPREME COURT 303 "K" STREET ANCHORAGE, ALASKA 99501 264-0620 (Anch.) 452-9300 (Fbks.)	10/1/90	9/30/93
WILLIAM T. COUNCIL (ATTORNEY MEMBER) COUNCIL & CROSBY 424 N. FRANKLIN STREET JUNEAU, ALASKA 99801 586-1786 (Off.) 586-6523 (Res.) FAX: 586-1466	2/24/86	2/24/92
LEONA OKAKOK (NON-ATTORNEY MEMBER) P.O. BOX 957 BARROW, ALASKA 99723 852-0320 (Off.) 852-7650 (Res.) FAX: 852-0322	7/31/87	5/18/93
MARK E. ASHBURN (ATTORNEY MEMBER) ASHBURN & MASON 1130 W. 6TH AVENUE, SUITE 100 ANCHORAGE, ALASKA 99501 276-4331 (Off.) 276-0859 (Res.) FAX: 277-8235	3/23/90	2/24/96
DR. HILBERT HENRICKSON (NON-ATTORNEY MEMBER) 3612 TONGASS ROAD KETCHIKAN, ALASKA 99901 225-5144 (Off.) 225-5858 (Res.) FAX: 225-2173 (Ketchikan General Hospital)	8/13/85	5/18/91
(NON-ATTORNEY MEMBER) VACANT		2/18/95
DANIEL L. CALLAHAN (ATTORNEY MEMBER) SCHENDEL & CALLAHAN 613 CUSHMAN STREET FAIRBANKS, ALASKA 99701 456-1136 (Off.) 452-8867 (Res.) FAX: 451-8535	2/24/88	2/24/94

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

## Historical Roster of Alaska Judicial Council Members

Position	Residence	Appointment Effective	Expiration of Term
<b><u>CHAIRPERSON<sup>1</sup></u></b>			
<b><u>(Current Term Expires 9/30/93)</u></b>			
Chief Justice Buell A. Nesbett		11/29/59	06/18/70
Chief Justice George F. Boney		06/18/70	11/16/72
Chief Justice Jay A. Rabinowitz		11/16/72	11/16/75
Chief Justice Robert Boochever		11/16/75	11/16/78
Chief Justice Jay A. Rabinowitz		11/16/78	11/17/81
Chief Justice Edmond W. Burke		11/16/81	09/30/84
Chief Justice Jay A. Rabinowitz		10/01/84	09/30/87
Chief Justice Warren W. Matthews		10/01/87	09/30/90
Chief Justice Jay A. Rabinowitz		10/01/90	09/30/93
<b><u>ATTORNEY MEMBERS</u></b>			
<b><u>(Current Term Expires 2/24/92)</u></b>			
E.E. Bailey <sup>2</sup>	Ketchikan	02/24/59	02/24/62
E.E. Bailey	Ketchikan	02/24/62	02/24/68
Frank M. Doogan <sup>3</sup>	Juneau	10/15/68	04/73
Michael L. Holmes <sup>4</sup>	Juneau	05/73	02/24/74
Michael L. Holmes	Juneau	02/24/74	02/24/80
Walter L. Carpeneti <sup>5</sup>	Juneau	02/24/80	02/81
James B. Bradley <sup>4</sup>	Juneau	04/81	02/24/86
William T. Council	Juneau	02/24/86	02/24/92
<b><u>(Current Term Expires 2/24/94)</u></b>			
Robert A. Parrish <sup>2</sup>	Fairbanks	02/24/59	02/24/64
William V. Boggess <sup>5</sup>	Fairbanks	02/24/64	04/64
Michael Stepovich <sup>4</sup>	Fairbanks	05/64	02/24/70
Michael Stepovich	Fairbanks	02/24/70	02/24/76
Michael Stepovich <sup>3</sup>	Fairbanks	02/24/76	08/78
Marcus R. Clapp <sup>4</sup>	Fairbanks	08/78	02/24/82
Mary E. Greene <sup>3</sup>	Fairbanks	02/24/82	04/82
Barbara L. Schuhmann <sup>4</sup>	Fairbanks	07/82	02/24/88
Daniel L. Callahan	Fairbanks	02/24/88	02/24/94

## Historical Roster of Alaska Judicial Council Members

Position	Residence	Appointment Effective	Expiration of Term
<u>ATTORNEY MEMBERS (Continued)</u>			
<u>(Current Term Expires 2/24/96)</u>			
Raymond E. Plummer <sup>2, 3</sup>	Anchorage	02/24/59	09/26/61
Harold Butcher <sup>4</sup>	Anchorage	11/61	02/24/66
George F. Boney <sup>5</sup>	Anchorage	02/24/66	09/68
Lester W. Miller, Jr. <sup>4</sup>	Anchorage	10/15/68	02/24/72
Eugene F. Wiles <sup>3</sup>	Anchorage	02/24/72	03/75
Joseph L. Young <sup>4</sup>	Anchorage	04/75	02/24/78
Joseph L. Young	Anchorage	02/24/78	02/24/84
James D. Gilmore	Anchorage	02/24/84	02/24/90
Mark E. Ashburn	Anchorage	03/23/90	02/24/96
<u>NON-ATTORNEY MEMBERS</u>			
<u>(Current Term Expires 5/18/91)</u>			
Elmo LeRoy "Roy" J. Walker <sup>2</sup>	Fairbanks	05/18/59	05/18/61
John Cross	Kotzebue	05/18/61	05/18/67
Thomas K. Downes <sup>3</sup>	Fairbanks	05/18/67	Mid-1968
V. Paul Gavora <sup>4</sup>	Fairbanks	10/15/68	05/18/73
Thomas J. Miklautsch <sup>3</sup>	Fairbanks	05/28/73	12/10/74
Robert H. Moss <sup>4</sup>	Homer	12/10/74	05/18/79
Robert H. Moss	Homer	05/18/79	05/18/85
Dr. Hilbert J. Henrickson	Ketchikan	08/13/85	05/18/91
<u>(Current Term Expires 5/18/93)</u>			
Jack E. Werner <sup>2</sup>	Seward	05/18/59	05/18/63
Jack E. Werner	Seward	05/18/63	05/18/69
Ken Brady	Anchorage	06/28/69	05/18/75
Ken Brady	Anchorage	05/18/75	05/18/81
Mary Jane Fate	Fairbanks	05/18/81	05/18/87
Leona Okakok	Barrow	07/31/87	05/18/93

## Historical Roster of Alaska Judicial Council Members

Position	Residence	Appointment Effective	Expiration of Term
<u>(Current Term Expires 2/18/95)</u>			
Dr. William M. Whitehead <sup>2,3</sup>	Juneau	05/18/59	12/06/62
Charles W. Kidd <sup>4,3</sup>	Juneau	04/63	01/64
H. Douglas Gray <sup>4</sup>	Juneau	04/64	05/18/65
H.O. Smith <sup>6</sup>	Ketchikan	05/18/65	06/65
Pete Meland <sup>4</sup>	Sitka	01/66	05/18/71
Oral Freeman <sup>3</sup>	Ketchikan	11/22/71	01/73
Lew M. Williams, Jr. <sup>4</sup>	Ketchikan	04/73	05/18/77
John Longworthy	Petersburg	05/18/77	05/18/83
Renee Murray	Anchorage	08/08/83	05/18/89
Janis Roller <sup>3</sup>	Anchorage	09/01/89- 02/14/91	02/18/95

- <sup>1</sup> The Judicial Council initially submitted nominations for the position of Chief Justice; there was no limitation on the Chief Justice's term. Chief Justice Nesbett and Chief Justice Boney were nominated and appointed in this manner. The Constitution was amended on August 25, 1970 to provide for the election of the Chief Justice by the justices of the Supreme Court for a three-year term; the Amendment further provided that a Chief Justice may not be re-elected to consecutive terms.
- <sup>2</sup> Appointed to initial staggered term.
- <sup>3</sup> Resigned during term.
- <sup>4</sup> Appointed to complete unexpired term.
- <sup>5</sup> Resigned during term to apply for judicial office.
- <sup>6</sup> Denied legislative confirmation.

## **Appendix C**

### **Bylaws of the Alaska Judicial Council**

# **Appendix C**

## **Bylaws of the Alaska Judicial Council**

### **ARTICLE I POLICIES**

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

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

#### **Section 2. Concerning Retention of Judges.**

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

### **ARTICLE II MEMBERSHIP**

#### **Section 1. Appointment; Limitation of Term.**

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

#### **Section 2. Effective Date of Appointment.**

(A) Non-Attorney Members. The effective date of a non- attorney member's appointment to the Council shall be the day following the effective date of the vacancy



in the seat to which appointed, if appointed prior to such date; or the date of or specified in the gubernatorial letter of appointment, if appointed after such date. Non-attorney members shall have full voting rights effective upon said appointment date, unless and until denied confirmation by the legislature.

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

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

### Section 3. Oath of Office.

The Chairperson 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 Chairperson for good cause. If a member is absent without good cause for two consecutive meetings, the Chairperson 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 Chairperson, Vice-Chairperson and Executive Director.

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

(C) Vice-Chairperson. The Vice-Chairperson 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) Chairperson. The Chairperson 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 Chairperson will serve as Acting Director.

(B) Vice-Chairperson. The Vice-Chairperson shall preside at meetings of the Council in the absence of the Chairperson. The Vice-Chairperson shall perform such other duties as usually pertain to the office of the Chairperson when the Chairperson 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 Chairperson 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 Chairperson, 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 Chairperson shall call a special meeting of the Judicial Council within the time-frame required by law. The Chairperson 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 Chairperson 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 Chairperson shall only vote when to do so would change the result. The Council shall act by concurrence of four or more members. All votes shall be taken in public session. Any member can vote in the affirmative or negative or abstain on any matter; however, a member who wishes to abstain shall indicate his or her intention to do so prior to the question being called and shall disclose the reasons for such proposed abstention.

### Section 2.     Conflict of Interest; Disqualification.

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

### Section 3.     Quorum.

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

### Section 4.     Rules of Order.

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

## ARTICLE VI COMMITTEES

### Section 1. Standing Committees.

The Council shall establish such standing committees from time to time as may be deemed appropriate for the efficient and effective conduct of Council business. Standing committee assignments shall be made annually by the Chairperson. 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 Chairperson may direct the establishment of ad hoc committees from time to time as may be deemed appropriate. Ad hoc committees shall report to the Council on their activities and may make recommendations for Council action.

## ARTICLE VII RESEARCH AND INVESTIGATION

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

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

**Section 1.    Notice of Vacancy; Recruitment.**

Whenever a vacancy to be filled by appointment exists, or is about to occur, in any supreme court, court of appeals, superior court, or district court of this state, or in the office of public defender, the Council, by mail or by such other publication means as may be appropriate, shall notify all active members of the Alaska Bar Association of the vacancy, and shall invite applications from qualified judges or other members of the bar of this state for consideration by the Council for recommendation to the Governor. Council members may also encourage persons believed by such members to possess the requisite qualifications for judicial or public defender office to submit their applications for consideration and may cooperate with judicial selection committees of the state or local bar associations or of such other organizations as may be appropriate in the identification and recruitment of potential candidates.

**Section 2.    Application Procedure.**

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

**Section 3.    Evaluation and Investigation of Applicants' Qualifications.**

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

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

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

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

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

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

**ARTICLE IX  
REVIEW OF JUDICIAL PERFORMANCE**

Section 1. Retention Election Evaluation.

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



**Section 2. Recommendation.**

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

**Section 3. Judicial Performance Evaluation.**

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

**ARTICLE X  
EXTRA-COUNCIL COMMUNICATIONS**

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

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

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

**ARTICLE XI  
ACCESS TO COUNCIL RECORDS**

**Section 1. Public Records.**

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

Public Records include:

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

Section 2. Right to Privacy.

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

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

Section 3. Deliberative Process.

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

Section 4. Other Information.

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

Section 5. Privileged Communications.

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

Section 6. Release of Information.

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

**ARTICLE XII  
OFFICE OF JUDICIAL COUNCIL**

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

**ARTICLE XIII  
APPROPRIATIONS**

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

## **ARTICLE XIV AMENDMENTS**

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

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

# **Appendix D**

## **Judicial Selection Procedures**

## **Appendix D**

### **Alaska Judicial Council Judicial Selection Procedures**

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

#### **A. The Application Process**

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

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

Applicants are also encouraged to review the Code of Judicial Conduct (Alaska Rules of Court) during the evaluation period. Applicants should pay particular attention to Canon 7 of the Code of Judicial Conduct which applies to applicants for judicial positions from the time the application is filed.

## **B. The Evaluation Process**

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

### **1) The Bar Poll**

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

Completed survey forms are returned directly to the Justice Center, 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, the Justice Center does prepare an analysis showing relative quantitative rankings among candidates (e.g., 2nd highest average rating out of 10 candidates).

Comments from the bar survey are not shared with the individual applicant. They are distributed only to Council members. Where one or two isolated comments regarding substantive concerns are received, such comments are ordinarily brought to the candidate's attention, with the statement that the Council may wish to inquire about such matters at the interview. Council staff may also be asked to investigate and obtain documentation about such comments.

After all applicants have been notified of the survey results, the survey report is released to the public. Survey results are used by the Council members in the

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

2) Letters of Reference

The Council requests each applicant to submit the names of two general character references and three persons who can evaluate the applicant's professional competence. In addition to the names submitted by the candidates, the Council will request references from past employers. Letters of reference are also solicited by the Council in its evaluation process. These reference letters are treated as confidential and may not be viewed by the applicants. The Council does not forward solicited letters of reference to the Governor for nominees. Letters of reference not solicited by the Council may be forwarded to the Governor.

3) Investigation of Applicants

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

4) Public Hearing

The Council generally schedules a public hearing on the selection in the community where the judge will sit. The hearing is held when the Council meets to interview the candidates. [see below, (5)].

5) Interviews

Following its review of applications, survey data and other information, the Council schedules candidate interviews. As a general rule, the Council prefers to interview all candidates; however, the Council may decline to interview any candidate



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.

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

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

### **C. Timing of Judicial Selection Procedures**

From the time the Council receives notice of a vacancy to the final applicant interviews, the judicial selection process usually takes about 3 months. Once the names of the nominees have been submitted, the Governor has up to 45 days to appoint.

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

- 1) Notice of the vacancy or impending vacancy is received by the Council.
- 2) The position is announced to all members of the Bar Association and the application process begins.
- 3) The deadline for receiving applications is approximately three weeks after the announcement of the position.
- 4) The names and biographies of applicants are made public immediately after the filing deadline.

- 5) The Judicial Council begins its investigation process, requesting letters of reference, disciplinary histories for each applicant, and such other records as may be deemed appropriate.
- 6) The Bar Survey is mailed out to all active members of the Alaska Bar shortly after the close of applications.
- 7) Bar members have approximately three weeks to complete and return the Bar Survey. The results are tabulated and analyzed following the survey return deadline.
- 8) The candidates are advised of the bar survey results and the report is made public.
- 9) Applicant files are screened and applicants selected are advised of the time, date and place of their interviews.
- 10) Interviews are ordinarily held within the next 30 days. Interviews for the current judicial vacancy are tentatively scheduled for (Date and Place).

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

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

# **Alaska Judicial Council**

## **Procedures on the Day of the Interview**

### **PRIOR TO THE INTERVIEW:**

1. Interview times are scheduled as far in advance as possible. Candidates should advise the Council immediately if a conflict requires a change in schedule.
2. Interviews will be conducted in (site of interviews).
3. Candidates should plan to arrive 5-10 minutes prior to the interview time scheduled. A Council staff person will be stationed in the reception area. Please provide this staff person with a telephone number where you can be reached between 3:00 and 5:00 p.m. on the day of the interview, so that you may be personally notified of the Council's decision.

### **THE INTERVIEW:**

1. Interviews are scheduled at forty-five minute intervals.
2. Interviews are ordinarily conducted in executive session, although an applicant may request that the interview be conducted in public session.
3. During the interview, Council members may ask questions about an applicant's reputation, background, experience and judicial philosophy.

### **FOLLOWING THE INTERVIEW:**

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

2. The Council votes its nominations in public session. Generally, the Council returns to public session to vote within two hours after the last interview.

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

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

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

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

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

## **Appendix E**

### **Current Bar Survey Form for Judicial Selection (sample pages)**



# alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501 (907) 279-2526 FAX (907) 276-5046

EXECUTIVE DIRECTOR  
William T. Cotton

NON-ATTORNEY MEMBERS  
Hilbert J. Hennickson, M.D.  
Leona Okakok  
Janis G. Roller

ATTORNEY MEMBERS  
Mark E. Ashburn  
Daniel L. Callahan  
William T. Council

September 17, 1990

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

Dear Member of the Alaska Bar Association:

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

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

We ask that you complete and return the survey form no later than October 12, 1990 to the University of Alaska Anchorage, Justice Center, P.O. Box 240207, Anchorage, Alaska 99524-0207.

Very truly yours,

A handwritten signature in cursive script that reads "William T. Cotton".

William T. Cotton  
Executive Director

WTC:pjs

## Introduction

### Validation of Responses

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

### Confidentiality

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

### Return Date

Please complete and return this survey no later than **October 12, 1990** to:  
Justice Center, University of Alaska Anchorage, P.O. Box 240207, Anchorage, AK 99524-0207

\* \* \* \* \*

### Demographic Questions

1. Type of Practice  
Which of the following best describes your practice? (circle one)
  1. Private, solo
  2. Private, office of 2-5 attorneys
  3. Private, office of 6 or more attorneys
  4. Private corporate employee
  5. State judge or judicial officer
  6. Government
  7. Public service agency or organization (not government)
  8. Other (specify) \_\_\_\_\_
2. Length of Alaska Practice  
How many years have you been practicing law in Alaska? \_\_\_\_\_ years (total)
3. Gender  
\_\_\_\_\_ Male \_\_\_\_\_ Female
4. Cases Handled  
The majority of your practice consists of (circle one)
  1. Prosecution
  2. Mainly criminal
  3. Mixed criminal and civil
  4. Mainly civil
  5. Other (specify) \_\_\_\_\_
5. Location of Practice  
In which judicial district is most of your work conducted? (circle one)
  1. First district
  2. Second district
  3. Third district
  4. Fourth district
  5. Outside Alaska

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

**Basis for Evaluation**

Which of the following best describes the basis for your evaluation of this candidate? (check one)

- ☐ Direct professional experience      ☐ Professional reputation  
☐ Other personal contacts      ☐ Insufficient knowledge to evaluate this candidate (go to next candidate)

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

1.	Professional Competence	1 POOR Lacking in knowledge and/or effectiveness	2 DEFICIENT Below-average performance occasionally	3 ACCEPTABLE Possesses sufficient knowledge and required skills	4 GOOD Unusually knowledgeable and effective	5 EXCELLENT Meets the highest standards for knowledge and effectiveness
2.	Integrity	1 POOR Unconcerned with propriety and/or appearance, or acts in violation of codes of professional conduct	2 DEFICIENT Appears lacking in knowledge of codes of professional conduct and/or unconcerned with propriety or appearance at times	3 ACCEPTABLE Follows codes of professional conduct, respects propriety and appearance of propriety at all times	4 GOOD Above-average awareness of ethics, holds self to higher standards than most	5 EXCELLENT Outstanding integrity and highest standards of conduct
3.	Fairness	1 POOR Often shows strong bias for or against some persons or groups	2 DEFICIENT Displays, verbally or otherwise, some bias for or against groups or persons	3 ACCEPTABLE Free of substantial bias or prejudice towards groups or persons	4 GOOD Above-average ability to treat all persons and groups impartially	5 EXCELLENT Unusually fair and impartial to all groups
4.	Judicial Temperament	1 POOR Often lacks compassion, humility or courtesy	2 DEFICIENT Sometimes lacks compassion, humility or courtesy	3 ACCEPTABLE Possesses appropriate compassion, humility and courtesy	4 GOOD Above-average compassion, humility and courtesy	5 EXCELLENT Outstanding compassion, humility and courtesy
5.	Overall Professional Performance	1 POOR Seldom meets standards of the profession	2 DEFICIENT Occasionally falls short of professional standards	3 ACCEPTABLE Consistently meets professional standards	4 GOOD Often exceeds professional standards	5 EXCELLENT Meets highest standards of the profession

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

- Professional Skills (legal reasoning, knowledge of the law, legal experience, writing and speaking skills);
- Temperament (courtesy, compassion, freedom from arrogance, humility, self-control, sense of humor, tolerance);
- Diligence (conscientiousness, promptness, effective management skills);
- Suitability of this candidate's experience and character to this particular vacancy.

Please be candid. All comments are confidential. Use additional comment space on pages 22, 23, 24, 25 and 26.



### Additional Comments

Please note any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. Be sure to indicate the name of the applicant to whom your comments refer.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**Note:** Be sure to include your signature in the return address portion of the Business Reply Envelope. Without your signature, we cannot tabulate your survey.

**Appendix F**

**Judicial Appointment Log**

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
7/16-17/59	Supreme Court (3 positions)	William V. Boggess Robert Boochever J. Earl Cooper Edward V. Davis John H. Dimond John S. Hellenthal Walter Hodge Verne O. Martin M.E. Monagle Buell A. Nesbett Thomas B. Stewart	William V. Boggess Robert Boochever John H. Dimond Walter Hodge M.E. Monagle Buell A. Nesbett	John H. Dimond Walter Hodge Buell A. Nesbett
10/12-13/59	Superior - Ketchikan/ Juneau	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 judgeships 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

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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
3/12-13/60	Supreme Court Justice	Judge H.O. Arend William V. Boggess Edward V. Davis Vern Forbes Verne O. Martin John Maude Robert McNealy M.E. Monagle Ralph E. Moody Warren A. Taylor Judge James von der Heydt	Judge H.O. Arend William V. Boggess M.E. Monagle	H.O. Arend
4/15/60	Superior - Fairbanks	Henry Camarot Roger G. Connor Verne O. Martin Jay A. Rabinowitz William H. Sanders David Talbot Warren A. Taylor George M. Yeager	Jay A. Rabinowitz Warren A. Taylor	Jay A. Rabinowitz
3/17/62	Superior - Anchorage	Clifford Groh Dorothy A. Haaland Ralph E. Moody William H. Sanders	Clifford Groh Ralph E. Moody	Ralph E. Moody

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
5/23-24/63	Superior - Anchorage	Burton C. Biss Wayne D. Caldenwood Judge Hubert A. Gilbert R. Everett Harris Judge Jay A. Rabinowitz James K. Tallman William Taylor	Burton C. Biss Judge Hubert A. Gilbert	Hubert A. Gilbert
10/17-18/63	Superior - Nome	Peter J. Kalamarides William H. Sanders L. Eugene Williams George T. Yates	William H. Sanders L. Eugene Williams Goerge T. Yates	William H. Sanders
1/7-8/65	Superior - Fairbanks	Clyde C. Houston Eugene V. Miller Mary Alice Miller J.H. Shortell, Jr. Howard P. Staley Warren Wm. Taylor James E. Fisher Judge William H. Sanders Thomas B. Stewart J. Gerald Williams	Mary Alice Miller Eugene V. Miller Warren Wm. Taylor	Warren Wm. Taylor
Jan. 1965	Supreme Court Justice	W.C. Arnold William V. Boggess Harold J. Butcher Edward V. Davis Judge Ralph E. Moody Judge Jay A. Rabinowitz Judge William H. Sanders	W.C. Arnold William V. Boggess Edward V. Davis Judge Ralph E. Moody Judge Jay A. Rabinowitz	Jay A. Rabinowitz

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
6/12/67	Superior - Anchorage (General)	James R. Clouse, Jr. Eben H. Lewis Robert N. Opland Judge William H. Sanders J. Gerald Williams	James R. Clouse, Jr. Eben H. Lewis J. Gerald Williams	Eben H. Lewis
6/1-2/67	Superior - Anchorage (Family)	Harris R. Bullerwell Harold J. Butcher James R. Clouse, Jr. Duane K. Craske Dorothy A. Haaland Judge William H. Sanders J. Gerald Williams L. Eugene Williams Virgil D. Vochoska Verne O. Martin	Harold J. Butcher James R. Clouse, Jr.	Harold J. Butcher
12/5/67	Superior - Ketchikan	Harris R. Bullerwell Duane K. Craske Benjamin T. Delahay, Jr. Judge Hubert A. Gilbert Helen L. Simpson John M. Stern, Jr. Judge William H. Sanders	Duane K. Craske Judge Hubert A. Gilbert John M. Stern, Jr.	Hubert A. Gilbert

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
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 Fitzgerald	George F. Boney Roger G. Connor
11/1/68	District - Juneau	Hartley Crosby William H. Hurley, Jr. W. Bruce Monroe Irwin Ravin	Hartley Crosby W. Bruce Monroe	Hartley Crosby W. Bruce Monroe
11/1/68	District - Sitka	Peter M. Page Irwin Ravin	Peter M. Page	Peter M. Page



## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
4/3/70	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
6/18/70	Supreme Court Justice	Robert C. Erwin L.S. Kurtz, Jr. Judge Eben H. Lewis Judge C.J. Occhipinti Robert A. Parrish Judge William H. Sanders	Robert C. Erwin L.S. Kurtz, Jr. Judge Eben H. Lewis Robert A. Parrish	Robert C. Erwin
9/16-19/70	Superior - Sitka	Edmond W. Burke Victor D. Carlson Warren C. Christianson M. Ashley Dickerson Judge James A. Hanson Henry C. Keene, Jr. James Nordale Thomas E. Schulz J.H. Shortell, Jr. James K. Singleton, Jr.	Edmond W. Burke Victor D. Carlson Judge James A. Hanson Thomas Schulz James K. Singleton, Jr.	Victor D. Carlson

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting 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.

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
7/8/72	District - Kodiak	Louis E. Agi Benjamin T. Delahay, Jr. Edith A. Glennon Thomas F. Keever Francis van T. Kernan Thomas B. Payne Andrew R. Sarisky Virgil D. Vochoska	Louis Agi Thomas F. Keever Francis van T. Kernan Virgil D. Vochoska	Virgil D. Vochoska

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
1/11/75	Superior - Fairbanks	James R. Blair Judge Hugh Connelly Judge Roger W. DuBrock	James R. Blair Judge Hugh Connelly Judge Roger W. DuBrock	James R. Blair
2/12-13/75	Supreme Court Justice	Judge Edmond W. Burke William V. Boggess	Judge Edmond W. Burke William V. Boggess	Edmond W. Burke
2/12-13/75	District - Anchorage	Alexander O. Bryner Gary W. Gantz Laurel Peterson	Alexander O. Bryner Gary W. Gantz Laurel Peterson	Alexander O. Bryner
4/1/75	District - Juneau	Richard A. Bradley Gerald O. Williams	Richard A. Bradley Gerald O. Williams	Gerald O. Williams
4/1/75	District - Wrangell	Duane K. Craske George Gucker Francis van T. Kernan	Duane K. Craske George Gucker Francis van T. Kernan	Duane K. Craske
5/16/75	Public Defender	Douglas A. Fox Brian Shortell Herbert D. Soll Ronald T. West	Douglas A. Fox Brian Shortell Herbert D. Soll	Brian Shortell
5/16/75	Superior - Anchorage	Judge Victor D. Carlson Robert E. Hammond Richard P. Kerns David Pree J. Justin Ripley Helen L. Simpson Benjamin O. Walters, Jr.	Judge Victor D. Carlson Richard P. Kerns J. Justin Ripley Benjamin O. Walters, Jr.	J. Justin Ripley
8/20/75	Superior - Kodiak	Roy H. Madsen Milton M. Souter	Roy H. Madsen Milton M. Souter	Roy H. Madsen



## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
8/22/75	District - Fairbanks	Clay Berry Monroe Clayton Stephen R. Cline Francis van T. Kernan Edward Noonan	Monroe Clayton Stephen R. Cline	Monroe Clayton
9/17/75	District - Anchorage	Clay Berry Bruce Bookman Susan Burke Stanley Howitt Laurel Peterson Bruce Tennant	Susan Burke Laurel Peterson	Laurel Peterson
9/18/75	Superior - Anchorage	Russell E. Arnett Judge Victor D. Carlson	Russell E. Arnett Judge Victor D. Carlson	Victor D. Carlson
1/8-9/76	Superior - Anchorage	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
3/15/76	District - Valdez	John Bosshard, III James D. Ginotti Robin Taylor	John Bosshard, III James D. Ginotti Robin Taylor	John Bosshard, III
8/31/76	Superior - Sitka	Joseph D. Balfe Judge Alexander O. Bryner Donald L. Craddick Judge Duane K. Craske Edward Stahla	Judge Alexander O. Bryner Judge Duane K. Craske	Duane K. Craske

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
9/23/76	Superior - Fairbanks	Judge Monroe Clayton Judge Hugh Connelly Jay Hodges	Judge Monroe Clayton Judge Hugh Connelly Jay Hodges	Jay Hodges
10/18/76	Superior - Bethel	Christopher Cooke Stephen Cooper	Christopher Cooke Stephen Cooper	Christopher Cooke
10/18/76	District - Homer	James P. Doogan, Jr. Henry Holst James C. Hornaday Jack McGee Anita Remerowski David Walker	James P. Doogan, Jr. James C. Hornaday	James C. Hornaday
12/13/76	District - Wrangell	Robin Taylor Larry D. Wood	Robin Taylor Larry D. Wood	Robin Taylor
2/1-2/77	Superior - Anchorage	Judge Alexander O. Bryner Mark C. Rowland Judge Thomas E. Schulz	Judge Alexander O. Bryner Mark C. Rowland Judge Thomas E. Schulz	Mark C. Rowland
4/14/77	Supreme Court Justice	William V. Boggess Warren Matthews Daniel A. Moore, Jr. William G. Ruddy Judge James K. Singleton, Jr.	William V. Boggess Warren Matthews Daniel A. Moore, Jr. William G. Ruddy Judge James K. Singleton, Jr.	Warren Matthews
6/29/77	District - Anchorage	Glen C. Anderson William D. Cook Beverly W. Cutler Richard Lytle James Wolf	Glen C. Anderson William D. Cook Beverly Cutler	Beverly W. Cutler

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
12/14/77	Superior - Anchorage	Bruce A. Bookman William Erwin William H. Fuld Eugene Murphy Milton M. Souter Benjamin O. Walters, Jr. Richard Weinig	Bruce A. Bookman William H. Fuld Milton M. Souter Benjamin O. Walters, Jr.	Milton M. Souter
12/14/77	District - Fairbanks	Robert Blackford Stephen R. Cline Dallas L. Phillips L. Eugene Williams	Stephen R. Cline Dallas L. Phillips L. Eugene Williams	Stephen R. Cline
2/10/78	District - Anchorage	Glen C. Anderson L. Eugene Williams Ethan Windahl	Glen C. Anderson L. Eugene Williams Ethan Windahl	Glen C. Anderson
9/17/79	Superior - Anchorage	Albert Branson Robert Bundy Harland Davis LeRoy DeVeaux Sheila Gallagher Max Gruenberg Karl S. Johnstone Carolyn Jones Judge Laurel Peterson Arthur Robinson Douglas Serdahely Brian Shortell D. Ralph Stemp	Sheila Gallagher Karl S. Johnstone Douglas J. Serdahely Brian Shortell	Karl S. Johnstone

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
9/17/79	District - Anchorage	Charles R. Avery James Bendell Robert Frenz Lucy Lowden Donald Starks Elaine Vondrasek George Weiss L. Eugene Williams	Charles R. Avery L. Eugene Williams	Charles R. Avery
3/20/80	Superior - Kotzebue	William D. Cook Paul B. Jones Irwin Ravin Edward Welch Richard J. Whittaker	Paul B. Jones Richard J. Whittaker	Paul B. Jones
6/20/80	Appellate - Anchorage (3 positions)	Susan A. Burke Alexander O. Bryner Judge James A. Hanson Daniel Hickey Thomas F. Keever Judge Roy H. Madsen Charles Merriner Peter A. Michalski Judge Ralph E. Moody Robert N. Opland A. Lee Petersen Judge Thomas E. Schulz Judge James K. Singleton, Jr. D. Ralph Stemp Judge Warren Wm. Taylor	Alexander O. Bryner Robert G. Coats Judge James A. Hanson Judge Roy H. Madsen Charles Merriner A. Lee Petersen Judge Thomas E. Schulz Judge James K. Singleton, Jr.	Alexander O. Bryner Robert G. Coats James K. Singleton, Jr.

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
9/15/80	District - Fairbanks	Hershel Crutchfield Robert Downes Natalie Finn Jane F. Kauvar Christopher E. Zimmerman	Robert Downes Jane F. Kauvar Hershel Crutchfield	Hershel Crutchfield
11/1/80	Supreme Court Justice	Judge Victor D. Carlson Judge Allen T. Compton John Havelock Andrew Kleinfeld Arthur Peterson William G. Ruddy Judge James K. Singleton, Jr. Donna Willard	Judge Victor D. Carlson Judge Allen T. Compton Andrew Kleinfeld William G. Ruddy Judge James K. Singleton, Jr.	Allen T. Compton
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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
1/23/81	District - Fairbanks	Hershel Crutchfield Robert Downes Jane F. Kauvar Brett M. Wood Thomas F. Keever	Robert Downes Jane F. Kauvar	Jane F. Kauvar
3/31/81	Public Defender	David Berry Ben Esch Dana Fabe Rene J. Gonzalez Nancy Shaw Sue Ellen Tatter Roy V. Williams	Dana Fabe Rene J. Gonzalez Sue Ellen Tatter Roy V. Williams	Dana Fabe
4/28-29/81	Superior - Juneau	Linn H. Asper Walter L. Carpeneti James Douglas Douglas L. Gregg Peter M. Page Rodger W. Pegues Richard Svobodny Judge Robin Taylor	Walter L. Carpeneti Douglas L. Gregg Peter M. Page Rodger W. Pegues Judge Robin Taylor	Rodger W. Pegues

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
5/28-29/81	District - Anchorage	Elaine Andrews Thomas Boedecker Stephanie Cole James V. Gould Brigitte McBride Jess Nicholas Robert Rehbock John Scukanec Arthur Talbot Ronald T. West James Wolf Thomas Turnbull	Elaine Andrews Stephanie Cole James V. Gould Jess Nicholas	Elaine Andrews
9/3/81	Superior - Kenai	Charles Cranston Charles Merriner Timothy Rogers Andrew R. Sarisky	Charles Cranston Charles Merriner	Charles Cranston
9/28/81	Superior - Juneau	Walter L. Carpeneti Peter M. Page	Walter L. Carpeneti Peter M. Page	Walter L. Carpeneti
9/3/82	Superior - Palmer	Judge Glen C. Anderson Judge Beverly W. Cutler LeRoy DeVeaux Carolyn Jones Charles Merriner Sigurd Murphy Thomas J. Yerbich	Judge Glen C. Anderson Judge Beverly W. Cutler LeRoy DeVeaux	Beverly W. Cutler
9/30/82	Superior - Barrow	Michael Jeffery Timothy Stearns	Michael Jeffery Timothy Stearns	Michael Jeffery

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
9/30/82	Superior - Wrangell	Richard Folta Judge Henry C. Keene, Jr. Dennis L. McCarty Robin Taylor	Judge Henry C. Keene, Jr. Robin Taylor	Henry C. Keene, Jr.
2/15-16/83	District - Ketchikan	Barbara Blasco James Bruce Roger Carlson George Gucker Dennis L. McCarty Richard J. Whittaker	Barbara Blasco George Gucker	George Gucker
2/15-16/83	District - Anchorage (2 positions)	Allen Bailey Eugene Cyrus Natalie Finn William H. Fuld Eric Hanson Donald Johnson 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



## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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.
11/29/83	Superior - Anchorage	Cynthia Christianson LeRoy DeVeaux William Erwin Gary W. Gantz William Greene Karen Hunt Joan M. Katz Suzanne Pestinger	LeRoy DeVeaux William Erwin Karen Hunt Joan M. Katz	Karen Hunt
5/16/84	Superior - Valdez	Judge John Bosshard, III Hal P. Gazaway (withdrew) Patrick Owen (withdrew) Gordon J. Tans	Judge John Bosshard, III Gordon J. Tans	John Bosshard, III

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
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
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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
3/27-28/85	Wrangell - Superior	James L. Bruce John B. Gaguine (withdrew) Thomas M. Jahnke Dennis L. McCarty T.W. Patch Drew Peterson John Peterson (withdrew) David T. Walker	Thomas M. Jahnke Dennis L. McCarty David T. Walker	Thomas M. Jahnke
4/7-8/86	Bethel - Superior	Gail Roy Fraties James D. Ginnoti L. Ben Hancock Laurie H. Otto Bryan E. Schuler Timothy H. Stearns	Gail Roy Fraties L. Ben Hancock Bryan E. Schuler	Gail Roy Fraties
3/20/87	Fairbanks - Superior	Gary Foster Paul R. Lyle (withdrew) Dick L. Madson (withdrew) Richard D. Savell D. Rebecca Snow Niesje J. Steinkruger Patrick J. Travers Larry C. Zervos Judge Chris E. Zimmerman	Richard D. Savell D. Rebecca Snow Judge Chris E. Zimmerman	Richard D. Savell
6/20/87	Palmer - District	Peter G. Ashman Dennis P. Cummings John Thomas Maltas Daniel Weber Mark I. Wood	Peter G. Ashman Mark I. Wood	Peter G. Ashman

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
7/14/88	Fairbanks - District	S. Joshua Berger James H. Cannon Patrick B. Cole Monte Engel J. John Franich Raymond Funk James M. Mullen Charles R. Pengilly Kenneth P. Ringstad, Jr. Fleur L. Roberts Larry C. Zervos	James H. Cannon Raymond Funk Charles R. Pengilly Larry C. Zervos	Larry C. Zervos
7/15/88	Fairbanks - Superior	Gary Foster J. John Franich Raymond Funk Judge Jane F. Kauvar Charles R. Pengilly D. Rebecca Snow Niesje J. Steinkruger Judge Chris E. Zimmerman	D. Rebecca Snow Niesje J. Steinkruger	Niesje J. Steinkruger

## Historical Log of Judicial Appointments\*

### 1959 - Present

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

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
5/8/89	Anchorage - Superior	Terry Aglietti Jacob Allmaras Judge Glen Anderson Don Bauermeister Dan Dennis William Donohue Phillip Eide Judge William Fuld David Mannheimer Nelson Page John Reese Judge David Stewart Benjamin O. Walters, Jr. Larry Wood	Judge Glen Anderson David Mannheimer Nelson Page John Reese Judge David Stewart	John Reese
5/9/89	Juneau - District	Margaret Berck Peter Froehlich Pat Conheady David Walker Monte Brice David Ingram Stephen Pearson	Margaret Berck Peter Froehlich	Peter Froehlich
11/20/89	Bethel - Superior	Dale O. Curda Lawrence Delay Jonathan Link Allison Mendel Joseph Slusser Richard Whittaker	Dale O. Curda Allison Mendel Jonathan Link	Dale O. Curda

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
6/5/90	Kenai - Superior (new position)	Thomas Boedeker Jonathan Link Peter Mysing Arthur S. Robinson Judge Michael Wolverton	Jonathan Link Arthur S. Robinson Judge Michael Wolverton	Jonathan Link
6/25/90	Juneau - Superior	Judge Thomas M. Jahnke Margot O. Knuth Ronald W. Lorensen Richard A. Svobodny David T. Walker Larry R. Weeks	Judge Thomas M. Jahnke Margot O. Knuth Ronald W. Lorensen Larry R. Weeks	Larry R. Weeks
8/6/90	Sitka - Superior	Theron J. Cole Dennis L. McCarty J. Michael Robbins Elizabeth L. Shaw Edward A. Stahla Larry C. Zervos	Elizabeth L. Shaw Larry C. Zervos	Larry C. Zervos
8/26/90	Court of Appeals	Judge Glen C. Anderson David Mannheimer Susan Orlansky	Judge Glen C. Anderson David Mannheimer Susan Orlansky	David Mannheimer
8/27/90	Fairbanks - Superior	Teresa Foster Brimner Robert B. Downes Raymond Funk Charles R. Pengilly Fleur Louise Roberts Wm. Ronald Smith	Teresa Foster Brimner Raymond Funk Charles R. Pengilly	Charles R. Pengilly



## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
11/18/90	Kodiak - Superior	L. Ben Hancock Donald D. Hopwood Craig S. Howard Carolyn E. Jones Susan S. McLean Anna M. Moran T.W. Patch J. Michael Robbins (wdrew)	Donald D. Hopwood Carolyn E. Jones Susan S. McLean	Donald D. Hopwood
11/19/90	Homer - District	Lynn H. Christensen Thomas H. Dahl Ronald W. Drathman Monte Engel (withdrew) Virginia Marie Espenshade James A. Farr Donald D. Hopwood Carolyn E. Jones M. Francis Neville Fate Putman (withdrew) J. Michael Robbins (wdrew) Daniel William Westerburg	Lynn H. Christensen Donald D. Hopwood Carolyn E. Jones M. Francis Neville Daniel William Westerburg	M. Francis Neville

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
1/20-21/91	Anchorage - District	Louis E. Agi Dennis Cummings Steven D. DeVries James A. Farr Carolyn E. Jones Charlene Lichtmann (withdrew) John R. Lohff Kevin F. McCoy Gregory J. Motyka James Ottinger John A. Scukanec Benjamin O. Walters, Jr.	Carolyn E. Jones John R. Lohff Kevin F. McCoy	John R. Lohff
1/21-22/91	Anchorage - Superior	Judge Glen C. Anderson Judge Elaine M. Andrews Bruce A. Bookman Stephen E. Branchflower Robert D. Frenz Kenneth P. Jacobus Thom F. Janidlo Carolyn E. Jones John R. Lohff J. Frank Prewitt, Jr. Richard Brock Shamberg James T. Stanley Richard J. Willoughby Judge Michael Wolverton Larry D. Wood	Judge Glen C. Anderson Judge Elaine M. Andrews Bruce A. Bookman Judge Michael Wolverton	Elaine M. Andrews

## Historical Log of Judicial Appointments\*

### 1959 - Present

Meeting Date	Position	Candidates	Nominated	Appointed
2/8/91	Kotzebue - Superior	Richard H. Erlich James A. Farr Gayle L. Garrigues Eric Smith Janna Stewart (withdrew)	Richard H. Erlich Eric Smith	Richard H. Erlich

# **Appendix G**

## **Retention Evaluation Procedures**

## **Appendix G**

### **Alaska Judicial Council Retention Evaluation Program**

Alaska's statutes require the Alaska Judicial Council to evaluate each judge standing for retention election, and to make its evaluations and any recommendations public prior to the election. The Judicial Council also evaluates pro tem judges (retired judges sitting pro tem by order of the supreme court) at the request of the supreme court and may evaluate other judges. The procedures used by the Council, and the results of evaluations conducted since 1976 are outlined in the following paragraphs.

#### **I. Retention Evaluation Procedures**

Retention evaluations were first authorized by the legislature in 1976. The evaluation procedures have evolved since that time into a thorough, objective review of each judge. The Council tried several new procedures in 1990 on a pilot basis, and has revised the 1992 procedures based on its experience.

The procedures fall into three general categories. First are the professional evaluations, which include surveys of all Alaska Bar Association members and all active peace and probation officers, as well as questionnaires sent to selected attorneys who have had demonstrated experience before each judge. Second are the materials specific to each judge, which include a questionnaire completed by the judge, a list of five major cases handled by the judge, and a review of a wide range of public information including court case files, Alaska Public Offices Commission conflict-of-interest filings, and Commission on Judicial Conduct public records. The third aspect of the evaluations is public input. In 1990, this included public hearings at seventeen locations throughout the state, and newspaper ads encouraging public comment (both oral and written) during the evaluation period. The Council reviews all of the materials obtained and may interview the judge personally before making its final evaluation and recommendation. Once the evaluations are completed and the Council has made its recommendations, it publishes the results in newspapers throughout the state and in the Official Election Pamphlet published by the Lieutenant Governor.

## **A. Professional Evaluations**

### **1. Surveys.**

The Council surveys all active members of the Alaska Bar Association and all peace and probation officers in the state who handle state criminal cases. In 1990, approximately 2,300 attorneys and 1,100 peace and probation officers were surveyed. About 52% of the attorneys, and a slightly lower percentage of the peace and probation officers responded, which is considered by survey specialists to be a relatively high response rate for mail surveys.

Bar members evaluate all judges; peace and probation officers evaluate all judges except appellate judges, before whom they do not appear. Peace and probation officers do not evaluate trial judges on legal abilities. The ten to twenty areas of evaluation for each judge include impartiality, integrity, administrative skills, judicial temperament, legal skills and knowledge, and overall performance. Respondents are encouraged to add comments, based on their experience with each judge. See Attachment A for sample pages.

The surveys are conducted by independent contractors for the Judicial Council, to assure objectivity in the findings. For most of the analysis, only respondents who reported direct professional experience with the judge being evaluated are used. Analysis takes into account the respondent's type of practice, location within the state, and other demographic variables. Draft results are shared with each judge prior to the Council's evaluation meeting; the final report is available to the public and sent to media throughout the state.

### **2. Counsel Questionnaires.**

Each judge provides the Judicial Council with a list of five cases that the judge believes were significant during his or her most recent term in office. The Council contacts all of the attorneys in each case, sending a brief questionnaire that asks about the judge's fairness, legal abilities, temperament and administrative handling of the case. Most attorneys contacted return these questionnaires. The comments typically are not strikingly different from the survey findings. However, they provide evidence from attorneys who have had proven substantial experience with the judge, and the corroboration of the survey findings is extremely helpful in the evaluations. The

comments from the counsel questionnaires are shared with the judges, after minor changes are made to assure anonymity, and the questionnaires are used by the Council members in arriving at their final evaluations.

**B. Judges' Materials**

**1. Judge's Questionnaire.**

Each judge is asked to fill out a short questionnaire that gives the Council information about the types of cases handled during the previous term, legal or disciplinary matters the judge may have been involved in, and health matters that could be related to the judge's ability to perform judicial duties. The questionnaire also asks the judge to describe satisfaction with judicial work during the previous term and to make any comments that would be helpful to the Council in its evaluations.

**2. Other Records.**

Council staff review a series of other public records, including conflict-of-interest annual statements filed with the Alaska Public Offices Commissions and separate forms filed with the court system, court case files, and Commission on Judicial Conduct public files. Performance-related court data, such as the number of peremptory challenges filed against a judge and the number of reversals on appeal are also reviewed. The performance-related data are scrutinized carefully, however, because the type of caseload or judge's location may play a major part in the numbers of challenges or appeals and reversals. A domestic relations judge assigned 6,000 cases in one year is likely to have more challenges (and possibly more appellate reversals) than a judge handling 1,000 criminal and civil cases.

**3. Interviews.**

Any judge may request an interview with the Judicial Council. The Council, in turn, may ask judges to speak with the Council members during the final stages of the evaluation process, to respond to concerns raised by attorneys, peace or probation officers, or citizens.

### C. Public Input

The Council encourages input from the public with a wide variety of techniques. In 1990, a special effort was made to obtain public comment; many of the procedures adopted then will be used in future evaluations. Among these were public hearings, juror surveys, and publicizing the evaluation process. The public input is shared with each judge and considered together with all of the other information about the judge gathered by the Council.

#### 1. Juror Surveys.

In 1990, for the first time since 1980, the Council surveyed jurors for their opinions on the performance of judges. The surveys provided useful information to the Council and will be used again in 1992. While jurors tend to rate judges more positively than do attorneys and peace officers, their opinions are a valuable aid to an overall evaluation.

#### 2. Public Hearings.

Public hearings for all judges standing for retention were conducted throughout the state in 1990, using the legislature's teleconference network and public meeting rooms. Participation at the hearings was encouraged through newspaper ads and public service announcements on radio and television stations throughout the state. While juror surveys provided largely positive information about judicial performance, public hearings tended to attract persons who were less satisfied with judicial decisions. The two procedures offered some balance to each other, giving the Council the opportunity to view a range of opinions.

#### 3. Other Publicity.

The evaluation process was publicized widely through use of frequent press releases, personal contacts with radio and television stations, and submission of feature articles to newspapers. Council staff appeared on several radio and television shows. Community organizations such as Rotary clubs, Chambers of Commerce and community councils invited staff to speak about the retention elections and citizen opportunities to participate. The Victims for Justice courtwatchers' group provided information to the Council about the retention judges who had been evaluated by that group.



#### **D. Dissemination of Results**

By law, the Council must make its evaluations and recommendations public at least sixty days prior to the election, and must also submit materials to the Lieutenant Governor's Official Election Pamphlet. Sample materials are attached as Attachment B. In 1990, besides complying with both of these requirements, a series of advertisements detailing the Council's recommendations were published in newspapers statewide in the week immediately before the election. Council staff may also meet with community organizations to provide information about the recommendations.

## **II. Results of Evaluations**

The Council has evaluated judges standing for retention since 1976. In every election between 1976 and 1982, the Council found most of the judges qualified, and recommended their retention. All of the judges found qualified were retained, most by substantial margins. Vote analyses for all years since 1976 indicate that typically judges receive from 60 to 70% "yes" votes in the Third Judicial District (which includes Anchorage, Palmer, the Kenai Peninsula and Kodiak), and from 70 to 75% "yes" votes in the other judicial districts (see Attachment C for voting pattern analyses). The effects of the Council's recommendations, and of campaigns opposing judges must be measured against the typical voting patterns.

#### **A. Judges Found "Not Qualified"**

The Council found one or two judges not qualified for retention in each of the years between 1976 and 1982. All of the judges were district court judges; all were evaluated by both Bar and peace officers as "below acceptable" on most of the evaluation criteria, including legal ability and overall performance. The judges were retained, although by significantly lower vote totals than most judges in their districts, in 1976, 1978 and 1980. In 1982, the two judges found unqualified were not retained, having only received about 45% "yes" votes in each case. Reasons suggested for the difference between the 1982 election and prior elections included increasing reliance on Judicial Council recommendations as voters grew more familiar with them; a number of very controversial ballot issues that may have generated more general interest in the elections; and low "yes" vote totals for all judges in the Third Judicial District in 1982 may have

been correlated with a minority of "yes" votes for the two judges found unqualified by the Council.

During the years 1984 through 1990, most judges have been found qualified, and all have been retained in office. The only judge found unqualified by the Council since 1982 was a superior court judge found unqualified in 1988, based on information including "below acceptable" ratings from attorneys and some peace officers on integrity, impartiality and some of the judicial temperament criteria. That judge was retained, although with significantly fewer "yes" votes than typical for that year.

#### **B. Campaigns Against Judges**

Several judges experienced campaigns against their retention from various public groups. For the most part, campaigns against judges have not been mounted until shortly before the election date. Opponents have been aware of the Code of Judicial Conduct provision (Canon 7 B(3)) that prohibits judges from campaigning until opposed. By waiting until just before the election, opponents have the advantage of being able to prepare and raise funds while the judge cannot raise funds or prepare until after the first instance of public attack. Two substantial campaigns against supreme court justices were waged, in 1980 and in 1988. Both justices were retained, but by lower margins than most other judges. In 1984, and to a lesser extent in the other years, grass roots campaigns were conducted against some trial court judges. For the most part, they were not well-organized and had little effect on voters' actions.

#### **C. Effectiveness of Council Evaluations**

The effectiveness of the Council's evaluation process has been assessed twice, once formally in 1979 in a survey sponsored by the Council of 1978 voters, and once informally in a student-run survey of voters as they were leaving the polls in 1990. In both instances, some voters said that they always voted either for or against all judges. Others said they discriminated, voting yes for some judges and no on others, based on personal experience or information available to them. Those voters were more likely to say that they had read the Judicial Council's recommendations or had used them in their voting.

Outside of these surveys, one good example of the effectiveness of the Council's recommendations came from the 1990 elections. Although all judges were found qualified, and the Council recommended "yes" votes on each, one Third Judicial District judge was rated well above acceptable by the Bar, and below acceptable by peace and probation officers. No group campaigned against this judge. The other two superior court judges in the Third Judicial District were retained by margins of 63% "yes" votes; he was retained by 61% "yes" votes. He received about 2,600 more "no" votes than the other Third District superior court judges. The "no" vote percentages were higher in many precincts in the Third District, not just in precincts where he regularly sat as judge. The voting results suggest that many voters used the information in the Official Election Pamphlet, which showed low scores from peace and probation officers and high scores from attorneys, to make their own decisions about how to vote.

#### **D. Judicial Retirements**

The relatively low percentage of judges against whom the Council recommends, and the even lower percentage of judges rejected by the voters, has been cited by some as evidence that Alaska's retention election system does not work. The Council believes that it is evidence of the quality both of Alaska's non-political merit selection system for judges and of the quality of Alaska's judiciary.

Another factor not immediately obvious is that a significant number of judges choose to retire rather than stand for retention. In 1990, twenty-two judges were eligible to stand for retention. Seven of these judges took themselves off the ballot voluntarily. While this decision had little to do with the retention election and the Council's evaluation in the majority of cases, these factors probably did play a part in judges' decisions to retire in a few cases.

### **III. Other Judicial Evaluations**

The Council has conducted two other types of judicial performance evaluation.

#### **A. Pro Tem Judge Evaluations**

The supreme court mandated Council evaluations of pro tem judges by court rule (Administrative Rule 23) in 1987. Results of the pro tem evaluations are sent to the

Chief Justice, who combines them with presiding judges' evaluations and other materials to determine whether judges should continue to serve pro tem for another two-year term. The first judges were evaluated in 1988, and a second group of four were evaluated in 1990. Most pro tem judges are retired superior court judges who serve for a few days, up to a few months per year. Because retired district court judges can only sit pro tem on district court cases, they are not used as frequently by the court. However, former district court judge Linn Asper from Juneau sat periodically throughout the last two years, and was evaluated with the other pro tem judges. The pro tem evaluation program is described in the text of the Council's Fifteenth Report.

**B. General Judicial Performance Evaluation**

The 1990 surveys of Bar and peace and probation officers included every active judge in Alaska. The purpose was to give judges not standing for retention an opportunity to assess their performance before having to stand for retention. This process has been requested by judges since at least 1980, and has been supported by the Council for the same period. However, funds were not available until 1990 to support the additional costs of including all sitting judges. Despite the large number of judges in the surveys (51), the response rate was substantially higher than in 1988, because of the follow-up procedures used. Results of the survey were distributed to the individual judges. The Council voted to survey in 1992 for all retention judges (16), and for all judges who would be eligible to stand for retention in 1994 (26) rather than including all judges.

# Attachment A

SUPREME COURT

JUSTICE ALLEN T. COMPTON

## Basis for Evaluation

1. Which of the following best describes the basis for your evaluation of this justice? (CIRCLE THE ONE MOST IMPORTANT)

1. Direct professional experience
2. Written opinions only
3. Professional reputation
4. Social contacts

9. Insufficient knowledge to evaluate this judge (GO ON TO NEXT JUDGE) \_\_\_\_\_

2. Which best describes the amount of your experience with this justice? (CIRCLE ONE)

1. Substantial
  2. Moderate
  3. Limited
  4. None
- \_\_\_\_\_

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

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

## Impartiality

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

## Integrity

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

## Judicial Temperament

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

## Overall Evaluation

14. Overall evaluation of justice's legal ability, impartiality, integrity and judicial temperament	1	2	3	4	5	9 _____
---	---	---	---	---	---	---------

Comments: Please add any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. If more space is needed, use pages (14, 25, 36, 48, 57) in this survey booklet or attach another sheet of paper.

## THIRD JUDICIAL DISTRICT SUPERIOR COURT

JUDGE DANA FABE

## Basis for Evaluation

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

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

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

## Impartiality

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

## Integrity

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

## Judicial Temperament

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

## Administrative Skills

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

## Overall Evaluation

23. Overall evaluation of judge's legal ability, impartiality, integrity and judicial temperament	1	2	3	4	5	9
---	---	---	---	---	---	---

Comments: Please add any comments that you believe would aid the Judicial Council in its evaluations. These comments are anonymous to protect the confidentiality of the respondent. If more space is needed, use pages ( 14, 25, 36, 48, 57 ) in this survey booklet or attach another sheet of paper.

## Attachment B

# ALASKA'S JUDICIAL EVALUATION AND RETENTION SYSTEM

---

Alaska's judges are appointed by a merit selection system. They periodically appear on the ballot after appointment to allow the voters to decide whether the judges should be retained in office. These procedures were established in the Alaska Constitution and statutes to assure the appointment of qualified judges and the accountability of judges to the public throughout their tenure. Retention elections for judges are both nonpartisan and unopposed. Each judge stands for retention based on his or her record of judicial performance. If a judge is not retained in office, the position becomes vacant and a new judge is appointed by the merit selection system.

The Alaska Judicial Council is charged under Alaska statutes with evaluating judges up for retention elections and making recommendations to the voters. The Judicial Council is a state agency, independent from the court system, created by the Alaska Constitution. The Council consists of six non-paid citizens with the chief justice of the Alaska Supreme Court as chairperson. Three of the six Council members are non-attorneys and three are attorneys.

The Judicial Council is required by law to publish its evaluation and recommendations on judges standing for retention election in the Official Election Pamphlet. These evaluations and recommendations are contained in the following pages. This introduction describes the methods the Council used to evaluate judges and summarizes the Council's recommendations. A biographical statement, provided and paid for by the judge if the judge wishes, is printed on the page before the Alaska Judicial Council's evaluation of that judge's performance.

For the 1990 General Election, the Judicial Council has evaluated one supreme court justice and fourteen trial court judges. These judges were all found to be **QUALIFIED** and all are recommended for retention:\*

**SUPREME COURT:** Justice Warren W. Matthews

**SUPERIOR COURT:** Judge Walter L. (Bud) Carpeneti, First Judicial District  
Judge Thomas E. Schulz, First Judicial District  
Judge Charles R. Tanley, Second Judicial District  
Judge Charles K. Cranston, Third Judicial District  
Judge J. Justin Ripley, Third Judicial District  
Judge Brian Shortell, Third Judicial District  
Judge Richard D. Savell, Fourth Judicial District

**DISTRICT COURT:** Judge Peter B. Froehlich, First Judicial District  
Judge Elaine M. Andrews, Third Judicial District  
Judge Martha Beckwith, Third Judicial District  
Judge Michael L. Wolverton, Third Judicial District  
Judge H. E. (Ed) Crutchfield, Fourth Judicial District  
Judge Jane F. Kauvar, Fourth Judicial District  
Judge Larry C. Zervos, Fourth Judicial District

\*Only information regarding the supreme court justice and judges serving the districts pertinent to the pamphlet is included on the following pages.

# ALASKA'S JUDICIAL EVALUATION AND RETENTION SYSTEM

---

The Judicial Council did not make recommendations on the following judges due to stand for retention because these judges announced their retirement and thus will not appear on the ballot:

**SUPERIOR COURT:** Judge Rodger W. Pegues, First Judicial District  
Judge Paul B. Jones, Second Judicial District  
Judge Victor D. Carlson, Third Judicial District  
Judge Roy H. Madsen, Third Judicial District

**DISTRICT COURT:** Judge Ralph Stemp, Third Judicial District  
Judge David C. Stewart, Third Judicial District  
Judge Christopher E. Zimmerman, Fourth Judicial District

## JUDICIAL EVALUATION PROCEDURES

The Judicial Council conducted a comprehensive evaluation of the judges up for retention election before making its recommendations. First, the Council surveyed all of the peace and probation officers in Alaska. Forty-eight percent of the approximately 1,200 officers responded to the survey which asked the officers to rate the trial judges in 16 categories.

Second, the Council surveyed all of the approximately 2,300 attorneys in the state for their evaluation of the retention judges. Fifty-three percent of the attorneys responded to the survey which asked that they rate the trial court judges in 21 categories and supreme court justice in 12 categories.

The summary of evaluation information for each retention judge on the following pages presents the attorney, peace officer and probation officer survey scores for several of the more significant categories. Also, five summary scores are presented in a graph for each judge. The ratings are on a five point scale with "1" as the lowest score, "5" as the highest, and "3" as acceptable. A complete copy of the survey results may be obtained by calling or writing the Alaska Judicial Council, 1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501; (907) 279-2526.

Third, the Judicial Council aggressively sought input from the public on the retention of judges. Jurors, witnesses, litigants, crime victims and other interested members of the public all had differing and valuable perspectives on the judges up for retention. The Council sought public comments through public hearings, paid newspaper ads asking for public input, and public service announcements. Public hearings were held using the state teleconference system in 15 Alaska communities. Council staff also addressed various business and civic groups in order to encourage comments and increase public awareness of the retention process.

The Council established on an experimental basis a Citizens' Retention Advisory Committee in Anchorage to help the Council receive and evaluate public comments. The committee conducted courtwatching, sent out surveys to jurors, held public hearings, interviewed the Anchorage judges up for retention, and sent its recommendations to the Judicial Council. The recommendations of the Citizens' Retention Advisory Committee and the juror survey results, if applicable, are included in the following pages.

Fourth, the Council sought other information about the judges from a variety of sources. A background investigation was completed on each judge, including a court records check, a disciplinary records check and a review of conflict-of-interest statements. In addition to the survey results described above, attorneys, peace officers, probation officers, jurors, litigants and members of the public were encouraged to submit written comments. The courtwatching program initiated by the Victims for Justice organization submitted an evaluation of two retention judges which was reviewed by the Council.

The Judicial Council members carefully reviewed all of this information before voting to recommend that all of the judges who will be on the ballot this year be retained. The Council's recommendations and a summary of the evaluation information which formed the basis of the recommendations follow.



# SUPERIOR COURT JUDGE

## BRIAN SHORTELL, Third Judicial District

### I. JUDICIAL COUNCIL EVALUATION

The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska Constitution, finds Judge Shortell to be **QUALIFIED** and recommends that the public vote "YES" to retain him as a superior court judge.

### II. SUMMARY OF EVALUATION INFORMATION

The survey of about 2,300 attorneys in Alaska rated Judge Shortell in the good category on his overall judicial performance (4.0, see below). He scored highest in the categories of "conducts self in a manner free from impropriety" (4.3), and "maintains proper control over courtroom" (4.2). He scored above 3.5 in all 21 categories.

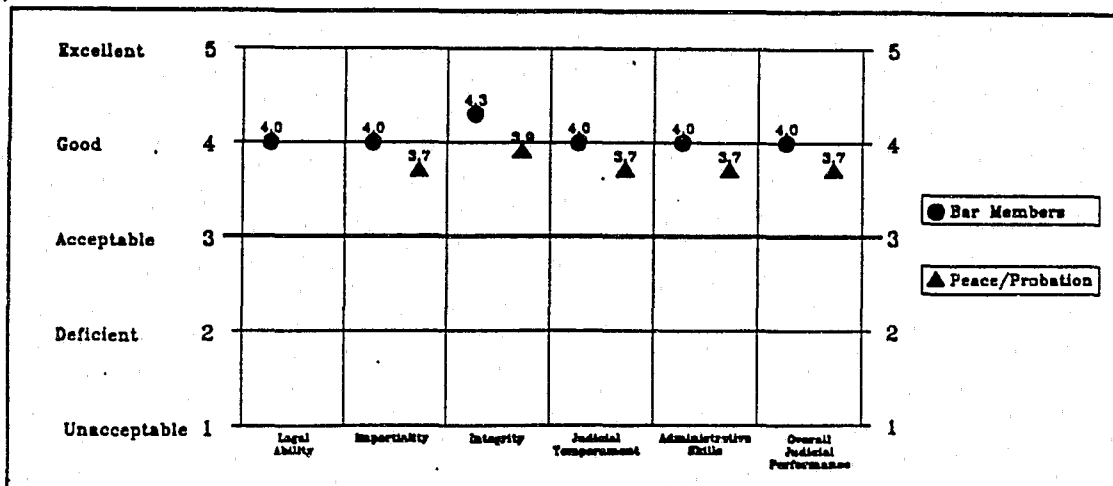
The survey of about 1,200 peace and probation officers in Alaska gave Judge Shortell an overall rating in the upper range of the acceptable category (3.7, see below). He scored highest in the categories of "ability to find facts; interpret the law" (3.9), and "conducts self in a manner free from impropriety" (3.9). He scored 3.5 or better in all 16 categories.

A sample of 16 Anchorage jurors who were asked to rate Judge Shortell gave him an outstanding evaluation (13 excellent, 3 good). Comments included, "An excellent judge," and "If I had to appear, this would be the type of judge I would want to be in front of."

The Anchorage Citizens' Retention Advisory Committee unanimously recommended that Judge Shortell be retained. The Committee especially appreciated his commitment to resolve the complex civil cases that comprise his caseload.

The Council completed a background investigation including a court records check, a disciplinary records check and a review of conflict-of-interest statements. Attorneys, peace officers and probation officers were asked for comments on the judge. The Council actively encouraged the public to comment, either in writing or in public hearings held in 15 communities. These and other investigations revealed nothing to indicate that Judge Shortell should not be retained.

In summary the Judicial Council concluded that the evaluation information showed Judge Shortell to be a qualified judge who should be retained.



Editor's Note: Complete survey results are available by calling or writing the Alaska Judicial Council at 1029 West Third Avenue, Suite 201, Anchorage, Alaska 99501; (907) 279-2526. General information on the retention evaluation process is contained on pages --.



# alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1917 (907) 279-2526 FAX (907) 276-5046

EXECUTIVE DIRECTOR  
William T. Cotton

## Attachment C

NON-ATTORNEY MEMBERS  
Hilbert J. Henrickson, M.D.  
Leona Okakok  
Janis G. Roller

ATTORNEY MEMBERS  
Mark E. Ashburn  
Daniel L. Callahan  
William T. Council

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

## MEMORANDUM

**TO:** Judicial Council

**FROM:** Staff *WTC*

**DATE:** March 26, 1991

**RE:** Analysis of 1990 Retention Vote Patterns

This memo serves as an addendum to the Council's earlier memos that analyzed voting patterns between 1976 and 1988. Fourteen judges stood for retention in 1990 (a fifteenth, Judge Zervos from Fairbanks, was on the ballot, but was appointed to a superior court seat in Sitka shortly before the election, making his retention as a Fairbanks judge moot). All of the fourteen were found qualified by the Judicial Council and recommended for retention. All were retained, by more than 60% "yes" votes.

The number of "yes" and "no" votes cast for each judge are shown in Table A. The vote tallies were certified by the Division of Elections on November 29, 1990. Table B shows the "yes" vote percentages for every judge evaluated by the Council since 1976, together with the Bar survey scores (Overall Performance, for experienced raters only) and peace and probation officer survey scores for trial court judges.

Most judges received "yes" vote percentages between 65% and 72%. This pattern was comparable to voting patterns in 1986 and 1988. The two Juneau judges each received more than 72%, with Judge Froehlich retained with 73% "yes" votes, and Judge Carpeneti retained with 76% "yes" votes. The two Anchorage superior court judges each received 63% "yes" votes and the other Third Judicial District superior court judge received 61%.

Third Judicial District superior court judges often receive fewer "yes" votes than their counterparts in other judicial districts. This often appears to be related to high

percentages of voters in rural precincts voting against all of the judges. The judge who received 61% "yes" votes had been found above acceptable by Bar members, but below acceptable by peace and probation officers. Because these ratings were published in the Official Election Pamphlet (together with the Council's recommendations), individual voters may have decided to vote against only this particular judge, despite the Council's recommendation of retention. Interestingly, this judge also received more total votes (see Table A) than the other two superior court judges in the same district despite serving in a much smaller community. This fact also suggests that some voters went out of their way to cast a vote on his retention.

**Table A**  
**1990 Retention Vote Totals**

District	Justice/Judge	"Yes" Votes		"No" Votes		Total Votes
		Number	Percent	Number	Percent	
<b>Supreme</b>	Matthews	110,036	65%	58,897	35%	168,933
<b>1st District</b>	Carpeneti	19,059	76%	6,147	24%	25,206
	Schulz	17,802	72%	7,093	28%	24,895
	Froehlich	17,892	73%	6,545	27%	24,437
<b>2nd District</b>	Tunley	5,308	72%	2,024	28%	7,332
<b>3rd District</b>	Cranston	62,891	61%	40,098	39%	102,989
	Ripley	64,720	63%	37,863	37%	102,583
	Shortell	64,813	63%	37,435	37%	102,248
	Andrews	69,286	67%	33,491	33%	102,777
	Beckwith	67,850	66%	34,475	34%	102,325
	Wolverton	67,242	66%	34,817	34%	102,059
<b>4th District</b>	Savell	22,815	69%	10,462	31%	33,277
	Crutchfield	22,876	69%	10,146	31%	33,022
	Kauvar	23,258	70%	9,974	30%	33,232
1. Total number of registered voters				300,467		
2. Number that actually voted				197,540	65.7%	
3. Number that voted in U.S. House race (Young/Devens)				191,647		
4. % of all who voted, who voted in the U.S. House race					97.0%	
5. Number and % of all who voted, who voted for or against Justice Matthews				168,933	85.5%	

**Table B-1**  
**Retention Vote Analysis, Trial Judges**  
**1976 - 1982**

Judge	1976			1978			1980			1982		
	Bar*	PPO	Vote**	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote
<b>First Judicial District</b>												
<b>Superior Court</b>												
Carpeneti												
Compton							4.1	4.0	76.1%			
Craske							3.7	3.0	70.4%			
Jahnke												
Pegues												
Schulz				3.9	2.6	74.8%						
Stewart, T.	4.2	3.8	72.8%									
<b>District Court</b>												
Asper												
Craske	3.8	3.7	78.2%									
Froehlich												
Gucker												
Keene				3.1	3.6	73.9%				3.5	4.1	76.4%
Taylor, R.				3.8	3.2	75.1%						
Williams	2.3	3.4	71.5%				2.2	3.9	59.1%			
<b>Second Judicial District</b>												
<b>Superior Court</b>												
Jeffery												
Jones												
Tunley												

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

**Table B-1**  
**Retention Vote Analysis, Trial Judges**  
**1976 - 1982**

Judge	1976			1978			1980			1982		
	Bar*	PPO	Vote**	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote
<b>Third Judicial District</b>												
<b>Superior Court</b>												
Bosshard												
Buckalew	3.7	3.1	62.2%							3.9	3.4	59.9%
Carlson				3.9	3.2	67.4%						
Cutler												
Cranston												
Gonzalez												
Hanson							3.0	2.8	54.7%			
Hunt												
Johnstone										not evaluated		52.0%
Kalamarides	3.0	3.1	64.2%									
Katz												
Madsen				2.8	3.1	64.1%						
Michalski												
Moody				3.3	3.5	64.6%						
Ripley				3.5	3.5	67.8%						
Rowland							3.8	3.6	61.0%			
Serdahely												
Shortell												
Singleton							4.0	3.3	missing			
Souter										3.6	3.2	56.4%

**Table B-1**  
**Retention Vote Analysis, Trial Judges**  
**1976 - 1982**

Judge	1976			1978			1980			1982		
	Bar*	PPO	Vote**	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote
<b>Third Judicial District</b>												
<b>District Court</b>												
Anderson							4.1	3.6	63.7%			
Andrews										4.1	3.7	66.1%
Ashman												
Beckwith												
Bosshard				3.6	3.8	67.1%				3.6	3.5	57.9%
Brewer				2.7	2.7	55.6%				2.6	2.7	45.5%
Bryner	4.2	2.7	66.2%									
Cutler				3.8	2.8	69.5%				4.0	3.0	63.0%
Finn												
Fuld												
Hornaday				3.1	3.1	66.6%				3.2	4.1	59.8%
Mason	3.3	3.2	63.7%				3.1	3.1	57.8%			
Peterson	3.6	3.9	68.3%									
Stemp												
Stewart, D.												
Tucker				2.9	2.8	64.9%				2.8	3.1	54.5%
Vochoska				2.7	2.8	51.6%				2.7	2.4	42.3%
White												
Wolverton												

**Table B-1**  
**Retention Vote Analysis, Trial Judges**  
**1976 - 1982**

Judge	1976			1978			1980			1982		
	Bar*	PPO	Vote**	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote
<b>Fourth Judicial District</b>												
<b>Superior Court</b>												
Blair				3.7	3.7	73.4%						
Cooke							3.2	2.5	68.4%			
Greene												
Hodges							3.5	3.1	65.7%			
Taylor, W.							3.1	3.8	72.8%			
Van Hoomisen							3.5	4.1	72.3%			
<b>District Court</b>												
Clayton	3.9	3.8	75.9%				3.7	3.3	missing			
Cline							2.5	2.6	55.5%			
Connelly				3.8	4.0	74.3%				3.8	4.0	71.8%
Crutchfield										3.7	3.8	67.9%
Kauvar										3.6	2.9	68.7%
Miller				3.3	3.0	62.2%						
Savell												
Zimmerman												



**Table B-2**  
**Retention Vote Analysis, Trial Judges**  
**1984 - 1990**

Judge	1984			1986			1988			1990		
	Bar*	PPO	Vote**	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote
<b>First Judicial District</b>												
<b>Superior Court</b>												
Carpeneti	4.4	3.6	77.0%							4.5	4.2	76%
Compton												
Craske				3.9	3.2	72.5%						
Jahnke							4.0	4.1	72.3%			
Pegues	3.5	3.7	75.4%									
Schulz	3.8	3.2	74.1%							3.6	3.3	72%
Stewart, T.												
<b>District Court</b>												
Asper				4.0	2.2	72.5%						
Craske												
Froehlich										3.6	4.2	73%
Gucker	3.8	2.1	67.9%				3.3	3.1	71.1%			
Keene												
Taylor, R.												
Williams												
<b>Second Judicial District</b>												
<b>Superior Court</b>												
Jeffery				3.5	3.5	76.3%						
Jones	3.4	3.5	75.6%									
Tunley	3.8	2.9	71.4%							3.7	3.8	72%

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

**Table B-2**  
**Retention Vote Analysis, Trial Judges**  
**1984 - 1990**

Judge	1984			1986			1988			1990		
	Bar*	PPO	Vote**	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote
<b>Third Judicial District</b>												
<b>Superior Court</b>												
Bosshard							3.2	3.3	68.6%			
Buckalew												
Carlson	3.6	4.1	63.6%									
Cranston	4.1	3.1	65.1%							3.8	2.9	61%
Cutler				3.9	3.7	68.9%						
Gonzalez							3.5	2.8	65.2%			
Hanson												
Hunt							4.1	3.4	72.3%			
Johnstone							2.9	3.2	58.1%			
Kalamarides												
Katz							3.7	3.7	70.5%			
Madsen	3.1	3.1	62.1%									
Michalski							3.5	3.9	69.9%			
Moody												
Ripley	3.4	3.7	64.2%							3.6	3.9	63%
Rowland				3.6	3.9	69.6%						
Serdahely	4.1	3.7	68.1%									
Shortell	3.8	3.5	67.4%							4.0	3.7	63%
Singleton												
Souter							3.7	3.5	68.7%			

**Table B-2**  
**Retention Vote Analysis, Trial Judges**  
**1984 - 1990**

Judge	1984			1986			1988			1990		
	Bar*	PPO	Vote**	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote
<b>Third Judicial District</b>												
<b>District Court</b>												
Anderson	4.1	3.8	72.4%				4.2	4.0	74.3%			
Andrews				4.1	4.0	71.2%				4.2	4.2	67%
Ashman							4.4	3.4	70.6%			
Beckwith				3.7	3.7	69.8%				3.6	3.7	66%
Bosshard												
Brewer												
Bryner												
Cutler												
Finn	4.1	4.0	72.4%				4.1	4.0	72.8%			
Fuld	3.6	3.7	68.3%				3.5	3.5	68.5%			
Hornaday				3.1	3.9	67.2%						
Mason	3.2	2.8	58.1%				3.2	3.0	68.2%			
Peterson												
Stemp				3.3	4.0	67.8%						
Stewart, D.				4.0	3.6	70.5%						
Tucker												
Vochoska												
White				3.8	3.9	70.5%						
Wolverton										4.3	4.0	66%

**Table B-2**  
**Retention Vote Analysis, Trial Judges**  
**1984 - 1990**

Judge	1984			1986			1988			1990		
	Bar*	PPO	Vote**	Bar	PPO	Vote	Bar	PPO	Vote	Bar	PPO	Vote
<b>Fourth Judicial District</b>												
<b>Superior Court</b>												
Blair	3.4	3.8	65.4%									
Cooke												
Greene							4.2	2.4	67.6%			
Hodges				3.4	3.2	69.2%						
Taylor, W.												
Van Hoomisen				3.4	4.0	72.2%						
<b>District Court</b>												
Clayton												
Cline												
Connelly				3.6	3.9	74.2%						
Crutchfield				3.5	3.6	71.3%				3.5	3.4	69%
Kauvar				3.4	3.4	72.0%				3.6	3.6	70%
Miller												
Savell										3.9	4.2	69%
Zimmerman				4.0	3.8	74.8%						

**Table C**  
**Supreme Court "Yes" Vote Percentages**

<b>Supreme Court</b>	Boochever	1976	67.8%
	Burke	1978	68.6%
	Rabinowitz	1978	67.8%
	Matthews	1980	53.5%
	Connor	1982	61.5%
	Compton	1984	69.7%
	Moore	1986	69.1%
	Burke	1988	72.9%
	Rabinowitz	1988	59.0%
	Matthews	1990	65.1%

## **Appendix H**

### **Retention Log of Judges**

## Appendix H 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	04/04/75	78, 88	98
Allen T. Compton	12/12/80	84	94
Warren W. Matthews	05/26/77	80, 90	00
Daniel A. Moore, Jr.	07/10/83	86	96
Jay A. Rabinowitz	02/21/65	68, 78, 88	98

**II. COURT OF APPEALS JUDGES - Retention Dates: First general election held more than 3 years after appointment; every 8 years thereafter.**

Judge	Appointed	Prior Retention Elections	Next Retention Election
Alexander O. Bryner	07/30/80	84	92
Robert G. Coats	07/30/80	84	92
David Mannheimer*	10/11/90	—	94

**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	96
Larry C. Zervos*	09/14/90	—	94
Thomas M. Jahnke	05/11/85	88	94
Larry Weeks*	09/03/90	—	94
Thomas E. Schulz	11/16/73	78, 84, 90	96

## Retention Election Log (Continued)

### SUPERIOR COURT JUDGES (Continued)

#### *B. Second Judicial District*

Judge	Appointed	Prior Retention Elections	Next Retention Election
Michael I. Jeffery	10/28/82	86	92
Charles R. Tunley	12/12/80	84, 90	96
Richard H. Erlich*	03/08/91	--	94

#### *C. Third Judicial District*

Judge	Appointed	Prior Retention Elections	Next Retention Election
Elaine M. Andrews*	03/08/91	--	94
Charles K. Cranston	10/15/81	84, 90	96
Beverly W. Cutler	10/28/82	86	92
Dana A. Fabe*	08/26/88	--	92
Rene J. Gonzalez	11/08/84	88	94
Donald Hopwood*	11/30/90	--	94
Karen L. Hunt	01/10/84	88	94
Karl S. Johnstone	10/08/79	82, 88	94
Joan M. Katz	11/08/84	88	94
Jonathan H. Link*	07/20/90	--	94
Peter A. Michalski	01/31/85	88	94
John Reese*	06/26/89	--	92
J. Justin Ripley	06/27/75	79, 84, 90	96
Mark C. Rowland	02/22/77	80, 86	92
Brian C. Shortell	12/12/80	84, 90	96
Milton M. Souter	01/23/78	82, 88	94
1 Superior Court Seat Vacant (Valdez)			



## Retention Election Log (Continued)

### SUPERIOR COURT JUDGES (Continued)

#### **D. Fourth Judicial District**

Judge	Appointed	Prior Retention Elections	Next Retention Election
Dale O. Curda*	12/15/89	—	94
Mary E. "Meg" Greene	01/04/85	88	94
Jay Hodges	09/28/76	80, 86	92
Richard D. Savell	04/27/87	90	96
Niesje J. Steinkruger*	08/26/88	—	92

#### **IV. DISTRICT COURT JUDGES - Retention Dates: First general election held more than 2 years after appointment; every 4 years thereafter.**

##### **A. First Judicial District**

Judge	Appointed	Prior Retention Elections	Next Retention Election
George L. Gucker	03/31/83	84, 88	92
Peter Froehlich	06/26/89	90	94

##### **B. Second Judicial District**

Judge	Appointed	Prior Retention Elections	Next Retention Election
NO DISTRICT COURT JUDGES IN THE SECOND JUDICIAL DISTRICT			

## Retention Election Log (Continued)

### DISTRICT COURT JUDGES (Continued)

#### *C. Third Judicial District*

Judge	Appointed	Prior Retention Elections	Next Retention Election
Glen C. Anderson	03/16/78	80, 84, 88	92
Peter G. Ashman	07/31/87	88	92
Martha Beckwith	11/08/84	86, 90	94
Natalie K. Finn	03/31/83	84, 88	92
William H. Fuld	03/31/83	84, 88	92
John R. Lohff*	03/08/91	—	94
John D. Mason	12/07/70	72, 76, 80, 84, 88	92
M. Francis Neville*	11/30/90	—	94
Michael L. Wolverton	08/26/88	90	94
2 Dist. Court Seats Vacant as of 3/91			

#### *D. Fourth Judicial District*

Judge	Appointed	Prior Retention Elections	Next Retention Election
H. E. Crutchfield	10/30/80	82, 86, 90	94
Jane F. Kauvar	02/18/81	82, 86, 90	94
Charles Pengilly*	09/27/90	—	92
1 Dist. Court Seat Vacant as of 3/91			

\* Indicates first time judges for retention in current position.

## 1990 Retention Election Candidates

Judge	Appointed	City/Judicial District
1. Supreme Court Justice Warren W. Matthews	05/26/77	Anchorage/NA
2. Superior Court Judge Walter L. Carpeneti	10/15/81	Juneau/First
3. Superior Court Judge Thomas E. Schulz	11/16/73	Ketchikan/First
4. Superior Court Judge Charles R. Tunley	12/12/80	Nome/Second
5. Superior Court Judge Charles K. Cranston	10/15/81	Kenai/Third
6. Superior Court Judge J. Justin Ripley	06/27/75	Anchorage/Third
7. Superior Court Judge Brian C. Shortell	12/12/80	Anchorage/Third
8. Superior Court Judge Richard D. Savell*	04/27/87	Fairbanks/Fourth
9. District Court Judge Peter B. Froehlich*	06/26/89	Juneau/First
10. District Court Judge Elaine Andrews	06/11/81	Anchorage/Third
11. District Court Judge Martha Beckwith	11/08/84	Anchorage/Third
12. District Court Judge Michael L. Wolverton*	08/26/88	Anchorage/Third
13. District Court Judge H.E. "Ed" Crutchfield	10/30/80	Fairbanks/Fourth
14. District Court Judge Jane F. Kauvar	02/18/81	Fairbanks/Fourth

\* Indicates first time judges for retention in current position.

Superior court judges Jones of Kotzebue, Madsen of Kodiak, Pegues of Juneau, and Carlson of Anchorage, retired prior to the 1990 retention election. District court judges Stemp and Stewart of Anchorage, and Zimmerman of Fairbanks resigned prior to the 1990 retention election. District court judge Zervos of Fairbanks was appointed to the Sitka superior court shortly before the 1990 retention election.

<b>1992 Retention Election Candidates</b>		
<b>Judge</b>	<b>Appointed</b>	<b>City/Judicial District</b>
1. Court of Appeals Judge Alexander O. Bryner	07/30/80	Anchorage/NA
2. Court of Appeals Judge Robert G. Coats	07/30/80	Anchorage/NA
3. Superior Court Judge Michael I. Jeffery	10/28/82	Barrow/Second
4. Superior Court Judge Beverly W. Cutler	10/28/82	Palmer/Third
5. Superior Court Judge Dana A. Fabe*	08/26/88	Anchorage/Third
6. Superior Court Judge John Reese*	06/26/89	Anchorage/Third
7. Superior Court Judge Mark C. Rowland	02/22/77	Anchorage/Third
8. Superior Court Judge Jay Hodges	09/28/76	Fairbanks/Fourth
9. Superior Court Judge Niesje J. Steinkruger*	08/26/88	Fairbanks/Fourth
10. District Court Judge George L. Gucker	03/31/83	Ketchikan/First
11. District Court Judge Glen C. Anderson	03/16/78	Anchorage/Third
12. District Court Judge Peter G. Ashman	07/31/87	Palmer/Third
13. District Court Judge Natalie K. Finn	03/31/83	Anchorage/Third
14. District Court Judge William H. Fuld	03/31/83	Anchorage/Third
15. District Court Judge John D. Mason	12/07/70	Anchorage/Third
16. District Court Judge Charles Pengilly*	09/27/90	Fairbanks/Fourth

\* Indicates first time judges for retention in current position.

## 1994 Retention Election Candidates

Judge	Appointed	City/Judicial District
1. Justice Allen T. Compton	12/12/80	Anchorage/NA
2. Court of Appeals Judge David Mannheimer*	10/11/90	Anchorage/NA
3. Superior Court Judge Larry C. Zervos*	09/14/90	Sitka/First
4. Superior Court Judge Thomas M. Jahnke	05/11/85	Ketchikan/First
5. Superior Court Judge Larry Weeks*	09/03/90	Juneau/First
6. Superior Court Judge Richard Erlich*	03/08/91	Kotzebue/Second
7. Superior Court Judge Elaine M. Andrews*	03/08/91	Anchorage/Third
8. Superior Court Judge Rene J. Gonzalez	11/08/84	Anchorage/Third
9. Superior Court Judge Donald Hopwood*	11/30/90	Kodiak/Third
10. Superior Court Judge Karen L. Hunt	01/10/84	Anchorage/Third
11. Superior Court Judge Karl S. Johnstone	10/08/79	Anchorage/Third
12. Superior Court Judge Joan M. Katz	11/08/84	Anchorage/Third
13. Superior Court Judge Jonathan H. Link*	07/20/90	Kenai/Third
14. Superior Court Judge Peter A. Michalski	01/31/85	Anchorage/Third
15. Superior Court Judge Milton M. Souter	01/23/79	Anchorage/Third
16. Superior Court Judge Dale O. Curda*	12/15/89	Bethel/Fourth
17. Superior Court Judge Mary E. Greene	01/04/85	Fairbanks/Fourth
18. District Court Judge Peter Froehlich	06/26/89	Juneau/First
19. District Court Judge Martha Beckwith	11/08/84	Anchorage/Third
20. District Court Judge John Lohff*	03/08/91	Anchorage/Third
21. District Court Judge M. Francis Neville*	11/30/90	Homer/Third
22. District Court Judge Michael L. Wolverton	08/26/88	Anchorage/Third
23. District Court Judge H.E. Crutchfield	10/30/80	Fairbanks/Fourth
24. District Court Judge Jane F. Kauvar	02/18/81	Fairbanks/Fourth

\* Indicates first time judges for retention in current position.

## **Appendix I**

### **Summary of Programs and Recommendations of the Council Since Statehood: 1959-1990**

## Appendix I

### Summary of Programs and Recommendations of the Council Since Statehood: 1959-1990

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

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

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

#### A. Recommendations Relating to the Judiciary and the Courts.

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

12. Coroner-Public Administrator office (Ch. 216, SLA 1970).
13. Constitutional amendment rotating the office of Chief Justice (approved by electorate in 1970).
14. Revised criteria for judges serving pro tem (court, administrative rule 23).
15. Guidelines for evaluation of pro tem judges (court, administrative rule 23).
16. Extension of district court judge's "probationary" period for retention elections to two years rather than one year (approved by legislature, 1990).

**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 noncriminal.
12. Presumptive sentencing for second felony offenders (adopted by legislature, 1978).
13. Revision of presentence reports to meet requirements of new criminal code and reduce disparities in sentencing (1981).



14. Establishment of alternative mechanisms for dispute resolution (undertaken by Department of Law, 1980-81).
15. Annual monitoring of felony and misdemeanor sentencing patterns (authorized by legislature, 1980).
16. Development of mail-in bail schedule for minor Fish and Game offenses (authorized by legislature, 1984; adopted by supreme court 1985).
17. Establishment of Code Revision Commission to revise laws and regulations governing fish and game offenses.
18. Focus of justice system resources on efforts to encourage completion of alcohol treatment programs and monitoring of compliance with treatment requirements (similar recommendation adopted by Governor's Task Force on Drunk Driving, 1984).
19. Development of sentencing guidelines for drug offenses (used in 1981 and 1982 until drug law revisions took effect January 1, 1983).
20. Establishment of alternative jail facilities for persons convicted of Driving While Intoxicated and other alcohol-related offenses (currently recommended by Department of Corrections and under consideration by legislature).
21. Use of television for arraignments and other court proceedings on a permanent basis (experimental rule made permanent by supreme court in August, 1986).
22. Adoption of a court rule to provide guidelines for judicial review and dissemination of grand jury reports (Crim. Rule 6.1 adopted by court).
23. Revised media plan and judicial canons to permit use of cameras in court proceedings.
24. Establishment of a Sentencing Commission to review existing sentencing laws and practices in context of state's needs and resources (Commission established June 1990).
25. Creation of a pilot program to mediate disputes in child visitation cases (program established October 1990).
26. Maintenance of high screening standards by Attorney General's office for criminal cases.
27. Coordination of Attorney General's charge bargaining policies with actual charge bargaining practices.

28. Examination of appellate court sentencing benchmarks and guidelines, to determine whether some case law should be statutory.
29. Summarization of appellate court benchmarks and sentencing criteria to make them accessible to judges, attorneys and public.

## **Appendix J**

### **Council Publications Since Statehood**

## Appendix J

### Alaska Judicial Council Major Studies and Reports

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

13. Sentencing in Alaska. (March, 1975). Statistical analysis of felony sentences imposed in 1973.
14. Bail in Anchorage. (March, 1975). Statistical analysis of bail practices for Anchorage felony cases in 1973.
15. 1973 Sentences of Five Years or Longer. (April, 1975). Analysis of factors contributing to lengthy sentences, and the impact of appellate review of sentencing.
16. Report on Repeat Bail Recidivists in 1973. (April, 1975). Case-by-case analysis of defendants who violated bail conditions by committing more than one new crime while on bail for a felony offense.
17. Eighth Report to the Supreme Court and Legislature 1973- 1975. (Feb., 1976). Review of the Council's activities and recommendations during the period 1973-1975.
18. Preliminary Report of the Alaska Judicial Survey. (Aug., 1976). Prepared for 1976 retention elections by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1976 general election.
19. Alaska Felony Sentencing Patterns: A Multivariate Statistical Analysis -- 1974-1976. (April, 1977). Study requested by the legislature and used to structure presumptive sentencing provisions of the new criminal code. Also resulted in the creation of the Sentencing Guidelines Committee.
20. Interim Report on the Elimination of Plea Bargaining. (May, 1977). Summarized effects of the Attorney General's 1975 ban on plea bargaining as reported by attorneys, judges, and defendants.
21. The Anchorage Citizen Dispute Center: A Needs Assessment and Feasibility Report. (1977). Analysis of dispositions of minor disputes reported to Anchorage Police Department. Recommended establishment of alternative dispute resolution procedures for certain types of situations. Resulted in establishment of a pilot dispute resolution process in Anchorage (1981) through the Department of Law.
22. Ninth Report to Supreme Court and Legislature 1976- 1978. (March, 1978). Review of the Council's activities and recommendations during the period 1976-1978.
23. Report of the Results of the 1978 Alaska Judicial Survey. (Aug., 1978). Prepared for 1978 retention elections by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1978 general election.

24. A Look Inside: A Pilot Project in Citizen Involvement with the Judicial System. (Oct., 1978). Contributed to citizen participation in all aspects of the justice system, and to revised procedures for the evaluation of judges.
25. Interim Report of the Alaska Judicial Council on Findings of Apparent Racial Disparity in Sentencing. (Oct., 1978). Summary of data accumulated on felony case dispositions and sentencing patterns from Anchorage, Fairbanks, and Juneau (1974-1976) giving evidence of racial and other disparities in sentencing for certain types of offenses. Resulted in legislation creating the Advisory Committee on Minority Judicial Sentencing Practices, and funding of Judicial Council follow-up studies of felonies and misdemeanors. See text of Tenth Report for other effects.
26. The Effect of the Official Prohibition of Plea Bargaining on the Disposition of Felony Cases in Alaska Criminal Courts. (Dec., 1978). [Reprinted by the Government Printing Office, Washington, D.C. as Alaska Bans Plea Bargaining, 1979]. Evaluates the effectiveness and consequences of the Attorney General's 1975 ban on plea bargaining, including the results of over 400 interviews with attorneys, judges, and criminal justice personnel, and 2-year felony statistical study.
27. Alaska Misdemeanor Sentences: 1974-76 Plea Bargaining. (Aug., 1979). Analysis of misdemeanor sentences to determine effect of plea bargaining ban on sentences imposed after trial or plea.
28. "Northrim Survey": An Analysis of the Results of a Survey for the Alaska Judicial Council. (Aug., 1979). Prepared for the Judicial Council by Northrim Associates. Analyzes the findings of a survey of registered voters asked to comment on the 1978 retention election results.
29. Alaska Misdemeanor Sentences: 1974-76 Racial Disparity. (Nov., 1979). Analysis of existence of racial disparity in misdemeanor sentences; shows significant disparity for several categories of offense.
30. Sentencing Under Revised Criminal Code. (Jan., 1980). Probation Officer training manual for the revised criminal code.
31. Survey of Alaska Bar Association Members: Evaluation of Court of Appeals Candidates. (June 12, 1980). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the three Alaska Court of Appeals judge positions.
32. Report of the Results of the 1980 Alaska Judicial Survey. (July, 1980). Prepared for the Judicial Council by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1980 general election.

33. Survey of Alaska Bar Association Members: Evaluation of Fairbanks District Court Candidates. (Aug. 12, 1980). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for Fairbanks District Court judge position.
34. Survey of Alaska Bar Association Members: Evaluation of Three Judicial Positions. (October, 1980). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for judgeships on the Alaska Supreme Court, Anchorage Superior Court, and Nome Superior Court.
35. Survey of Alaska Bar Association Members: Evaluation of Fairbanks District Court Candidates. (Nov. 24, 1980). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for Fairbanks District Court judge position.
36. Alaska Felony Sentences: 1976-1979. (Nov., 1980). Follow-up study requested by the legislature on felony disparities; shows disappearance of most racial disparities. Additional analysis and findings on sentences in rural areas, effects of attorney type, and possible continuing trends from the plea bargaining ban.
37. Tenth Report of the Alaska Judicial Council to the Supreme Court and Legislature 1978-1980. (Feb., 1981). Review of the Council's activities and recommendations during the period 1978-1980.
38. Survey of Alaska Bar Association Members Evaluation of One Judicial Position and One Public Defender Position. (Mar. 19, 1981). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for Juneau Superior Court and Alaska Public Defender positions.
39. Survey of Alaska Bar Association Members Evaluation of Applicants Third Judicial District at Anchorage. (May 20, 1981). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for Anchorage District court judge position.
40. Survey of Alaska Bar Association Members Evaluation of Applicants for the Kenai Superior Court Judgeship. (Aug. 18, 1981). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Kenai Superior Court judge position.
41. Survey of Alaska Bar Association Members Evaluation of Applicants for the Juneau Superior Court Judgeship. (Sep. 16, 1981). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Juneau Superior Court judge position.
42. Recommendations of the Alaska Judicial Council to the Supreme Court Proposing Changes to the Civil Rules to Reduce Excessive Costs and Delays of Civil Litigation. (1981). Details proposed changes to the civil litigation system

to reduce deterrents to pursuing or defending claims with a value of under \$25,000 through the implementation of an "economical litigation program".

43. A Preliminary Statistical Description of Fish & Game Sentences. (1981). Reviews data from Fish and Wildlife Protection data tapes; finds sufficient disparities to warrant full-scale statistical analysis.
44. Alaska Prison Population Impact Analysis. (1982). Funded by Division of Corrections. Estimates growth in sentenced felon prison populations based on potential and actual legislative changes.
45. Report of the Results of the 1982 Alaska Judicial Survey. (1982). Prepared for the Judicial Council by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1982 general election.
46. Survey of Alaska Bar Association Members Evaluation of Applicants for the Palmer, Barrow and Wrangell Superior Court Judgeships. (Sep. 17, 1982). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Palmer, Barrow and Wrangell Superior Court Judge positions.
47. Alaska Felony Sentences: 1980. (Dec. 2, 1982). Study requested by the legislature as a continued monitoring of sentence disparities and analysis of the effects of the revised criminal code. Shows disappearance of disparities (racial and attorney type), shortened sentence lengths.
48. Survey of Alaska Bar Association Members Evaluation of Applicants for the District Court Judgeships of the Third Judicial District at Anchorage and the First Judicial District at Ketchikan. (Feb. 14, 1983). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage and Ketchikan District Court Judge positions.
49. Eleventh Report of the Alaska Judicial Council to the Supreme Court and Legislature 1981-1982. (March, 1983). Review of the Council's activities and recommendations during the period 1981-1982.
50. Survey of Alaska Bar Association Members Evaluation of Applicants for the Alaska Supreme Court Justice. (May 5, 1983). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Alaska Supreme Court Justice position.
51. Survey of Alaska Bar Association Members Evaluation of Applicants for the Third Judicial District. Oct. 20, 1983). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage Superior Court Judge position.
52. Statistical Analysis of Major Fish & Game Offense Sentencing Outcomes. (Dec., 1983). Funded by the legislature in 1982 to study sentences imposed on 1980



and 1981 fish and game violators. Found widespread disparities and fluctuations in charging and sentencing patterns. Recommended complete revision of applicable statutes and codes.

53. Alaska Misdemeanor Sentences: 1981. (Dec., 1983). Funded by the legislature to analyze misdemeanor sentences imposed during 1981. Recommended alcohol treatment programs for convicted defendants and increased legislative sanctions for DWI to reduce the incidence of alcohol-related crime.
54. DWI Sentences: 1981. (March, 1984). Additional analysis of DWI (drunk driving) sentences included in the 1981 Misdemeanor Study data base. Types of sentences imposed for DWI convictions and characteristics of offenders are described.
55. Survey of Alaska Bar Association Members Evaluation of Applicants for the District Court, First Judicial District (Juneau) and the Superior Court, Third Judicial District (Valdez). (Apr. 24, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Juneau District Court and the Valdez Superior Court Judge positions.
56. Report of the Results of the 1984 Alaska Judicial Survey. (Aug., 1984). Prepared for the Judicial Council by the Center for Political Studies, University of Michigan. Evaluates judges standing for retention in the 1984 general election.
57. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for The Third Judicial District (Anchorage) Superior Court And the Third Judicial District (Anchorage) District Court. (Sept. 4, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage Superior Court and District Court judge positions.
58. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for The Third Judicial District (Anchorage) Superior Court and the Fourth Judicial District (Fairbanks) District Court. (Nov. 9, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Anchorage Superior Court and Fairbanks District Court judge positions.
59. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for The Fourth Judicial District (Fairbanks) Superior Court. (Nov. 30, 1984). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Fairbanks Superior Court judge position.
60. Survey of Alaska Bar Association Members Evaluation of Judicial Applicants for the First Judicial District (Wrangell/Petersburg) Superior Court. (Feb. 25, 1985). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for the Wrangell/Petersburg Superior Court judge position.

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

71. News Cameras in the Alaska Courts: Assessing the Impact. (January, 1988). Evaluation of the Supreme Court's experimental programs, including statistical analysis of increased news coverage. Based on the report, a revised media plan and judicial canons have been promulgated by the Supreme Court.
72. Survey of the Alaska Bar Association Members Evaluation of Judicial Applicants for the Superior and District Courts, Third Judicial District (Anchorage) and the Superior and District Courts, Fourth Judicial District (Fairbanks). (June, 1988) Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates candidates for four judicial vacancies in Anchorage and Fairbanks courts.
73. Report on the 1988 Retention Election Survey. (June, 1988). Prepared for the Judicial Council by Mystrom Research. Presents and analyzes the results of surveys of the Bar Association and of peace and probation officers regarding judges standing for retention in 1988.
74. Survey of Alaska Bar Association Members Evaluation of Applicants for the Position of Public Defender, State of Alaska. (December, 1988). Prepared for the Judicial Council by Professor Richard Ender, UAA. Evaluates the two applicants for the Public Defender vacancy.
75. Survey of Alaska Bar Association Members Evaluation of Applicants for the Superior Court, Third Judicial District (Anchorage) and for the District Court, First Judicial District (Juneau). (April, 1989).
76. Fourteenth Report: 1987-1988 to the Legislature and Supreme Court (June 1989). Review of the Council's activities in 1987 and 1988.
77. Alaska Bar Membership Survey (July, 1989). An economic and demographic survey of the membership of the Alaska Bar Association.
78. Survey of the Alaska Bar Association: Results on the Evaluation of Applicants for the Bethel Superior Court (November 1989). Prepared for the Judicial Council by The Justice Center, UAA.
79. Survey of the Alaska Bar Association: Results on the Evaluation of Applicants for the Kenai Superior Court (May 1990). Prepared for the Judicial Council by The Justice Center, UAA.
80. Survey of the Alaska Bar Association: Results on the Evaluation of Applicants for the Juneau Superior Court (May 1990). Prepared for the Judicial Council by The Justice Center, UAA.
81. Survey of the Alaska Bar Association: Results on the Evaluation of Applicants for the Sitka Superior Court (July 1990). Prepared for the Judicial Council by The Justice Center, UAA.

82. Survey of the Alaska Bar Association: Results on the Evaluation of Applicants for the Court of Appeals and Fairbanks District Court (August 1990). Prepared for the Judicial Council by The Justice Center, UAA.
83. Report on the 1990 Retention Election Surveys (June 1990). Prepared for the Judicial Council by Dittman and Associates. Presents the results of surveys of the Bar Association and of peace and probation officers regarding judges standing for retention in 1990.
84. Survey of the Alaska Bar Association: Results on the Evaluation of Applicants for the Kodiak Superior Court (October 1990). Prepared for the Judicial Council by The Justice Center, UAA.
85. Survey of the Alaska Bar Association: Results on the Evaluation of Applicants for the Homer District Court (October 1990). Prepared for the Judicial Council by The Justice Center, UAA.
86. Survey of the Alaska Bar Association: Results on the Evaluation of Applicants for the Anchorage Superior and District Court, and Kotzebue Superior Court (January 1991). Prepared for the Judicial Council by The Justice Center, UAA.
87. A Re-evaluation of Alaska's Ban on Plea Bargaining (January 1991). An analysis of data and interviews showing the career of Alaska's ban on plea bargaining and its interactions with presumptive sentencing and other changes into the justice system between 1975 and 1990.
88. A Re-evaluation of Alaska's Ban on Plea Bargaining: Executive Summary (January 1991).
89. Appellate Sentence Review in Alaska (January, 1991). A historical analysis of appellate sentence review in Alaska, and analysis of current benchmarks and guidelines for sentencing established by the appellate courts. Also published as an Alaska Law Review article (December 1990).
89. Rural Justice Bibliography (I/P) (Summer 1991).

## **Appendix K**

### **Findings and Recommendations of the Council's Plea Bargaining Study**

## **Appendix K**

### **Findings and Recommendations of the Council's Plea Bargaining Study**

The primary findings of this re-evaluation of Alaska's ban on plea bargaining are:

1. The initial results of the Attorney General's prohibition of plea bargaining were substantial decreases in both sentence and charge bargaining.
2. Fifteen years after the ban was established, it remained the official policy of the Attorney General's office. Although the policy continued to be effective in practice for sentence bargaining, which remained infrequent, charge bargaining had become fairly common in most parts of the state. The increase in charge bargaining appeared to be related to changes in Attorneys General and their staffs, reductions in funding for prosecution and other criminal justice needs, and to the revisions of the criminal code and adoption of presumptive sentencing.
3. Increased attention to the screening and charging decisions resulted in higher standards for the acceptance of cases. The standard shifted from a "probable cause" standard to a "beyond a reasonable doubt" standard. The change resulted in better police investigations and more professional decisions by police and prosecutors. Improved screening was believed by many attorneys and judges to have been the most important effect of the ban on plea bargaining.
4. Over the past fifteen years, the percentage of convicted offenders sentenced to some jail time has increased substantially, and the mean active sentence length for those sentenced to jail has lengthened. These shifts probably resulted as much from increased societal concerns about crime as from the ban on plea bargaining and presumptive sentencing.
5. In a separate report (Appellate Sentence Review in Alaska) prepared as part of this re-evaluation of the ban, the Council concluded that "the appellate courts' decision to determine the justice of non-presumptive sentences by referring to the presumptive sentencing structure has had far-reaching effects on the entire criminal justice system." The report notes that the variable of judge identity no

longer contributes significantly to mean active sentence length, probably because of the combined influences of presumptive sentencing and the appellate courts' guidelines and benchmarks.

Based on these findings, the Judicial Council makes the following recommendations:

1. **SCREENING:** The Judicial Council recommends that the present high standards for screening be maintained.

According to most persons interviewed, the present screening policy is a positive influence on the quality of cases and a useful tool for prosecutors. If extra time is needed for screening cases in some situations (especially in rural areas), that need could be formally recognized in the written policy guidelines.

2. **CHARGE BARGAINING:** The Judicial Council recommends that the Attorney General clarify the current policy on charge bargaining.

It appears that the legal community's perception of the current prosecutorial practices related to charge reductions and dismissals are substantially at odds with the Attorney General's written policy that prohibits charge bargaining. The current policy is stated as:

Unless specifically approved by the Attorney General or the Chief Prosecutor prior to the initiation of any negotiations, prosecuting attorneys will not enter into any agreement or understanding with a defendant or his attorney that is designed to lead to the entry of a plea of guilty...that in any way involves a concession with respect to the charge to be filed or which involves an agreement to dismiss or reduce a charge, except as provided under subsection (2) below."<sup>1</sup>

Subsection (2) permits the prosecutor, in multiple count cases (excluding felony violent offenses) to communicate to the defendant prior to the entry of a plea that counts may be dismissed if the defendant pleads to the "essence" of the conduct

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<sup>1</sup> ALASKA DEPT OF LAW, CRIMINAL DIVISION, STANDARDS APPLICABLE TO CASE SCREENING AND PLEA NEGOTIATIONS (Effective July 1, 1980) 14 (June 1, 1980) [hereinafter 1980 STANDARDS]. See Appendix A for excerpts of pertinent sections.

engaged in," if the office supervisor approves the dismissals, and if the dismissed counts are mentioned at sentencing.

Despite this statement of policy prohibiting "charge bargaining," most prosecutors, defense attorneys and judges interviewed said that charge bargaining occurred fairly routinely in most parts of the state. In general, they perceived this as a different situation than existed in the late 1970s and early 1980s. The statistical evidence also supported the hypothesis that charge bargaining increased substantially in the mid- to late-1980s.

The Judicial Council takes no position with respect to the practice of charge bargaining. The Attorney General may wish either to reiterate the present written policy and encourage its application in practice, or he may prefer to incorporate the existing practices into his policy. In either case, the written policy and actual practice should be consistent to avoid confusion in the legal community and with the public.

### 3. SENTENCING:

#### a. Some aspects of presumptive sentencing should be re-considered.

The legal community does not appear to have achieved a consensus about the merits of presumptive sentencing. Attorneys, judges, police and probation officers interviewed over the past two years expressed some satisfaction with the greater uniformity of sentences, but many were concerned that the length of presumptive sentences for some first felony offenders was too great, or that presumptive sentencing was too inflexible for first offenders' situations. Little concern was expressed about presumptive sentences for repeat offenders; most appeared to believe that presumptive sentences were generally appropriate for them.

Presumptive sentencing affects the entire criminal justice system, from influencing arrest and charging decisions made by prosecutors to affecting the numbers of offenders going to trial, and contributing to overcrowded prisons. Although the ideas underlying presumptive sentencing still appear useful, re-thinking the implementation of those ideas could be helpful. For example, in the original presumptive sentencing proposals



made by Professor Alan Dershowitz, sentences were tied to narrowly-defined offenses. When presumptive sentencing was adopted in Alaska, it was combined with a criminal code in which the emphasis was on broader definitions of offenses, and in which sentences were imposed based on a system that classified all offenses into six general groups. Presumptive sentencing in Alaska might better meet the needs of practitioners and legislators if sentences were more closely tied to specific offenses.

Other proposals that have been made for altering presumptive sentencing include expanding it to cover all first felony offenders and all misdemeanants, shortening the lengths of some terms, increasing others, and providing discretionary parole. The Judicial Council does not take a position on any specific proposal. Rather, based on the interviews and information compiled in the course of the past ten years, the Council recommends that the legislature, through the Alaska Sentencing Commission, carefully review presumptive sentencing and its interactions with other statutes and case law, as well as its effects on the operations of the criminal justice system.

- b. The Judicial Council recommends that the legislature establish procedures to thoroughly evaluate existing and proposed sentencing provisions to compare the relative seriousness of offenses, and carefully consider the full range of costs associated with new sentencing proposals. This process should begin immediately, before Alaska develops the virtually unsolvable prison overcrowding problems found in so many other states.

While the comparative contributions of presumptive sentencing, the plea bargaining ban and the changes in public attitudes in favor of tougher sentences are not necessarily clear, it is apparent that these factors in some combination (together with factors of population and resource increases) have led to overall longer sentences and a much larger prison population. Alaska ranked fourth among the states in 1987<sup>2</sup> in the percentage of its population that it incarcerated.

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<sup>2</sup> Austin & Brown, "Ranking the Nation's Most Punitive and Costly States," FOCUS 2 (Nat'l Council on Crime and Delinquency) (July, 1989).

In spite of Alaska's relatively large prison population, prison overcrowding is much less of a problem in Alaska than in many other states. Abundant state resources, especially before 1986, allowed Alaska the flexibility to greatly increase funding for its criminal justice agencies. However, those substantial state resources are apparently a thing of the past.

Alaska is not the only state that has adopted determinate sentencing laws that emphasize substantial prison terms. However, to the extent that the plea bargaining ban still exists in Alaska, prosecutors' flexibility to take into account economic realities in sentencing is constrained. There is substantially less chance of a reduced sentence in exchange for a plea in Alaska than in most other states. Further, it is likely that at least one reason for the increase in charge bargaining in Alaska is the perception of the actors in the criminal justice system that system resources are becoming more scarce.

This is not to say that plea bargaining, either in the form of sentence or charge bargaining, should be encouraged. Plea bargaining, to the extent it allows the system to conserve scarce resources, does so only by overriding the legislative intent that particular conduct constitutes a particular crime that should be sanctioned in a particular way. Further, the costs of the plea bargaining ban have not been as great as anticipated and the benefits have been substantial.

Nevertheless, the consequence of Alaska's tough sentencing laws in the face of limited state resources inevitably will increase pressure on the system to increase plea bargaining and to make other systemic changes to allow the criminal justice system to continue to function. If the legislature structures its criminal code and sentencing provisions to incarcerate felons to a greater extent than it can pay, the consequence can only be a deterioration in many aspects of the criminal justice system.

The Alaska legislature has already taken the first step in this regard by establishing the Alaska Sentencing Commission.<sup>3</sup> The Commission is charged, among other duties, with considering the "seriousness of each

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<sup>3</sup> ALASKA STAT. § 44.19.561-577 (1990).

offense in relation to other offenses," "alternatives to traditional forms of incarceration," and "the projected financial effect of changes in sentencing laws and practices." This Commission can go a long way towards solving problems in Alaska's sentencing structure before the structure becomes unmanageable.

- c. The Judicial Council recommends that the legislature, through the Alaska Sentencing Commission, examine the benchmarks established by the state's appellate courts to guide the discretion of judges.

The legislature and the Sentencing Commission should examine the various benchmarks set by the courts to determine first whether there is sentencing law in those decisions that would be more effectively addressed by statutes; and second, whether the benchmarks and sentencing criteria could be summarized in a way that would make them easily accessible to judges, attorneys and the public.

The Supreme Court and Court of Appeals have established many benchmarks and criteria to guide the discretion of sentencing judges. The appellate courts' decisions have been extremely helpful in structuring sentencing activity in the trial courts. However, because the decisions have not been compiled in one place, it is not always easy to find the current law on sentencing of a particular offense. Summarizing the case law related to sentencing, and possibly codifying portions of it, would have two primary benefits. It would permit other factors (such as the state's resources) that are inappropriate considerations for the appellate court, to be taken into account in setting benchmarks and guidelines. The process also would encourage input from agencies and persons affected by sentencing decisions, thus increasing the opportunities for accountability.

## **Appendix L**

### **Executive Summary of the Council's Bar Membership Study**

## **Appendix L**

### **Executive Summary of the Council's Bar Membership Study**

The Alaska, Juneau and Tanana Bar Associations, the Alaska Judicial Council and the Alaska Court System jointly sponsored a survey of resident Alaskan attorneys to assess professional attitudes and to develop a baseline of information on a wide number of subjects relevant to the practice of law.

The Judicial Council has conducted past surveys of the Bar membership for purposes of judicial selection and retention evaluations. The Court system and Council have surveyed the Bar membership about pro tem judge performance, and the Bar Associations have typically provided assistance in survey design. The present survey assists in ongoing survey work by providing an overall perspective on the Bar membership that can be used to assess the representativeness of respondents to other Bar surveys. Data from the survey can also be used by the Bar Associations, the Court System and other groups to provide better service to Alaska attorneys and the public.

To conduct the survey the Alaska Judicial Council contracted with Policy Analysts, Limited, a professional organization that has worked with the Council on judicial selection surveys since 1980. The surveys were mailed to 1,953 attorneys and 1,083 responded for a return rate of 55.5%. This is a good return rate, especially given the length of the survey and the sensitivity of the subject matter. It reflects the strong interest of the Bar membership in the topics covered by the questionnaire.

#### **Preliminary Considerations**

Before summarizing some of the more interesting data, a few cautionary remarks would be appropriate.

1. The data are reported in a manner designed to protect the confidentiality of the respondent and to prevent abuse of confidential information. Consequently, there will not be as much detail as would be possible absent these concerns.

2. The survey questions were designed to assess issues relevant to many different segments of the legal community. In this regard we were successful but there were some complaints about the relevancy of the questions to the practices of certain types of attorneys. The next survey will be designed to allow more flexibility in responses to accommodate the variations in type of practice.
3. Questions dealing with the amount of adjusted gross income from the practice of law allowed responses in the form of a check at the appropriate income interval. The income figures are not exact amounts because they are based on midpoint estimates of the intervals checked by the respondents. For example, while the 1988 average income of the respondents is calculated as \$78,300, this is a "best" estimate. The actual income could range from \$74,200 to \$82,400. Income figures are expressed in terms of adjusted gross income. That is, this is income before taxes but after deduction of other items including law-related expenses.
4. Many of the numerical findings are expressed in terms of mean (average) results but occasionally the median (mid-term) is used. The median is more appropriate if the low or high ends of the range of responses would distort the mean.
5. The reader should note that analysis at a more general level may suggest different conclusions than analysis at a more detailed level. For example, the report states that males can earn an average of \$33,200 more than their female counterparts. To provide insight into the primary factors associated with gender-related compensation differences, a multiple analysis of variance was conducted. The added analysis showed that type of practice and length of experience have the most effect on gender differences in income. The \$33,200 difference appears to drop to \$4,500 when the factors of full or part-time status, location, type and length of practice are all considered simultaneously. Similarly detailed analyses were not conducted for most other variables, but could be if interest warranted.
6. The number of responses affects the validity of the result. Since there were many more attorneys practicing in Anchorage than in any other parts of Alaska the data concerning that city tend to be more reliable. More

importantly, the data can be reported in greater detail because of lessened concerns about confidentiality. There is greater safety in numbers. Those in other judicial districts may be concerned or disappointed with the lack of specificity in the report concerning those areas. If additional information is desired the survey contractor, Dr. Richard Ender of Policy Analysts, Limited, 2001 Banbury Circle, Anchorage, Alaska 99504 (tel: 786-1760) will, consistent with concerns of confidentiality, provide more data. He will charge directly for these efforts at the rate of \$50 per hour.

7. As with any other survey, especially a survey being conducted for the first time, there will be many unanswered questions. We urge anyone who has questions to contact the Alaska Judicial Council. We would be pleased to assist in further inquiry.

### **FINDINGS**

The average attorney practices civil law full-time in a large law firm (by Alaska standards) in Anchorage, Alaska. He is 40 years old, has 11 years of experience, bills a little over 6 hours a day, works a 45-hour work week and has an adjusted gross income from the practice of law of \$78,300. But one out of every three members of the Alaska Bar Association earns less than \$50,000. Thirty-seven percent earn between \$50,000 and \$79,999 and 30% earn \$80,000 or more. Ninety percent of those responding work full-time. Ten percent work only part-time, or were on sabbatical, retired, or were unemployed in 1988.

### **Private/Public Sector Comparisons**

The ratio of attorneys in the public sector to those in the private sector is approximately 1 to 2 through 12 years of experience. After 12 years of experience there is a dramatic drop and only one out of every five attorneys with more than 12 years of experience works in the public sector (see Table 2). One conclusion that could be drawn from this is that attorneys from the public sector tend to enter the private sector as they gain in years of experience. Early career public sector attorneys earn an average of \$9,000 less than their private sector colleagues. Career public sector attorneys will see their incomes rise by a factor of 1.79 over time. Private sector attorneys will see their incomes rise by a factor of 2.62. The difference between the two career paths widens over time to \$56,600. A public sector attorney with between 0 and 6 years of experience will earn

an average of \$38,600 compared to a private sector attorney earning \$47,600. He or she can expect to top out at an average income of \$69,000 with 20 or more years of experience, compared to a private practitioner's income of \$124,700 (see Table 2).

Judicial compensation patterns from the survey reflected an average income of \$67,100 but this figure can be a bit misleading. The judicial officer category includes magistrates and other judicial officers some of whom work part-time. This reduces the average income of this group. Published federal and state scales state that the base pay of federal district judges is \$89,500. The base pay for a state supreme court justice is \$85,728, \$79,992 for a court of appeals judge, \$77,304 for a superior court judge, and \$66,816 for a district court judge. Nevertheless, judges' earnings tend to be similar to the average sole practitioner or corporate attorney, and substantially below those of a partner in the private practice of law.

Most attorneys in private practice start their careers as associates and at some point between the seventh and twelfth years of their career they become partners or sole practitioners. Incomes for the attorney in private practice with 0 to 6 years of experience average \$47,600. Between 7 to 12 years of experience incomes average \$81,500 and between 13 and 19 years of experience the average is \$124,700. Over time, the gap between partners and sole practitioners is \$56,200 and between partners and associates is \$74,000.

Fifteen percent of the respondents from Anchorage are state employees. Thirty percent of the respondents from the first and fourth districts are state employees, and 44% of bush Alaska respondents work for the state. Anchorage attorneys are more likely to have a civil practice compared to the balance of the state; criminal practices prevail in bush areas. Respondents in the First Judicial District, Fairbanks and the smaller road/ferry access communities in the Third Judicial District are likely to be older and have more experience by an average of about two years. First Judicial District attorneys are more satisfied with their position and less likely to choose another profession than other attorneys in the state. Private practitioners in the Third Judicial District have higher incomes than attorneys working in the other judicial districts (see Table 5). Private practitioners in the First Judicial District earn about \$20,000 less, and Second and Fourth Judicial District attorneys earn \$13,000 less on the average than Anchorage private practitioners.



## Gender-Related Differences

Female attorneys in Alaska appear to have a level of economic activity and compensation below their male counterparts. This gap is most apparent in the private bar with income differences averaging \$40,000. Hours worked averaged 4.2 hours a week less, and billable hours were an average 140 hours less annually than male practitioners. The study suggests some possible reasons for the differences, but does not provide conclusive evidence of causal relationships.

Women constitute a much higher proportion of the public bar (39.4%) than of the private bar (18.3%). Within the private sector, women are only 9.1% of partners but 32.7% of associates. These status and job differences play a large role in determining income. However, position is not the only reason for gender differences. Women earn less within every category of type of practice, with sole practitioners, partners and associates showing the greatest gaps (see Table 7).

A second factor that is related to differences in gender income is experience. Male and female attorneys enter practice with similar salaries but differences average almost \$50,000 after 15 years of practice. Among private attorneys with zero to three years of experience, 59.5% of women and 62.2% of men have associate status earning \$40,400 and \$43,600 respectively. For attorneys with 7 to 15 years of experience, about 11% of both groups are still associates, but only 15.6% of women are partners compared to 41.9% of the men. While the gender gap is lowest for partners (\$12,000), it is \$38,600 for sole practitioners and about \$16,000 for associates.

A multiple analysis of variance was conducted to help understand the main factors affecting gender-related income differences. By analyzing average male and female incomes in the context of different variables the roles of specific factors can be assessed. Location of office explains almost none of the gender differences, while full-time/part-time status has a moderate influence. Type of practice and length of experience affect income substantially. The role of gender is reduced most noticeably when all four factors of status, location, type and length of practice are taken into consideration simultaneously. The initial \$33,200 difference drops to \$4,500.

These data highlight some of the more notable gender differences in the bar membership. Women appear to be disadvantaged in two ways. First, a moderate gender gap in compensation does exist and is not explained by objective factors such as

hours worked and years of experience. Second, female attorneys have a lower success rate in the private bar career paths most likely to lead to higher income. The success rate of females and equality of compensation is more readily apparent in the public sector than the private sector.

### **Judicial Applications**

Judges' earnings tended to be similar to the average sole practitioner or corporate attorney but substantially below those of a partner. The survey asked what role compensation played in discouraging attorneys from applying for a judgeship. Of the respondents of this survey, 52.7% said that salaries and benefits were not an important reason for failing to apply for a judgeship. Examining the categories of respondents suggests some interesting conclusions. Those with more than 12 years of experience or incomes exceeding \$120,000, viewed salaries and benefits as a very important factor in the process of deciding whether or not to apply for a judgeship. Those who thought salaries and benefits were somewhat important had an average income of \$95,500. Those stating it was not important earned an average of \$63,700. Since application is more likely to occur after 10 or 12 years of experience it is interesting that 62.8% of the private attorneys with 13 to 19 years of experience see salaries as a very or somewhat important problem.

### **Continuing Legal Education**

Three-fifths of those who responded to the survey felt that there should be a minimum number of CLE hours in order to qualify to practice in a specialty and 51.7% believed that a minimum number of CLE hours should be required to retain a license to practice. Support for both of these concepts was lowest in the Second and Fourth Judicial Districts and bush Alaska, and highest in the First and Third Judicial Districts. Of those responding, 62.7% had participated in an Alaska Bar Association CLE seminar in the past twelve months. For those who attended CLE, the majority evaluation of the program presented was good, with 75.9% rating the CLE excellent or good and 2% as poor.

CLE program fees are a problem for some practitioners. About three-fifths state that fees are acceptable but 21.3% find them too high. Greatest interest was shown for the occasional 1 to 3 hour CLE programs and the concentrated 1 or 2 day programs. Anchorage attorneys tend to prefer the 1 to 3 hour occasional programs. Roaded/ferry

and bush areas favor the concentrated format somewhat more. Combining these two approaches should draw the highest rates of participation.

### Annual Bar Meetings

The survey asked whether Hawaii should remain the site for the midwinter Bar Association meeting. A majority (56.2%) preferred Hawaii, the current site. Even though many thought it was too expensive it appears that changing the location could lose more attorneys than it gains.

Participation in the ABA Annual Meeting is higher than the midwinter conference. Over one-third of the respondents attended at least one meeting in the past three years. Less than 14% attended two or more meetings. Participation is highest among Fourth Judicial District members and lowest among those from the First Judicial District. Reasons for attending the annual meeting varied but educational value was most often cited. Changing the annual meeting to a site outside of Alaska would not help. An analysis of responses indicated that the ABA would lose four times more participants than it would gain by meeting outside of Alaska.

### Non-lawyer Support Staff

Practitioners in all judicial districts pay approximately the same beginning annual salaries for their most recently-hired, least-expensive legal secretary, with a median salary in the \$18,000 to \$20,999 range. Likewise, practitioners in all judicial districts paid approximately the same to their highest paid full-time legal secretaries. The average was in the \$25,000 to \$30,000 range, with Anchorage slightly higher and the bush area slightly lower.

The highest paid legal assistants (paralegals) are paid more in the third Judicial District (\$30,000 to \$35,000 as a median range) than in the First, Second or Fourth Judicial Districts where median income for the highest paid legal assistants falls in the \$25,000 to \$30,000 range. The Third Judicial District and the Second and Fourth Judicial Districts, on the average, pay full-time legal assistants more than the average full-time legal assistant earns in the First Judicial District.

The ratio of non-lawyer support for practitioners in the private sector is 1 to 1.9. The range of non-lawyer support for practitioners in the public sector is from 0 to .9

paralegals per attorney. About sixty-five percent of all the respondents do not have paralegal assistants of any kind.

### **Hours Worked and Billed**

Large firm practitioners work an average of 7 hours more than sole practitioners. Attorneys who work for firms that have offices in more than one city tend to work more hours. The average number of hours billed for private practitioners is 1,470 hours. The median is 1,550 hours. For public practitioners the average hours billed is 1,390 but the reader is cautioned that few public practitioners keep accurate time records unless pursuant to a reciprocal services agreement (RSA) or required under the conditions of government funding. Prosecutors, public defenders and judges work longer hours during the week than general government attorneys. Income is strongly related to the size of the firm and the satisfaction of the attorney with his/her profession. Those who work the hardest and earn the most tend to be the most satisfied with their profession. Those who work fewer hours and have smaller incomes tend to be less satisfied. Legal specialists have the highest income. General practitioners on the average have the lowest.

We have attempted to capsulize approximately 100 pages of narrative, charts and data in this executive summary. Obviously, there were many areas of inquiry that are not addressed in the summary or are inadequately reported. For those who may wish to rely heavily on the information reflected herein, we urge you to examine the more detailed analysis of the report as a whole.

**Table 2**  
**Profiles of Career Groups**

	Length of Practice in Years			
	0-6	7-12	13-19	20 or more
<b>Private Bar</b>				
% Working In				
Anchorage	79.2	73.3	72.9	64.0
Roaded-Ferry	20.8	25.4	25.1	35.1
Rural-Bush	0.0	1.3	2.0	0.9
Sole Practitioner	13.9	29.9	28.6	44.5
Partner	13.9	45.0	59.3	50.9
Associate	69.8	21.2	8.0	3.6
Corporate	2.5	3.9	4.0	0.9
<b>Gender</b>				
Male	69.3	73.7	95.0	97.3
Female	30.7	26.3	5.0	2.7
<b>Average...</b>				
Age	34.0	38.5	42.9	53.4
Years of Practice	3.8	9.6	15.2	25.4
Years AK Practice	3.6	8.8	14.3	22.6
Years of Residence	12.2	13.3	19.1	26.8
1987 Law Income	\$38,100	\$73,800	\$116,900	\$121,300
1988 Law Income	\$47,600	\$81,500	\$124,700	\$121,200
<b>% Member of Local Bar</b>	77.4	59.3	67.9	78.7
<b>% Applied for Judgeship</b>	0.5	6.9	16.2	37.3
<b>Low Salaries Important Reason</b>				
Very	14.2	14.1	29.1	17.0
Somewhat	33.5	28.8	33.7	38.3
Not	52.3	57.1	37.1	44.7
<b>Size of Firm</b>				
1 Lawyer	14.1	27.0	21.3	35.8
2 - 3	21.2	21.7	26.4	22.9
4 - 9	20.7	21.3	20.8	17.4
10 or more	43.9	30.0	31.5	23.9

**Table 2 (Continued)**  
**Profiles of Career Groups**

	Length of Practice in Years				
<b>Public Bar</b>	<b>0-6</b>	<b>7-12</b>	<b>13-19</b>	<b>20 or more</b>	<b>Judges</b>
Ratio - Public/Private	0.46	0.45	0.28	0.09	
% Working In					
Anchorage	49.5	51.9	48.2	36.8	54.5
Roaded-Ferry	37.6	41.3	46.4	52.6	38.6
Rural-Bush	12.9	6.7	5.4	10.5	6.8
Prosecution	19.4	20.2	19.6	10.5	
Public Def.	19.4	12.5	10.7	5.3	
State Other	31.2	44.2	55.4	47.4	
Govt Other-Non-Profit	30.1	23.1	14.3	36.8	
Gender					
Male	50.5	54.8	67.9	94.7	70.5
Female	49.5	45.2	32.1	5.3	29.5
Average...					
Age	34.1	38.1	42.1	51.1	44.8
Years of Practice	3.8	9.5	14.7	23.2	17.5
Years AK Practice	3.5	8.6	12.4	18.3	16.0
Years of Residence	10.6	13.0	15.6	23.3	19.7
1987 Law Income	\$31,800	\$49,700	\$63,000	\$69,000	\$65,600
1988 Law Income	\$38,600	\$53,200	\$68,000	\$69,000	\$67,100
% Member of Local Bar	47.8	34.6	28.6	47.1	54.5
% Applied for Judgeship	5.4	14.4	28.6	44.4	
Low Salaries Important Reason					
Very	6.2	0.0	11.8	12.5	28.6
Somewhat	16.9	26.9	29.4	31.3	45.7
Not	76.9	73.1	58.8	56.3	25.7

**Table 5**  
**Average 1987 and 1988 Income**  
**From the Practice of Law**

Average Income	1987	1988	Private 1988	Public 1988
Total Mean Income	\$72,400	\$78,300	\$89,700	\$54,600
Total Median Income	55,000	65,000	65,000	55,000
Location of Office				
Anchorage	76,400	83,000	93,500	52,600
Roaded	66,100	69,500	79,400	56,200
Rural	48,300	61,200	75,000	58,500
Location of Practice				
1st District	61,000	64,600	72,900	54,800
3rd District	75,200	82,400	93,200	52,900
2nd & 4th District	68,800	70,000	80,100	59,400
Private	82,800	89,700		
Sole	71,100	71,500		
Partner	117,100	127,700		
Associate	45,500	53,700		
Corporate	71,300	76,800		
Public	50,300	54,600		
Judge	65,600	67,000		
Prosecution	50,500	55,900		
Public Defender	43,800	47,500		
Other State	50,900	55,000		
Other Government	43,000	48,800		
Gender				
Male	80,600	86,500	97,000	57,500
Female	47,400	53,500	57,000	50,100
Age				
30 years or less	33,300	42,300	43,900	38,000
31 - 35	46,600	56,700	63,500	43,900
36 - 40	69,300	74,600	86,200	54,600
41 - 45	93,100	98,900	114,800	61,200
46 - 50	96,600	99,800	111,400	64,400
51 or more	92,300	93,300	104,000	74,500
Years of Residence				
1 - 5 years	40,600	51,200	55,900	43,600
6 - 10	57,500	65,100	75,300	50,300
11 - 15	81,900	88,500	100,800	60,000
16 - 20	92,200	96,700	107,600	64,300
21 - 30	78,500	78,900	87,200	57,400
31 or more	88,800	91,700	105,700	60,300

**Table 5 (Continued)**  
**Average 1987 and 1988 Income**  
**From the Practice of Law**

<b>Average Income</b>	<b>1987</b>	<b>1988</b>	<b>Private 1988</b>	<b>Public 1988</b>
<b>Years of Practice in Alaska</b>				
0 - 3 years	30,100	39,600	41,900	36,000
4 - 6	46,600	55,200	59,800	48,300
7 - 9	59,900	64,100	72,300	52,100
10 - 12	77,800	84,000	95,300	57,700
13 - 15	101,900	108,600	125,400	69,300
16 - 19	112,400	115,900	127,800	68,200
20 or more	114,400	112,500	126,800	75,300
<b>Years of Practice</b>				
0 - 3 years	27,900	37,500	40,500	32,100
4 - 6	41,900	49,400	53,400	43,400
7 - 9	56,300	62,400	69,900	50,700
10 - 12	73,000	79,400	90,000	56,200
13 - 15	99,000	106,100	123,200	67,700
16 - 19	109,000	114,700	127,000	70,300
20 or more	106,000	105,600	121,200	71,300
<b>Satisfaction with Career</b>				
Very satisfied	82,700	90,600	107,900	56,700
Moderately satisfied	68,300	74,200	84,200	53,500
Somewhat dissatisfied	53,500	54,800	56,200	49,800
Very dissatisfied	52,000	44,000	47,300	51,000
<b>Work Status</b>				
Full time	75,500	82,500	94,300	55,800
Part time	36,400	33,200	35,700	36,700
Part time due to maternity/paternity	32,500	32,400	30,400	36,700
Sabbatical leave	78,900	50,500	50,000	55,000
Other	25,800	21,900	10,000	22,500
<b>Size of Private Firm</b>				
1 lawyer			62,700	
2			85,300	
3 - 9			95,800	
10 or more			107,200	
<b>Private Practitioners - Office in Alaskan Cities</b>				
One			85,800	
Two or more			102,100	
<b>Private Practitioners - Office Outside Alaska</b>				
Yes			93,500	
No			80,100	



**Table 5 (Continued)**  
**Average 1987 and 1988 Income**  
**From the Practice of Law**

**Private Practitioners Averaging Over \$100,000 in Income**

Admiralty/Marine  
Banking-Savings  
Administrative Law  
Mineral-Natural Resources  
Negligence-Def-Plain  
Land Use Law  
Government  
Appellate Practice  
Securities

**Table 7**  
**Gender Differences Among Law Practitioners**

	<b>All ABA Members</b>		<b>Employed Full-time in Law</b>	
<b>Categories</b>	<b>Females</b>	<b>Males</b>	<b>Females</b>	<b>Males</b>
Age in Years	37.2	41.4	37.1	41.0
Years of Practice	8.1	12.8	7.3	12.4
Years of Alaska Practice	7.3	11.6	7.0	11.3
Estimated Income of...				
Sole Practitioners	\$ 39,300	\$ 74,400	\$ 46,100	\$ 82,900
Partners	104,900	129,900	113,600	131,300
Associates	45,500	57,800	47,500	59,000
Corporate	74,200	77,800	74,200	77,800
Judges	61,900	69,300	61,700	69,300
Prosecutors	53,300	57,300	56,200	57,300
Public Defenders	43,100	50,700	43,000	40,400
Other State	49,900	59,700	49,900	49,900
Other Govt/Non-Profit	45,900	50,200	45,900	50,600
Estimated Income with...				
0 - 3 years of experience	38,300	38,000	39,300	39,500
4 - 6 years	44,400	53,300	46,600	53,600
7 - 9 years	48,600	70,400	52,300	71,600
10 - 12 years	73,300	82,700	80,500	85,200
13 - 15 years	63,400	114,900	69,300	116,500
16 - 19 years	70,600	118,900	77,100	122,900
20 or more years	*	112,000	*	115,700
Estimated Income of Practitioners with 7 - 15 years of experience				
Partners	110,100	122,400	118,000	123,400
Sole Practitioners	42,400	83,800	49,700	88,300
Associates	49,300	66,200	56,500	68,600
Male-Female Income Differences	Male Income - Female Income			
All Respondents	\$ 33,200			
Controlling for Location of Office	33,500			
Controlling for Full time - Part time	28,200			
Controlling for Type of Practice	15,500			
Controlling for years of practice	15,200			
Controlling for full time/part time, location of practice, type of practice, and years of practice	4,500			

**Note:** Small sample size cause some full time incomes to appear lower than incomes of all respondents.

\* Denotes a sample size too small to report.

## **Appendix M**

### **Rural Justice Bibliography Introduction and Sample Pages**

## **Appendix M**

### **Introduction to the Council's Rural Justice Bibliography**

The problem of providing rural Alaskans with meaningful access to judicial and law enforcement services has existed since territorial days. The state's efforts to provide these services have been hampered by limited resources, vast geographical distances, chronic lack of transportation routes, exceptionally harsh climate, and the cultural diversity of Alaska's inhabitants. Written materials about the state's history, geography, economics and culture have often touched upon the justice system and its role in the development of the state. Other works have focussed specifically on the courts and law enforcement, detailing the problems created by resource allocation, political exigencies and commingling of cultures. These materials are archived in libraries and collections from Barrow to Seattle. Their numbers continue to grow each year, and little effort has been made to synthesize them.

The objective in compiling this bibliography was to synthesize and catalogue documents that were directly or indirectly related to the problem of access to justice in rural Alaska. The bibliography contains annotations for approximately 300 books, articles, reports, letters, agency records, diaries, films, and other documents. A wide range of materials and subjects is included because justice is an aspect of many reports and studies. Many of the documents were obtained from the archives of the University of Alaska at Fairbanks, and from the library and Justice Center at the University of Alaska Anchorage. Others came from the Judicial Council's library and other sources.

Note that this bibliography is very selective. It is not intended to be a complete listing. The Alaska Judicial Council plans to update it as time and funds allow, and welcomes suggestions for works that should be included in future revisions.

#### **ORGANIZATION OF BIBLIOGRAPHY**

The annotations are divided into sixteen different subject areas. Within each subject area, entries appear alphabetically by author. The complete annotation lists the document's author, title, publisher, date published, where the document was obtained, a one or two word description of the document, and the document's length in pages, followed by a summary of the document's purpose and findings, and the effect, if known, that the document has had on rural justice.

Each document also is listed in an alphabetical author index. The alphabetical author index shows the author, title, and date published, followed by the page on which the complete annotation appears. Where the author is unknown, the document is listed alphabetically by title.

## Agency and Commission Reports

**Alaska Court System** (Nesbett, Chief Justice), First Annual Report of the Alaska Court System, Alaska Court System, January 1961. Rasmuson Library, Archives & Manuscript Collection, Box 1, Folder 1, Alaska Department Files of Ralph Rivers Papers: Historical, annual report; 54 pp.

Purpose: The purpose of this report, addressed to the Governor, was to provide detailed information concerning the organization and operation of Alaska's court system.

Findings: The report concludes, among other things, that unanticipated fixed costs would necessitate a budget request greater than the figure estimated in 1959, and that it was important to plan for future court facilities.

Effect: Unknown.

**Alaska Judicial Council**, Alaska Judicial Council Second Annual Report - 1961, Alaska Judicial Council, January 1962. Rasmuson Library (Gruening - Alaska State Government 1962): Legal, government study; 11+ pp.

Purpose: The Alaska Judicial Council reported that it had recommended six items for legislative action in 1960, including "(1) Extending jurisdiction in juvenile cases to deputy magistrates to handle emergency cases, and (2) Granting authority to district magistrates to turn a juvenile over to regular court proceedings where the juvenile has violated a traffic law or regulation outside an incorporated city...." These and several other items became law in 1961.

Findings: The AJC's Second Annual Report proposed legislative action on: (1) Funding for lease of court facilities in Anchorage and Fairbanks, (2) Appointment of an additional judge of the superior court in the Third Judicial District, (3) Funding for appointment of additional district magistrates in Anchorage and Fairbanks, (4) Removal of ceiling on district magistrate's salary, and (5) Improved retirement plan for justices and judges.

Effect: The legislature implemented all of the AJC's recommendations between January 1962 and January 1964.

**Bureau of Indian Affairs** (Juneau Area Office), BIA Alaska Annual Progress Report - 1966, 1966. Rasmuson Library, Archives & Manuscript Collection, Box 8, E. L. Bartlett Collection, Fed. Dept. & Agencies (BIA): Annual Report; 27 pp.

Purpose: This progress report highlights important activities of the Bureau in Alaska. One Fairbanks project addresses problem drinking, and another studies women with multiple social problems.

Findings: Unknown.

Effect: Unknown.

**Bureau of Indian Affairs (Juneau Area Director), The First Alaskans - 100 Years Later, A Progress Report to the Commissioner of Indian Affairs, 1967.** Rasmuson Library, Archive & Manuscript Collection, Box 8, E. L. Bartlett Collection, Fed. Dept. & Agencies (BIA): Report; 20+ pp.

Purpose: This report, written by the Area Director of the Juneau BIA, is a general overview of Native needs in Alaska.

Findings: Unknown.

Effect: Unknown.

**Bureau of Indian Affairs, Impacts of Oil Pipeline Construction (TAPS) and Petroleum Development on the Alaska Native Population and BIA Programs, October 27, 1969.** Rasmuson Library (Gravel - BIA) B63-5: Government study; 4+ pp.

Purpose: This is a BIA interagency report with a courtesy copy to Senator Gravel. The report analyzes prospective TAPS development and impact on Native people. The report may have been prepared by the Assistant Commissioner of Administration in BIA for the Commissioner of BIA.

Findings: The report concludes at page 5 that:

"[t]here will be a change in drinking patterns from periodic and sporadic to regular and extended. [D]elinquency among teenagers including drinking, drug addiction and other types of asocial behavior will increase...."

The report also advocates planning to avert adverse side effects from rapid economic growth.

Effect: Unknown.

## Judicial Administration/Judiciary/Court System

**Alaska Court System, Proposed Three-year Court Facilities Building Program for the State of Alaska for FY 1972-73, 1973-74, and 1974-75.** Rasmuson Library, Archives & Manuscript Collection, Box 4, Folder 2, Fairbanks Chamber of Commerce Files, Series 7, Publications, Reports: Report; 35 pp.

Purpose: The report describes major facilities financed and under planning and construction in Anchorage, Fairbanks and Juneau.

Findings: The report notes Senate Bill No. 153 and Rule 18 of Rules of Criminal Procedure require that the superior court be brought to the bush areas as stated in AS 22.10.030, Section 3. It states that the intent of the act is to make administration of justice more accessible to the people of rural areas of the state.

Effect: Unknown.

**Anderson, Patrick M., Chair of Criminal Justice Task Force, Letter to Senator Edward Kennedy, Anchorage Native Caucus, April 3, 1980.** Rasmuson Library (Gravel - Social Justice, B352-11): Correspondence; 3 pp.

Purpose: This letter notes the nomination of Justice Robert Boochever to the Ninth Circuit Court of Appeals. Senator Gravel was copied on the correspondence.

Findings: During the spring of 1979, Senator Gravel had asked President Carter to appoint an Alaskan to the Ninth Circuit.

Effect: Not applicable.

**Baumgartner, R. E., "Organization and Administration of Justice in Alaska," American Bar Association Journal, Vol. 20: 23-26, January, 1934.** Anchorage Law Library: Historical, legal, cultural/anthropological; 4 pp.

Purpose: The article focuses on the history of justice in Alaska from the time of purchase to the early twentieth century. It outlines the major congressional acts which established a justice administration in Alaska and points out some of the unique conditions in Alaska - variance of weather conditions and the use of the dog for travel.

Findings: No findings/conclusions.

Effect: Unknown.

**Boney, George F.,** Chief Justice of the Alaska Supreme Court, "The State of the Judiciary: An Address Before the Joint Session of the Alaska Legislature," George F. Boney, January 20, 1972. Rasmuson Library (Gravel - Crime and Justice, B155-3): Legal, speech, government study; 25+ pp.

Purpose: This was the first time a chief justice of the Alaska Supreme Court addressed the legislature and people about the state of the judiciary. Chief Justice Boney spoke of a growing crime wave throughout the U. S. and Alaska. The Chief Justice then described in detail specific problems, remedies, and recommendations for future action.

Findings: "At the present time in rural Alaska, there are virtually no justice facilities. Magistrates and village policemen have no offices. There are no courtrooms. There are no jails. Today, court and land records are not secure and magistrates are required to hold court in their living room, in a store, or in a school room...." Chief Justice Boney recommended, among other things, constructing 50 "minor bush facilities," 10 new magistrate positions, new district judges, more village public safety officers, and upgrades for magistrate personnel.

Effect: Unknown.

**Boyko, Edgar Paul,** Correspondence Regarding the Administration of Justice in Alaska, February 23, 1965. Rasmuson (Gravel - Issues: Committee Judiciary B638-4): Legal, correspondence; 5 pp.

Purpose: In this letter to Rep. Gravel, Speaker of the House, that is marked "Personal and Confidential," Mr. Boyko, an Anchorage attorney, writes of an apparent crisis in Alaska's judicial system. He notes three problem areas: (1) a hastily-created court system, (2) "[c]ertain grave personality problems at the highest judicial level," and (3) "[d]efective constitutional provisions and loopholes in the legislative framework which governs the courts and their administration."

Findings: Mr. Boyko recommends the following remedial legislation:

- a) Peremptory challenges of trial judges;
- b) Disqualification of trial judges for cause;
- c) Statute to protect litigants against unreasonable delay; and
- d) Statutes to curb excessive powers of the chief justice.

He also recommends 8 constitutional changes.

Effect: Currently, A.S. 22.20.020 provides for disqualification of a judicial officer for cause; A.S. 22.20.022 provides for peremptory disqualification of a judge. Alaska Rule of Civil Procedure 16.1, implemented in 1986, is designed to reduce civil litigation delay.



Conn, Stephen, "Alaskan Bush Justice: Legal Centralism Confronts Social Science Research and Village Alaska," UAA School of Justice, Sept. 1981, revised Sept. 1982. UAA Justice Center: Historical, legal, cultural/ anthropological, legal; 41 pp.

Purpose: This paper, prepared for the IAVES Commission on Contemporary Folk Law meeting in September 1981, traces the history of the bush justice system in Alaska, describing the relationship between traditional Native dispute resolution mechanisms and the State criminal justice system. Conn analyzes the interactions, between 1970 and 1981, of bush justice research with state agency policies and changes in the rural justice system.

Findings: Conn reports that the researchers' innovations were well-received by the villagers and field-level professionals, but not by agency policy-makers. As a result, most of the reforms made during the 1970s had vanished by the early 1980s. Conn concludes that further reforms will not be effective unless Alaska Natives participate in the decision-making process, not as advisors or low-level bureaucrats but as co-equal players in positions of power.

Effect: Unknown.

Conn, Stephen, Bush Justice and Development in Alaska: Why Legal Process in Village Alaska Has Not Kept Up with Changing Needs, School of Justice, UAA, (paper for Western Regional Science Association conference in Monterey, Cal. 1984). Maureen Weeks, Senate Advisory Council: Historical, legal, cultural/anthropological; 54 pp.

Purpose: This paper analyzes the interactions among villages and government justice agencies (primarily state) since statehood. Conn discusses the fate of various "reform" efforts made by state agencies, and the fate of village efforts to respond to justice needs. Conn shows the impact of "outside" influence, such as the pipeline, on villages.

Findings:

1. Suggests that cultural misunderstanding of Western law and language problems are not primarily responsible for lack of justice in village Alaska. Concludes that a lack of resources and the state's desire for centralized control are responsible (pp. 28-29);
2. Suggests need for data on rural problems;
3. Recommends experimentation at village level, planning, and greater autonomy for villages.

Effect: Unknown.

Connelly, Hugh H., Presiding District Judge, "The Magistrates' Role in Alaska - Past and Present," Fourth Judicial District, c. 1968. Historical, legal; 8 pp.

Purpose: This article focuses on the historical origins of the magistrate in Alaska and the changes that brought about the modern-day magistrate with his/her various duties. It also outlines present weaknesses of the system.

Findings: Since, at times, the magistrate is the only state official (date of writing unknown), he or she is automatically the unofficial peace maker for the community. There must be more thorough supervision and training of magistrates. Facilities are inadequate, travel budgets are inadequate, and there are no established criteria for determining a magistrate's salary. Larger communities should assist Publications Findings in the detailed clerical duties to give better service to bush residents.

Effect: Unknown.

Dalton, Mike, "Natives Oppose Way Court Treats Them," Daily News Miner, 1967. Rasmuson Library, Box 7, Folder 124, Sandy Jensen Collection: Newspaper article; 1 p.

Purpose: This article reports that a Native leader, Ralph Perdue, criticized the Tanana Chiefs Conference in Tanana, the magistrate court system and its treatment of Natives. Mr. Perdue said there was discrimination against Natives in the major Alaskan cities, principally Fairbanks and Anchorage, citing the high percentage of Natives in jail.

Findings: No findings/conclusion.

Effect: Unknown.

Forbes, Hodge, and Kelly, District Court Judges, District of Alaska Judicial Conference Resolution, April 4, 1959. Rasmuson (Gruening - General File - AK Judicial System) B8: Legal, resolution; 2 pp.

Purpose: At a judicial conference in Anchorage, a resolution was adopted asking that two federal judges be appointed "to handle federal litigation."

Findings: Senator Gruening received a copy of the resolution from Hugh J. Wade, Acting Governor of the State of Alaska. The Juneau Chamber of Commerce adopted a similar resolution on June 18, 1959.

Effect: Unknown; however, by 1990 there were three active U. S. District Court judgeships in Alaska.

Gilmore, P. J., "The Judicial System and Courts in Alaska," October 17, 1953, speech to American Association of University Women. Rasmuson (Bartlett - Justice - General 1953): Speech; 7 pp.

Purpose: In this address to the American Association of University Women (AAUW), U. S. Attorney Gilmore said that the territorial judiciary needed reform because of inadequacies (lack of sufficient judges and commissioners), expanding case loads due to increased population growth after the war, and expanding economy.

Findings: He recommended adoption of a system like that in the Territory of Hawaii with a chief justice, associated justices of supreme court, and judges of a circuit court, plus district courts and territory courts. Alaska, by comparison, had four U. S. District Courts and "various commissioner's courts under supervision and jurisdiction of judges of various judicial divisions."

He also recommended that more judges be appointed.

Effect: Unknown.

Gravel, Mike, Correspondence Concerning Ninth Circuit Court Vacancy, circa 1977-1978. Rasmuson (Gravel - AKS/Boyer Staff Papers, B876, Files 3-5): Legal, correspondence.

Purpose: During the spring of 1979, Senator Gravel wrote to President Carter requesting that the President reconsider his appointments to the Ninth Circuit Court of Appeals by appointing an Alaskan. Gravel based his request to Carter on the fact that the Ninth Circuit Court up to that date (1979) had never had a judge from Alaska sitting on it. Gravel argued that population and number of court cases qualified Alaska for a seat.

Finding: N/A.

Effect: An Alaskan was not appointed to the Ninth Circuit at that time. However, on August 1, 1980, Robert Boochever, a Justice on the Alaska Supreme Court for eight years, became the first Alaskan ever to be seated on the U.S. Court of Appeals after President Carter nominated him to fill a vacancy on that Court.

Gruening, Governor Ernest, Diary Entry, February 28, 1940. Rasmuson Library, Archive & Manuscript Collection, Box 3, Folder 15, dates 1939-40, Ernest Gruening Papers: Historical; 1 p.

Purpose: Governor Gruening describes his meeting with U. S. Attorney General Robert Jackson.

Findings: Gruening told Jackson that he had no particular complaint with the administration of justice in Alaska, except that Alaska probably needs more competent judges.

Effect: Unknown.

**Helgath, Sheila, Public Defenders Location in Rural Communities, Senate Advisory Council (Memo to Sen. Zharoff, #87-000406), March 23, 1987. Maureen Weeks: Government study; 18 pp.**

Purpose: Justification for, and costs of, maintaining Assistant Public Defenders in Barrow and Sitka.

Findings: It would cost about \$32,000 to keep the two offices open; however, the actual indirect costs to the state might be greater if the offices were closed (due to scheduling difficulties with the judge and prosecutors). See also, House Research Agency, Memo #82-43, to Senator Zharoff re: public defender services to Kodiak, Dillingham & Unalaska.

Effect: Both Public Defender offices remained open in 1990.

**How to Request an Appointment of a Magistrate in a Small Community, July 29, 1986. Legal, Information Report on "How to..."; 15 pp.**

Purpose: This publication begins by defining the term "magistrate" and outlining the specific duties of a magistrate. The second part presents the procedures necessary for a community to request a magistrate and the conditions and requirements necessary. It briefly discusses the process of placing a magistrate and recourse for unsatisfactory performance of a magistrate.

Findings: No findings/conclusions.

Effect: Unknown.

**"Justice in Alaska," The Alaska Fisherman, April 1932. Rasmuson Library, Archives & Manuscript Collection, Box 16, Folder 14, Ben Mozee Papers, Articles & Publications: Historical; 1 p.**

Purpose: This article reprints a petition from the president of Bethel to the U. S. Attorney General, Judge Cecil Olegg (District Court of the Fourth Division), and U. S. Secretary of the Interior Wilbur. The petition calls for an investigation of the official conduct of the U. S. Commissioner's Court in Bethel. Complaint #4 says that no allowance is made by the court for ignorance of the Native, that Natives are not made to understand that they have a right to jury trial, that Natives plead

guilty through total ignorance of their rights, that verdicts of guilty are rendered against Natives on insufficient evidence, and that sentences are overly harsh and without due allowance for first offenders.

Findings: Not applicable.

Effect: Unknown.

Justice in Alaska. Rasmuson Library (Gravel: State of Alaska) B113-1: Legal; 14 pp.

Purpose: This paper is a critique of Alaska's justice system. It discusses civil actions and crime. The paper appears to be directed to the governor's office to highlight problems and seek solutions.

Findings: The author makes a number of conclusions.

Effect: Unknown.

Kehoe, Joseph W., Report of Joseph W. Kehoe, Special Assistant to the Attorney General, Pursuant to Letter of Authority dated 12/30/43, Joseph W. Kehoe, June 6, 1944. Mozee Papers (Subject File - U. S. Marshals) B21: Legal, government study; 17 pp.

Purpose: The Justice Department asked Mr. Kehoe to prepare this report on the administration of justice in the territory of Alaska, and to make recommendations.

Findings: The report recommends that the policy of having district judges appoint U. S. Commissioners (who had more extensive duties than did their counterparts in the Lower 48) be discontinued. The report also concludes that the fee system used to pay U. S. Commissioners should be replaced with annual salaries. Other recommendations include: establishing supervision of U. S. Commissioners; establishing a "commissioner at large"; and that the Second and Fourth Judicial Districts not be consolidated.

Effect: Unknown.

Plummer, Raymond, Chief Judge, and Judge James A. Von Der Heydt, "Request for a Third Federal District Judge," U. S. District Court, c. 1972. Rasmuson Library (Gravel - Eskimo and Indian Information, B152-19): Legal, correspondence, 7+ pp.

Purpose: The two existing U. S. District judges sent Senator Gravel a copy of their statement requesting an additional district judge for the District of Alaska.

Findings: The judges wrote that present case load was acceptable but that future economic development projects (i.e., construction of the Trans Alaska Pipeline, passage of ANCSA and increased of criminal filings) justified an additional judge. Supporting documentation on case load increases was attached.

Effect: Senator Gravel offered an amendment to the Judicial Omnibus Act of 1973 to give Alaska a third judge. This legislation, S. 1323, was not successful.

**Roberts, John D., U.S. Magistrate, "Officers of Judicial Branch COLA,"** John D. Roberts. Rasmuson Library (Gravel - Judicial Reform, B319-8): Legal, correspondence; 25 pp.

Purpose: U. S. Magistrate Roberts wrote to Senator Gravel requesting tax relief by providing COLA benefits for Federal judicial officers in Alaska.

Findings: Senator Gravel introduced legislation for COLA in 1973 and promised to do so again in the spring of 1978.

Effect: Unknown.

**Stewart, Thomas B., "Alaska Adopts Model Court System with Independent and Nonpartisan Judiciary,"** Congressional Record, April 8, 1959. Rasmuson Library (Gruening - AK Judicial System) B8: Historical, government study; 3 pp.

Purpose: Upon statehood, Alaska adopted "an independent judiciary with a minimum of political interference...." Mr. Stewart's remarks were printed in the Congressional Record at the request of Hon. Richard Neuberger of Oregon.

Findings: During territorial days, Alaska's judiciary consisted of magistrates in several cities and judges of the U. S. District Court of Alaska, who were appointed by the president and who sat in four geographical divisions.

Effect: Not applicable.

**Utter, R. F., et al, Report to the Conference of Chief Justices from the Task Force on a State Court Improvement Act,** Conference of Chief Justices, c. 1979. Rasmuson Library (Gravel - Judiciary, B338-2): Government Study, correspondence; 66 pp.

Purpose: The Task Force for a State Court Improvement Act, acting on behalf of the Conference of Chief Justices and the Conference of State Court Administrators, developed the concept of an independent federal corporation that would fund studies and projects designed to improve justice in state courts.

Findings: The task force report includes draft legislation (p.45-66) of the State Justice Institute Act of 1979.

Effect: Chief Justice Jay Rabinowitz contacted Senator Gravel on 9/11/79 asking for his support for legislation creating an "independent federal corporation - state justice institute." The State Justice Institute began work in 1987 with federal funding.

## **Appendix N**

### **Summary of the Council's Report on Appellate Sentence Review in Alaska**



## Appendix N

### Summary of the Council's Report on Appellate Sentence Review in Alaska

In connection with its evaluation of Alaska's ban on plea bargaining, and with funding from the State Justice Institute, the Judicial Council analyzed appellate court decisions reviewing criminal sentences in Alaska from 1968-1990. The Council's report, entitled "Appellate Sentence Review in Alaska," was published in the December 1990 edition of the Alaska Law Review.

Appellate review of sentences was first authorized in Alaska 1968, when the legislature enacted Alaska Stat. § 12.55.120. That law permits Alaska's appellate courts to review criminal sentences and reduce those found to be overly severe (the reviewing court may not increase a sentence found to be overly lenient, but may disapprove of it).

Before the Alaska Court of Appeals was created in 1980, the Alaska Supreme Court reviewed criminal sentences. The supreme court enunciated goals to which the trial judge should refer when choosing a sanction (known as the Chaney factors), formulated an appropriate scope of review for criminal sentences (the "clearly mistaken" standard), and articulated general sentencing criteria which generally distinguished between crimes against people, crimes against property, and drug offenses.

Despite its decisions in these areas, it was the supreme court's approach to interfere very little in the sentencing function. The court felt that the trial judge should be free to tailor the sentence to fit the individual offender, taking into account the facts of the offense. Thus, a Judicial Council study of sentencing practices in Alaska from 1974-1976 found that for all classes of offenses, the identity of the sentencing judge was more important than any other factor (including harm to the victim except in cases of death, and the offender's prior record) in determining sentence length.

Beginning in 1975, Alaska's criminal justice system underwent a major change due to Attorney General Avrum Gross' institution of a ban on plea bargaining. The short and long-term effects of this dramatic event are analyzed in the Judicial Council's most recent study of the ban, Alaska's Plea Bargaining Ban Re-Evaluated (1990), by Teresa Carns and Dr. Jack Kruse. The Judicial Council's original study of the plea bargaining ban, Alaska Bans Plea Bargaining (1978) found that the ban greatly reduced the frequency of sentence bargains, i.e., deals in which the prosecutor and the defense attorney would agree to a specific sentence in exchange for the defendant's plea of guilty or nolo contendere, subject to approval by a judge.

The plea bargaining ban also may have affected the number of sentence appeals filed: sentence appeals increased 39% from 1975 to 1976, and 103% from 1976 and 1973.

As sentencing procedures changed from deals agreed to in advance to open sentencing hearings, sentences began to be appealed more frequently.

The increase in sentence appeals, combined with a less drastic increase in criminal merit appeals, caused the supreme court to call for creation of a court of appeals to help with the appellate workload. The Alaska Court of Appeals was created by the legislature in 1980. Also in 1980, the legislature adopted presumptive sentencing, and revised the criminal code. By adopting presumptive sentencing, the legislature sought to eliminate unjustified disparity in sentences imposed on defendants convicted of similar offenses—disparity which is not related to legally relevant sentencing criteria.

Thus, the court of appeals was faced from its inception with interpreting a sentencing scheme very different from the previous system of indeterminate sentencing. The court of appeals interpreted the new scheme in a manner calculated to attain the statutory goal of uniform treatment for similarly situated offenders. Thus, in one of the court's most important decisions, Austin v. State, the court decided to determine the justice of non-presumptive sentences by reference to the principles inherent in the presumptive sentencing scheme.

During its first decade, the court of appeals decided well over 1,100 sentence appeals, creating an extensive body of case law articulating appropriate sentencing principles, establishing benchmark terms for some classes of offenses, and establishing standards for the extent to which sentences can be increased in aggravated cases. In addition, the court routinely reduces excessive sentences to bring them in line with sentences given in comparable cases, and has moved to close a major loophole in the presumptive sentencing scheme by regulating the total aggregate terms that may be imposed for offenders who are sentenced consecutively.

After the Judicial Council's appellate sentence review report was published, the Alaska Supreme Court handed down its decision in State v. Wentz, Slip Op. 3662 (Feb. 1, 1991). In that case, the supreme court disapproved one of the court of appeals' benchmarks (the ten year benchmark for aggravated class A felonies), and potentially called into question all court of appeals benchmarks, although it expressed its approval of the Austin guideline. Both the majority opinion in Wentz and the dissent cite "Appellate Sentence Review in Alaska." Id. at 14 n.16 (majority); 21-22 (dissent); 25 n.6 (dissent).

Based on the findings contained in "Appellate Sentence Review in Alaska," the Judicial Council has recommended that the legislature, through the Alaska Sentencing Commission, examine the various benchmarks set by the appellate courts to determine first whether there is sentencing law in those decisions that would be more effectively addressed by statutes, and second, whether the benchmarks and sentencing criteria could be summarized in a form that would make them easily accessible to judges, attorneys and the public.

TABLE 1

## STATUTORY FELONY SENTENCING AND EARLY RELEASE STRUCTURE IN ALASKA

Offense	Sentence Length (Years)				
	First Felony Conviction	Second Felony Conviction	Subsequent Conviction	Good Time	Discretionary Parole Eligibility
Murder I	<u>20</u> - 99	<u>20</u> - 99	<u>20</u> - 99	.33	Greater of 20 yrs. or 1/3 of term
Other Unclassified Felonies <sup>c</sup>	<u>5</u> - 99	<u>5</u> - 99	<u>5</u> - 99	.33	Greater of 5 yrs. or 1/3 of term
Unclassified Sexual Offenses <sup>d</sup>	4 [8] 30	7.5 [15] 30	12.5 [25] 30	.33	None on presumptive term
Unclassified Sexual Offenses <sup>a,d</sup>	5 [10] 30	7.5 [15] 30	12.5 [25] 30	.33	None on presumptive term
Class A <sup>e</sup>	2.5 [5] 20	5 [10] 20	7.5 [15] 20	.33	None on presumptive term
Class A <sup>a,b,e</sup>	3.5 [7] 20	5 [10] 20	7.5 [15] 20		
Class B <sup>f</sup>	0 - 10	0 [4] 10	3 [6] 10	.33	1st offense only None on presump. term
Class B <sup>b,f</sup>	0 [2] 10	0 [4] 10	3 [6] 10		
Class C <sup>g</sup>	0 - 5	0 [2] 5	0 [3] 5	.33	1st offense only None on presump. term
Class C <sup>b,g</sup>	0 [1] 5	0 [2] 5	0 [3] 5	.33	

NOTE: Mandatory minimum terms are underlined and presumptive terms are in brackets. Statutory minimums and maximums have no underline or bracket. Under certain circumstances, a three-judge panel may reduce a term below the statutory minimum.

- <sup>a</sup> Applies when a defendant possessed a firearm, used a dangerous instrument or caused serious physical injury, except for manslaughter.
- <sup>b</sup> Applies when a defendant knowingly directed the conduct (crime) at a peace officer, correctional officer, or emergency medical responder engaged in the performance of official duties at time of offense.
- <sup>c</sup> Other unclassified felonies include second-degree murder, attempted first-degree murder, selling hard drugs to minors, and kidnapping where the victim is not released safely.
- <sup>d</sup> Unclassified sexual offenses include first-degree sexual assault (forcible rape) and first-degree sexual abuse or assault of a minor (sexual penetration with anyone under 13, daughter or son under 18).
- <sup>e</sup> Class A felonies include manslaughter, robbery using a deadly weapon, selling heroin to an adult, arson with risk of physical injury, kidnapping where the victim is released safely, and first-degree assault.
- <sup>f</sup> Class B felonies include robbery not using a deadly weapon, theft over \$25,000, selling cocaine or marijuana to minors, burglary in a dwelling, arson with no risk of injury, bribery or perjury, second-degree assault, sexual penetration with a person aged 13, 14 or 15, and sexual contact with anyone under 13, daughter or son under 18.
- <sup>g</sup> Class C felonies include negligent homicide, burglary not in a dwelling, second-degree assault, theft over \$500, check forgery, possessing heroin or cocaine, and bootlegging.

TABLE 2

## BENCHMARK TERMS\* AND STATUTORY FELONY SENTENCING IN ALASKA

	Sexual Abuse of Minor I, Sexual Assault I (Years)	Murder I (Years)	Att. Murder I, Kidnapping, Misc. Involv. Controlled Substance I, Murder II (Years)	Class A Felonies (Years)	Class B Felonies (Years)	Class C Felonies (Years)
<b>FIRST FELONY OFFENDER:</b>						
Minimum Term:	4	20	5	2-1/2	90 days (most mitigated); 90 days - 1 year (mitigated) <i>Jackson</i>	Probation <i>Leuch</i>
Presumptive/ <i>Benchmark</i> Term:	8 [10]**	—	20-30 for Murder II <i>Page</i>	5 [7]***	1-4 <i>Jackson</i> [2]****	[1]****
<i>Benchmark</i> aggravated term	10-15 <i>Andrews</i>	—	—	10 <i>Pruett</i>	6 <i>Jackson</i>	2 <i>Austin</i>
<b>SECOND FELONY OFFENDER:</b>						
Statutory minimum term.	7-1/2	20	5	5	0	0
Presumptive Term:	15	—	—	10	4	2
<b>THIRD FELONY OFFENDER:</b>						
Statutory minimum term:	12-1/2	20	5	7-1/2	3	1-1/2
Presumptive Term:	25	—	—	15	6	3
<b>STATUTORY MAXIMUM:</b>	30	99	99	20	10	5

\* Benchmark terms and the cases from which they are drawn, are bold and italicized. Presumptive terms and statutory minimums and maximums appear in normal type.

\*\* Applies if gun, dangerous instrument used; or serious physical injury caused. AS § 12.55.125(i)(2).

\*\*\* Applies to offense other than manslaughter if gun, dangerous instrument used; serious injury caused; or crime is against officer or emergency responder. AS § 12.55.125(c)(2).

\*\*\*\* Presumptive sentence applies to first felony offender only if offense directed against public officer or emergency responder. AS §§ 12.55.125(d)(3) and (e)(3).

## **Appendix O**

### **Alaska Child Visitation Mediation Pilot Project Handbook**

## **Appendix O**

### **Alaska Child Visitation Mediation Pilot Project Handbook**

#### **Introduction**

Mediation is a process for helping people to resolve disagreements. The Child Visitation Mediation Pilot Project was created and funded by the Alaska Legislature to provide a safe, private place for parents with a visitation disagreement to talk and figure out what they can do about their problem. Mediators of the Alaska Child Visitation Mediation Project are trained, neutral third parties who use communication and listening skills to guide parents to an understanding of the issues involved in the dispute, and to help parents focus on the best interests of their children.

The Alaska Child Visitation Mediation Project provides visitation mediation services to Third Judicial District residents (including Anchorage, Kenai, Palmer, Wasilla and Eagle River). The Mediation Project's services are free.

The Alaska Child Visitation Mediation Project is administered by the Alaska Judicial Council. The Judicial Council is a constitutionally-created agency that is independent from the court system.

#### **Program Eligibility**

The Alaska Legislature chose several standards to determine if you are eligible to participate in the project.

1. You must be a party to a valid visitation order from the court. This order can be a temporary or interim order, or a final order.
2. The Mediation Project is not appropriate for people who have had domestic violence in their relationship. If you have had domestic violence or a pattern of harrassment of one party by the other in your relationship, the Mediation Project cannot conduct your mediation. We can, however, help you with other referrals.

3. The Mediation Project cannot help you if you want a completely new visitation order; the Project only can help you work out problems in your current order.

For more information about whether you are eligible for the project's services, call or write the Project Director, Susanne Di Pietro, at (907) 279-2526.

### **Purpose of This Handbook**

This handbook provides a description of what you can expect to happen during mediation. It describes the steps involved in mediation and tells you about your role in mediation and the role of the mediator.

## **Mediating Your Dispute**

### **What is Mediation?**

Mediation provides an informal, confidential process and a neutral mediator to help you resolve your dispute. Mediators ensure that you have the chance to say the things you want to say. Mediators also ensure that what you say will be considered seriously. You and your spouse/former spouse do not have to be in the same room in order to mediate your visitation dispute. If you want to try mediation, but you are uncomfortable being in the same room with your spouse/former spouse, your mediation can be conducted separately or even by telephone.

### **What Mediation is Not**

Mediators **will not** make decisions for you. Mediation is not a court proceeding and mediators are not judges. Mediators do not decide who is right and who is wrong, and they do not take sides. Mediators from the Alaska Child Visitation Mediation Project will not make any recommendations in court about your visitation dispute, and they will not testify in court about what was said during mediation.

At the end of mediation, you may ask the court to review and approve whatever agreement you may have reached; however, the Mediation Project can not enforce your agreement. If further disputes arise after you have mediated your agreement, you can come back and use the Mediation Project's services again.

## **Potential Benefits of Mediation**

While no dispute resolution process can guarantee specific outcomes, certain benefits often result from the use of mediation. Some of the benefits that have resulted to others who have used mediation have included:

**Economy** - mediation is generally less expensive when contrasted to lengthy litigation or other forms of fighting;

**Rapid Settlements** - when parties want to get on with business or their lives, the dispute process that they select needs to produce rapid results; mediation is often a more timely way of resolving disputes than going to court;

**Satisfaction** - people are generally more satisfied with solutions that have been mutually agreed on than with those that are imposed by a judge or other third party decision-maker;

**Compliance** - people who have reached their own agreement are generally more likely to follow through and comply with its terms than when an agreement has been imposed by a judge or other third party decision-maker. Mediated settlements tend to hold over time, and if a later dispute results, the parties are more likely to use a cooperative type of problem-solving to resolve their differences than pursue an adversarial approach.

## **Your Role in Mediation**

Before mediation begins, you will be asked to sign an "Agreement to Participate in the Child Visitation Mediation Project." The mediator assigned to help you will explain each part of that agreement to you.

During mediation, you will be expected to be honest and to attempt sincerely to resolve your dispute. You will be asked to state your opinions. You will also be asked to listen carefully to others when they state their opinions. Most importantly, you will be asked to develop solutions to your visitation problems that meet the best interests of your child(ren), not just your own interests.



Ten days after mediation, even if you were not able to reach an agreement, you will be asked to fill out an anonymous survey explaining what you thought about the mediation process. Three months and six months after your mediation, you will be asked to fill out two more anonymous surveys. It is very important that you fill out these surveys and return them to the mediation office, because the Project Director must report the results of the program to the state legislature. When reporting results to the legislature, the Mediation Project will keep your name completely confidential. Based on the survey results, the legislature will decide whether to continue the program.

### **The Mediator's Role**

The mediator's job is to make sure that you and your spouse or ex-spouse are given a fair chance to reach an agreement about your dispute. To help provide you this chance, the mediator will schedule mediation sessions, provide a meeting environment that supports communication, help keep you and your spouse/former spouse focused on problems and issues that you have identified, and help you prepare a written agreement.

### **The Visitation Mediation Project's Role**

The Visitation Mediation Project will provide a trained mediator to assist you in resolving your conflicts and will help schedule meetings between you, your spouse/former spouse and the mediator. The Project Director, Susanne Di Pietro, will be available to answer your questions.

### **The Role of Lawyers**

You do not need a lawyer to participate in mediation. However, if you wish, your lawyer may participate in the mediation by advising you about your legal interests and by reviewing any written agreements prepared by you and your spouse/former spouse. Lawyers usually do not attend mediation sessions. When they do attend mediation sessions, it is requested that lawyers give you advice but not speak for you.

## **What to Bring to Mediation**

Every mediation is different, but in general you should bring a copy of your most current visitation order. Just before your mediation, the mediator assigned to help you will let you know if there is anything else you should bring.

## **Steps in Mediation**

### **1. Talking to the Mediation Office and the Mediator by Phone**

Usually, the mediation process starts when one parent calls the mediation office [(907) 279-2526]. An office staff person will ask the parent a few questions to determine if s/he is eligible for the program. If the parent seems to be eligible, s/he will be asked to fill out an application form. A staff person will send a letter to the other parent explaining mediation and asking if the other parent would like to use the Project's services. The staff person will follow this letter with a phone call. If the other parent agrees to try mediation, s/he will fill out an application form.

### **2. The Orientation Session**

If both you and your spouse/former spouse say you want to try mediation, you will attend an orientation session with the mediator. At the orientation session, you and the mediator will go over and then sign the Agreement to Participate, talk about the mediation process and about the dispute, and arrange a time for mediation.

### **3. Describing What You Agree About and Do Not Agree About**

In mediation, you and your spouse or former spouse typically will be asked to describe your dispute and talk about what you expect to get out of the mediation. The mediator will help you and your spouse or former spouse identify clearly the things you agree about and the things you do not agree about, and why.

#### **4. Developing a List of Problems and Issues**

The mediator will help you and your spouse/former spouse develop a list of problems and issues to be covered during mediation using the descriptions of the dispute that you have given.

#### **5. Making Decisions**

The mediator will help you and your spouse/former spouse look at all possible options for an agreement that is acceptable to both of you. The mediator will not make decisions for you. Instead of making decisions, the mediator will help keep the discussion between you and your spouse/former spouse focused on the topics you indicated you wanted to discuss. Often this is the hardest part of the mediation. Although it might be hard for you to make decisions with your spouse/former spouse, keep in mind that these are decisions that must be made.

#### **6. Preparing a Written Agreement**

During your mediation, the mediator will help you keep track of the decisions that you have made. At the end of the mediation, the mediator can help you prepare a written "Memorandum of Understanding" that shows what you and your spouse/former spouse have agreed to do about your child's visitation.

### **After Mediation**

If you signed a written Memorandum of Understanding at the end of the mediation, each of you will get a copy of it. (If you were unable to solve your dispute, you can still take the matter to court.) In many cases, you will find that the Memorandum of Understanding is a helpful reference point for any future discussions about your child's living arrangements. If you feel that some points remain unclear, or if another issue arises, you can contact the mediation project again.

About 7-10 days after mediation has been completed, you will receive in the mail a survey asking about your views of and satisfaction with the mediation process. About 3 months and 6 months after your mediation, you will receive in the mail two more, shorter surveys. It is very important that you fill out all of these surveys.

Parties who go through the mediation process can learn new and creative approaches to resolve conflicts based on techniques used in mediation: active listening, conflict management, team work and agreement drafting. Try using some of these new approaches to solve disputes that come up after your mediation is over.

## **Appendix P**

### **Executive Summary of the 1990 Alaska Sentencing Commission Report**

# **Appendix P**

## **Executive Summary of the 1990 Alaska Sentencing Commission Report**

Across the country, governors, legislators, and corrections officials are trying to manage corrections systems that seem out of control. Prisons are overcrowded, incarceration rates are climbing, and corrections budgets are growing rapidly. Sentencing practices have come under increasing attack for being inequitable and inconsistent, and for making inefficient use of limited correctional resources. While the situation in Alaska has not yet reached the crisis stage that it has in other states, serious problems must be anticipated if current trends continue.

In response to these concerns, the Alaska State Legislature established the Alaska Sentencing Commission in 1990. The commission will provide a forum through which legislators, judges, corrections officials, and members of the public can discuss these issues equally and cooperatively. While an important impetus for creation of the commission was prison overcrowding, the legislature also emphasized the importance of re-evaluating and improving sentencing laws and practices.

The Alaska Judicial Council is working with the Sentencing Commission to find solutions to the vexing problems facing Alaska's criminal justice and corrections systems. The Sentencing Commission has decided to exercise its statutory alternative of placing its staff under the executive director of the Judicial Council, to take advantage of the Council's expertise in sentencing work and to free the Commission staff from administrative details.

### **A. The Need for Sentencing Reform**

During the last decade, Alaska has had the largest percentage increase in prison population in the country. It has used its oil wealth to keep pace with this increase by building new prison facilities, but it cannot continue to do so indefinitely. Other states have found that trying to build prisons fast enough to keep up with rising incarceration rates is a losing proposition.

Prison overcrowding points out the need to take a balanced approach to management of the corrections system. Offenders who present the most serious threat

to public safety--the violent criminal and serious recidivist--clearly should be in prison. In fact, these offenders cost the state and the public more in terms of new crimes and new victims if they are released from prison than the admittedly high cost of keeping them in prison. On the other hand, prison is not the only means by which offenders can be punished. Limited prison capacity dictates the need to create a continuum of non-prison corrections programs tailored to the less serious offender. So-called "intermediate sanctions" are being widely investigated as a way to make more efficient use of limited resources while still heeding the public's demand for public safety and appropriate punishment.

In addition to intermediate sanctions, the Alaska legislature has required the sentencing commission to consider judicial sentencing practices, parole and probation, treatment and rehabilitation programs, and current crime and incarceration rates. The commission must take a number of policy considerations into account: the relative seriousness of each offense, the offender's prior criminal history, rehabilitation, protection of the public, deterrence of future criminal conduct, the effect of sentencing as an expression of community condemnation, and the elimination of unjustified disparity in sentences. The effect of sentencing laws and practices on Alaska's Native population is of particular concern. The commission must also consider the resources available to criminal justice system agencies and the projected financial effect of changes in sentencing laws and practices.

#### **B. The Growth of Alaska's Prison Population**

Alaska's adult prison population has tripled since 1980. Prison populations have increased in every state, but Alaska has had the largest percentage increase of any state in the last decade. Alaska's general population has increased gradually while its crime rate has remained stable; the prison population has risen much faster than either of these two factors can account for.

Some of the increase can be attributed to a larger state budget which made possible a higher level of professionalism in law enforcement agencies. A number of laws have been enforced more vigorously in the last ten years, particularly sexual offenses and violent crimes. Changes in sentencing statutes have also played a part, including mandatory minimum and presumptive sentencing laws.

At the end of 1989, the Alaska Department of Corrections housed 2556 offenders, mostly felons, in 15 correctional facilities around the state. Twenty-three percent of these offenders were being held for sexual assault or sexual abuse of a minor, 13% for probation or parole violations, 11% for murder or manslaughter, 11% for assault, 8% for burglary, and 6% for robbery. Violent offenders accounted for 55% of the population, property offenders for 14%, substance abuse offenders for 11%, and all other offenders for 20%.

### **C. Re-evaluation of Sentencing Policies and Practices**

The legislature has asked the commission to address a broad range of policy issues relating to structured sentencing reform. The commission will consider:

1. Ranking the Seriousness of Different Offenses. The commission has tentatively decided to attempt to develop a consensus hierarchy of criminal activity, making a collective judgment about what crimes are most serious and therefore deserving of harsher sanctions. At a broad policy level, the rankings will reflect judgments about the harm or potential harm to the victim or community and the culpability of the offender.

2. Role of Criminal History. The commission plans to study the role of offender characteristics, such as prior criminal history and rehabilitative potential, and to determine how multiple convictions should be handled. The rankings of offense seriousness and offender characteristics may be displayed on a two-dimensional grid, yielding a matrix on which sentencing policy can be based.

3. Dispositional Policy. Based upon offense seriousness and offender characteristics, the commission will consider which offenders need to be incarcerated and which non-prison sanctions can be successfully employed without danger to the public.

4. Durational Policy. The commission may recommend specific confinement periods to the legislature or reform of parole and good time release. Re-examination of dispositional and durational policy may also be



necessary if Alaska wishes to incorporate intermediate sanctions into its sentencing structure.

5. Departure from the Prescribed Sentence. Structured sentencing plans typically provide a means for judges to deviate from the prescribed sentence and order a more or less stringent sentence due to mitigating or aggravating circumstances. Examples of departure criteria already incorporated into the Alaska criminal code include deliberate cruelty, vulnerability of the victim, and cooperation with the investigation.

6. Related Policies and Procedures. The commission may eventually need to propose legislation to reallocate sentencing authority. This may require re-evaluation of the function of the parole board, changes in prosecutorial discretion as to charging and plea bargaining, evaluation of "benchmark" sentences set by the Court of Appeals, or altered standards for probation revocation. The commission must ensure coordinated procedures that reinforce the goals of sentencing equity and uniformity.

#### D. Data Collection

Little attention has been given to the collection of information for developing state criminal justice policy. Yet with declining revenues and increasing prison populations, there is a compelling need for information to aid legislators in making difficult resource allocation decisions. One of the commission's goals is to collect this information, either from existing databases or from a new collection system, and to compile it in a form which will enhance policy discussion.

In addition to data, the sentencing commission is investigating the development of a comprehensive model for simulating the impact of sentencing on the full range of sanctions, including prison, local jail, probation, and community programs. Several models are currently in use in other states and may be adapted for use here.