



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.: 5	Date: 11 Feb 2009
Motion No.: 2009-0109	Prepared by: Nick Wagner

SUMMARY

Proposed Motion 2009-0109 would fill a judicial vacancy on King County District Court. The motion is before the Committee of the Whole for discussion only at its meeting of February 11. At that time the committee will have an opportunity to interview the six candidates who have received the highest rating from one or more of the six local bar association that have established judicial candidate evaluation procedures.

Committee action on the motion is not expected until a special COW meeting on February 23, as described below. The proposed motion is Attachment 1 to this staff report (pp. 5-6 of these materials).

BACKGROUND

The election of Judge Mariane Spearman to King County Superior Court in 2008 has left a vacancy in the West Division of King County District Court.

Under state law, RCW 3.34.100, the county legislative authority is directed to fill all district court vacancies by appointment. The King County Code, chapter 2.70, prescribes a merit selection process for filling such vacancies, including:

- Advertising of existing or anticipated vacancies by the clerk of the Council;
- Rating of interested applicants by the King County Bar Association (KCBA) and any other bar association with an established judicial candidate evaluation procedure;
- Referral by KCBA to the Council of the names of candidates receiving the highest rating;
- Review of the candidates by the Council's Committee of the Whole, which must then make a recommendation to the Council; and
- Final appointment by the Council.

KCBA has submitted to the Council a list of six candidates who have been awarded the highest rating by KCBA or one of the other bar associations that have established judicial candidate evaluation procedures.

THE CANDIDATES

The six candidates are:

- Johanna Bender
- Ann Danieli
- Adam Eisenberg
- Rebecca Graham
- Anne Harper
- Susan Noonan

Written materials concerning each candidate constitute Attachment 4 to this staff report (beginning on page 15 of these materials). The materials consist in large part of the candidates' responses to an extensive Uniform Judicial Evaluation Questionnaire prepared by the Washington State Governor's Office. Some of the candidates have submitted additional materials to the Council, including, for example, letters of recommendation. The materials in Attachment 4 are arranged alphabetically by candidate last name, as indicated in the Attachment list below, which includes a table of contents.

THE BAR ASSOCIATION RATINGS

Pursuant to the King County Code, the candidates have been rated by the King County Bar Associations and five other bar associations having established judicial selection procedures. A table summarizing the ratings is Attachment 2 to this staff report (p. 7 of these materials). The rating criteria used by the bar associations are listed in Attachment 3 (pp. 9-14 of these materials).

COUNCIL REVIEW PROCESS

February 11 COW Meeting

Councilmembers will have an opportunity to interview all six candidates in Council chambers at the Wednesday, February 11, meeting of the Council's Committee of the Whole. The candidates will be asked to wait in a room adjacent to the Council chambers until they are called before the committee one by one. Each candidate will be given one minute to provide an opening statement of why he or she wants to be appointed to the position and will then be asked to respond, within a prescribed time period, to a series of questions. After answering the councilmembers' questions, each candidate will be given one minute for closing comments. The total time for each candidate is expected to be approximately 10 minutes.

Following the interviews, the committee will meet in executive session to discuss the qualifications of the candidates. It is not expected that the committee will decide on a recommendation until it holds a special meeting for that purpose on the morning of Monday, February 23, immediately before the regularly-scheduled meeting of the Council.

February 23 Special COW Meeting

On the agenda for action at the February 23 special COW meeting will be Proposed Motion 2009-0109 (Attachment 1 to this staff report). Since the motion in its current form has a blank for the name of the person to be appointed, the motion will need to be amended in COW to specify the name of the appointee. Alternatively, the committee could recommend more than one candidate for consideration by the Council. The committee may not, however, report the motion out of committee without recommendation, since the Council's legal counsel interprets the county code to require the committee to make a recommendation.

February 23 Council Meeting

At the February 23 Council meeting, councilmembers are expected to consider the recommendation of the Committee of the Whole and make a final decision appointing one of the candidates to the District Court. The mechanism for Council action will be adoption of Proposed Motion 2009-0109, either with or without amendment, depending on the form in which the motion is reported out of the Committee of the Whole.

AMENDMENT OF THE PROPOSED MOTION

As described above, Proposed Motion 2009-0109 must be amended by inserting the name of the recommended appointee (or by recommending more than one appointee) before the motion is adopted.

INVITEES

1. David Koch, Past Co-chair, Judicial Screening Committee, King County Bar Association
2. Johanna Bender, Candidate
3. Ann Danieli, Candidate
4. Adam Eisenberg, Candidate
5. Rebeccah Graham, Candidate
6. Anne Harper, Candidate
7. Susan Noonan, Candidate

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Signature Report

February 9, 2009

Motion

Proposed No. 2009-0109.1

Sponsors Ferguson

1 A MOTION making an appointment to fill a vacant judicial
2 position in the Seattle division of King County district
3 court.

4
5 WHEREAS, a judicial vacancy exists in the Seattle division of King County
6 district court, and

7 WHEREAS, RCW 3.34.100 authorizes the county legislative body to fill judicial
8 vacancies in district court, and

9 WHEREAS, K.C.C. chapter 2.70, provides for the metropolitan King County
10 council to fill judicial vacancies in district court by selecting from among candidates
11 receiving the highest rating from the King County Bar Association or another bar
12 association with an established judicial candidate evaluation procedure, as defined in the
13 code, and

14 WHEREAS, the council: has received candidate ratings from the King County
15 Bar Association and five other bar associations with established judicial candidate
16 evaluation procedures; has reviewed written materials concerning each candidate; has

Motion

17 conducted interviews of candidates in accordance with K.C.C. chapter 2.70; and has
18 carefully considered the qualifications of the candidates;

19 NOW, THEREFORE, BE IT MOVED by the Council of King County:

20 _____ is hereby appointed to fill the vacant
21 judicial position in King County district court in the Seattle electoral district.

22

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

Attachments None

Consolidated Bar Ratings for King County District Court

As of 2 February 2009

Candidate	Joint Asian Judicial Evaluation Committee	King County Bar Association	King County Washington Women Lawyers	Latina/o Bar Association of Washington	Loren Miller Bar Association	QLAW
Johanna Bender	Well Qualified	Exceptionally Well Qualified	Highly Qualified ¹	Exceptionally Well Qualified*	Exceptionally Well Qualified	Exceptionally Well Qualified
Ann Danieli	Well Qualified*	Exceptionally Well Qualified*	Highly Qualified*	Exceptionally Well Qualified*	Exceptionally Well Qualified	Well Qualified*
Adam Eisenberg	Exceptionally Well Qualified	Exceptionally Well Qualified*	Exceptionally Well Qualified*	Exceptionally Well Qualified	Well Qualified*	Exceptionally Well Qualified*
Rebecca Graham	Well Qualified*	Exceptionally Well Qualified	Highly Qualified*	Well Qualified*	Exceptionally Well Qualified*	
Anne Harper	Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified
Susan Noonan	Exceptionally Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified	Exceptionally Well Qualified		Exceptionally Well Qualified

*Rating is for King County Superior Court

¹ “Highly Qualified” as used by KCWWL is comparable to “Well Qualified” as used by other bar associations, per King County Washington Women Lawyers.

Bar Association Rating Criteria¹

A. Joint Asian Judicial Evaluation Committee ("JAJEC")

[The JAJEC comprises the Asian Bar Association of Washington, Filipino Lawyers of Washington, the Korean American Bar Association of Washington, the South Asian Bar Association of Washington, and the Vietnamese American Bar Association of Washington.]

JAJEC does not endorse candidates for judicial office. Rather, JAJEC evaluates candidates by providing the public with our ratings.

A candidate may be rated Exceptionally Well Qualified (EWQ), Well Qualified (WQ), Qualified (Q), or Not Qualified (NQ) based on various factors including his or her integrity, fairness, legal ability, and demonstrated commitment to equal justice. The JEC chair notifies the Applicant of the rating within two days by phone or mail. This rating is valid for three years. Although the rating is made public, all information disclosed by the Applicant or the Applicant's references and all discussions of the Committee are kept confidential."

B. King County Bar Association

9. Rating Criteria, Categories, and Procedures.

9.1 Unified Rating System for Candidates. The ratings categories for candidates for election and applicants for appointment are identical: "Exceptionally Well Qualified," "Well Qualified," "Qualified," and "Not Qualified." However, only the names and ratings of applicants for appointment receiving one of the two highest ratings ("Exceptionally Well Qualified" or "Well Qualified") will be forwarded to the appointing authority. One of the purposes served by the process employed by the Committee to rate applicants for appointment is to identify for the appointing authority those persons best qualified to serve with the thought that, absent a compelling justification, the appointing authority will recognize that the public is best served by selecting from that list. The considerations are otherwise in an election context, where there may be multiple candidates and it may be necessary or advisable to draw finer distinctions.

9.2 Basic Rating Criteria. The basic criteria for rating Candidates consist of the following factors, which are not listed in any order of priority:

(a) Maturity, integrity, courtesy, intellectual honesty, fairness, good judgment, curiosity, and common sense;

¹ This document was prepared by Council staff and is based on information provided by the respective bar associations or obtained from their websites. The indented material, excluded bracketed language, is taken verbatim from the source.

(b) A demonstrated commitment to equal justice under the law, and fairness and open-mindedness with sensitivity to and respect for all persons, regardless of race, color, sex, sexual orientation, national origin, ancestry, religion, political ideology, creed, age, marital status, or physical or mental handicap, disability, or impairment. This commitment and sensitivity can be evidenced by the individual's involvement in community affairs and activities, professional practice, and personal and professional background.

(c) The courage and ability to make difficult decisions under stress.

(d) The competence, ability, and experience (which may include trial experience) to manage pretrial and trial proceedings, including administrative proceedings, arbitrations, settlement conferences, and commissioner or magistrate responsibilities. It should include an ability to address diverse issues, weigh conflicting testimony, apply the law to the facts, understand the dynamics of the trial or conflict resolution process, and command respect from attorneys, litigants, and other participants in the process.

(e) The ability to work with a wide variety of subject matters.

(f) Excellent legal ability and confidence, and demonstrated excellence in legal work and practice.

(g) The energy and capacity for hard work.

(h) The potential for ongoing professional development and demonstrated leadership in the profession.

(i) The ability to communicate clearly and effectively, orally and in writing, with attorneys, litigants, witnesses, and jurors.

(j) Interest and commitment to working with other judges and court administrators to improve the administration of justice.

9.3 **(Reserved)**

9.4 **Ratings of Candidates.**

9.4.1 **“Exceptionally Well Qualified.”** A Candidate may be rated “Exceptionally Well Qualified” if the Candidate fulfills the requirements necessary for a “Well Qualified” rating and, in addition, demonstrates outstanding accomplishments as reflected by some or all of the following:

(a) Singular accomplishments in professional practice, academic training, judicial career, or contributions to the profession.

(b) Exceptional litigation, judicial, or administrative experience.

(c) Outstanding personal and professional integrity and commitment to fairness in the administration of justice.

(d) Significant public service.

(e) Excellence in the criteria which support a “Well Qualified” rating.

9.4.2 **“Well Qualified.”** A Candidate may be rated “Well Qualified” if the Candidate demonstrates a level of skill, experience, sound judgment, and excellence in his or her professional or judicial career, or both which will sustain or improve the quality of the bench of the judicial position sought. These Qualifications may be demonstrated by satisfying some or all of the basic criteria.

9.4.3 **“Qualified.”** A Candidate may be rated “Qualified” if the Candidate has satisfied the basic criteria to a degree sufficient to consider the Candidate minimally qualified for the judicial position sought.

9.4.4 **“Not Qualified.”** A Candidate may be rated “Not Qualified” if the Candidate does not demonstrate qualifications sufficient to receive a rating of “Qualified”.

9.4.5 **“Insufficient Information to Rate.”** If a Candidate has been provided with a full and complete opportunity to provide information and, despite that opportunity, the Committee concludes by majority vote that it does not have sufficient information to rate the Candidate, the Committee shall not rate the Candidate and shall place the Candidate in the category “Insufficient Information to Rate.” This rating shall not be used if a Candidate has declined or refused to participate in the judicial screening process.

9.4.6 **“Refused to Cooperate in the Judicial Screening Process.”** If a Candidate has declined or refused to participate in the judicial screening process, the Committee may by majority vote, subject to paragraph 9.5.8, elect to not rate the Candidate and may place the Candidate in the category “Refused to Cooperate in the Judicial Screening Process.”

C. King County Washington Women Lawyers

CRITERIA FOR RATING CANDIDATES

A. Criteria to be rated as qualified: Candidates for the qualified rating shall possess all the following:

1. Active membership in good standing of the Washington State Bar and in good standing in every Bar in which that person is, or has been a member.
 2. Maturity, integrity, courtesy, intellectual honesty, fairness, good judgment, curiosity, common sense and freedom from bias, and a temperament appropriate to the judiciary.
 3. Respect for the law, for the judicial process, and for the dignity of the court.
 4. A demonstrated commitment to equal justice under the law, and fairness and open-mindedness with sensitivity to and respect for all persons, regardless of race, color, gender, sexual orientation, national origin, ancestry, religion, political ideology, creed, age, marital status or physical or mental handicap, disability or impairment. This commitment and sensitivity can be evidenced by the individual's involvement in community affairs and activities, by professional background and/or by a sensitivity to issues important to women within the profession or under the law.
 5. The courage and ability to make difficult decisions under stress.
 6. Good legal ability and competence, as evidenced by one's legal experience and practice.
 7. The ability to communicate clearly and effectively with attorneys, litigants, witnesses and jurors.
 8. The energy and capacity for hard work.
 9. The ability to manage pretrial and trial proceedings.
 10. An interest in and commitment to working with other judges and court administrators to improve the administration of justice, including an ability to effectively administer the business of the court.
- B. "HIGHLY QUALIFIED": To receive a Highly Qualified rating, a candidate must excel in a significant number of the criteria necessary to receive a Qualified Rating. In addition, the Committee may consider the following:
1. Experience as a neutral decision-maker;
 2. Significant public service.
- C. "EXCEPTIONALLY WELL QUALIFIED": To receive an Exceptionally Well Qualified rating, a candidate shall possess exceptional accomplishments in a significant number of the criteria necessary to support a "Qualified" rating. In addition, the Committee may also consider accomplishments in the two additional criteria mentioned in "Highly Qualified".
- D. "NQ RATING"; A candidate shall receive a "No Rating" when:
1. The Committee has insufficient information to rate; or
 2. For any reason the Committee deems appropriate.
- E. "NQT QUALIFIED": A candidate shall be rated "Not Qualified" if he or she fails to meet the minimum criteria for a Qualified rating

D. Latina/o Bar Association of Washington

The JEC undertakes a review of all materials for the following purposes:

- trial experience,
- prior legal experience,
- experience as a neutral decision maker,
- diversity of legal experience; and
- degree of community service.

The JEC interviews the candidate through a panel of volunteers who consider all information gathered in the preceding review of materials and interviews. After reviewing all information, the panel then conducts a thirty-five minute interview of the candidate. The candidate may make an opening statement and a closing statement.

The interview is designed to elicit information regarding the candidates prior experience, ability to remain judicious in stressful circumstances, experience and/or potential as a neutral fact finder, judicial demeanor (neutrality, fairness), diversity of legal experience, legal ability (written and oral), ethical conduct, integrity, honesty, commitment to justice for all, community service, fairness, understanding of diverse perspectives and a demonstrated sensitivity to all persons.

The possible ratings after review has been undertaken are Exceptionally Well Qualified, Well Qualified, Qualified and Not Qualified. Failure to provide sufficient information or to otherwise cooperate with the process results in an "insufficient information to rate" statement.

***Disclaimer:** LBAW strives to administer the entire JEC process in a uniform, fair and consistent manner. The process remains the same regardless of the candidate and candidates are not rated by comparison to other candidates. Many of the volunteers consistently give their time to this process ensuring that over time, the process remains relatively static.*

E. Loren Miller Bar Association

[Rating criteria could not be obtained in time for inclusion in these materials.]

F. QLaw

["At present, QLaw's Rules and Procedures prohibit providing the criteria to candidates/applicants and we do not publish the criteria. Our website provides general information about our ratings which I have cut and pasted below."]

[cont'd on next page]

We do not endorse candidates for judicial office. Candidates may be rated *exceptionally well qualified (EWQ), well qualified(WQ), qualified(Q), or not qualified (NQ)* based on various factors, including but not limited to, the candidate's integrity, fairness, legal ability, judicial temperament, diligence, community service, and demonstrated commitment to equal justice.

Materials received regarding

Johanna Bender

PLEASE NOTE: In the process of determining judicial ratings, the Judicial Screening Committee of the King County Bar Association uses the Washington State Governor's Office's Uniform Judicial Evaluation Questionnaire and this Supplemental Questionnaire, as well as reference checks, candidate interviews and other sources of information. (See Judicial Screening Rules and Procedures.)

The responses to the following questions on the Washington State Governor's Office's Uniform Judicial Evaluation Questionnaire may be disclosed to persons other than the Judicial Screening Committee and, in the case of judicial elections, will be publicly available:

Position Sought, Name, Business Address, Business email
Professional History: #8, 9, 10, 11, 12, 13, 14, 15,
Educational Background: #16, 17
Professional Experience: #18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32
Community and Civic Activities: #33

At various times, groups not affiliated with KCBA have rated judicial applicants. The KCBA Judicial Screening Committee's bylaws preclude the Committee from disclosing the names of applicants seeking a rating for appointment to these other groups. However, if you are interested in obtaining the names and addresses of such other rating groups to request this information yourself, you may contact the Executive Director at the KCBA office, telephone: 206-267-7100.

The remainder of this page is intentionally left blank.

1. REFERENCES. The Committee finds it useful to speak with attorneys and non-attorneys who are familiar with you. One or more Committee members will attempt to contact each reference listed. All telephone numbers should be current and legible. You may contact references in advance if you so desire. The Committee may also call upon individuals not listed to obtain information.

- (a) List the names and phone numbers of up to ten attorneys who have supervised you or who have reviewed and are familiar with your legal work, including your current supervisor and at least one other supervisor from your current workplace and at least one supervisor from each of your prior workplaces during the past fifteen years.

1. **The Honorable Phillip Hubbard**
Presiding Judge, King County Superior Court, Juvenile Division
206-296-9175
I preside regularly in Judge Hubbard's courtroom, as well as in the other King County Juvenile Court departments.
2. **The Honorable Richard Bathum**
King County District Court, South Division
206-205-9200
I preside regularly in Judge Bathum's courtroom.
3. **The Honorable Elizabeth Stephenson**
King County District Court, South Division
206-205-6704
I preside regularly in Judge Stephenson's courtroom.
4. **Charles Gordon**
Gordon Tilden Thomas and Cordell L.L.P.
206-467-6477
Mr. Gordon was one of my direct supervisors at Gordon Murray Tilden (now Gordon Tilden Thomas and Cordell).
5. **The Honorable Marsha J. Pechman**
United States District Court Judge
206-370-8820
Judge Pechman was my direct supervisor during my judicial clerkship.
6. **Jeffrey Ellis**
Ellis Holmes and Witchley
206-262-0300
Mr. Ellis was the felony division supervisor at The Defender Association from 1998-2000, and was my co-counsel in the matter of State v. Musgrave.

7. **Kathleen O'Neil**
Associate Professor, University of Washington School of Law
206-543-0928
Professor O'Neil is the director of the Basic Legal Skills Program at the University of Washington School of Law, and was my direct supervisor when I was a teaching fellow for that program.
8. **David Law**
Skellenger Bender, P.S.
206-623-6501
Mr. Law was one of my supervisors at Evergreen Legal Services.
9. **Lisa Daugaard**
Deputy Director, The Defender Association
Supervisor, The Racial Disparity Project
206-447-3900
Ms. Daugaard was my colleague at The Defender Association for over four years, and was co-counsel on one case (City v. Hughes). She currently supervises attorneys who appear before me.
10. **Michele Shaw**
Michele Shaw, P.S.
206-448-2252
I have performed contract work for Ms. Shaw on a variety of criminal matters.

In addition, Rebecca Kubler (who is not an attorney) was my supervisor at the Domestic Abuse Women's Network. She can be reached at 770-569-7356 and 404-433-3884.

(b) For the last five appellate matters in which you participated (whether as lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/phone number), and opposing counsel or counsel appearing before you (w/ phone number).

I contributed substantially to the appellate pleadings filed in each of the matters below.

1. **Bada Restaurants, Inc. v. Hentschell & Associates, Inc., 52326-1-I**
Subject matter: Insurance coverage
Court: Washington State Court of Appeals, Division I
Co-counsel: Roger Anderson, 206-448-2100; Frank Cordell, 206-467-6477
Opposing Counsel: Kim Fleuger (deceased) and Ken Lederman, 206-389-1668

2. Planet Earth Foundation et al. v. Gulf Underwriters Insurance Co., 55068-3-I
 Subject matter: Insurance coverage
 Court: Washington State Court of Appeals, Division I
 Co-counsel: Frank Cordell, 206-467-6477
 Opposing counsel: Salvador Mungia, 253-620-6500

3. In re: Disciplinary Proceedings Against Steven C. Miller
 Subject matter: Attorney discipline
 Court: Washington State Supreme Court
 Co-counsel: Frank Cordell and Jeff Tilden, 206-467-6477; Linda Eide, 206-733-5902
 Opposing counsel: Clinton J. Henderson, 509-758-3397

4. State of Montana v. Flat Center Farms, 02-464
 Subject matter: Indian law and taxation
 Court: United States Supreme Court
 Co-counsel: James Murray, 202-420-3409; Laura Christoffersen, 406-787-5700
 Opposing counsel: David Ohler, 406-444-3308

I certify under penalty of perjury of the laws of the state of Washington that the above information is true, accurate and complete. I agree to notify KCBA if there are material changes in this information between the time the Uniform Questionnaire and this cover sheet are completed and the expiration of any rating received.



 Signature
 Johanna Gode

 Print Name
 8/20/08

 Date

THE WASHINGTON STATE GOVERNOR'S OFFICE UNIFORM JUDICIAL EVALUATION QUESTIONNAIRE

Position Sought (Court/Division/District): **King County District Court and/or**

Seattle Municipal Court

By Appointment: **X** By Election: **X**

Personal Information

- Bender**
Last Name
- Johanna**
First Name
- Middle Name
- 26040**
WSBA Bar Number
2. Business Address: **11523 23rd Ave. N.E.**
Street or P.O. Box
- Seattle** **WA** **98125**
City State Zip
- Business Phone No. **206-909-8706** After-hours/direct dial: **206-985-9525**
- Work e-mail address: **johannabender@comcast.net**
3. Home Address: **Same information as above**
4. Date of Birth: **4/29/69** 5. Social Security Number:
6. City/State/Place of Birth: **Livingston, NJ**

Prior Evaluation / Application History

7. Please state the date of all other judicial evaluations you sought, bar polls you participated in, and appointment applications you submitted. Please specify whether you sought appointment or election for each, from whom the evaluation was sought, the position sought, and the outcome.

I obtained ratings for King County Superior Court with the following results:

Q-Law	Exceptionally Well Qualified (8/7/07)
Latina/Latino Bar Association of Washington	Exceptionally Well Qualified (7/16/07)
King County Bar Association	Well Qualified (8/7/07)
Loren Miller Bar Association	Well Qualified (7/6/07)
Joint Asian Bar Association of Washington	Well Qualified (6/27/07)
King County Washington Women Lawyers	Qualified (10/5/07)

I submitted the above ratings and a copy of the Uniform Judicial Questionnaire to Governor Christine Gregoire on May 28, 2007.

Professional History

8. Year admitted to practice law in Washington: **1996 (admitted as a Rule 9 Intern 1995)**
9. Employment History (in reverse chronological order):

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

a. Start Date: **June 2005** End Date: **None**

Organization(s): **King and Snohomish County Superior Courts; King and Thurston County District Courts; Bellevue, Burien, Des Moines, Duvall, Kent, Lake Forest Park, Mercer Island, Newcastle, Normandy Park, SeaTac, Seattle, and Tukwila Municipal Courts**

Address: **Various**

Phone No.: **My number is 206-909-8706. The phone numbers for some of the judges who have supervised my work are listed below. If requested by this committee, I will provide the contact information for the presiding judges of all courts in which I have served as a pro tem.**

Position/Title: **Judge, Commissioner, and Magistrate Pro Tem**

Supervisor: **Includes the following:**

**The Honorable Phillip Hubbard
Presiding Judge, Juvenile Division
King County Superior Court
206-296-9175**

**The Honorable Barbara Linde
Presiding Judge, King County District Court
206-205-2820**

**The Honorable Mariane Spearman
Presiding Judge, West Division
King County District Court
206-296-3630**

**The Honorable Ron Mamiya
Presiding Judge, Seattle Municipal Court
206-684-8714**

**The Honorable Kimberly Walden
Presiding Judge, Tukwila Municipal Court
206-433-1840**

Nature of Practice (including frequency of court appearances): **As a Judge Pro Tem, I have presided over the following types of criminal hearings: jury and bench trials, arraignments, testimonial and non-testimonial motions, pleas and sentencings, post-sentencing reviews, and probable cause hearings. I have presided over the following types of civil hearings: jury and bench trials, contested dependency matters (such as shelter care hearings and dependency reviews), at-risk youth fact-findings and reviews, children in need of services fact-findings and reviews, truancy fact-findings and reviews, contested and mitigated infraction hearings, default motions, supplemental proceedings, and protection order and anti-harassment order ex parte hearings and trials. I have also served as an arbitrator for civil matters in King County Superior Court.**

Reason for leaving: **N/A**

b. Start Date: **September 2002** End Date: **February 2006**

Organization: **Gordon Murray Tilden, LLP (now Gordon Tilden Thomas and Cordell, LLP)**

Address: **1001 4th Ave., Suite 4000, Seattle, WA 98154**

Phone No.: **206-467-6477**

Position/Title: **Associate**

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Supervisor: **Charles Gordon**

Nature of Practice (including frequency of court appearances):

At Gordon Murray Tilden, I had a varied civil practice. I estimate that 60% of my caseload was tort defense. These matters ranged from catastrophic injury cases to minor auto accident cases. In addition, I represented clients in commercial litigation involving contract disputes, collection actions, and malpractice allegations. I served as local defense counsel on a large class action suit brought under the Consumer Protection Act. The firm has a significant policy-holder insurance practice, and I worked on multiple such cases in state and federal courts. In addition, I represented a local utility company on several complex real estate matters, including a condemnation action.

While at Gordon Murray Tilden, I co-tried two jury cases in King County Superior Court (one defending a tort claim and one defending a breach of contract claim). I also co-tried a bench trial in King County Superior Court (defending a collection action involving a corporate disregard issue). I co-tried a breach of contract case before a three person arbitration panel, and tried an auto accident case solo before a single arbitrator. I argued motions in Superior and District Courts throughout Washington (including King, Pierce, Thurston, and Grant Counties), and submitted motions and other pleadings in the United States Supreme Court, the Washington State Supreme Court, the Washington State Court of Appeals, and the United States District Courts for the Eastern and Western Districts of Washington.

Reason for leaving: **Opportunity to sit regularly as a Judge Pro Tem**

c. Start Date: **November 2000** End Date: **September 2002**

Organization: **United States District Court for the Western District of Washington**

Address: **700 Stewart Street, Seattle, WA**

Phone No.: **206-370-8820**

Position/Title: **Law Clerk**

Supervisor: **The Honorable Marsha J. Pechman, United States District Court Judge**

Nature of Practice (including frequency of court appearances):

As Judge Pechman's clerk, I researched and drafted bench memoranda to assist her in ruling on motions. I then drafted opinions for Judge Pechman's signature. For cases going to trial, I drafted jury instructions. After bench trials, I drafted findings of fact and conclusions of law. I was Judge Pechman's assigned clerk on a habeas petition filed on behalf of a prisoner who had been sentenced to death.

Reason for leaving: **This was a two year term position**

d. Start Date: **July 1996 (Rule 9 intern Summer 1995)** End Date: **October 2000**

Organization: **The Defender Association**

Address: **810 3rd Ave., Suite 800, Seattle, WA 98104**

Phone No.: **206-447-3900**

Position/Title: **Staff Attorney**

Supervisor: **Jeff Ellis (now at Ellis, Holmes, and Witchley), 206-262-0300**

Nature of Practice (including frequency of court appearances):

I practiced in King County Superior Court, defending adult and juvenile matters. I also practiced in Seattle Municipal Court. I appeared in court nearly every day from July of 1996

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to October of 2000. The Defender Association employed a "horizontal" representation system, such that I generally appeared on behalf of a client at or immediately following arraignment and remained counsel of record through the completion of the case. As a result, I represented clients at all pre-trial motions, trials, sentencing hearings, and post-trial motions and reviews.

Reason for leaving: **Opportunity to serve as Judge Pechman's Law Clerk**

e. Start Date: **September 1994** End Date: **May 1996**
Organization: **University of Washington School of Law**
Address: **William Gates Hall, Box 353020, Seattle, WA 98195-3020**
Phone No.: **206-543-0928**
Position/Title: **Bogle and Gates Teaching Fellow in Basic Legal Skills**
Supervisor: **Kathleen O'Neil, Associate Professor, University of Washington School of Law**
Nature of Practice (including frequency of court appearances):

I facilitated group discussions, critiqued research and writing exercises, and provided individual instruction for students in the law school's mandatory Basic Legal Skills program.

Reason for leaving: **Graduated**

f. Start Date: **June 1994** End Date: **September 1994**
Organization: **Evergreen Legal Services (now Columbia Legal Services and Northwest Justice Project)**
Address: **401 2nd Ave., Seattle, WA**
Phone No.: **Program no longer exists. Phone number for David Law, former supervisor, is 206-623-6501**
Position/Title: **Law Clerk**
Supervisor: **David Law**
Nature of Practice (including frequency of court appearances):

I litigated on behalf of a recipient of public benefits at an administrative law hearing, conducted client interviews, researched family law issues, and drafted memoranda for supervising attorneys.

Reason for leaving: **Summer position**

Please continue, if necessary, on a separate piece of paper in the above format as needed.

Continued at Appendix 1

10. Please list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.

Admitted to practice in Washington State, October 17, 1996

Admitted to practice in the Federal District Court for the Western District of Washington, November 18, 2002

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**Admitted to practice in the Federal District Court for the Eastern District of Washington,
June 4, 2003**

11. Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.

Member, Washington State Bar Association

Member, King County Bar Association

12. Are you in good standing in every bar association of which you are a member? Yes / No. If you answered "no", please explain.

Yes

13. If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. Please state the dates of service for each.

N/A

14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported).

1. I am very honored to sit as a Judge Pro Tem. As indicated in my response to Question 9, above, I sit in King and Snohomish County Superior Courts and in numerous limited jurisdiction courts. In this role, I have had the opportunity to preside over a wide variety of cases. Every time I put on a robe and take the bench, I am moved by the experiences of the litigants before me, am challenged by the task of administering a fair hearing, and am inspired by the degree to which the court functions as an enforcer of social norms. I have worked hard to gain the trust of the judges, attorneys, parties, and staff in the many courts where I preside. I recognize that I sit as a Judge Pro Tem by invitation, and I am grateful for this opportunity for public service. Because of the range of cases over which I preside, I have had to stay abreast of development in many areas of the law (including criminal law and procedure, civil procedure, tort law, juvenile law, and infraction law). This has left me well-suited to take the bench in an appointed or elected capacity.

2. During the time that I worked for Judge Pechman, she was assigned her first capital habeas petition (Stenson v. Lambert, C01-252MJP). Judge Pechman asked me to serve as her clerk on that case. The Anti-Terrorism and Effective Death Penalty Act of 1996 ("AEDPA") had been adopted by congress only a few years earlier. AEDPA imposes complex procedural requirements on habeas petitioners, and at the time that Judge Pechman received the Stenson petition there was considerable litigation in trial and appellate courts around the country surrounding the implementation of this statute. Judge Pechman was called upon to evaluate an issue of equitable tolling, and I provided significant research and analysis in assisting her with her decision. The petitioner was ultimately permitted a hearing on the merits of his case. It was challenging to remain undaunted by the penalty that the petitioner would face if his petition were denied. I came to understand why judicial officers must face even those issues that they find uncomfortable. To have judges pick and choose their cases would be disastrous to the judicial system as a whole.

3. In response to Question 15, below, I have identified two cases that I litigated as a public defender. More than any single case or client, however, I am proud of the body of work that I performed at The Defender Association. It was a tremendous responsibility to provide legal services for a client base significantly disenfranchised by barriers such as poverty, mental illness, substance abuse and illiteracy. Although I do not remember the names of all of my former clients, I continue to be touched by the experience of working with –and for– this diverse population. The experience of advocating for hundreds of clients in the criminal justice system affirmed a deep commitment to access to justice, and I bring that commitment and understanding with me while serving as a judicial officer.

4. I have volunteered for the Northwest Women's Law Center over the course of thirteen years, including over seven years on the Law Center's Legal Committee. In June of 2008, I was appointed to the Law Center's Board of Directors. I am proud of the work that I have done to formulate strategy, identify impact litigation cases, and contribute to particular litigation efforts. At the same time, I have learned that not all disputes should go to court. Some cases, while appearing to be worthy, are saddled by poor facts, or bring the risk of creating bad law. Moreover, some problems can be more successfully addressed by other approaches, such as legislative reform and public education. From my work at the Law Center, I have learned that litigation is a powerful, but not exclusive, tool for obtaining social justice.

15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.

As counsel:

State v. Musgrave,

King County Superior Court, jury trial June-July 2000

Habeas corpus granted, 2005 WL 1528948 (W.D. Wash. June 24, 2005)

Prosecutor: Roger Davidheiser, 206-296-9000

Defense co-counsel: Jeff Ellis, 206-262-0300

Judge: The Honorable Charles Mertel, 206-296-9135

This was a three co-defendant homicide case. One co-defendant testified at Mr. Musgrave's trial as part of a plea bargain, and the other entered a plea to Murder in the Second Degree. Mr. Ellis and I represented the only co-defendant who chose to go to trial. Our client was convicted of Murder in the First Degree. Mr. Ellis and I argued for, and received, a downward departure on behalf of our client at sentencing. After I left The Defender Association, Mr. Musgrave's sentence was reversed, and his conviction upheld, on appeal. After exhausting his state appellate and post-conviction remedies, Mr. Musgrave filed a petition for habeas corpus. The petition was granted. The basis for habeas relief was an impeachment issue that I had preserved at trial. This was a very difficult case, emotionally and legally. It also provided a very valuable lesson to me regarding the importance of careful preservation of the trial record.

Century Furniture LLC v. Rick Elliott Co., Inc. et al.

King County Superior Court, settled after extensive discovery and motions, 2006

Plaintiff co-counsel: Franklin Cordell, 206-467-6477

Defense counsel: John Ludlow, 425-454-3374¹

Judge: The Honorable Linda Lau, 206-464-7657

This was a collection action brought by a furniture manufacturer against a former sales representative. This case involved very complex document discovery, including thousands of pages of invoices, financial records, and tax returns. It also involved Rule 30(b)(6) depositions and individual depositions of the defendant corporation, the corporate employees, and the corporate accountant. During the course of discovery, I learned that the defendant had substantially mismanaged corporate funds and had used multiple interlocking companies as shells for personal financial ventures. Based upon this information, I added a veil-piercing claim against the sole owner of the defendant company. At the close of discovery, I brought a successful motion for summary judgment against the defendant corporation, and also defeated the individual defendant's motion for summary judgment on the issue of his liability. The case settled prior to trial, on terms favorable to my client. From this and other civil cases that I handled, I learned to manage complex litigation in a cost-effective manner, and to distill and present significant amounts of information to the bench.

¹ During the course of this litigation, I obtained a sanctions award against the opposing party. This is a course of action that I have pursued very seldom during my career. Opposing counsel may not have fond memories of this case.

State v. L.B.

King County Superior Court, Juvenile Division, trial 1998

Prosecutor: Jennifer Saltvig (current phone number unknown)

Judge: Commissioner Carlos Velategui, 206-205-2566

L.B. was charged with malicious mischief and assault after throwing a Tupperware container at her step-father. L.B. is a bi-racial woman, and was 16 years old at the time of her arrest. Her step-father, who is Caucasian, was at the time an employee of the Washington State Department of Corrections. He was responsible for training other DOC officers in prisoner compliance and management techniques. On the date of this incident, L.B. and her step-father got into an argument. The step-father used all sorts of vulgar and threatening language, at one point calling L.B. a "n****r whore." At that time, L.B. threw a plastic container at her step-father, and he claimed that it made contact with his forehead. When the police arrived at the family home in response to the step-father's 911 call, they found the step-father pinning L.B. to the ground, his knee on her neck. L.B. was struggling to breathe and had carpet burns along the side of her face. L.B. was arrested and brought to trial. Commissioner Velategui acquitted L.B. of all charges, finding that she reasonably believed that she was in imminent danger from her step-father, and that she acted in self-defense.

Over the years, many people have asked me how I felt about representing people guilty of crimes. After this trial, I began explaining that representing the innocent is a much more challenging task. I lost sleep over the possibility that L.B. would be convicted. In L.B.'s case the legal system functioned as it was designed to, and the outcome was just.

Products Group International v. Sonosite, Inc.

AAA arbitration, 2005

Plaintiff's co-counsel: Charles Gordon, 206-467-6477

Defense counsel: James McCullagh, 206-359-8000; David East, 206-467-1816

Arbitrators: The Honorable George Finkle (ret.), 206-223-1669; The Honorable Terrence Carroll (ret.), 206-223-1669; and Richard L. Goff, 206-838-1973

This was a breach of contract claim brought by Products Group International ("PGI"), a family-owned business specializing in the design and sales of veterinary ultrasound equipment. PGI had an on-going relationship with Sonosite, Inc. ("SonoSite"), serving as a sales representative and product developer for SonoSite in both U.S. and international markets. After many years, SonoSite terminated its relationship with PGI. PGI sued for breach of contract, but did not prevail. This case is significant to me because it reminds me of the line that judges (and attorneys) must draw between law and equity. PGI was a wonderful and impressive client, made up of a husband-wife team who had devoted years of hard work to their business. I wanted nothing more than to see them prevail. However, the arbitrators concluded that PGI's legal claim was without merit. The arbitrators were responsible for applying the law to our facts, and could not bend the law to reach a more sympathetic result. While I understand this, as does my former client, it was nonetheless a difficult case to lose.

As a Judicial Clerk:

Jackson et al. v. Microsoft Corp., No. C01-775P (dismissal order published at 211 F.R.D. 423)

This was a civil rights action filed by several former employees of Microsoft, alleging discrimination on the basis of race. Microsoft filed a motion to dismiss the claims of Plaintiff Rahn Jackson, after learning that Mr. Jackson was in possession of vast quantities of stolen

proprietary information belonging to Microsoft. After extensive briefing and two evidentiary hearings, the Court dismissed Mr. Jackson's claims. I was the assigned Clerk in this matter, drafting both bench memoranda and the dismissal order for Judge Pechman's signature. This case made a significant impact on me, and I have thought of it often during my tenure as a Judge Pro Tem. Judge Pechman was called upon to sort through a complex record, make detailed findings of fact, and ultimately to impose very serious sanctions. After careful deliberation, Judge Pechman chose to dismiss Mr. Jackson's claims; perhaps the most extreme sanction that can be imposed. This case serves to remind me that Judges must have the courage to make difficult decisions, but that they cannot do so brashly. Judge Pechman's dismissal order was affirmed at 78 Fed. Appx. 588 (9th Cir. Wash. 2003).

As a Judge Pro Tem:

State v. Clarke, 570357087

State v. Gerense, 580059333

State v. Gibson, 580027191

State v. Hufane, 550205099

State v. Pace, 570122143

State v. Sturup, 570276852

King County District Court, West Division, motions hearing May 29, 2008

Prosecutor: Christopher Bell, 206-296-9000

Defense counsel: Ruth Rivas, 206-674-4700, ext. 3194; Rodney Benjamin, 206-447-3900, ext. 713

These cases all involved criminal prosecution under the King County Bus Conduct Ordinance, KCC 28.96.010. Defendants jointly moved for dismissal, alleging that numerous subsections of the Ordinance were unconstitutionally broad and void for vagueness. Defendant Pace additionally brought an equal protection challenge, alleging that he was unconstitutionally singled out for arrest and prosecution because of his homelessness. Each defendant was arrested and charged after some allegedly disruptive conduct on a bus or at a bus station or shelter.

After briefing and oral argument, I ruled that KCC 28.96.010(B)(6) was unconstitutionally vague as applied to Mr. Pace. This defendant was arrested after he fell asleep lying across his seat on a late night bus. I ruled in favor of the State on each of the additional joined motions, which implicated different facts and different subsections of the Ordinance.

This set of cases exemplifies the significance of limited jurisdiction litigation. Each defendant was charged with a simple misdemeanor, the least serious type of criminal charge. At first glance, none of these cases appeared complex or particularly noteworthy. However, a very large number of defendants face prosecution under this Ordinance annually, and the defendants' challenges (and State's responses) raised significant questions regarding individual rights, community expectations of peace and cleanliness in public areas, and the limits of police authority to interfere with public conduct.

Morgan Hill PC v. Susan Amdt, 71934

Thurston County District Court, jury trial March 17, 2008

Plaintiff's counsel: Ty Menser, 360-357-5700

Defendant was pro se

Plaintiff law firm represented defendant in a family law matter. After informal collection efforts were unsuccessful, the firm sued Ms. Arndt for unpaid fees. Ms. Arndt filed a counter-claim, alleging negligent malpractice.

This case is significant to me because it exemplifies the challenges posed by working with pro se litigants. Ms. Arndt was very upset with her former attorney. However, she did not have the resources or skills to present a negligence case. She did not appear to be familiar with the legal standards for such a claim, had no expert witness as to the standard of care in the legal profession, and was not familiar with the rules of evidence or procedure in the courtroom. She was calm, courteous, and attentive in court, but did not know how to advocate her position. After plaintiff rested, I had to inform Ms. Arndt that she would not be permitted to argue her counter-claim before the jury.

Throughout the trial, I made every effort to explain the process to Ms. Arndt without giving her any legal advice. I was able to set a respectful tone in the courtroom, and to encourage the parties to discuss the case with one another outside the presence of the jury. When we took a break over the noon hour during defendant's case in chief, the parties agreed to a mutual voluntary dismissal without costs. My impression is that this resolution was satisfactory to both parties.

State v. Burns

King County District Court, motions hearing 2006

Prosecutor: Fe Lopez, 206 398-4101

Defense counsel: Noble Njoku, 206-856-2624

This was a defense motion to suppress the results of a blood test for the presence of drugs. The defense argued that the testing protocol used by the government did not comply with RCW 46.61.506. There is a body of case law that addresses the admissibility of non-conforming breath and blood-*alcohol* tests. The particular issue raised by Mr. Burns, however (involving non-conforming *drug* tests), was an unsettled area of law. After reviewing the briefing of the parties and hearing oral argument, I ruled that the drug test results were admissible as proof of impairment pursuant to RCW 46.61.502(1)(b). The defense brought a motion to reconsider, which I denied after further briefing and further oral argument. This case is illustrative of the Court's obligation to apply the law to novel facts, where there is no law squarely on point.

Educational Background

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

Brown University	1987-1991	BA Magna Cum Laude
College/University	Dates of Attendance	Degree

17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

University of Washington	1993-1996	JD
Law School	Dates of Attendance	Degree

Professional Experience

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18. Please summarize, briefly, the general nature of your current law practice.

See response to Question 9(a), above

19. If you are in practice, please describe your typical clients and any areas of special emphasis within your practice.

See response to Question 9(a), above

20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.

See responses to Questions 9(a)-(d), above

21. Within the last 5 years, did you appear in trial court:²

Regularly Occasionally Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

Regularly Occasionally Infrequently

23. Within the last five years, how often did you appear in the court for which you are applying:

Regularly Occasionally Infrequently

24. Career Experience

(a) What percentage of your appearances in the last five years was in:³

(1) Federal appellate courts	_____	%
(2) Federal trial courts	_____	%
(3) State appellate courts	_____	%
(4) State trial courts	45	%
(5) Municipal courts	20	%
(6) District courts	30	%
(7) Administrative tribunals	_____	%
(8) Tribal courts	_____	%
(9) Other (arbitration)	<u> 5 </u>	%
TOTAL		100%

(b) What percentage of your practice in the last five years was:⁴

² Please note that my answers to Questions 21 and 23 reference both my litigation work at Gordon Murray Tilden and my current work as a Judge Pro Tem.

³ This is the approximate percentage of my time devoted to pro tem work in each of the listed jurisdictions. While at Gordon Murray Tilden, I estimate that my practice was divided as follows: 5% federal appellate courts, 5% federal trial courts, 5% state appellate courts, 70% state trial courts, 10% district Courts, and 5% arbitration proceedings.

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(1) Civil litigation (excl. family law)	30	%
(2) Criminal litigation	55	%
(3) Family law litigation	15	%
(4) Non-litigation	_____	%
TOTAL	100%	

(c) What percentage of your trials in the last five years were:⁵

(1) Jury trials	20	%
(2) Non-jury trials	80	%
TOTAL	100%	

(d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel; jury trials; and trials where you were the arbiter/decision maker.

<u>Number</u>	<u>Court</u>	<u>% as Sole / Chief Counsel</u>	<u>% Jury</u>	<u>% as the Arbiter</u>
75 +/-	Municipal	45	30	60
100 +/-	State Dist.	n/a (Judge Pro Tem)	10	100
50 +/-	State Superior	94	30	20
_____	Federal Dist.	_____	_____	_____
_____	Administrative	_____	_____	_____
_____	Tribal Courts	_____	_____	_____
4	Other (arbitration)	50	_____	2

Please note that these numbers are conservative estimates. I had a high volume practice at The Defender Association, and I am not able to recollect precisely the number of cases that I took to trial. In King County Superior Court, I tried multiple adult felony matters before juries, at least one adult felony matter before the bench, and multiple juvenile offender matters before the bench. In Seattle Municipal Court, I tried at least thirty cases before juries, as well as numerous trials before the bench. While at Gordon Murray Tilden, I litigated two civil jury trials in King County Superior Court, and one civil bench trial. In addition, I tried two civil matters before arbitrators.

As a Judge Pro Tem, I have presided over approximately one dozen criminal jury trials, plus one civil jury trial and one criminal bench trial, in various courts of limited jurisdiction. I have presided over at least a half-dozen juvenile offender fact-findings in King County Superior Court. Finally, I have presided over dozens of civil bench trials in both superior and limited jurisdiction courts (personal injury, juvenile non-offender, small claims, anti-harassment orders, and contested infraction matters).

⁴ This is the approximate distribution of matters that I hear as a Judge Pro Tem. While employed at Gordon Murray Tilden, all of my practice was civil litigation.

⁵ This is the approximate distribution of trials over which I have presided. In the last five years, I have tried two jury and three non-jury matters.

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- (e) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

Martin v. PSE et al., 03-2-34570-9 SEA

Counsel for Mr. Martin: Simon Forgette and Janice Nevler, Law Offices of Simon Forgette, 425-822-7778

Counsel for Puget Sound Energy, Inc.: Jeff Thomas (206-467-6477)⁶ and Johanna Bender
Judge: The Honorable Linda Lau, 206-464-7657

Mr. Martin was one of three passengers in a vehicle driven by an intoxicated driver. The driver left the road and collided with a utility pole owned by Puget Sound Energy, Inc. ("PSE"). The driver was charged with vehicular assault, and took his own life before his criminal case was resolved. Mr. Martin brought suit against the driver's estate, PSE (alleging negligent placement of the utility pole), and King County (alleging negligent road design). The matter settled prior to trial after extensive discovery.

State v. Costello, 99-1-07044-1 SEA

Prosecuting Attorney: David Martin, 206-296-9000

Judge: The Honorable Charles Mertel, 206-296-9135

Mr. Costello was charged with Assault in the Fourth Degree (domestic violence), Unlawful Imprisonment, and Felony Harassment. Trial lasted several weeks, and involved a number of contested evidentiary issues, including a testimonial hearing regarding the admissibility of alleged prior assaults, and a motion to exclude the testimony of a child witness. The Court permitted evidence regarding the prior incidents, but excluded the child's testimony on the grounds of competency. At the close of the State's case, the Court granted my motion to dismiss the Unlawful Imprisonment charge. The jury convicted on the remaining offenses. The State moved for an upward departure at sentencing, which the Court denied.

State v. A.R., 98-8-05863-5

Prosecuting Attorney: Julie Thrall Burrow, 757-687-7778

Judge: The Honorable Michael Trickey, 206-296-9265

A.R. was charged with Robbery in the Second Degree, arising from an attack by a group of young men against a single victim. The State informed A.R. that the charge would be amended upwards to Robbery in the First Degree should he go to trial. Because A.R. and the other alleged perpetrators were African-American, and the victim was Hispanic, the case involved an interesting issue of cross-racial identification. The case also involved a search and seizure issue, as law enforcement entered A.R.'s home after receiving permission not from a homeowner or tenant, but from a house guest. Judge Trickey granted my motion to suppress the State's evidence that was tainted by the unlawful search and seizure. As a result of these and other evidentiary issues, the State reduced the charge to Theft in the First Degree.

State v. T.B., 98-8-07578-5 (co-respondent matter was State v. M.V., 98-8-08348-6)

Prosecuting Attorney: Thanh Tran, 206-233-8778

Co-respondent's Attorney: Kimberly Ambrose, 206-543-3434

⁶ All civil matters at Gordon Murray Tilden were assigned to at least two attorneys. Thus, I have listed co-counsel.

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Judge: The Honorable Marsha J. Pechman, 206-370-8820

T.B. and M.V. were charged with telephone harassment after one of their classmates received a number of unwanted telephone calls. Ms. Ambrose and I challenged the State's ability to lay foundation for the evidence of these electronic communications. Judge Pechman dismissed M.V.'s case after the State rested, and acquitted T.B. at the close of trial.

State v. Battle, 99-1-01333-2, 98-1-06902-0, 99-1-03136-5

Prosecuting Attorney: Erin Becker, 206-296-9000

Judges: The Honorable George Finkle (ret.), 206-223-1669; The Honorable Sharon Armstrong, 206-296-9363

Mr. Battle was charged with multiple violations of the Uniform Controlled Substances Act. I took two of his cases to trial, resulting in a conviction of a lesser charge in one matter, and a hung jury in the other matter. After those results, the State offered a plea bargain. This resolution incorporated all of Mr. Battle's pending matters and substantially lowered Mr. Battle's total prison time.

- (f) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

None

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25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

As explained more fully in my response to Question 9, above, I have extensive experience as a Judge Pro Tem. I estimate that I have spent at least 500 days on the bench.

As a Law Clerk for Judge Pechman, I spent two years working with, and learning from, a very talented Judge. I drafted memoranda and opinions for Judge Pechman's signature, I wrote jury instructions during trials, and I observed numerous pre-trial conferences and settlement conferences. I learned Judge Pechman's methods for handling a high-volume motions docket, and for the tracking and timely resolution of motions. After spending two years watching Judge Pechman's compassionate, patient, and talented work, I began to seriously contemplate pursuing a judicial career.

As a volunteer attorney with the King County Bar Association Downtown Neighborhood Legal Clinic, I provided legal analysis, advice, and referrals to numerous low-income persons. I spent half an hour with each client, and was provided with no information in advance regarding the clients' legal problems. Thus, I had to draw upon a broad range of legal experience, engage in quick on-the-spot research, and summarize legal information in easily understood terms. I use these skills regularly on the bench. I am often called upon to quickly identify and resolve legal issues, and I make every effort to articulate my rulings such that they can be understood by pro se litigants.

As a member of the Northwest Women's Law Center Legal Committee, I regularly assess and respond to requests for representation. This intake process requires that I identify a variety of legal issues, and analyze the strengths and weaknesses of potential trial court and appellate cases. Again, this ability to "issue spot" has served me well on the bench.

While in civil practice, I regularly participated in mediation. I understand the process of alternative dispute resolution, and respect greatly the ability of mediators to broker solutions outside of the courtroom. As a Judge Pro Tem, I actively encourage civil litigants to participate in such programs. In small claims proceedings, the court offers the services of the Dispute Resolution Center ("DRC"). I work closely with the mediators in that program to ensure that the services offered are accurately explained to the litigants. I also currently serve as an arbitrator for mandatory arbitration cases in King County Superior Court.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

Board of Directors, Northwest Women's Law Center, July 2008-June 2011. I will resign from this position if appointed or elected to a judicial office.

27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

Member, Northwest Women's Law Center Legal Committee, 2001-present (Committee Chair 2006, Committee Vice-Chair 2005)

Member, Pro Se Committee of the WSBA Access to Justice Board, May 2008-May 2009

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed/elected and are seeking a judicial position.

The courtroom is the forum where the social contract is honored and enforced. I have experienced nothing more humbling and inspiring than that of the moderator of this forum. I believe that I have the necessary experience, compassion, curiosity, and patience for this work.

29. In 50 words or less, please describe your judicial philosophy.

A great judge seeks to fairly resolve disputes by both modeling and expecting dignity, preparedness, and an earnest desire for justice.

30. Have you ever held a judicial office or have you ever been a candidate for such office?
Yes / No. If you answered "yes", please provide details, including the courts involved, whether elected or appointed, and the periods of your service.

Since June of 2005, I have presided as a Judge, Commissioner, and Magistrate Pro Tem in King and Snohomish County Superior Courts; King and Thurston County District Courts; Bellevue, Burien, Des Moines, Duvall, Kent, Lake Forest Park, Mercer Island, Newcastle, Normandy Park, SeaTac, Seattle, and Tukwila Municipal Courts. In addition, I serve as an arbitrator for mandatory arbitration matters in King County Superior Court. See response to Question 9(a) for further detail.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? Yes / No. If you answered "yes", please provide details, including the offices involved, whether elected or appointed, and the length of your service.

No

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

See responses to Question 9(a) and 30. I cannot recall every attorney who has appeared before me. I have identified counsel from some cases over which I presided in my responses to Questions 15, 50, 52, and 53.

Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.

Assistant Team Leader, National Institute of Trial Advocacy Trial Training Program, June 16-24, 2007

Presenter, 2007 NARAL Youth Leadership Summits (topic of presentations was legal challenges to Crisis Pregnancy Centers), January 20 and November 3 2007

Volunteer Attorney, King County Bar Association Downtown Neighborhood Legal Clinic, 2005

Presenter at various community forums on civil rights issues as they relate to the LGBT community. Presentations have included the following:

- **Panelist at a community forum on parenting issues in the LGBT community, organized and moderated by the Seattle City Commission on Sexual Minorities, October 2006**
- **Panelist at a community screening of the documentary film "Inlaws and Outlaws," hosted by Lambda Legal, Eastside/Bellevue PFLAG, and the Religious Coalition for Equality, May 2006**
- **Guest speaker at a community forum on marriage equality hosted by Wallingford Neighbors for Peace and Justice, June 2005**
- **Guest speaker at a community forum on marriage equality hosted by PFLAG, June 2005**

Volunteer Coach, Seattle Preparatory School Mock Trial Team, 2001-2004

Volunteer Judge for University of Washington School of Law Mock Trial and Trial Advocacy Trials (approximately four times since 1998)

Discipline and Disputes

34. Have you ever been held, arrested, charged or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation or ordinance? Yes / No. If you answered "yes", please provide details. (Do not include traffic violations for which a fine of \$150.00 or less was imposed.) Please feel free to provide your view of how it bears on your present fitness for judicial office.

No

35. Has a client ever made a claim or suit against you for malpractice? Yes / No. If you answered "yes", please provide details and the current status of the claim and/or suit.

No

36. Please describe your direct experience, if any, with domestic violence and sexual harassment.

Direct experience with domestic violence:

I have advocated on behalf of both victims of domestic violence and those accused of perpetrating domestic violence. I have also served as a neutral decision maker in many domestic violence matters, both criminal and civil.

During college, I volunteered at a shelter for battered women and their children. Upon graduating from college, I was employed as an advocate at the Domestic Abuse Women's Network ("DAWN") in South King County. I received extensive training from both of these programs on issues related to the dynamics of domestic violence and the resources available for both victims and perpetrators. While employed at DAWN, I developed and presented training materials to assist service providers in identifying and assisting victims of domestic violence.

While employed at The Defender Association, I represented many men (and some women) accused of physical and sexual assaults against relatives, roommates, and current and former domestic partners. I became familiar with the legal issues that arise in such cases, as well as the treatment programs approved of by the courts. I saw firsthand both the efficacy of the mandatory arrest laws, and the occasional situation where the primary aggressor was able to manipulate law enforcement into arresting the victim.

My experience on behalf of both victims and the accused has lent me a well-developed, and balanced, knowledge base to draw from while presiding over domestic violence cases. I appreciate the very serious risk that domestic violence perpetrators pose to family members and to the community. I understand that findings of fact in domestic violence cases can be very difficult, as victims often do not wish to cooperate, perpetrators can be quite manipulative, and law enforcement may be required to make quick judgment calls with little information. While I am well-versed in the dynamics and mechanics of abusive relationships, I also recognize that not all persons who appear before the court fit neatly into these profiles. I draw frequently on my background and training, while constantly striving to see each case as unique and worthy of individualized decision-making.

Direct experience with sexual harassment:

I have experienced sexual harassment personally, as have some of my close friends and colleagues.

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37. Have you been a party in interest, witness, or consultant in any legal proceeding? Yes / No.
If you answered "yes", please provide details. Do not list proceedings in which you were merely a guardian ad litem or stakeholder.

Yes

In 2008, I was served with a King County Superior Court summons and complaint following a low-impact car collision. My insurance company resolved the matter before the complaint was filed. No cause number was ever assigned.

In 2004, my partner and I (along with seven other same-sex couples) filed suit in King County Superior Court, challenging the constitutionality of Washington's Defense of Marriage Act. Andersen et al. v. Simms et al., No. 04-2-04964-4 SEA. We were granted summary judgment by The Honorable William L. Downing. Judge Downing's ruling was later reversed. Andersen v. King Co., 158 Wn.2d 1 (2006).

In 2000 I adopted our first child after my partner gave birth. In 2004, I consented to my partner's adoption of our second child after I gave birth. Both petitions were granted by The Honorable Michael J. Fox, King County Superior Court Judge.

In approximately 1997, I brought a small claims matter in King County District Court against a former landlord for return of a security deposit. I do not recall the cause number. The defendant voluntarily paid me after I filed suit.

38. Have you ever been the subject of a complaint to any bar association, disciplinary committee, court, administrative agency or other professional group? Yes / No. If you answered "yes", please provide details.

Yes

Two former clients filed bar complaints during my tenure at The Defender Association. Both were summarily dismissed without formal investigation and without any opportunity for response by me. I found out about the complaints only after they were dismissed.

39. Have you ever been disciplined or cited for breach of ethics or unprofessional conduct?
Yes / No. If you answered "yes", please provide details.

No

40. If you have served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you? Yes / No. If you answered "yes", please provide details.

No

Miscellaneous

41. Are you aware of anything that may affect your ability to perform the duties of a judge? Yes / No.
If you answered "yes", please provide details.

No

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42. Have you published any books or articles in the field of law? If so, please list them, giving the citations and dates. Also, please give the dates and forums of any Continuing Legal Education presentations that you have made.

I was a panelist at a CLE sponsored by The Defender Association in approximately 1999. The topic was diversity issues in the courtroom and in the attorney/client relationship.

43. Please list any honors, prizes, awards or other forms of recognition that you have received and whether they were professional or civic in nature.

Professional awards/recognition:

Recipient, University of Washington School of Law Public Interest Association Grant, 1995

Member, University of Washington School of Law Moot Court Honor Board, 1994-1996

Civic awards/recognition:

Recipient, ACLU of Washington Civil Libertarian Award, 2005

Recipient, Northwest Women's Law Center Cynthia Gillespie Award, 2005

Recipient, Greater Seattle Business Association Collaboration for Social Change Award, 2004

44. Are you aware of anything in your background or any event you anticipate in the future that might be considered to conflict with the Code of Judicial Conduct? Yes / No. If you answered "yes", please explain.

No

45. Please provide a writing sample of your work (between 5 and 10 pages long), written and edited solely by you, within the last 4 years.

At Appendix 2, I have attached the order that I generated in the matter of State v. Pace, King County District Court No. 570122143. For more information about this matter, see response to Question 15, above.

Access to Justice

46. Please describe activities that you have engaged in to eliminate bias or improve access to the judicial system for indigent populations and ethnic, racial and sexual minorities. As a member of the bench, what, if any, role do you believe a judge has to enhance equal access to justice?

Prior to becoming an attorney:

While an advocate at the Domestic Abuse Women's Network, I served battered women and their children. In that role, I helped women to access legal services. For example, I assisted clients in obtaining protection orders, in contacting the police and criminal prosecutors, and in applying for the State Address Confidentiality Program. During my tenure at the

Domestic Abuse Women's Network, I became convinced that the legal system was a powerful tool for social change. It was at that time that I decided to attend law school.

While a law student, I volunteered with the Northwest Women's Law Center and Evergreen Legal Services. At the Northwest Women's Law Center, I assisted staff attorneys in developing and litigating impact cases designed to advance legal rights for women. At Evergreen Legal Services, I assisted low-income clients in family law and public benefits matters.

As an attorney:

During my last summer of law school, I served as an intern at The Defender Association. That experience affirmed my commitment to public interest law, and marked the start of my love of courtroom advocacy. After graduation from law school, I accepted a position as a Staff Attorney at The Defender Association. During that time, I represented only indigent clients. Many were mentally ill, addicted to drugs or alcohol, homeless, or English language learners. A disproportionate number were people of color. I worked very hard to give each client a voice.

After leaving The Defender Association, I served as a Law Clerk for The Honorable Marsha Pechman. As part of my responsibilities for Judge Pechman, I reviewed civil rights complaints and habeas petitions brought by indigent pro se litigants. These pleadings were often hand-written, disorganized, and illegible. Many involved claims that were clearly delusional. I spent many hours parsing through these pleadings, culling out those warranting further review.

At the conclusion of my Clerkship, I joined the civil litigation firm of Gordon Murray Tilden (now Gordon Tilden Thomas & Cordell). While in private practice, I continued to contribute to access to justice. I volunteered at the King County Bar Association Neighborhood Legal Clinic, where I served a diverse group of clients. I continued my work for the Northwest Women's Law Center, acting as Chair, Vice Chair, and an on-going member of the Law Center's Legal Committee. That Committee screens potential impact litigation cases, evaluating whether each individual case is legally and factually sound and will further the Law Center's mission. This mission includes advancing the legal rights of traditionally underserved women (which includes women of color, women living in poverty, and women living in rural areas of the Pacific Northwest).

Through Gordon Murray Tilden, I provided pro bono services. I joined with one of the partners to represent a family-owned farm. We successfully opposed a Petition for Certiorari to the United States Supreme Court filed by the Montana Department of Revenue. The case involved an unresolved issue of Indian law. I also contributed to appellate briefing filed by the Washington State Bar Association in an attorney discipline matter.

I am currently a member of the Pro Se Committee of the WSBA Access to Justice Board. That group works both alone and in conjunction with other professional groups to identify and resolve barriers to justice faced by pro se litigants. At the moment, we are focused on challenges faced by pro se litigants in limited jurisdiction, family law, and administrative law proceedings. It is extremely difficult to navigate the court system without an attorney, and my work on this committee has focused my understanding of those challenges and broadened my awareness of the available solutions.

As a Judge Pro Tem:

I believe that judicial officers can, and should, promote access to justice in two ways. First, judges must be fair and impartial in every hearing. Second, judges should use systemic change to promote equal access to the courtroom and equal treatment within the courtroom.

I work very hard to provide a fair hearing and a just ruling to all who appear before me, regardless of their identity. This means being sensitive to the proper use of interpreters, being culturally competent, and being mindful of some of the barriers to justice that might not be readily apparent, such as illiteracy.

As a Judge Pro Tem, I have had the opportunity to utilize programs designed to reduce bias and promote equal treatment of litigants. For example, the judges in King County Juvenile Court have adopted several programs in response to the disproportionately lengthy periods of detention experienced by minority youth. One such program involves a weekly review by the Presiding Judge of every case involving a detained youth. Where a youth has been held for a significant period of time with no resolution of his or her case, the Presiding Judge sets a hearing to require the parties to explain the reason for the delay and the case plan going forward. Another program utilizes the Detention Risk Assessment Instrument ("DRAI"). The DRAI assigns a score to every youth booked into detention. The score is based upon a calculus including warrant history, past convictions, the nature of the current allegations, and data regarding stability at home and in the community. The judges are strongly encouraged to rely upon a youth's DRAI score in determining whether release is appropriate. While judicial officers retain ultimate discretion with respect to detention or release, the adoption of this tool has promoted an objective set of standards to be applied in detention hearings. As a result of these systemic changes, juvenile detention rates have lowered dramatically in King County, and an increased percentage of African-American youth have been accepted into alternative programs in lieu of detention (such as electronic home monitoring or "house arrest"). If appointed or elected to the bench, I look forward to collaborating with other judges, court staff, and attorneys to develop similarly effective systemic changes.

47. Please describe the frequency, time commitment and substantive nature of your direct participation of free legal services to indigent populations, and ethnic, racial and sexual minorities.

See response to Question 46

Diversity in the Legal Profession

48. Please briefly describe your understanding of the issue of "diversity within the legal profession."

As indicated in my response to Question 28, I believe that the courtroom is the forum where the social contract is honored and enforced. This mission is hindered when the court system does not respect and honor the diverse experiences of the parties. This respect requires more than just diversity; it requires cultural competency. Where a particular minority group is under-represented, either on the bench or in the bar, then cultural competency is compromised.

References

It is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. One or more participants in the evaluation process may contact each of your references. All telephone numbers should be current and legible. If a reference is unreachable, your rating/evaluation may be delayed. **Please use a separate piece of paper for each list.** You may contact references in advance if you so desire. Individuals not listed by you as a reference may be contacted to obtain information about you.

49. If you have been in practice within the past fifteen years, list the names and phone numbers of ten opposing counsels who know you best, including at least three opposing counsels on cases that went to trial.

- (1) **James McCullagh**
Perkins Coie LLP
206-359-8000
Products Group International v. Sonosite, Inc., arbitration 2005
- (2) **Jim Ferrell**
Senior King County Deputy Prosecuting Attorney
206-205-7445
Multiple felony matters in King County Superior Court, 1998-2000
- (3) **Rodney Ray**
Marguilis, Luedtke and Ray
253-752-2251
Cawley v. Puget Sound Energy, Inc., settlement in 2005 after considerable discovery and motions
- (4) **John Glowney**
Stoel Rives LLP
206-624-0900
Hacker and Willig, Inc. P.S. v. Holland and Knight LLC et al., trial 2003
- (5) **Roger Davidheiser**
Senior King County Deputy Prosecuting Attorney
206-296-9000
State v. Musgrave, trial 2000
- (6) **David Martin**
Senior King County Deputy Prosecuting Attorney
206-296-9000
State v. Costello and other matters, trials 1998-2000
- (7) **Erin Becker**
Senior King County Deputy Prosecuting Attorney
206-296-9000
State v. Battle, two trials involving the same defendant in 1999

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- (8) **Maureen Howard**
Director, Trial Advocacy Program
University of Washington School of Law
206-293-1010
Multiple Juvenile Court matters, 1998
- (9) **The Honorable Steven Gonzalez**
King County Superior Court
206-296-9145
Multiple Seattle Municipal Court criminal matters, 1996-1998
- (10) **David Mason**
425-646-2926
City v. Cozworth and multiple other matters, trials 1996-1998

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50. If you have been a judge or otherwise have served as a neutral decision-maker within the past fifteen years, please list the names and phone numbers of the last ten attorneys who have appeared before you.

The following is a list of ten of the attorneys who appeared before me during the week of July 28, 2008.

- (1) Charles Sherer
King County Deputy Prosecuting Attorney
206-296-9000
- (2) Brian Beattie
Associated Counsel for the Accused
253-520-6509, ext. 258
- (3) Scott Wonder
Goddard Wetherall Wonder and Padula
425-453-9200
- (4) Kelli Johnson
Associated Counsel for the Accused
206-624-8105, ext. 381
- (5) Jasmine Higgins
Law Office of Brice and Timm LLP
425-252-0797
- (6) Heidi Brosius
Assistant City Attorney
City of Seattle
206-386-1994
- (7) Kevin Trombold
Law Offices of Kevin Trombold
206-382-9200
- (8) Joseph Richards
Associated Counsel for the Accused
206-624-8105
- (9) Scott Carter-Eldred
The Defender Association
206-447-3900
- (10) Jennifer Miller
King County Deputy Prosecuting Attorney
206-296-9000

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51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.

- (1) **Allan Golston**
President, U.S. Program
Bill and Melinda Gates Foundation
206-709-3158
Mr. Golston is a close personal friend, and can comment on my values and on my role as a parent.
- (2) **Jeffrey Tsunekawa**
Executive Assistant, Seattle Municipal Court
206-684-8708
Mr. Tsunekawa can comment on my accomplishments as a Judge and Magistrate Pro Tem in Seattle Municipal Court.
- (3) **Andrew McCarthy**
Teacher and Mock Trial Coach, Seattle Preparatory School
206-325-2400 ext. 9924
I worked closely with Mr. McCarthy during the three-year period that I served as a coach for the Seattle Preparatory School Mock Trial Team. Mr. McCarthy can comment on my role as a teacher and mentor.
- (4) **Rebecca Kubler**
770-569-7356/404-433-3884
Ms. Kubler was my supervisor at the Domestic Abuse Women's Network. She can comment on my advocacy work on behalf of victims of domestic violence.
- (5) **Susana Saravia-Anibarro**
Spanish Interpreter, King County District Court
206-296-0142/206-229-8611
Ms. Saravia-Anibarro has served as an interpreter many times in matters over which I have presided. She can comment on my work with immigrant and non-English speaking populations.
- (6) **Millicent Newhouse**
Advocacy Coordinator, Northwest Justice Project
206-464-0162, ext. 607
Ms. Newhouse is the chair of the Pro Se Committee of the WSBA Access to Justice Board. She can comment on my work with that group and on my commitment to access to justice.

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52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).

I have presided over dozens of trials during the past three years. Many have involved small claims or contested infraction matters. Because those cases are often handled pro se and are heard very quickly, they may not give this committee significant information about my skills as a judicial officer. Instead, I have listed five of the more substantive matters over which I have presided. Given that this application is for a rating for courts of limited jurisdiction, I have included only trials heard in those courts.

(A)

State v. Radford

Driving Under the Influence

King County District Court

Prosecutors: Matt Anderson, 206-296-9000; Kimberly Frederick, 206-296-9000

Defense attorney: Jeffrey Veitch, 425-452-1600

(B)

State v. Garris

Reckless Driving

King County District Court

Prosecutor: Nicole DeNamur, 206-296-9000

Defense attorneys: Vanessa Martin, 253-520-6509, ext. 293; Dee Brown-Lee, 253-520-6509, ext. 278

(C)

McManigal v. Ostrander

Petition for civil anti-harassment order

King County District Court

Plaintiff's attorney: Joseph Hunt, 425-462-2705

Defense attorney: Jason Gaber, 206-223-0868

(D)

Davis v. Fish et al.

Personal injury (automobile collision/soft tissue damage)

Thurston County District Court

Plaintiff attorney: Shirley Bluhm, 360-357-3900

Defense attorney: Sharon Bitcon, 206-288-1504

(E)

State v. Hamlin

Assault and Obstructing

King County District Court

Prosecutor: Charles Sherer, 206-296-9000

Defense attorney: Hussein Karmali, 425-289-0020

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53. List the names and phone numbers of ten additional attorneys familiar with your professional qualifications, skills, experience or attributes.

(1) **The Honorable Bobbe Bridge, ret.**
Center for Children and Youth Justice
206-696-7503

(2) **The Honorable Anne Ellington**
Washington State Court of Appeals
206-464-6046

(3) **The Honorable Linda Lau**
Washington State Court of Appeals
206-464-7657

(4) **The Honorable Paris Kallas**
King County Superior Court
206-296-9105

(5) **The Honorable Michael Spearman, ret.**
Judicial Dispute Resolution, LLC
206-223-1669

(6) **The Honorable Jean Rietschel**
Seattle Municipal Court
206-386-9032

(7) **The Honorable Darrell Phillipson**
King County District Court
206-205-2559

(8) **Jeffrey Robinson**
Schroeter Goldmark and Bender
206-622-8000

(9) **Tracy Lapps**
Supervisor, Juvenile Offender Division
The Defender Association
206-568-0886

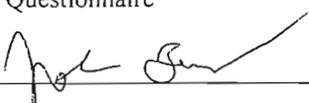
(10) **Lisa S. Stone**
Executive Director, Northwest Women's Law Center
206-682-9552

54. **Certification**

By signing below, I declare under penalty of perjury under the laws of the State of Washington that the information provided by me in responding to this questionnaire is true and correct to the best of my knowledge.

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Date: 8/2008

Signature: 

NOTE: The Governor's Office strongly encourages individuals seeking judicial appointment to utilize, to the fullest extent possible, the ratings processes from state, county, and minority bar organizations. Contact information for the minority bar associations can be found on the Washington State Bar Association's website at (<http://www.wsba.org/public/links/minoritybars.htm>). It is the applicant's responsibility, however, to obtain these evaluations in a timely manner. To that end, all applicants are strongly encouraged to commence the evaluation process for other bar associations as soon as possible. To facilitate the process, the following organizations have agreed to accept this questionnaire as the principal application in their evaluation process and may also require candidates to complete an additional supplement questionnaire:

State Bar Association

Washington State Bar Association (WSBA) (appellate court evaluations only)

County Bar Associations

King County Bar Association (KCBA)

Minority Bar Associations

Latina/o Bar Association of Washington (LBAW)

Loren Miller Bar Association (LMBA)

The Joint Asian Judicial Evaluations Committee of Washington

Pierce County Minority Bar Association (PCMBA)

Q-Law / GLBT (Gay Lesbian Bisexual Transgender) Bar Association

Washington Women Lawyers (WWL)

As of the date of your certification above and submission of this questionnaire to the Governor's Office, please check, as necessary, beside each of the above organizations if you have contacted them to evaluate you for the position for which you have applied.

APPENDIX 1

EMPLOYMENT HISTORY CONTINUED

Start Date: **February 1992** End Date: **May 1993**

Organization: **Domestic Abuse Women's Network**

Address: **P.O. Box 88007, Tukwila, WA 98138**

Phone: **425-656-4305**

Position: **Community Advocate**

Supervisor: **Rebecca Kubler (current phone numbers are 770-569-7356/404-433-3884)**

Nature of position: **Provided crisis counseling, information, referral, and on-going advocacy to abused women and their children. Designed training programs to assist local professionals in the identification of and aid to victims of domestic violence. Programs were implemented at area schools, social services agencies, hospitals, and police and fire departments.**

APPENDIX 2

JOHANNA BENDER
11523 23rd Ave. N.E.
Seattle, WA 98125
(206) 909-8706
johannabender@comcast.net

EDUCATION

University of Washington School of Law

Juris Doctorate, 1996
Member, Moot Court Honor Board

Brown University

Bachelor of Arts, Political Science and Women's Studies, 1991
Graduated Magna Cum Laude

PROFESSIONAL EXPERIENCE

Judge Pro Tempore

2005-present

King County and Snohomish County Superior Courts

King County and Thurston County District Courts

Bellevue, Burien, Carnation, Covington, Des Moines, Duvall, Kent, Lake Forest Park, Mercer Island, Newcastle, Normandy Park, SeaTac, Seattle, and Tukwila Municipal Courts

Preside over criminal matters including jury and bench trials, juvenile offender fact-findings, arraignments, testimonial and non-testimonial motions, pleas and sentencing, post-sentencing reviews, and probable cause hearings. Preside over civil matters including jury and bench trials, summary judgment motions, contested dependency hearings, at-risk youth fact-findings, children in need of services fact-findings, truancy motions, contested and mitigated infraction hearings, supplemental proceedings, and protection order and anti-harassment order petitions.

Associate Attorney

2002-January 2006

Gordon Murray Tilden LLP

Represented individual and corporate clients in personal injury, class action, commercial, real estate, and policyholder insurance litigation. Admitted to practice in Washington State trial courts, as well as the Federal Courts for the Eastern and Western Districts of Washington.

Law Clerk to the Honorable Marsha J. Pechman 2000-2002

United States District Court, Western District of Washington

Researched and analyzed pending motions and wrote bench memoranda. Drafted documents for Judge Pechman's signature, including jury instructions, findings of fact and conclusions of law, and opinions.

- Staff Attorney** 1996-2000
The Defender Association
 Represented indigent adult and juvenile criminal defendants in felony and misdemeanor matters pending in King County Superior Court and Seattle Municipal Court. Class A qualified for Superior Court cases. Practice included briefing and oral argument of pre-trial motions, bench and jury trials, and post-conviction hearings. Served as a Rule 9 intern in 1995.
- Teaching Fellow in Basic Legal Skills** 1994-1996
University of Washington School of Law
 Facilitated group discussions, critiqued research and writing exercises, and provided individual instruction for students in the law school's mandatory Basic Legal Skills program.
- Community Advocate** 1992-1993
Domestic Abuse Women's Network
 Provided crisis counseling, information, referral, and on-going advocacy to abused women and their children. Designed training programs to assist professionals in identifying and providing assistance to victims of domestic violence. Programs were implemented at area schools, social services agencies, hospitals, and police and fire departments.

ADDITIONAL TRAINING AND EXPERIENCE

- National Institute for Trial Advocacy** 2007
 Assistant Team Leader, 2007 Trial Training Program.
- Contract Attorney** 2006-present
Michele Shaw, Attorney at Law
 Research and writing on a project basis for attorney with a criminal practice.
- Judge Pro Tempore Training** 2005-2006
 Participated in mandatory Judge Pro Tempore trainings offered by King County Superior Court, Snohomish County Superior Court, King County District Court, and Seattle Municipal Court.
- Federal Death Penalty Clerk's Conference** 2001
 Participated in intensive training for Law Clerks assigned habeas petitions filed by prisoners sentenced to death. Conference addressed legal issues arising from implementation of the Anti-Terrorism Effective Death Penalty Act.

Evergreen Legal Services

1994

Summer clerkship with civil legal aid program. Litigated on behalf of a client at an administrative law hearing, conducted client interviews, researched family law issues, and drafted memoranda for supervising attorneys.

VOLUNTEER EXPERIENCE

Washington State Bar Association

2008-present

Access to Justice Board Pro Se Subcommittee

Committee develops and implements programs to improve access to justice for pro se litigants throughout Washington State.

Northwest Women's Law Center

Board Member

2008-present

Legal Committee Member

2001-2007

Legal Committee Chair

2006

Legal Committee Vice-Chair

2005

Current Board member of organization that utilizes impact litigation, legislative reform, and self-help assistance to advance legal rights for women. Prior Chair, Vice-Chair, and member of the organization's Legal Committee, which identifies and evaluates potential impact litigation.

King County Bar Association

2005

Downtown Neighborhood Legal Clinic

Provided legal analysis, advice, and referral to low-income clients at clinic in downtown Seattle.

Mock Trial Coach

2001-2004

Seattle Preparatory School

Coached students in competition at the local, regional, and national levels.

IN THE DISTRICT COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING
WEST DIVISION, SEATTLE COURTHOUSE

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STATE OF WASHINGTON,)
)
Petitioner,)
)
vs.)
)
)
)
Defendant.)

No. [REDACTED]

KING COUNTY
DISTRICT COURT
SEATTLE DIVISION

Amended Order on Motion to Dismiss

I. INTRODUCTION AND SUMMARY RULING

Defendant comes before the Court challenging the constitutionality of KCC 28.96.010(B)(6) on the basis that the cited statute is overbroad and void for vagueness. Defendant further alleges that enforcement of the statute against him constitutes a violation of his right to equal protection. Having reviewed the pleadings of the parties, the underlying police citation, and the applicable authority, and having heard oral argument, the Court now rules as follows:

1. The Court declines to find that the statute is overbroad, and DENIES defendant's motion to dismiss on that basis;
2. The Court find that the statute is vague as applied to Mr. [REDACTED], and GRANTS defendant's motion to dismiss on that basis;
3. The Court declines to find that Mr. [REDACTED]'s equal protection rights were violated, and DENIES defendant's motion to dismiss on that basis.

II. FACTS

For purposes of this motion, the parties have stipulated to the facts set forth in King County Sheriff's Incident Report 07-122143. Those facts are summarized as follows:

The King County Sheriff has undertaken to "vigorously enforce" all statutes related to conduct on Metro Transit ("Metro") property in order to "promote a safer and more wholesome environment" for Metro employees and patrons. As part of this program, King County Sheriff's Deputies routinely patrol Metro property looking for "suspicious and/or illegal activities." King County has specifically hired a security guard to monitor the behavior

of the homeless persons who routinely congregate on Metro property.

In the middle of the night on April 25, 2007, Sheriff's deputies and the assigned security guard boarded a bus at the Federal Way Transit Center, purportedly to "rouse the homeless people and get them off of the bus." Defendant was found "slumped over in his customary seat." He was awoken, escorted on the bus, and told that in the future he would be permitted to sleep on the bus only so long as he sat in a single seat and de-boarded promptly at the terminus of the route.

The next night, the same law enforcement personnel boarded the same bus at the Federal Way Transit Center for the same purpose. Defendant was the only passenger on the bus and was asleep across two seats. He was awoken and escorted off of the bus. The reporting officer estimated that the process of waking defendant and escorting him off of the bus took "three to five minutes." Defendant was ordered to have no contact with Metro property for seven days. The prosecuting attorney subsequently filed criminal charges pursuant to KCC 28.96.010(B)(6).

III. RELEVANT STATUTES

Defendant was charged under KCC 28.96.010(B)(6), which reads in relevant part as follows:

[A] person who commits one of the following acts in, on or in relation to transit property is guilty of a misdemeanor:

* * * * *

Intentionally obstructing or impeding the flow of transit vehicle or passenger movement, hindering or preventing access to transit property, causing unreasonable delays in boarding or deboarding, reclining or occupying more than one seat, or in any way interfering with the provision or use of transit services.

Enforcement of this statute is governed by KCC 28.96.610, which reads as follows:

Nothing in the rules or requirements set forth in this chapter shall create a duty to any person on the part of the county or form any basis for liability on the part of the county, the members of its council, its agents or employees. The

obligation to comply with said chapters [sic] is solely that of any persons entering upon transit property and *the county's enforcement of said chapters [sic] is discretionary, not mandatory.*

KCC 28.96.610 (emphasis added).

IV. OVERBREADTH

The Court is not persuaded that KCC 28.96.010(B)(6) is unconstitutionally overbroad. First, the statute regulates conduct, not speech. A statute that regulates conduct, rather than pure speech, is not subject to a constitutional challenge unless it is overbroad in a manner that “is both real and substantial in relation to the ordinance’s plainly legitimate sweep.” City of Seattle v. Eze, 111 Wn.2d 22, 31 (1988) (internal citations omitted). Accord, State v. Pauling, 149 Wn.2d 381, 386 (2003).

Even if this ordinance did regulate speech, it is important to note that “public transit is not a public forum.” Eze, 111 Wn.2d at 31-32 (citing Lehman v. Shaker Heights, 418 U.S. 298, 304 (1974)). Where speech is regulated in a non-public forum, the “restrictions are constitutional so long as the distinctions drawn are reasonable in light of the purpose served by the forum and are viewpoint neutral.” Id. at 32 (quoting Cornelius v. NAACP Legal Defense & Educ. Fund, Inc., 473 U.S. 788, 806 (1985)).

Defendant is not alleged to have engaged in speech and the statute does not purport to regulate speech. Even if the Court can conceive of hypothetical prohibitions on speech at the farthest reach of the statute, those imaginings are not “real and substantial” in relation to the conduct prohibited by the statute. Defendant’s overbreadth challenge is denied.

V. VOID FOR VAGUENESS

A. The Court will not entertain a facial challenge to the statute, and instead analyzes the statute as it applies to defendant.

“It is well-settled that [v]agueness challenges to enactments which do not involve First Amendment rights are to be evaluated in light of the particular facts of each case.” Spokane v. Douglass, 115 Wn.2d 171, 182 (1990). Accord, Maynard v. Cartwright, 486 U.S. 356, 361 (1988); State v. Bahl, 137 Wn.App. 709, 716 (2007). Here, the statute at issue proscribes certain conduct, not speech. Moreover, defendant is alleged to have violated the statute through conduct only. The Court therefore denies defendant’s facial challenge to the statute. The Court will, however, entertain defendant’s challenge to the statute as it applies to him.

B. The statute as applied is void for vagueness.

“To avoid unconstitutional vagueness, an ordinance must (1) define the offense with sufficient definiteness that ordinary people can understand what conduct is prohibited;

and (2) establish standards to permit police to enforce the law in a non-arbitrary, non-discriminatory manner.” City of Sumner v. Walsh, 148 Wn.2d 490, 499 (2003) (quoting Nunez v. City of San Diego, 114 F.3d 935, 940 (9th Cir. 1997) (further citations omitted). The constitutionality of the ordinance must be presumed by the reviewing court, and the party challenging the ordinance has the burden of proving unconstitutionality beyond a reasonable doubt. State v. Hendrickson, 129 Wn.2d 61, 83 (1996). “[T]he presumption in favor of a law’s constitutionality should be overcome only in exceptional cases.” Seattle v. Eze, 111 Wn.2d at 28.

- i. *The offense is not defined in such a manner that ordinary people can ascertain its requirements.*

The statute is not sufficiently definite to permit the ordinary reader to understand its prohibitions. First, the mens rea (intent) may apply only to the first clause of KCC 28.96.010(B)(6) (prohibiting obstructing or impeding the flow of transit vehicle or passenger movement) or it may apply to the remainder of the sub-section as well. In that event, certain behaviors are *per se* restricted by the statute. These include: “reclining or occupying more than one seat,” and “in any way interfering with the provision or use of transit services.” A statute may be saved from vagueness where it penalizes only intentionally criminal conduct and spares innocent conduct. See City of Seattle v. Webster, 115 Wn.2d 635, 644 (1990). Such, however, does not appear to be the case here.

Even presuming that the intent listed in the first clause of subsection (B)(6) modifies the rest of the subsection, the statute is still unreasonably vague as applied to Mr. [REDACTED]. The State has charged defendant with an unspecified violation of KCC 28.96.010(B)(6). It is therefore not clear which of the prohibited acts forms the basis for the State’s charge. Given the facts in the police report, defendant is presumably accused either of “intentionally obstructing or impeding the flow of transit vehicle . . . movement,” “reclining or occupying more than one seat,” or “in any way interfering with the provision or use of transit services.” As defendant was asleep at the time the crime was purportedly committed, it is difficult to comprehend how it was that he was behaving intentionally. If, for purposes of its analysis, the court assumes that defendant’s intentional act was the decision to nap (leading to obstructing or impeding the flow of the vehicle), then the limits of this statute cannot be divined by ordinary persons. It is reasonable to presume that many commuters, whether gainfully employed or not, whether on their way home or having no home to which to travel, have chosen to close their eyes and rest on the bus. Most do so with no concern that failure to spring to their feet as the bus pulls into the station will result in arrest.

The statute is similarly vague as applied to defendant assuming the charge arises from his choice to recline or occupy more than one seat. This occurred in the middle of the night. According to the police report, no passengers were disturbed or inconvenienced by defendant’s use of an additional seat. It is within common knowledge that transit riders regularly use additional seats, whether to accommodate packages or the rider’s own girth. Again, most do so with no fear of criminal repercussions.

The Washington State Supreme Court has noted that curfew ordinances are often unconstitutionally vague because they “attempt to make activities that are normally considered innocent, unlawful, i.e., walking, driving, going to the store.” Sumner v. Walsh, 148 Wn.2d 490, 501-02 (2003). The same logic applies here. To the extent that the bus conduct statute criminalizes innocuous behavior, such as sleeping or placing a package on the adjoining seat, then ordinary persons cannot divine the line between lawful and criminal behavior.

ii. *The statute, on its face, encourages arbitrary enforcement.*

“The due process clause requires that a penal ordinance provide minimal guidelines to law enforcement.” Spokane v. Douglass, 115 Wn.2d 171, 181 (1990) (internal citations omitted). Absent such guidelines, law enforcement and the court are left to “subjectively decide what conduct the statute proscribes or what conduct will comply with a statute in any given case.” Id. Such arbitrariness constitutes a due process violation. Id. As explained in Section V.B.i, supra, subsection B(6) of the King County Bus Conduct Ordinance is so vague as to promote unreasonable discretion in enforcement. This problem is worsened by KCC 28.96.610, which specifically vests the county with unfettered discretion in enforcement: “The obligation to comply with [KCC 28.96.010 *et seq.*] is solely that of any persons entering upon transit property and the county’s enforcement of said chapters is discretionary, not mandatory.” This is precisely the sort of unfettered discretion prohibited by the due process clause.¹

VI. EQUAL PROTECTION

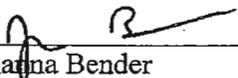
Defendant briefly argues that KCC 28.96.010(B)(6) was applied in a discriminatory manner on the basis of defendant’s status as a homeless person. Having reviewed the police report in this matter, the Court shares defendant’s concerns. Notably, the police report indicates that the King County Sheriff has undertaken to make transit property “more wholesome,” and that an extra security guard has been hired in Federal Way for the stated purpose of keeping “an eye on the transient/homeless people who congregate on the property while waiting for buses to arrive.”

Notwithstanding the Court’s sympathy to defendant’s position, the record before the Court compels that the Court deny defendant’s motion to dismiss on these grounds. “The failure to prosecute all other possible violators of the law is not, per se, contrary to the Equal Protection Clause of the Fourteenth Amendment . . . or of article 1, section 12 of the Washington Constitution.” State v. Jacobsen, 78 Wn.2d 491, 499 (1970).

¹ Here, the discretion of the officers was not just as to whether or not to intervene, but also as to whether to classify defendant’s behavior as a crime or a civil infraction. KCC 28.96.010(9) designates as an infraction the following behavior: “Riding transit vehicles or using benches, floors or other areas in tunnel and other passenger facilities for the purpose of sleeping rather than for their intended transportation-related purposes.”

The case of City of Yakima v. Johnson is instructive. In that case, defendant was charged with soliciting prostitution. She challenged her conviction on the grounds that, although the statute was gender-neutral, very few men had been historically charged with the crime. The Court denied defendant's claim, holding that an equal protection challenge requires proof of "intentional or purposeful discrimination." City of Yakima v. Johnson, 16 Wn. App. 143, 149 (1976).² The Johnson Court further noted that equal protection challenges are appropriate only where a law is enforced with "an evil eye and unequal hand." Id. (quoting Yick Wo v. Hopkins, 118 U.S. 356 (1886)). The parties have not provided the Court with the record necessary to make such a finding, and the statute survives a facial rational basis review with respect to animus.

Dated this 11th day of June, 2008



Johanna Bender
Judge Pro Tempore

² This Court also notes that gender—at issue in Johnson-- is a suspect class, while homelessness is not. See Webster, 115 Wn.2d at 647.

EARLY ENDORSEMENTS FOR JOHANNA BENDER

Judges

Washington State Court of Appeals

The Honorable Susan Agid
The Honorable Anne Ellington
The Honorable Linda Lau
The Honorable Ann Schindler

King County Superior Court

The Honorable Susan Craighead
The Honorable Michael Hayden
The Honorable Philip Hubbard
The Honorable Paris Kallas
The Honorable Harry McCarthy
The Honorable Carol Schapira

District and Municipal Courts

The Honorable Judith Hightower
The Honorable C. Kimi Kondo
The Honorable Robert McSeveney
The Honorable Jean Rietschel
The Honorable Elizabeth Stephenson
The Honorable Kimberly Walden

State Legislators

Representative Jaime Pedersen

Individuals

Beth Barrett Bloom
Robert C. Boruchowitz
Matt Carvalho
Lisa Daugaard
Jenny Durkan
William E. Fitzharris Jr.
Charles Gordon
Anne Levinson
Jon Meier
Richard E. Mitchell
Norm Rice
Michele Shaw
Molly Terwilliger
Jeffrey Tilden

January 11, 2009

King County Councilmember Dow Constantine
Chambers of the King County Council
516 Third Ave.
Room 1200
Seattle, WA 98104

Re: Appointment of Johanna Bender to King County District Court

Dear Members of the  King County Council:

I am writing to express support for the appointment of Johanna Bender to the position of King County District Court Judge. Ms. Bender has the necessary knowledge, experience, and demeanor for this position, and would make an impressive addition to the judiciary of King County.

Ms. Bender is a seasoned litigator, having tried numerous civil and criminal cases. She understands and greatly enjoys trial practice, and her breadth of experience would be an asset to the court. Given her additional history as a domestic violence advocate and as a federal law clerk to the Honorable Marsha J. Pechman, I am confident that she is highly capable of adjudicating any matter on the District Court docket.

Moreover, Ms. Bender brings with her to the bench significant and varied experience as a judicial officer. She has served as a pro tem judge since 2005, and as an arbitrator since 2007. During that time, she has presided by invitation over hundreds of matters in King County and Snohomish County Superior Courts, King and Thurston County District Courts, and numerous municipal courts. She is an insightful and well-respected jurist, genuinely inspired by both the intellectual and emotional components of trial court practice. Too, Ms. Bender is cognizant of the needs of the District Court bench and of the current financial struggles faced by all branches of the King County government. The court would benefit greatly from the addition of a judge ready to participate as capably and enthusiastically as Ms. Bender in improving the quality and efficiency of the judiciary in King County.

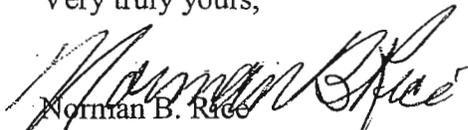
It is clear from Ms. Bender's resume and from her conversations with me that she is deeply committed to improving access to justice. Through her work as a domestic

violence advocate, a public defender, a pro bono volunteer attorney, a board member for the Northwest Women's Law Center, and as a judge pro tem, Ms. Bender has consistently demonstrated an understanding of the barriers to the legal system caused by such factors as race, poverty, mental illness, and language. She expresses a sincere dedication to improving access to justice, and her resume confirms that she has acted consistently on this commitment.

As you are aware, the judicial system has suffered a "crisis of confidence" in recent years. Ms. Bender has actively engaged in work designed to educate the public about the function, and importance, of an impartial bench. She spent several years coaching a high school mock trial team, and has served as faculty for the National Institute of Trial Advocacy. She has volunteered as a mock trial judge for the University of Washington and Seattle University.

In sum, I highly recommend that Ms. Bender be appointed to the King County District Court bench. Her accomplishments leave no doubt that she will continue to contribute to the justice system and to the community as a whole. If you would like to discuss my recommendation further, please do not hesitate to contact me.

Very truly yours,


Norman B. Rice
Distinguished Visiting Practitioner
Daniel J. Evans School of Public Affairs

January 28, 2009

Metropolitan King County Council
516 Third Avenue, Room 1200
Seattle, WA 98104

To Whom It May Concern:

As a former Court Manager for King County District Court, I worked closely with many of the judge pro tempores that were contracted with the District Court. I consider Johanna Bender to be one of the most professional and reliable members of that pro tem group. After 16 months time, I came to know her and would like to recommend her as a candidate for appointment to the open District Court judicial vacancy.

Johanna was a dedicated member of Seattle District Court's pro tem pool and had always worked well with both staff and management. I can recall several staff members raving not only about Johanna's efficiency in the courtroom, but also about her ability to work well with them as she was always very even-tempered and extremely effective in presiding over matters.

Johanna's legal and organizational skills were invaluable to our management team. Johanna would hear a civil motion calendar with just as much vigor and competence as a criminal calendar. Her decisions were always clear and she always took the extra time at the end of the day to speak to a court manager, in person, whenever something unusual occurred on a calendar.

In my opinion, Johanna exemplifies a committed professional. She has been serving the legal community for 12 years and that experience has given her the ability to serve both fairly and effectively as a District Court judge.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Cole". The signature is written in black ink and is positioned above the printed name.

Patricia Cole

520 Pike Street Suite 1200
Seattle, WA
98101

Hollis R. Hill

King County Council
Seattle, WA 98101

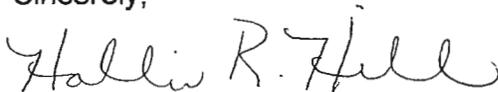
Dear Councilmembers:

I am writing on behalf of Johanna Bender who has applied for a vacant position on the King County District Court. I have known Johanna for several years in a professional capacity and I believe she would be an excellent addition to the District Court bench.

Two years ago Johanna worked with me in putting together a trial advocacy training program through the National Institute for Trial Advocacy. This program lasted eight days and provided training in trial skills to approximately sixty lawyers. Johanna was a most valuable faculty member because of her own experiences as a trial lawyer and because of the judgment and organizational skills that she has honed throughout her career. In addition to serving as a faculty member in this program Johanna was invaluable as a leader on her team of faculty members.

Since working with her I have observed her on the bench in District Court and I have discussed with her her judicial philosophy. Because of her intelligence, her sense of fairness and her unflappable demeanor I can recommend Johanna highly for appointment to the District Court.

Sincerely,



Hollis R. Hill

Judge Elect- King County Superior Court

Lisa M. Stone

1925 14th Ave East

Seattle, WA 98112

206-682-9552

January 19, 2009

Dear King County Councilmembers:

I write to express my strong support for the application of Johanna Bender to be appointed judge of King County District Court. I have known Johanna for more than 14 years, and have the highest opinion of her intelligence, her diligence, her thoughtfulness and her integrity.

Johanna has been volunteering for the Northwest Women's Law Center, the organization of which I am Executive Director, for at least 14 years. (Please be aware I am writing solely in my personal capacity, as the Law Center takes no position on any candidate, whether elected or appointed, for judge or any other position.) After externing for us in Law School, she has gone on to serve on our Litigation Committee and on special policy work groups, and is now on our Board of Directors. In all those positions, Johanna has distinguished herself, even among our stellar volunteers. Her capacity for hard work, her keen intellect and curiosity, and perhaps most of all, her balanced, careful consideration of all sides of an issue, make her an outstanding judicial candidate.

Our courts and our legal system face unprecedented challenges, not only economically, but also as they strive to be accessible and open to all our residents, and to provide not just law, but justice. Johanna Bender, with her unique background in both civil and criminal law, and her experience as an attorney, an advocate and a judge *pro tempore*, will bring expertise and perspective that we sorely need in the King County Court system. The current judges and court personnel are for the most part highly skilled and well-regarded; Johanna would be a welcome addition.

I would be happy to speak with any of you if you have questions about Johanna's volunteer experience with us, or about her skills and qualifications. Thank you for considering my recommendation.

With warm regards,



Lisa M. Stone

GORDON TILDEN THOMAS & CORDELL LLP

ATTORNEYS AT LAW

1001 FOURTH AVENUE, SUITE 4000 · SEATTLE, WASHINGTON 98154-1007

TELEPHONE: (206) 467-6477 · FACSIMILE: (206) 467-6292

EMAIL: JTILDEN@GORDONTILDEN.COM

January 22, 2009

Re: Johanna Bender

To Whom It May Concern:

I write this letter in support of Johanna Bender's application to be appointed to the District Court bench.

I met Johanna in 2002 and she worked with us as a lawyer for over three years from late 2002 through January 2006. We are a civil trial practice firm. We represent both plaintiffs and defendants. I worked closely with Johanna. She tried at least one case with me and probably several others.

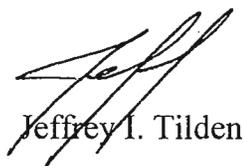
I have been in front of at least 100 judges over the years, most all of them have been very good, or better. It is hard to tell in advance what will produce a great judge, but there is no question it helps to have seen an awful lot of life, to have won some and lost some, to be smart, very hard-working, to know something about the actual mechanics of litigation (apart from lofty pronouncements about fairness and justice), to care about the people in front of you, and to badly want to do a good job.

Johanna Bender is all of these things. I do not know for sure, but it is my sense she has always wanted to be a judge. I am aware of no variable that more clearly predicts future excellence as a lawyer than having wanted to be one for a long time. I expect the same is true of judging. Johanna is rated "Exceptionally Well Qualified" by the King County Bar Association and virtually everyone else, who apparently share my opinion.

I think we are all lucky she wants to do the job.

I would be happy to answer any questions you have.

Very truly yours,



Jeffrey I. Tilden



LETTER OF RECOMMENDATION FOR JOHANNA BENDER

(I am an active member of the Washington Bar and an inactive member of the California Bar. For the past 14 years, I have been teaching history and English at Seattle Prep. Our mock trial team has won State in four of the past six years.)

Having seen Johanna Bender's skills on the bench for years, I am delighted to recommend her for a permanent judicial appointment. Johanna has been a friend and colleague for about seven years, ever since she was a federal law clerk for Judge Marsha Pechman. When the judge volunteered to help with the Seattle Prep high school mock trial program, which I coach, she mentioned Johanna's interest in working with the team.

As a volunteer coach from 2001 to 2004, Johanna devoted an afternoon or two a week and several weekends to working with high school students. Most often, she presided over practice trials as we ran the case and considered various trial scenarios. From the outset, Johanna displayed excellent legal analysis and a calm, thoughtful judicial temperament that included careful listening and decisive, clear rulings. Her ability to explain difficult points of evidence to students was particularly impressive.

When we competed at the State tournament in 2003, Johanna demonstrated her commitment to the team by driving back and forth to Olympia several times during a particularly hectic weekend for her personally. That year, we won the State competition. I was delighted when Johanna agreed to accompany the team to New Orleans for an intense week at the National competition. The Seattle Prep team, representing Washington State, placed sixth in the country that year, a strong performance that would not have been possible without Johanna's intense dedication and wise counsel during our marathon practice session in the New Orleans hotel rooms.

She has continued to help the team in recent years by presiding over practice rounds and presenting trial advocacy topics to the team.

Johanna's devotion to developing public speaking and critical thinking skills in young people is just one small part of her overall pursuit of social justice. Her service as a public defender, her status as a named plaintiff in a major state civil rights case, and her interest in serving as a judge all reflect her desire to see legal principles, fairly applied, in service of the common good.

If I can do anything further to support her application, please call or email me.

Letter of recommendation by C. Andrew McCarthy, History and English teacher, Seattle Preparatory School, p. 1 of 1
2008-09 school year; amccarthy@seaprep.org; 206.931-1058

Materials received regarding

Ann Danieli

REFERENCES. The Committee finds it useful to speak with attorneys and non-attorneys who are familiar with you. One or more Committee members will attempt to contact each reference listed. All telephone numbers should be current and legible. You may contact references in advance if you so desire. The Committee may also call upon individuals not listed to obtain information.

(1) List the names and phone numbers of up to ten attorneys who have supervised you or who have reviewed and are familiar with your legal work, including your current supervisor and at least one other supervisor from your current workplace and at least one supervisor from each of your prior workplaces during the past fifteen years.

- a. current workplace Judge Phillip Hubbard 206-296-9175
- b. current workplace previous "supervisor" Judge Patricia Clark 206-296-9190
- c. prior workplace Roy Howson ACA 360-336-8722
- d. prior workplace Dave Chapman ACA 425-830-6868
- e. prior workplace Judge Jean Rietschel SMC 206-684-8709
- f. prior workplace Judge Judith Hightower ACA 206-684-8709
- g. prior workplace Byron Ward ACA 206-624-8105
- h. prior workplace Julia Garratt ACA 206-353-9963
- i.
- j.

(2) For the last five appellate matters in which you participated (whether as lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/phone number), and opposing counsel or counsel appearing before you (w/ phone number). **I have not done any appellate work in either the Court of Appeals or the Supreme Court. I have been a trial lawyer and a trial Judge. I did write and argue RALJ cases for both the King County Prosecutor & ACA. But this was so long ago, I would have no record of these cases.**

- a. Case Name:
Subject Matter:
Court:
Judge:
Plaintiff's Attorney:
Defense Attorney:
- b. Case Name:
Subject Matter:
Court:
Judge:
Plaintiff's Attorney:
Defense Attorney:
- c. Case Name:
Subject Matter:
Court:

Judge:
Plaintiff's Attorney:
Defense Attorney

d. Case Name:
Subject Matter:
Court:
Judge:
Plaintiff's Attorney:
Defense Attorney

e. Case Name:
Subject Matter:
Court:
Judge:
Plaintiff's Attorney:
Defense Attorney

I certify under penalty of perjury of the laws of the state of Washington that the above information is true, accurate and complete. I agree to notify KCBA if there are material changes in this information between the time the Uniform Questionnaire and this cover sheet are completed and the expiration of any rating received.



Signature

Ann Deane

Print Name

01/11/2008

Date

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Professional History

8. **Year admitted to practice law in Washington**
1982

9. **Employment History (in reverse chronological order):**

Start Date: 2004	End Date: currently employed
Organization:	King County Superior Court
Address:	516 3 rd Avenue Seattle, WA 98104
Phone No.:	(206) 296-9175 & (206) 296-9190
Position/Title:	Judge/Commissioner Pro Tem
Supervisor:	Presiding Judge/ Chief Juvenile Judge Hubbard & past Chief Patricia Clark
Nature of Practice (including frequency of Court appearances):	Work weekly providing coverage for King County Superior Court calendars: Juvenile Offender; Truancy, At Risk Youth, Children in Need of Services & Juvenile Dependency Calendars. VUCSA arraignments, bail hearings, review & acceptance of Superior Court pleas, sentencing of VUCSA felony and gross misdemeanor cases, and in custody SRA reviews. Felony investigation first and second appearance jail calendars.
Reason for leaving:	n/a

Start Date: 2004	End Date: currently employed
Organization:	King County District Court
Address:	516 3 rd Avenue, W-1034 Seattle, WA 98104
Phone No.:	(206) 296-0596
Position/Title:	Judge & Magistrate Pro Tem
Supervisor:	Presiding Judge Barbara Linde
Nature of Practice (including frequency of Court appearances):	Serve as a Judge or Magistrate Pro Tem in all District Court Divisions. Preside over all calendars including criminal, civil, small claims, ex-parte, mental health Court and civil anti- Harassment hearings, domestic violence calendars. Felony investigation and first and second appearance jail calendars.
Reason for leaving:	n/a

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Start Date: 2001	End Date: currently employed
Organization:	Seattle Municipal Court Seattle Justice Center, 600 5th Ave Seattle, WA 98124 Supervisor, Judge Jean Rietschel (206) 684-8709; Des Moines Municipal Court 21630 11th Ave S, Ste C Des Moines, WA 98198 Supervisor Judge Veronica Alicea-Galvan (206) 870-6590; Federal Way Municipal Court 33325 8th Ave S Federal Way, WA 98063; Supervisor Judge Michael Morgan (253) 835-3000; Auburn Municipal Court 21630 11th Ave S, Ste C340 E Main St, Ste 101 Auburn, WA 98002 Judge Patrick Burns (253) 931-3076; SeaTac Municipal Court 4800 S 188th St SeaTac, WA 98188 Supervisor Mary Pederson (206) 973-4610
Address:	see above
Phone No.:	see above
Position/Title:	Judge & Magistrate Pro tem
Supervisor:	see above
Nature of Practice (including frequency of Court appearances):	I have worked as a Judge & Magistrate pro tem in the Courts listed above, I spent 2001-2005 working 2-3 days per week in Seattle Municipal Court, during that time I have presided over 20-30 jury trials & 15-20 bench trials. I have heard motions regarding the constitutionality of the seat belt law, the tow statute and heard other legal motions on admissibility of evidence, including numerous arguments regarding the BAC. I have also sat in the jail Court, handling in custody calendars for arraignments, bail hearings, and probation reviews. I have presided over pretrial hearings, pleas and sentencings, continuances and case schedulings. I have been specially trained to preside over Domestic Violence and Mental Health Courts. In Auburn, Des Moines, Federal Way and Sea Tac Municipal Courts, I have worked similar calendars. In all Courts, I have done infractions including contested mitigation & pre-settlement conferences.
Reason for leaving:	n/a

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Start Date: 2001	End Date:
Organization:	Law Office of Ann Danieli, PLLC
Address:	3518 Fremont Avenue #299
Phone No.:	(206) 547-0737
Position/Title:	Judge & Magistrate Pro tem
Supervisor:	see above
Nature of Practice (including frequency of Court appearances):	Sole practitioner, criminal defense, traffic infractions, family law, personal injury. Also, I had a contract with the City of Mercer Island to provide public defense for 3 years.
Reason for leaving:	n/a

Start Date: 1983	End Date: 2001
Organization:	Associated Counsel for the Accused
Address:	110 Prefontaine Place South Suite 200 Seattle, WA 98014
Phone No.:	(206) 624-8105
Position/Title:	Attorney/Supervising Attorney
Supervisor:	Roy Howson & Dave Chapman (both retired)
Nature of Practice (including frequency of Court appearances):	Proudly served as a public defender for 18 years, representing indigent people accused of crimes ranging from suspended license to Murder 1st Degree. During my last twelve years at ACA. I supervised several units of attorneys and staff, including Juvenile Court, Seattle Municipal, King County District, and the Appellate Unit.
Reason for leaving:	Pursue private practice and work as a Judge Pro Tem.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Start Date: 1983	End Date: 1984
Organization:	King County Prosecuting Attorney
Address:	516 3 rd Avenue Seattle, WA 98104
Phone No.:	(206) 296-9000
Position/Title:	Deputy Prosecuting Attorney
Supervisor:	Doug Whalley
Nature of Practice (including frequency of Court appearances):	Prosecuted DUI's & Domestic Violence cases in all the District Courts.
Reason for leaving:	Hired away by ACA

10. **Please list all other Courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.**

Washington 1982

Colorado 2001 Admitted to Practice but never sworn in

11. **Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.**

Washington State Bar Association: 1982 to present

King County Bar Association

Washington Association of Criminal Defense Attorneys — WPIC Committee member and served on the Court Funding Task Force.

12. **Are you in good standing in every bar association of which you are a member?**

Yes.

13. **If you have ever been a judge, please identify any Court committees on which you have served or administrative positions you have held. Please state the dates of service for each.**

None.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and Court name and the citation if a case was reported (and copy of the opinion)).

1. Being selected as one of the first female supervisors at ACA. I was selected to lead, supervise and train new attorneys in a rapidly growing Seattle Municipal Court Unit. I took a unit that was unorganized & suffering from low morale and turned it around with training, support of lower caseloads and scheduled office time for the attorneys. Created an attorney resource center to help with work flow, education and organization.
2. Re-organization of Seattle Municipal Court: analyzed and remedied Court congestion. When I first became a supervisor for the ACA Municipal Court Unit, the Court was running in total chaos. David Horsey was creating cartoons about the Court depicting it as a place where there was not room for "Justice." I became a part of a team of Judges, Prosecutors and attorneys who reorganized the scheduling and case flow for the Court. This reorganization created a master calendar system for Jury Trials and meaningful pretrial hearings to weed out the cases that could be resolved short of full fledged jury trials. The Court emerged as a system where the citizens of Seattle could be proud.
3. For awhile, I was the only female supervisor at ACA. I worked hard to get women and minorities promoted and worked on creative ways to allow working mothers the opportunity to work part time and to job share. I pushed forward an agenda to include two working mothers to job share a management position so that we would have more diversity on the management team.
4. During my time as a Judge Pro Tem in Seattle Municipal Court, I was rated by the attorneys who appeared in my Court. *King County Bar Judicial Evaluation Survey for District and Municipal Courts*. I was given high ratings across the board for Decision Making, Efficiency, Demeanor & Impartiality. Overall I was rated 42% excellent, 39% more than satisfactory, 15% satisfactory. I was rated higher than any of the elected Judges, Magistrates or Pro Tems who worked in that Court. In whatever Court I sit as a Pro Tem, I have always received positive feedback from Court staff and other Court participants. This has given me great pride.
5. Serving as a Public Defender for 20 years. While I was in law school (many many years ago) I started working as a Rule 9 intern with the now defunct Eastside Defender Association. I represented real clients in real cases in real Courtrooms. It was a thrill and I found my life's work. I had gone to law school with the notion that I would practice "poverty law." I wanted to use my education to help people. The criminal Justice system gave me that opportunity. I have loved working in a diverse community of individuals who do their best to succeed and survive. It has not always been easy; it was hard work and long days but very rewarding.

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15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.

1. State v. Mills: I represented a 14 year old client charged with Murder 1, for planning the murder of a man who was molesting the young neighborhood boys. We won the decline hearing which kept the client in the Juvenile system saving him from adult prison. We lost the trial and he was sent to JRA and did well. I heard from his parents that he graduated from USC. It was rewarding to hear that through our hard work and through a system that rehabilitates, he was able to become a good citizen.

I hate to think of what would have happened to him if he went into the adult system.

2. State v. Slayton: This case was compelling factually, legally and professionally. Client was charged with raping a 94 year old woman after going to a mental health facility for help. He was turned away and went next door and committed the crime. The victim died before trial creating significant evidentiary issues. There were issues of competency, diminished capacity and insanity, It was resolved as a Not Guilty by Reason of Insanity with a commitment to Western State Hospital. I felt this was the best result for both my client and public safety.
3. State v. Campbell: I worked as a research assistant for the trial attorney on this capital murder case. Interesting legal issues with a difficult client, horrific facts and a high stakes trial.
4. I was sitting as commissioner on a dependency calendar in Juvenile Court and there was a motion for visitation by a biological father. He had just completed a prison sentence for a drug charge and wanted to have contact with his three children. He had one assault and two convictions on his record. He had not participated in any of the prior dependency hearings due to his incarceration. He is an African-American. The Attorney General wanted him to have no contact with his children because of his criminal history and his substance abuse problems. He had not seen his children for a long time. Statistically, minorities are over represented in the foster care community. Here was a father who was clearly motivated to change his life and have a role in the lives of his children. I structured a decision to give him a chance to re-establish his relationship with his children but also to protect the children. The goal was also to keep the father encouraged so that he would not give up hope of having a place in the lives of his children. I ordered counseling evaluations with the children to determine what their desires were and whether there was any detriment to their mental health & well being. I ordered weekly UA's for the father and required that he show written proof of his substance abuse treatment. If he was clean and doing well in his recovery and counselors determined that no harm would be done to the children, supervised visits could begin.
5. I had a fact finding in Juvenile Court where a young Chinese American was accused by her Korean American neighbor of assault 4. This was witnessed by a Cambodian American, a white male law student. The prosecutor was Latina American. There were no interpreters but English was a second language for everyone but me, the defense attorney and the law school witness. It was a true melting pot of American culture. It was a challenge to keep order in the Courtroom and to keep everyone speaking English and to help everyone to understand everyone else who had challenging accents.
6. When I was sitting as a Judge Pro Tem In Seattle Municipal Court, I was assigned to hear a case which was challenging the constitutionality of the "tow statute". This statute was a law which allowed the police the ability to "seize and impound" the cars of anyone arrested for driving with a suspended driver's license. It was a controversial law because of the disproportionate impact placed upon the poor who could potentially lose their cars because they could not pay a ticket. The motion had been continued several times to allow both sides time to adequately brief all the issues. Upon review of the ticket I discovered that the defendant had not committed the infraction! Case dismissed & the car returned. Sometimes the answers are simpler than we think.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Educational Background

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

College/University	Dates of Attendance	Degree
University of California	1974-1978	B.A.

17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

Law School	Dates of Attendance	Degree
Seattle University Law School	Fall 1979- Spring 1982	Juris Doctor

Professional Experience

18. Please summarize, briefly, the general nature of your current law practice.
I am presently devoting all my time to serving as a Judge Pro Tem in several Courts in King County. I have had not taken on any private practice cases for over a year.
19. If you are in practice, please describe your typical clients and any areas of special emphasis within your practice.
The focus of my law practice was criminal defense. For three years I also had a contract with the City of Mercer Island to provide public defense services. I handled some minor car accident, probate and family law cases.
20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.
I was a public defender for 20 years.
21. Within the last 5 years, did you appear in trial Court:
 Regularly Occasionally Infrequently
22. Within the last 5 years, did you prepare appellate briefs and appear before appellate Courts:
 Regularly Occasionally Infrequently
23. Within the last five years, how often did you appear in the Court for which you are applying:
 Regularly Occasionally Infrequently

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24. Career Experience

(a) What percentage of your appearances in the last five years was in:

(1)	Federal appellate Courts	0
(2)	Federal trial Courts	0
(3)	State appellate Courts	0
(4)	State trial Courts	50
(5)	Municipal Courts	25
(6)	District Courts	25
(7)	Administrative tribunals	0
(8)	Tribal Courts	0
(9)	Other	0
Total		100

(b) What percentage of your practice in the last five years was:

(1)	Civil litigation (excl. family law)	1
(2)	Criminal litigation	98
(3)	Family law litigation	1
(4)	Non-litigation	0
Total		100

(c) What percentage of your trials in the last five years were:

(1)	Jury trials	50
(2)	Non-jury trials	50
Total		100

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- (d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following Courts, and indicate for each Court the following percentages: trials in which you were sole counsel or chief counsel; jury trials; and trials where you were the arbiter/decision maker.**

Number	Court	% as Sole / Chief Counsel	% Jury	% as the Arbiter
300	Municipal	99.9	80	20
100	State Dist.	100	80	10
100	State Superior	99.9	80	25
	Federal Dist.			
	Administrative			
	Tribal Courts			
	Other			

- (e) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).**

1. State v. Stark: Sexual Exploitation of a Minor; DPA Anne Bremner (206) 623-9900 Judge Wartnik retired.(206) 232-2970.
2. State v. Mills: Murder 1 DPA Susan Roe 206-553-1077 Judge Heavey retired (206) 937-5088.
3. State v. Donny Dunn Murder 1: DPA Monica Benton 206-370-8900 Judge Gain (sentencing) (206) 296-9170.
4. State v. Bateman Rape of a Child 1: DPA Jeanette Dalton (360) 297-3053 Judge Agid (206) 464-6047.
5. State v. George Indecent Liberties DPA Dean Lum (206) 296-9295 Judge John Riley (retired). Attempts to locate retired Judge John Riley were unsuccessful.

- (f) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.**

None.

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25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

I currently serve as a member of the Capital Hill Community Accountability Board. The key role of the CAB is to balance the needs of the victims, the community and the offenders by problem solving ways for the offenders to give back and learn from their experience and divert them away from Juvenile Court.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

Sole owner/operator of my law practice which is currently inactive with no current clients or cases. Current Board member of my condominium association. If elected, I will officially close my practice. In regard to my condo board, I am scheduled to be off by the end of the year.

27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

I served as a member of the Court Funding Task Force.

I worked on revisions of criminal WPICs for the WPIC Committee.

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed/elected and are seeking a judicial position.

I have 26 years of legal experience and 7 years of Judge Pro Tem experience. I have a well deserved reputation for sound legal judgment, Courtroom temperament and fair application of the law. I have made important contributions to my community through my involvement working with troubled youth, pro bono legal representation and work on committees combating Domestic Violence.

29. In 50 words or less, please describe your judicial philosophy.

An independent judiciary is critical to the balance of power in a democracy. Judges interpret the laws passed by the Legislature and provide oversight on executive power. Judges must ensure that the Courts are accessible to all, that people who come to the Courts understand the process and that all litigants are treated with dignity and respect.

30. Have you ever held a judicial office or have you ever been a candidate for such office?

Yes.

If you answered "yes", please provide details, including the Courts involved, whether elected or appointed, and the periods of your service.

Yes. I am currently a candidate for the Superior Court Judge #53 race in August 2008.

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31. **Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office?**

No.

32. **Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give Courts, approximate dates, and attorneys who appeared before you.**

I have been a pro tem Judge since 2001. My assignments have been weekly averaging about 150 days per year. As previously noted, I have approximately 1,000 days of experience as a judge, commissioner or magistrate pro tem. I worked for the past four years in Seattle Municipal Court and over the past four years for the King County Superior Court. I have had hundreds of attorneys appear before me. Since May of 2005, I have worked extensively in Juvenile Court on both criminal and civil calendars. I have regularly assisted the Chief Juvenile Judge (Clark and now Hubbard) in the presiding Court, & treatment Courts. In addition, I have worked covering the Fast Track Drug Court and plea and sentencing Courts at the RJC and downtown Courthouse.

Community and Civic Activities

33. **Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.**

Tutor — The Youth Tutoring Program of Catholic Community Services Jackson Park. Worked with primarily Somali immigrant children K-12. I helped them with their homework and reading skills.

Board Member — Capital Hill & Central Area Community Accountability Boards

Volunteer Attorney — Voter Protection Project Presidential Election 2004

Discipline and Disputes

34. **Have you ever been held, arrested, charged or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation or ordinance?**

Yes.

If you answered “yes”, please provide details. (Do not include traffic violations for which a fine of \$150.00 or less was imposed.) Please feel free to provide your view of how it bears on your present fitness for judicial office.

When I was in college in 1976 at the University of California at Santa Cruz, I was a member of the Coalition Against Institutionalized Racism. We took a stand on several issues impacting minorities. We were against UC investments in white controlled South Africa; the Board of Regents changing UC admissions standards that would severely impact minority admissions; and the lack of a defense being put forth by the Regents in the *Baake* case. I was arrested, along with other members, for being in the dean's office after hours during an organized protest. I (along with 250 other students) were arrested and charged with criminal trespass. The charges were dismissed.

35. **Has a client ever made a claim or suit against you for malpractice?**

Yes.

If you answered “yes”, please provide details and the current status of the claim and/or suit.

I was sued by a mentally ill client for \$500 million dollars for the tort of outrage (As counsel for the client, we lost a jury trial). The client also unsuccessfully sued the judges, my supervisors, the prosecutor and even some individuals who had no involvement in the case. It was dismissed with prejudice at summary judgment.

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36. **Please describe your direct experience, if any, with domestic violence and sexual harassment.**
I have prosecuted, defended and judged all aspects of domestic violence cases from misdemeanors to felonies. During my time as a supervisor at ACA, I was asked to investigate two matters involving alleged sexual harassment by male attorneys against female attorneys.

37. **Have you been a party in interest, witness, or consultant in any legal proceeding?**
Yes.

If you answered "yes", please provide details. Do not list proceedings in which you were merely a guardian ad litem or stakeholder.

I have been a witness in two criminal cases where I had withdrawn as the attorney of record. One was a motion to withdraw a guilty plea and the other was when I became a witness in a client's case when the officer could not identify the client out of the Courtroom crowd.

38. **Have you ever been the subject of a complaint to any bar association, disciplinary committee, Court, administrative agency or other professional group?**
Yes.

If you answered "yes", please provide details.

I believe that during my 20 years as a public defender, I received two bar complaints and both were dismissed summarily as having no merit. This was in 1980's. One of them involved the client discussed in Section 35 and the other was a client who complained because I was rotated into a different division of the office and had to transfer his case to another attorney.

39. **Have you ever been disciplined or cited for breach of ethics or unprofessional conduct?**
No.

40. **If you have served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you? Yes / No. If you answered "yes", please provide details.**
No.

Miscellaneous

41. **Are you aware of anything that may affect your ability to perform the duties of a judge?**
No.

42. **Have you published any books or articles in the field of law? If so, please list them, giving the citations and dates. Also, please give the dates and forums of any Continuing Legal Education presentations that you have made.**

I wrote several operations manuals for new attorneys at ACA. I also participated as a lecturer in CLE's presented at our office.

I am a faculty member of Trial Advocacy Training Program for Public Defenders through the Office of Public Defense May 2008.

43. **Please list any honors, prizes, awards or other forms of recognition that you have received and whether they were professional or civic in nature.**

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44. Are you aware of anything in your background or any event you anticipate in the future that might be considered to conflict with the Code of Judicial Conduct?

No.

45. Please provide a writing sample of your work (between 5 and 10 pages long), written and edited solely by you, within the last 4 years.

Access to Justice

46. Please describe activities that you have engaged in to eliminate bias or improve access to the judicial system for indigent populations and ethnic, racial and sexual minorities. As a member of the bench, what, if any, role do you believe a judge has to enhance equal access to justice?

Court Funding Task Force — Courts of Limited Jurisdiction- Delivery of Services Work Group
Worked on funding issues for the Courts to include access to the Courts for people with no funds or attorneys.

Volunteer Attorneys for Persons with AIDS Legal Referral Project. I was assigned to individuals who needed simple legal issues handled like wills and some criminal defense and licensing issues.

Volunteer attorney to help get criminal convictions expunged and cleared so that poor people could obtain access to housing and other services.

Volunteer attorney for newcomers to ensure that those without citizenship status are paid for work they have done.

Access to justice is a fundamental issue and it should be a major focus for the judiciary and the Courts. Any person who comes before the Court should be provided with the tools to understand what is happening and why. This calls for well trained interpreters, simplified Court forms, accessible and comfortable facilities and calendars that start and finish on time. A judge must recognize that access to justice is a constitutional and fundamental right. The judiciary has a duty and obligation to preserve and protect the constitutional rights of all persons. Judges are the gatekeepers to the legal system and I believe, have an affirmative duty to uphold the rights of all persons to achieve equal access.

47. Please describe the frequency, time commitment and substantive nature of your direct participation of free legal services to indigent populations, and ethnic, racial and sexual minorities.

I was a public defender for 20 years and in addition to that work, I always took on a few pro bono cases every year. During my years as a public defender, it was always important to me to help out the pro se defendants, I would ask if they needed any help getting an attorney and if they had any questions. Sometimes I would represent them for that hearing as a "friend of the Court."

I have been a volunteer attorney for persons with AIDS, helped people clear their criminal records, and help them get paid for work they had performed.

Diversity in the Legal Profession

48. Please briefly describe your understanding of the issue of "diversity within the legal profession."

The people that work in the legal profession should be representative of the society they serve. We must strive to promote and encourage people of all races, religions or sexual orientations to fully participate at all levels. Diversity also includes those who come into the system should have equal treatment and access to justice be they minority, disabled, poor, gay, lesbian, bisexual or transgender.

References

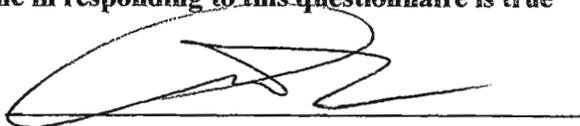
It is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. One or more participants in the evaluation process may contact each of your references. All telephone numbers should be current and legible. If a reference is unreachable, your rating/evaluation may be delayed. Please use a separate piece of paper for each list. You may contact references in advance if you so desire. Individuals not listed by you as a reference may be contacted to obtain information about you.

49. If you have been in practice within the past fifteen years, list the names and phone numbers of ten opposing counsels who know you best, including at least three opposing counsels on cases that went to trial.
50. If you have been a judge or otherwise have served as a neutral decision-maker within the past fifteen years, please list the names and phone numbers of the last ten attorneys who have appeared before you.
51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.
52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, Court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).
53. List the names and phone numbers of ten additional attorneys familiar with your professional qualifications, skills, experience or attributes.

Certification

54.

By signing below, I declare under penalty of perjury under the laws of the State of Washington that the information provided by me in responding to this questionnaire is true and correct to the best of my knowledge.

Date: 6/21/2008 Signature: 

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NOTE: The Governor's Office strongly encourages individuals seeking judicial appointment to utilize, to the fullest extent possible, the ratings processes from state, county, and minority bar organizations. Contact information for the minority bar associations can be found on the Washington State Bar Association's website at (<http://www.wsba.org/public/links/minoritybars.htm>). It is the applicant's responsibility, however, to obtain these evaluations in a timely manner. To that end, all applicants are strongly encouraged to commence the evaluation process for other bar associations as soon as possible. To facilitate the process, the following organizations have agreed to accept this questionnaire as the principal application in their evaluation process and may also require candidates to complete an additional supplement questionnaire:

All pending

State Bar Association

Washington State Bar Association (WSBA) (appellate Court evaluations only)

County Bar Associations

King County Bar Association (KCBA)

Minority Bar Associations

Latina/o Bar Association of Washington (LBAW)

Loren Miller Bar Association (LMBA)

The Joint Asian Judicial Evaluations Committee of Washington³

Pierce County Minority Bar Association (PCMBA)

Q-Law / GLBT (Gay Lesbian Bisexual Transgender) Bar Association

Washington Women Lawyers⁴ (WWL)

As of the date of your certification above and submission of this questionnaire to the Governor's Office, please check, as necessary, beside each of the above organizations if you have contacted them to evaluate you for the position for which you have applied.

³ A joint committee of the Asian, Korean, South Asian and Vietnamese American Bar Associations of Washington.

⁴ Washington Women Lawyers has approved the use of the Governor's Uniform Judicial Evaluation Questionnaire for its statewide and all county chapters.

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49. If you have been in practice within the past fifteen years, list the names and phone numbers of ten opposing counsels who know you best, including at least three opposing counsels on cases that went to trial.

1. Honorable Wayne Stewart, Judge Mercer Island Municipal Court. (206) 236-3452, I was the Mercer Island Public Defender from 2002-2005. Judge Stewart was the City Prosecutor for the majority of the time I was there. We also had weekly contact and many trials when I appeared before him.
2. Katie Knight, Mercer Island City Attorney (206) 275-7601 ext 1. I became the prosecutor when Judge Stewart was appointed to the bench. I worked with her for about a year.
3. Lynn Moberly (425) 313-5776. Ms. Moberly covered for the City of Mercer Island when they were interviewing for a new prosecutor. We also had several felony cases when she was a Senior King County Prosecutor and I was at ACA.
4. Patricia Shelledy, Legal Counsel to King County Sheriff (206) 296-5292. I have known Patty since law school and we had cases against each other when she was a King County Prosecutor and I was at ACA.
5. Anne Bremner (206) 623-9900. We were both assigned to Federal Way District Court and then felonies. She was a King County Prosecutor and I was at ACA. We tried many cases there and also several felonies.
6. Mark Larson Chief Criminal Division King County Prosecuting Attorney (206) 296-9450. We tried felony cases when he was a deputy and I was at ACA.
7. Jamie Mittett Assistant US Attorney (206) 553-2055 Former King County Prosecutor
8. Greg Hubbard Kitsap County Prosecutor (360) 337-5506 Former King County Prosecutor and Chief at Juvenile Court when I was assigned there. We also had some trials together.
9. Ken Comstock (206) 323-2354 former Seattle Assistant City Attorney. Tried cases in Seattle Municipal Court.
10. Michael Hogan (206) 296-9000 Senior King County Prosecutor. Tried felony cases.

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50. If you have been a judge or otherwise have served as a neutral decision-maker within the past fifteen years, please list the names and phone numbers of the last ten attorneys who have appeared before you.

1. Martha Walton — Juvenile Court supervisor for ACA, (206) 624-8105 ext 235
2. Don Madsen — Director ACA, (206) 624-8105 ext 226
3. Elinor Cromwell — Juvenile Court Supervisor for SCRAP, (206) 322-8400
4. Craig MacDonald — private practitioner has appeared before me in dependencies and offender cases at Juvenile Court, (425) 771-7737
5. Katherine Hurley — TDA, (206) 322-2096
6. Samantha Kanner — DPA, (206) 296-9000
7. Josephine White — NWD, (206) 674-4700
8. Bridgett Maryman — DPA, (206) 296-9000
9. Mark Prothero — Private practice Juvenile and Criminal matters, (253) 520-5000
10. Lois Trickey — SCRAP, (206) 322-8400

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.

1. Martha Kongsgaard — Director Kongsgaard-Goldman Foundation, (206) 448-1874
2. Kim Cronin — Social Worker, (206) 624-8105 ext. 266
3. Christine Henderson — Judge Hubbard's bailiff. Worked closely with me in Juvenile Court, (206) 296-9210.
4. Elaine Deines — Coordinator Juvenile Court. Works closely with me in Presiding, (206) 941-8317.
5. Joanne Kahl — Junior Achievement, (206) 296-2614
6. Nancy Blakely — Parent Educator, (206) 842-7991

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52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, Court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).

These are cases that I heard while sitting as a Judge Pro Tem in King County Juvenile Court. All were bench trials.

1. VUFA trial: DPA Marco Acevedo (206) 296-9000, Defense Attorney Edwin Aralica (206) 624-8105, Denial of Defense Motion to suppress affirmed by Court of Appeals (unreported decision). Guilty
2. Assault 4 trial: DPA Mafe Rajul (206) 296-9000, Defense Attorney Katherine Beckerman (206) 447-3900 Not Guilty
3. Assault 4: DPA Stephanie Sato (206) 296-9000, Defense Attorney Maureen Mckee (206) 447-3900 Not Guilty
4. Reckless Burning DPA: Michael Pelliacciotti (206) 296-9000 Defense Attorney Dan Norman (206) 734-7969 Guilty
5. Robbery 2 & VUCSA: DPA Li Tam (206) 296-9000, Defense Attorney Lois Trickey (206) 322-8400 ext. 3184 Guilty Robbery 2/Not Guilty VUCSA

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53. List the names and phone numbers of ten additional attorneys familiar with your professional qualifications, skills, experience or attributes.

1. Katy Jo Steward (206) 463-4323
2. Judge Susan Serko (253) 798-2975
3. Judge Patricia Clark (206) 296-9190
4. Judge Phillip Hubbard (206) 296-9175
5. Margo Keller (206) 250-9494
6. Judge Veronica Alicea-Galvan (206) 870-6590
7. Peter Goldman (206) 223-4088
8. Laurie Shiratori (206)525-7957
9. Janice Albert (425) 388-3333
10. Judge Jean Rietschel (206) 286-9032
11. Diego Vargas (425) 451-1995
12. Elizabeth Mocerri (206) 369-4718
13. Kris Jensen (206) 682-6089

1
2
3
4
5
6 MERCER ISLAND MUNICIPAL COURT
7 KING COUNTY, STATE OF WASHINGTON

8 CITY OF MERCER ISLAND

9 Plaintiff,

10 vs.

11
12 Defendant

DEFENDANT'S MEMORANDUM

IN SUPPORT OF MOTION TO

SUPPRESS & DISMISS

13
14
15 **I. INTRODUCTION**

16 **THE DEFENDANT** by and through his attorney, Ann E. Danieli respectfully
17 submits this memorandum of law in support of the defendant's motion to suppress,
18 any and all BAC results for failure to allow the defendant a private conversation with
19 the "on call" attorney.

20 **II. PERTINENT FACTS**

21 On October 12, 2006 at about 1:00 a.m. the defendant was stopped for a high
22 beam infraction as well as a lane travel violation. The stop was conducted by Mercer
23 Island Police Officer Mithcell. As a result of this seizure of the defendant, Officer

DEFENDANT'S MOTION TO
SUPPRESS AND DISMISS
MEMORANDUM OF
AUTHORITIES IN SUPPORT
THEREOF - 1

Law Office of Ann E Danieli, PLLC
3518 Fremont Avenue North, #299
Seattle, WA 98103
(206)547-0737

1 Mitchell contacted the defendant at the driver's side door of the defendant's vehicle.
2 Shortly thereafter the defendant was asked to step from the vehicle. The defendant
3 was asked to perform some Field Sobriety Tests (FSTs) but requested to speak to an
4 attorney and declined to do the tests. The defendant was promptly arrested. Upon
5 arrest the defendant was handcuffed, read his rights, searched, and placed in the
6 rear of the officer's patrol car and transported to the station. Upon arrival the
7 defendant was re-advised of his rights and wanted to speak with an attorney. The
8 defendant indicated that he knew various attorneys but given the hour did not think
9 one of his choice would be available. The defendant was put in touch with, and
10 spoke with the assigned Public Defender from the City of Mercer Island. During this
11 conversation the officer remained in the room while the defendant attempted to have
12 a conversation. However, despite speaking with the Public Defender, the defendant
13 was not afforded privacy to consult with her. At the conclusion of their brief non-
14 private conversation the defendant was asked to provide a breath sample. Since the
15 defendant was unable to have a private and confidential conversation with the Public
16 Defender, the defendant refused to provide a sample. If the lack of privacy was not
17 egregious enough, the officer then asked the defendant to divulge the content of the
18 conversation that the defendant had with the attorney. The mere asking of this
19 information eviscerated any remaining confidentiality that *may* have existed. Shortly
20 thereafter, the officer entered "refusal" into the DataMaster.

21 III. LEGAL ANALYSES

22 The right to counsel is protected by the fifth and sixth amendments of the
23 Constitution of the United States and by amendment 10, Art. 1, section 22 of the
Washington State Constitution. In recognition of the import of the constitutional right

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1 to counsel, Washington courts have jealously and repeatedly guarded the right of an
2 accused to have access to counsel. Indeed, the very language of CrRLJ 3.1(c)(2)
3 clearly states that once counsel has been requested, the officer must provide the
4 suspect with a telephone, the telephone number of the public defender and any other
5 means necessary to place the suspect in communication with a lawyer. The right to
6 counsel extends to all criminal proceedings involving possible jail time. CrRLJ 3.1(a).
7 Moreover, violation of the right to counsel has consistently resulted in dismissal of
8 criminal charges. **State v. Cory**, 62 Wn.2d 371, 382 P.2d 1019 (1963); **City of**
9 **Tacoma v. Heater**, 67 Wn.2d 733, 409 P.2d 867 (1966); **City of Seattle v. Box**, 29
10 Wn. App. 109, 627 P.2d 584 (1981); **State v. Fitzsimmons**, 93 Wn.2d 436, 610 P.2
11 893 (1980), *overruled as to remedy by City of Spokane v. Kruger*, 116 Wash.2d
12 135, 803 P.2d 305 (1991).

13 Once a lawyer is contacted, it is universally accepted that effective
14 representation cannot be had without privacy. **State v. Cory**, *supra* at 374. In **Cory**,
15 the Washington Supreme Court, dismissed the criminal conviction of the defendant
16 because of eavesdropping by the sheriff on the defendant's consultation with his
17 attorney. The unanimous court stated:

18 It is also obvious that an attorney cannot make full and complete
19 investigation of both the facts and the law unless he has the full and
20 complete confidence of his client, and such confidence cannot exist
21 if the client cannot have the assurance that his disclosures to his
22 counsel are strictly confidential.

23 Id.

Clearly, the Constitutional guarantee of effective representation by counsel
loses its substance if a suspect is not permitted to speak freely and in confidence with
his lawyer.

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1 The **Cory** court went on to observe that it would not be an answer to say that
2 the accused cannot complain of the interception of his telephone conversations with
3 his counsel if he had on other occasions ample personal consultation with his lawyer,
4 face to face, which no person overheard. That fact would not erase the blot of
5 unconstitutionality from the act of intercepting other consultations. Id., at 375. The
6 **Cory** court concluded that depriving a suspect of his right to effective counsel vitiates
7 the whole proceeding.

8 In a more recent case, the Connecticut Supreme Court reversed a murder
9 conviction where the police could overhear the telephone conversation between the
10 suspect and his lawyer. **State v. Ferrell**, 191 Conn. 37, 463 A.2d 573 (1983). In
11 **Ferrell**, the Court held that:

12 [t]he right to counsel before questioning is meaningless if a
13 private and free discussion of the case is not permitted.
14 Eavesdropping by the police or their agents makes a
mockery of the right to consult counsel before being
interrogated.

15 Id.

16 In **City of Seattle v. Box**, the defendant had been allowed to speak at length
17 with his attorney on the telephone while at the police station, but when the attorney
18 came to the police station he was erroneously told that the defendant was no longer
19 present. **City of Seattle v. Box, supra**. The **Box** Court specifically dealt with the
20 question of whether unreasonable denial of right to counsel deprived the rule of
21 substance:

22 A criminal defendant's constitutionally mandated right of
23 access to counsel after arrest and charging for a traffic offense
where intoxication is an element must allow for the reasonable

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1 exercise of that right if it is to have meaning. To give a defendant
2 access to counsel by telephone, but then, without justification, to
3 deny or frustrate his exercise of that right in seeking a face-to-face
4 contact with his attorney, robs the right of substance.

5 **Id.**, at 118

6 Similarly, denying a suspect an opportunity to have a private conversation with
7 his or her lawyer is to frustrate a suspect's right to counsel. **State v. Holland**, 147
8 Ariz. 453, 711 P.2d 592 (1985). In **Holland**, the Arizona Supreme Court relied on
9 **Cory** in resolving favorably to the defendant the specific issue of a suspect's right to
10 a private consultation with an attorney. As in this case, **Holland** was not given privacy
11 after he requested that the officer leave the room.

12 Recently the Division One relied on **Cory** when the court dismissed the case
13 where a police detective read defense counsel's notes at counsel table during a
14 break. **State v. Granacki**, 90 Wn.App. 598, 959 P.2d 667 (Div.I) (1998). Even
15 though the officer did not communicate what he saw to the prosecutor before the
16 defense motion for mistrial, the Court described the police eavesdropping on a
17 defendant's private communications with his attorney as an odious practice and
18 sought to send a strong message to discourage such practices by reiterating the
19 strongest language from the pivotal 1963 **Cory** decision where a sheriff had taped
20 telephone conversations between the in-custody defendant and his attorney.

21 Division One further held that:

22 [A] defendant cannot receive effective representation unless he is able to
23 confer with his attorney in private. It notes that intrusion by the State into a
defendant's privileged communications with counsel violates not only the
defendant's right to effective representation by counsel, but his right to be
protected against unreasonable searches and to due process of law. Even

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1 high motives and zeal for law enforcement cannot justify spying upon and
2 intrusion into the relationship between a person accused of a crime and his
3 counsel. For that reason, the court held that, where the state intrudes on a
4 defendant's right to effective representation by intercepting privileged
5 communications between an attorney and his client, the only adequate
6 remedy
7 is dismissal. This is because there is no meaningful way to isolate the
8 prejudice
9 resulting from such interference . . . the right to have the assistance of
10 counsel
11 is too fundamental and absolute to allow courts to indulge in nice calculations
12 as to the amount of prejudice arising from its denial."

13 **State v. Granacki, supra** at 602, 603. (discussing **Cory**).

14 It is impossible to calculate to what extent the eavesdropping may have
15 inhibited and chilled the communication between the defendant and his attorney.
16 The **Granacki** Court also held that it is within the trial court's discretion to sanction
17 the government for misconduct whether or not one can determine actual prejudice.
18 In fact, the appellate court affirmed the dismissal ; but in so doing stated that it
19 would have upheld the trial court if it had chosen to ban the officer from the
20 courtroom, exclude his testimony and prohibit him from discussing the case with
21 anyone. **Granacki**, at 604.

22 Finally, the Washington Supreme Court recently held that the right to counsel is
23 essential to the effective preparation of a defense against the charge of DUI. **State v.**
Templeton, 59 P.3d 632, 148 Wash.2d 193 (2002), *citing State v. Heater*, 67 Wn.2d
at 739; **State v. Fitzsimmons I**, 93 Wn. 2d at 442-43, 610 P.2d 893.

Here, the defendant requested an attorney but could not decide who to call.
After some reflection, the defendant was put in touch with a public defender.
However, despite making the call for the defendant and honoring his Constitutional

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1 right to speak with an attorney, the officer remained in the room while the defendant
2 spoke with his lawyer. The defendant was uncomfortable in this situation and felt that
3 he was not free to speak openly and candidly with his lawyer. Moreover, despite the
4 officer's "friendly" nature, Jthe defendant was under custodial arrest and feared that
5 any resistance or comments appearing that he was anything less than cooperative
6 may cause the officer to place him in jail, rather than take him home as promised
7 earlier. Ultimately, the defendant could not receive effective representation because
8 he was not afforded privacy. Consequently, this Court should suppress the BAC
9 results and dismiss the charges against the defendant for violation of his
10 Constitutional guarantee of assistance of counsel.

11 IV. CONCLUSION

12 The defendant was not afforded the requisite legal privacy when speaking with
13 a public defender subsequent to arrest for the suspicion of being DUI. The lack of
14 privacy is tantamount to no privacy. The inability to speak privately and candidly
15 means that the defendant did not truly have the assistance of counsel that the
16 Constitution affords. Thus, to quote the **Cory** Court: "No criminal conviction can
17 stand, no matter how overwhelming the evidence of guilt, if the accused is denied the
18 effective assistance of counsel, or any other element of due process of law without
19 which he cannot be deprived of life or liberty." **Cory, supra** at 376. Consequently,
20 the evidence should be dismissed and the charges dismissed with prejudice.

21 DECLARATION

22
23 DEFENDANT'S MOTION TO
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1 I, Ann E, Danieli, am the attorney of record for the above named defendant. I
2 have first-hand knowledge or a good faith belief in the facts as discovered by
3 way of investigation, interviews, and discovery provided to me by the
4 prosecuting attorney as they are contained in this declaration. I make the
5 above factual declaration in support of Defendant's aforementioned motion.

6 **I HEREBY DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE**
7 **STATE OF WASHINGTON THAT THE FOREGOING STATEMENTS ARE TRUE**
8 **AND CORRECT.**

8 DATED this _____ day of _____ 2006.

9 Respectfully submitted,

10
11 _____
12 Ann E. Danieli
13 WSBA # 12921
14 Attorney for
15 Defendant

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22
23 DEFENDANT'S MOTION TO
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Ann E. Danieli

3824 Evanston Av. N. #12
Seattle, WA 98103
Home: (206) 545-1014
Mobile: (206) 919-3667
Email: DanieliLawaol.com

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CLERK
KING COUNTY COUNCIL

Dear King County Council,

I would be truly honored to serve as King County District Court Judge. I am, therefore, pleased to submit my application for the appointment.

I currently serve as a Judge Pro Tem for King County Superior, District and Municipal Courts. During my time on the bench, I have worked hard to earn a reputation for being a highly respected, reliable and efficient Judge with sound legal judgment, common sense and a strong sense of fairness.

I have been rated as **“Exceptionally Well Qualified”** by the **King County Bar Association**, the **Loren Miller Bar Association** and the **Latina/o Bar Association**. In addition, I received the highest approval rating of any Judge in Seattle Municipal Court in the **2005 Judicial Evaluation Survey** conducted by the King County Bar Association.

In addition to my judicial experience I have 26 years of practice as an attorney. I served as a King County Prosecutor and Public Defender. I have litigated civil matters and worked as a manager and supervisor. I have also volunteered my time to help our community and I have sat on many Court Operations committees.

In short, I hope you will seriously consider my application. I assure you that if appointed I will serve the Court with fairness, integrity and with a deep commitment to justice

Very Truly Yours



Ann E. Danieli

ANN E. DANIELI

Attorney at Law

3824 Evanston Avenue North #12 Seattle, WA 98103

DanieliLaw@aol.com (206) 919-3667(c)

OBJECTIVE: To serve as a Judge for King County District Court using skills and experience accumulated in 26 years of trial practice and pro tem judicial service.

SKILLS SUMMARY:

- **Strong Trial Experience:** I have 26 years of trial experience as a prosecutor, public defender and civil practitioner. I have worked effectively in district, municipal, Superior, Juvenile and appellate courts in King County.
- **Judicial Experience:** I have presided over at least 100 trials and provided approximately 2500 hours of bench time presiding over trials, pretrials, motions, arraignments, intakes, probation reviews, small claims, Anti-harassment orders, domestic violence cases, treatment courts and infractions.
- **Judgment & Demeanor:** I preside over the courtroom in a calm and straightforward manner. I believe I exhibit compassion and strong listening skills when appropriate But I am also described as “no-nonsense” and efficient. These same attributes contribute to my ability to render decisions with good judgment grounded in the law and common sense.

PROFESSIONAL MEMBERSHIPS: Washington State Bar Association, 1982

WORK EXPERIENCE:

- **Law Office of Ann Danieli**
Sole practitioner specializing in criminal law, traffic infractions and civil cases.
- **JUDGE & COMMISSIONER PRO TEM-King County Superior Court, Juvenile Court, District Court** -Criminal Calendars, Juvenile Offender & Dependency cases, Anti-Harassment proceedings, Felony Expedited cases, small claims, name change, ex-parte calendars.
- **JUDGE & MAGISTRATE PRO TEM – Seattle, Auburn, Des Moines Municipal Courts**
2100 hours of bench time presiding over at least 30 jury and bench trials. In & out of custody arraignments, pretrial and motion, pleas & sentencings, probation review calendars.
- **ASSOCIATED COUNSEL FOR THE ACCUSED-** September 1983 – February 2001
Trial Attorney- Fully responsible for the preparation and presentation of criminal cases for 17 years. Experience includes trial and appellate work in King County Superior, Juvenile, District and Seattle Municipal Court.
Management Experience – Supervisor of Seattle Municipal Court Unit 1989-1995 Unit included twenty attorneys, four investigators and three staff. Supervisor of the Juvenile, Seattle District and RALJ appellate Units 1995-2001. Unit included five attorneys in Juvenile Court, five attorneys in District Court and two appellate attorneys, two investigators and two staff.
- **KING COUNTY PROSECUTING ATTORNEY** 1982-1983
Prosecuted cases in all King County District Courts.

- **RUSH, KLEINWACHTER, HANNULA & HARKINS 1982-1983**
Legal research, drafted motions and pleadings; interviewed clients and witnesses
- **EASTSIDE DEFENDER ASSOCIATION 1981**
Rule 9 Intern – Represented indigent persons charged with crimes in Seattle Municipal & Seattle District Court.

EDUCATION:

- **Seattle University Law School-** Juris Doctor, May 1982
Honors & Activities: Chair, Women’s Law Caucus; Facilitator, “The Child, the Family and the Law” Symposium; Client Counseling Program
- **University of California at Santa Cruz** – Bachelor of Arts, History, 1979
Honors & Activities: Honors Program; Student Judiciary Committee; Varsity Sports; Volunteer, Santa Cruz Senior Legal Services

PROFESSIONAL ACTIVITIES:

Court Funding Task Force- Courts of Limited Jurisdiction- Delivery of Services Work Group
Participant Attorney Washington State Bar Association Law Week in the Schools
Defender Delegate to Interagency Alcohol Traffic Safety Conference
Presenter, Seattle Municipal Court “Take Our Daughters to Work Day”
Volunteer Attorneys for Persons with Aids Legal Referral Project
Seattle Domestic Violence Task Force
Presenter, Mock Trial Program for Seattle Schools
Ad-Hoc Committee on Domestic Violence Treatment Standards for the Gender and Justice Task Force
Judge, Moot Court Seattle University Law School
King County Video Arraignment Committee
Juvenile Court Domestic Violence/Sexual Assault Task Force
Participant National Council of Juvenile and Family Court Judges and National District Attorneys Association Conference
Member Chemical Dependency Disposition Alternative Advisory Board

COMMUNITY ACTIVITIES:

Tutor- The Youth Tutoring Program of Catholic Community Services
Volunteer- Partnership for Youth Justice Diversion Program Board



2005 Judicial Evaluation Survey

Evaluations of the Judges, Commissioners, Magistrates, and Pro-tem Judges/Commissioners
of King County District and Municipal Courts

August 29, 2005

Prepared by:
Judicial Evaluation Committee
King County Bar Association

With Assistance From:
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Gig Harbor, Washington 98335
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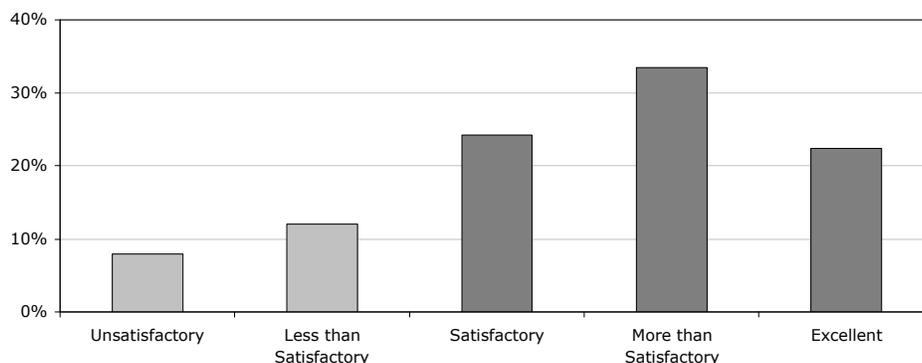
Introduction

Every four years the King County Bar Association conducts a survey to evaluate the performance of the judges, commissioners, and magistrates of the King County District Courts and various independent municipal/city courts in King County. The 2005 survey was expanded to include pro-tem members of these courts. The survey asks attorneys who have appeared before the judicial officers on these courts to assess their performance on four individual dimensions and their overall performance. The individual evaluation dimensions are: decision making, efficiency, demeanor, and impartiality. The purpose of the survey is provide feedback to these judicial officers and inform the public of the quality of these courts. Overall, the results of the 2005 survey present a favorable assessment of these judges, commissioners, and magistrates. Respondents to the survey rendered positive ratings (satisfactory and above) across the five evaluative dimensions at least 77% of the time (see Figure 1).

Different lawyers evaluated each judicial officer and small differences between judicial officers are not necessarily meaningful. Thus, these surveys should not be used for comparative rankings of individual judges.

Figure 1: Aggregate Judicial Evaluations

Decision Making: 80% positive evaluations



Efficiency: 83% positive evaluations

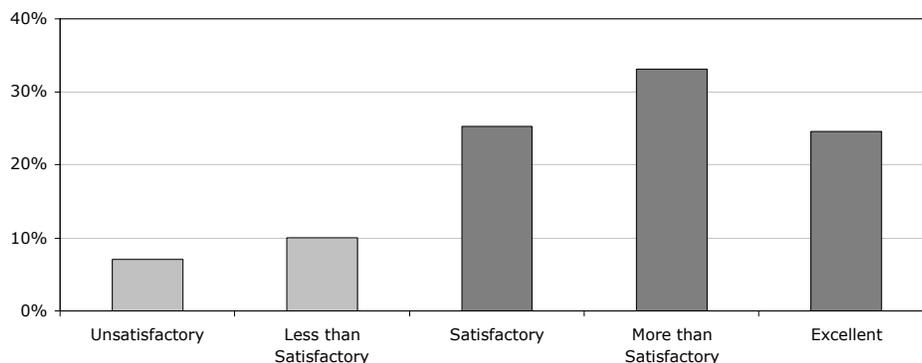
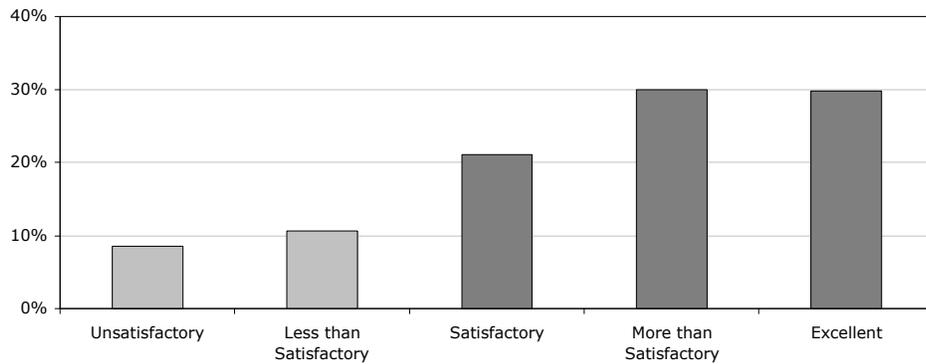
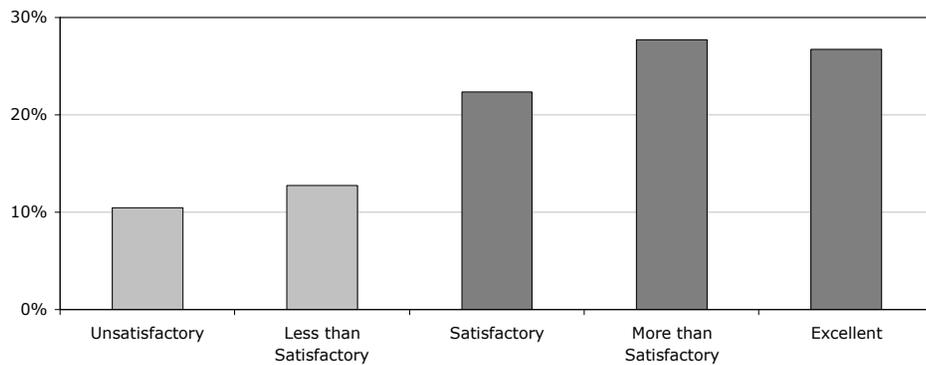


Figure 1: Aggregate Judicial Evaluations, continued

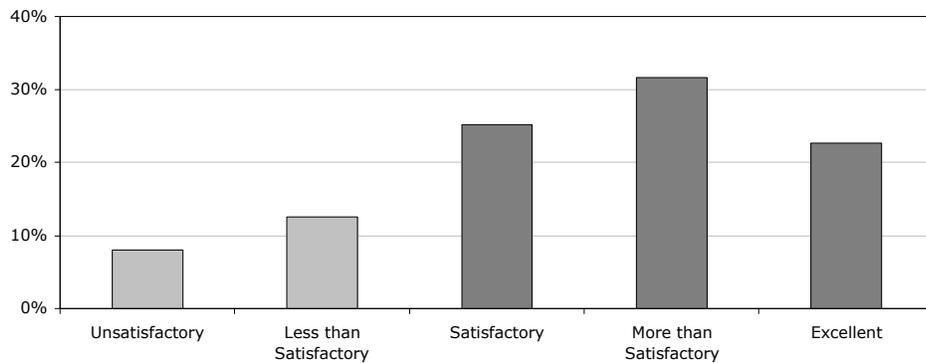
Demeanor: 81% positive evaluations



Impartiality: 77% positive evaluations



Overall Performance: 79% positive evaluations



Positive evaluations = proportion of "satisfactory," "more than satisfactory," and "excellent" evaluations.

The remainder of this report provides a description of the survey methodology, assessment of the reliability of the results, demographics of the respondents, and a breakdown of evaluations, by court and by individual judicial officers within a court.

The Questionnaire

The questionnaire asks respondents to evaluate judges, commissioners, magistrates, and pro-tems on four dimensions of judicial performance, and to provide an evaluation of overall performance. The dimensions, along with their definitions, are:

- | | |
|---------------------|---|
| Decision Making | <ul style="list-style-type: none">• Appropriately prepared for court.• Capably identifies and analyzes factual and legal issues.• Capably applies rules of evidence and procedure.• Articulates a ruling and grounds for it in a clear and concise manner. |
| Efficiency | <ul style="list-style-type: none">• Efficiently uses court time.• Enforces court rules and deadlines fairly.• Controls the courtroom appropriately.• Renders timely decisions. |
| Demeanor | <ul style="list-style-type: none">• Treats all participants courteously and respectfully. |
| Impartiality | <ul style="list-style-type: none">• Performs without bias or prejudice.• Avoids behavior that creates an appearance of bias or prejudice (e.g., inappropriate contacts with parties/counsel). |
| Overall Performance | <ul style="list-style-type: none">• The overall performance of this individual considering all of the attributes above. |

Evaluations are made on a 5-point scale with points labeled: unsatisfactory, less than satisfactory, satisfactory, more than satisfactory and excellent.

Provided with the questionnaire was a cover letter containing an explanation of the purpose of the survey and a set of instructions for completing the survey. A key part of the instructions is that evaluations be based on “personal experience and not on reputation or information received from others.” The questionnaire ensured this with the inclusion of questions regarding the type and number of appearances before each judge evaluated. Evaluations without an indication of an appearance are excluded from the analysis.

Returned questionnaires are included in analysis only if they possess a valid Bar Association number and an attorney signature. This signature attests to the attorney’s compliance with the instructions of the survey and agreement to respect the personal experience criteria for each judge or commissioner evaluated. To ensure respondent confidentiality this section of the page is removed prior to processing the questionnaire for analysis.

Questionnaires, once checked for respondent certification and anonymity, are turned over to Bart R Salisbury for processing. Dr. Salisbury performed the data entry, data analysis, and, results preparation. He also provided methodological and statistical consultation to the Judicial Evaluation Committee.

Survey Response

The names of attorneys for the 2005 judicial evaluation survey were provided by the Administrative Office of the Courts and the Seattle Municipal Court. The Administrative Office of the Courts provided the names for attorneys who appeared in the King County District and King County municipal courts, except Seattle, over the past four years. The Seattle Municipal Court provided a list of attorneys who appeared in it for this same period. Because attorneys may have

appeared in more than one court the lists were checked for duplicate Bar Association numbers. This produced a final list of 4,568 attorneys.

Surveys were mailed early June of 2005. By mid-August of 2005 a total of 340 surveys had been returned to the Bar Association office. The overall response rate for the survey is 7.4%, which is in-line with a mail survey of this type. The number of respondents, however, is lower than in 2001: 535 versus 340 (see Table 1). This decline is consistent with a trend observed for both Superior Court and District Court/municipal court surveys: over time fewer attorneys are responding. The reasons for this trend are not immediately apparent, but may be in part due to an increasing number of attorneys in King County, coupled with a move by courts at all levels to reduce the likelihood of trial (which in turn minimizes courtroom contact).

Table 1: Response to the Survey

	<u>2001</u>	<u>2005</u>
Surveys Mailed:	10,600	4,568
Surveys Returned:	535	340
Blank (no ratings)	47	—
Completed:	488	340
Valid:	419	334
Invalid:	69	6

Response rate is one indicator of the reliability of the survey results. The response rate for the 2005 survey may raise some concern in this regard. However, there are mitigating factors for this survey that counterbalance the low response rate. To begin with, a low response rate is not necessarily indicative of unreliable results. Jon A. Krosnick (1999), a professor of psychology at Stanford University, who specializes in research methodology and assessment, explains that the representativeness of a sample is more important than response rate. If the sample is reflective of the overall population, even if obtained with a low response rate, it still stands as a reliable basis for making generalizations. For example, a study of the predictive error of mail and telephone surveys for Ohio state elections over a 15-year period showed that a mail survey, with a response rate of about 20%, was more accurate (average error of 1.6%) than a telephone survey with a response rate of about 60% (average error of 5.2%). The respondents to this survey are likely to be relatively homogeneous, at least in regards to their education, employment, and, to a lesser degree, their race, gender, and economic status. Because they share a core experience relative to the task at hand, fewer respondents may be needed to produce a high degree of reliability.

Krosnick also argues that the substantive findings of some surveys are not altered when their response rate increases. The average overall performance results for the King County District and Seattle Municipal Courts suggests this to be true of this survey (see Figure 2). As the number of respondents has decreased from 1985 to 2005, the average overall performance evaluation has remained relatively steady. (The average decline observed in 1993 is due to the survey using a 3-point, rather than 5-point, evaluation scale.)

Figure 2: Aggregate Judicial Evaluations

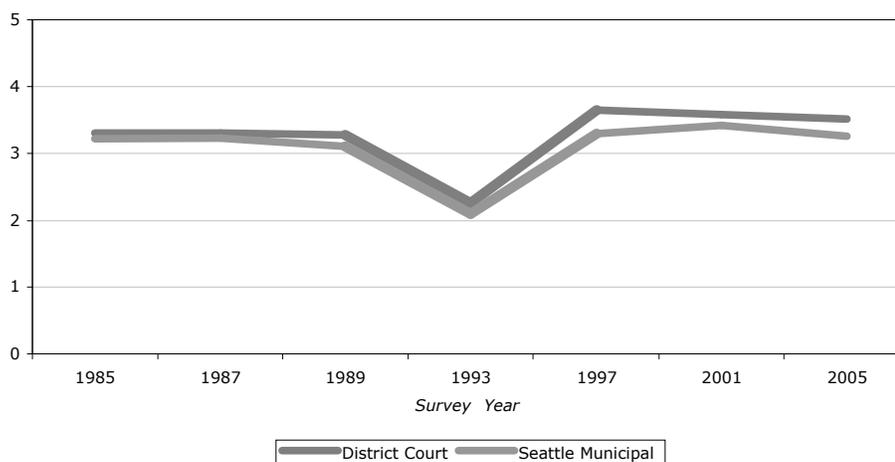


Figure 2 also highlights the reliability of survey results over time. Different respondent sets have evaluated the District and Seattle Municipal courts seven times between 1985 and 2005 and produced similar aggregate results. An analysis of individual judicial officers over time shows a similar low variability over time for average ratings on each of the evaluative dimensions.

In addition, there are three characteristics of this survey which suggest reliable results:

1. *Personal Experience Criteria.* The personal experience criteria are strongly emphasized in the survey instructions. Attorneys are requested to make evaluations only if there exists a sufficient level of experience to do so. This is a self-limiting factor that may dissuade unreliable evaluations from being rendered and submitted. Further bolstering this is the requirement that attorneys certify their adherence to the personal experience criteria by signing the instruction sheet to the survey. (Surveys without this attorney certification are excluded from analysis.)
2. *Self-Selection.* Self-selection is normally viewed as a problem, but in this survey it may be beneficial. In mail surveys, for example, the effort it takes to complete and return the survey tends to limit responses to those who are truly interested in the survey topic. This is an advantage for the judicial evaluation survey, which seeks ratings only from qualified attorneys.
3. *Reasonable Outcomes.* Anecdotal evidence suggests that over the history of the survey the results, in general, make sense to attorneys who appear in the District and municipal courts.

It is also possible that an inherent feature of this survey will be a low response rate for three reasons which do not undermine reliability:

1. *Over-Identification of the Survey Population.* The list of attorneys was provided by the Administrative Office of the Courts. However, ten attorneys contacted the Bar Association to dispute their appearance in these courts over the past four years. The list, therefore, may over-identify the population; including additional respondents who have no experience in these courts. Over-identification of the survey population leads to an artificial suppression of the response rate.

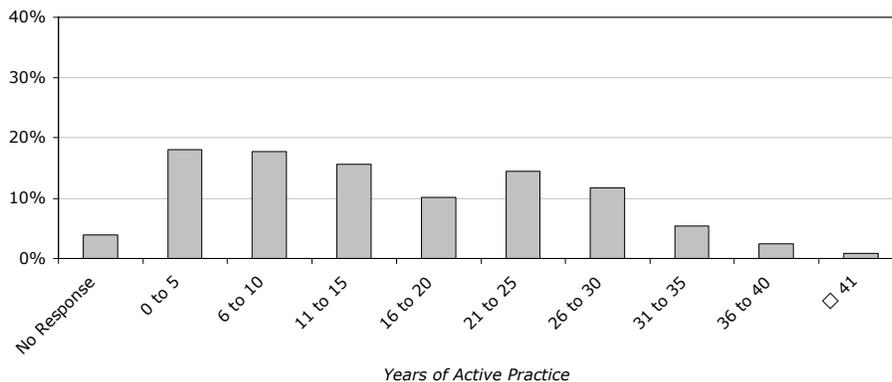
2. *Lack of Identification of Evaluation Populations.* It is not possible to uniquely identify the attorneys who appeared before each individual judicial officer over the past four years. Such attorneys properly comprise the true evaluation population for a judicial officer. It is possible for the response rates for each judicial officer to be higher than the overall response rate. For example, if 300 attorneys appeared before a judge during the evaluation period, and 94 of them rendered an evaluation, this judge’s response rate would be 31%. Identification of these unique evaluation populations is not possible at present.
3. *Changing Nature of Court Exposure.* Several changes in the legal environment have reduced the number of attorneys who appear, and the number of times they appear, in the District and municipal courts. These dynamics are not well documented, but lead to reduced exposure, which in turn reduces the number of qualified respondents. This downward trend, therefore, is not necessarily an expression of a lack of interest by attorneys, but rather a reflection of current trends in the profession.

There is little to suggest that the results of the 2005 survey are unreliable. However, at a minimum the results represent the attitudes of the attorneys who rated these judicial officers. And, even though the results of this survey come from a sample not randomly selected, it is possible to argue that the findings may be safely generalized to all attorneys who appeared in the District and municipal courts of King County during this four year period. (However, caution should be exercised when generalizing evaluations based on very low numbers of respondents.)

The Respondents

Attorneys were asked to provide two pieces of information about their practice: how many years have they been active in their practice; and what is the principal nature of their practice in the District and municipal courts.* On average, responding attorneys have 16.3 years of experience, with responses ranging from six months to 52 years. When broken down into five year intervals the majority of the respondents (60%) have more than 10 years of experience (see Figure 3). The distribution of years of active practice appears to provide a competent basis for the evaluation of judicial performance.

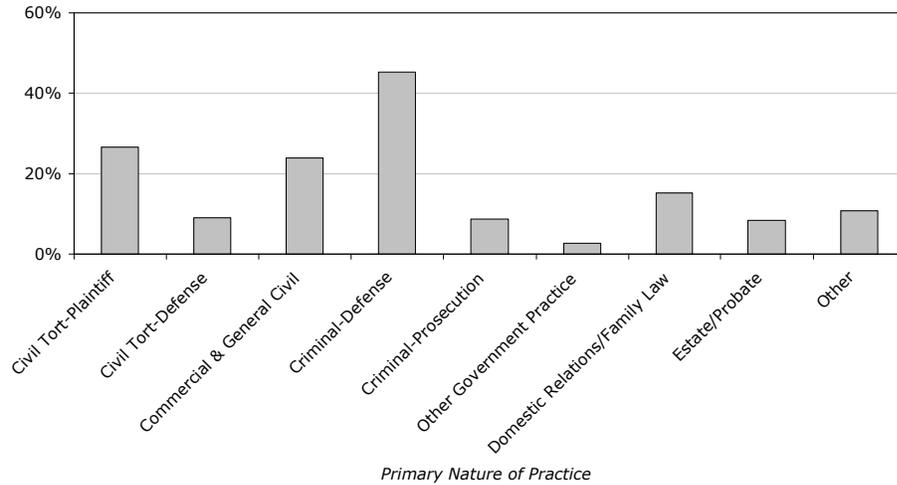
Figure 3: Years of Active Practice
(N = 334)



* The survey instrument mistakenly requests for principal practice in the “Superior Court.” A few respondents noted this error. It is safe to assume that attorneys who responded did so within the context of the survey: i.e., they indicated the primary nature of their District/municipal court practice rather than their Superior Court practice.

Respondents are presented with nine categories for the principal nature of their practice in the District and municipal courts (see Figure 4). They are asked to select no more than two. All but fourteen of the respondents provided this information, with 154 (46%) indicating a single primary practice before the King County Courts and 143 (46%) indicating two primary practices. Thirteen respondents indicated more than two primary practice areas.

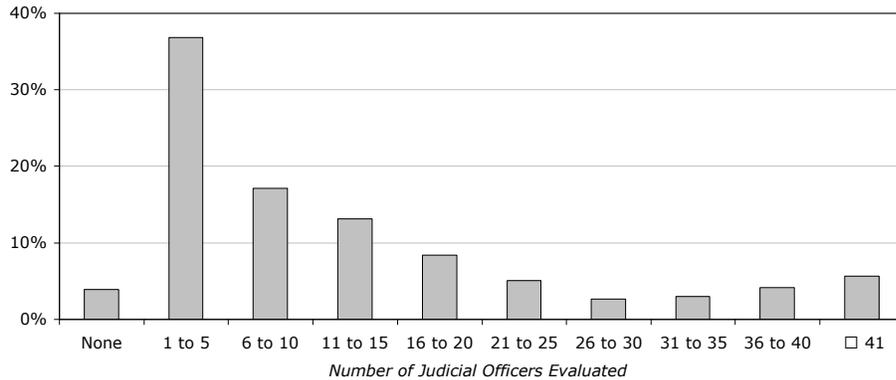
Figure 4: Primary Nature of Practice in Subject Courts
(N = 334)



The results for primary practice are typical of distributions observed on prior District and municipal court surveys. Criminal practice dominates, with 45% of respondents indicating criminal-defense as part of their District/municipal court practice, and another 9% indicating criminal-prosecution. (Twenty-six percent of respondents practice exclusively in this area.) Civil tort practice follows, with 27% primarily involved with plaintiffs, and 9% involved with defense. Third is commercial and general civil practice, with 24% of respondents indicating it a primary area of practice in these courts.

A possible measure of respondent compliance with the evaluation instructions—to only evaluate judicial officers for whom they have sufficient exposure, may be found in the number of evaluations rendered. In general, respondents limited themselves to a handful of judicial officers (see Figure 5). Thirty-seven percent rated no more than five judicial officers, and a majority (54%) rated no more than 10. Given the four-year time frame for the evaluation this distribution appears reasonable.

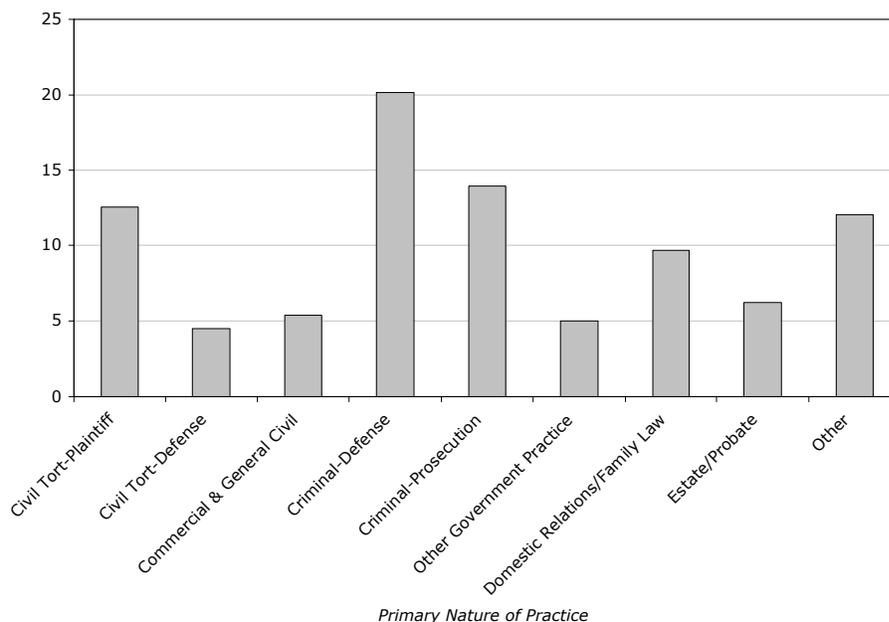
Figure 5: Number of Judicial Officers Evaluated
(N = 334)



While most respondents rated ten or fewer judges, there is still a significant portion that rated more. One concern here would be that respondents are evaluating judges on exposure from outside the four-year evaluation period. Correlating the number of years of active practice with the number of evaluations suggests this is not the case. The correlation coefficient of -0.10 indicates no relationship between these two variables. Rather, the number of evaluations rendered appears to be based more on the nature of an attorney's practice rather than the number of years he or she has been active in that practice. (see Figure 6).^{*} The distribution is highly variable with high averages seen for criminal-defense (20.2 evaluations) and criminal-prosecution (13.9 evaluations), and the low averages for civil tort-defense (4.5 evaluations), other government practice (5.0 evaluations), and commercial and general civil (5.4 evaluations).

^{*} These averages are classified according to primary nature of private practice. Since a respondent may have more than one primary nature, he or she may appear in more than one classification. Although the classifications are not mutually exclusive (i.e., a respondent may appear in only one), the pattern produced is still useful for this cursory examination.

Figure 6: Number of Judicial Officers Evaluated
(N = 334)



Basis for the Evaluations

For each judicial evaluation provided respondents are asked to indicate the type and number of appearances upon which the evaluation is based. The types of appearance are: motion and hearing, trial, and appeal. The number of each is categorized as: none, one, or multiple. (If a respondent indicates none for all of the appearance types his or her evaluation is excluded from the results.) The basis for evaluation most often mentioned is motions and hearings. Eighty-four percent of all evaluations are based upon multiple motions and hearings (see Table 2). Another 14% are based on a single motion and hearing. Trials follow, with 14% of evaluations based on at least one trial, and 23% based on multiple trials. Appeals are seldom mentioned as the basis for evaluation, with only 2% of the evaluations rendered involving one or more appeals.

Table 2: Types and Number of Appearances

	<i>None</i>		<i>One</i>		<i>Multiple</i>	
	<u>Nmbr</u>	<u>Pct</u>	<u>Nmbr</u>	<u>Pct</u>	<u>Nmbr</u>	<u>Pct</u>
Motions & Hearings	60	1%	612	14%	3,558	84%
Trials	2,674	63%	595	14%	961	23%
Appeals	4,142	98%	44	1%	44	1%

One criticism offered of the judicial evaluation survey is that ratings are based on too few meaningful experiences. The fact that most evaluations are based on motions and hearings might support this contention. However, only 12.2% of all evaluations are based on a single motion or hearing. The remaining 87.8% are based upon more than one motion and hearing, or a combination of motions and hearings, trial(s), and appeal(s). Given the stress placed on the personal

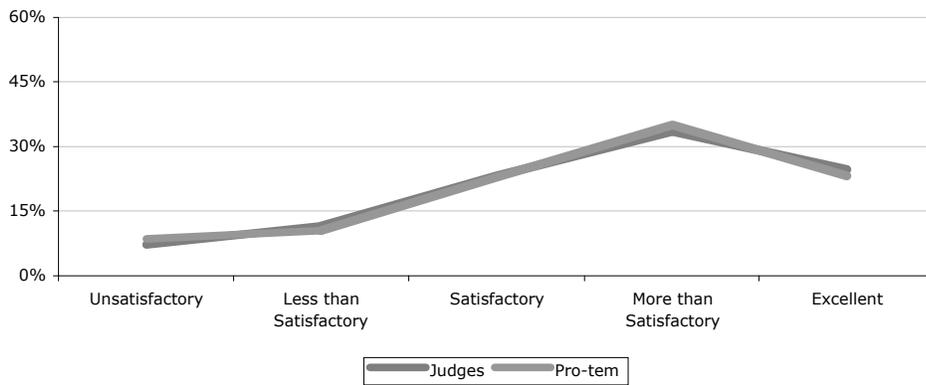
experience criteria in the instructions it may also be likely that those evaluations based on a single motion or hearing are experiences sufficiently complex in nature to permit a meaningful evaluation.

Aggregate Evaluations

The rating scale for the 2005 survey consists of five categories: unsatisfactory, less than satisfactory, satisfactory, more than satisfactory, and excellent. In this section evaluations are aggregated by court: District or municipal; and by position within a court: judge, commissioner, magistrate, or pro-tem. The first set of aggregate evaluations is for the King County District court (see Figure 7). In general the patterns of the line charts, which contrast the results for judges and pro-tem judges show most evaluations being satisfactory or above. On efficiency, demeanor, and impartiality the judges of the District court received slightly higher proportions of more than satisfactory and excellent ratings than did the pro-tem judges. This is also reflected in the evaluation for overall performance.

Figure 7: Aggregate Results for the King County District Court

Decision Making



Efficiency

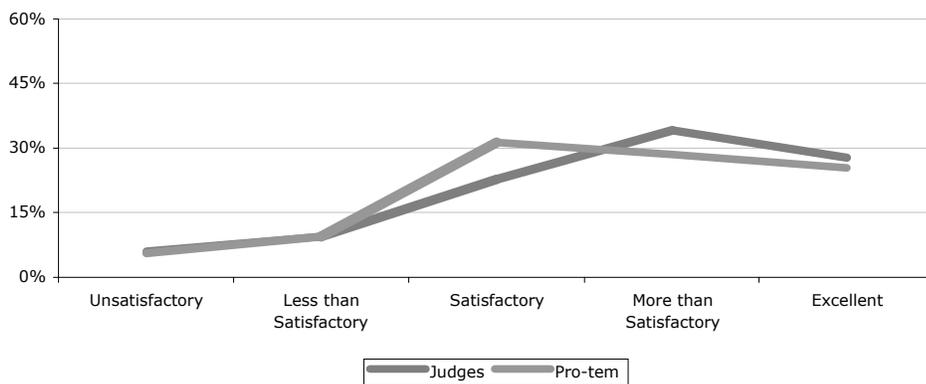
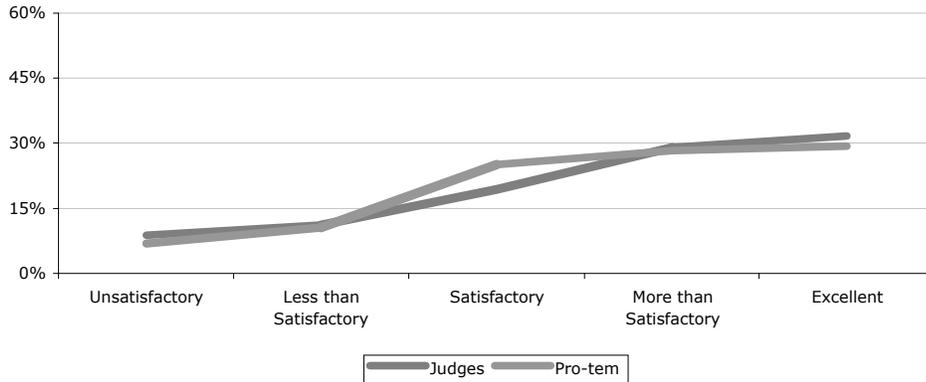
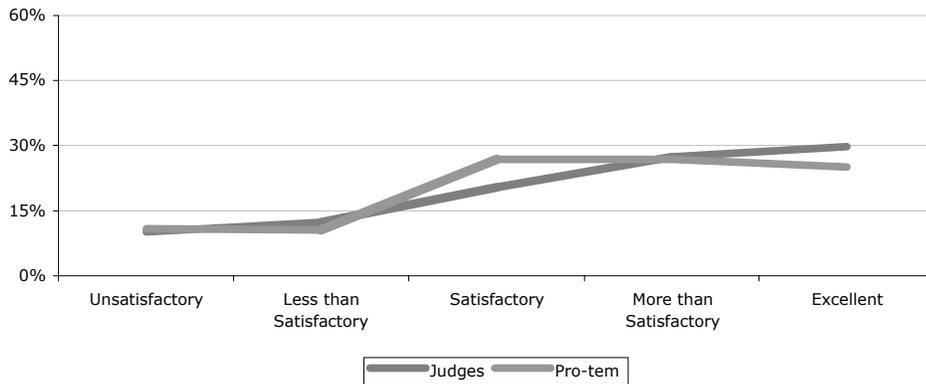


Figure 7: Aggregate Results for the King County District Court, continued

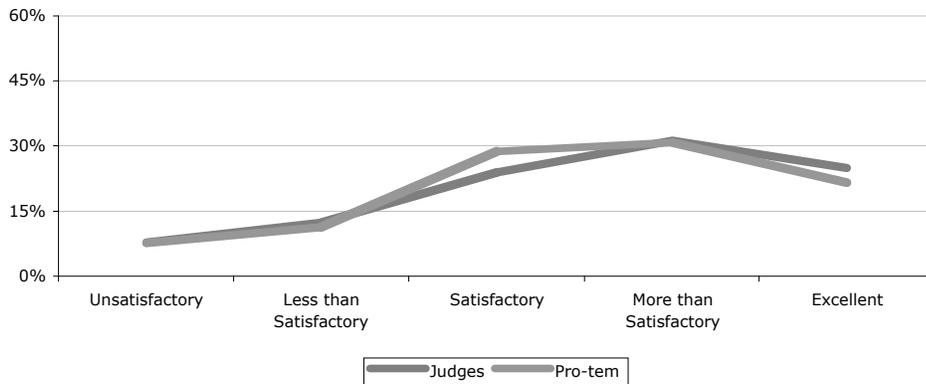
Demeanor



Impartiality



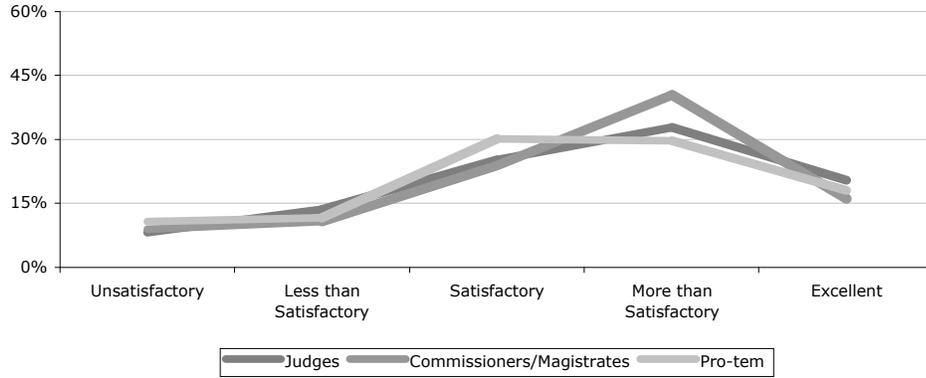
Overall Performance



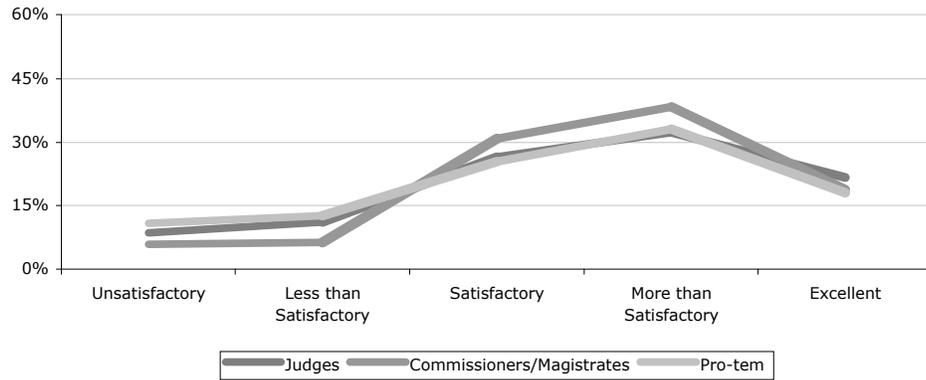
The aggregate results for the municipal courts are presented in Figure 8. In these charts three groups are presented: judges, commissioners/magistrates, and pro-tem judges. The pattern here is similar to that of the District Court where most evaluations are satisfactory or better. In contrast to the District Court, the patterns for the judges and pro-tem judges are roughly similar across evaluative dimensions. The pattern for commissioners and magistrates, however, shows a slightly higher proportion of more than satisfactory evaluations than that of the judges and pro-tem judges.

Figure 8: Aggregate Results for the Municipal Courts

Decision Making



Efficiency



Demeanor

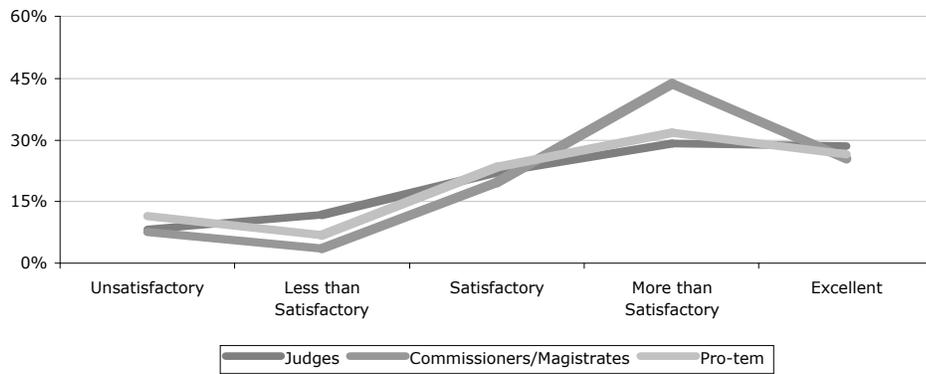
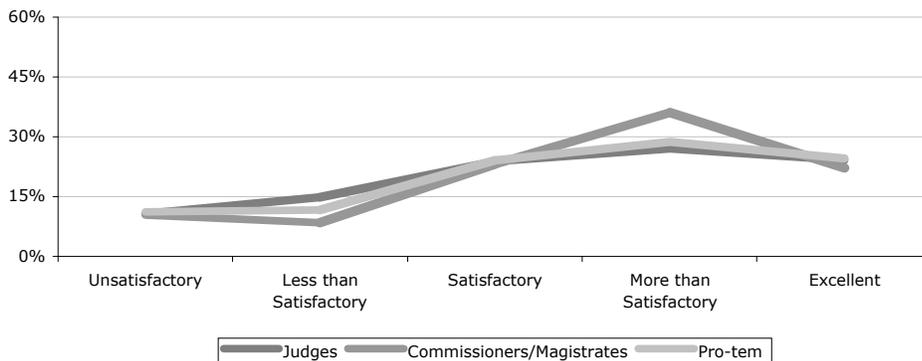
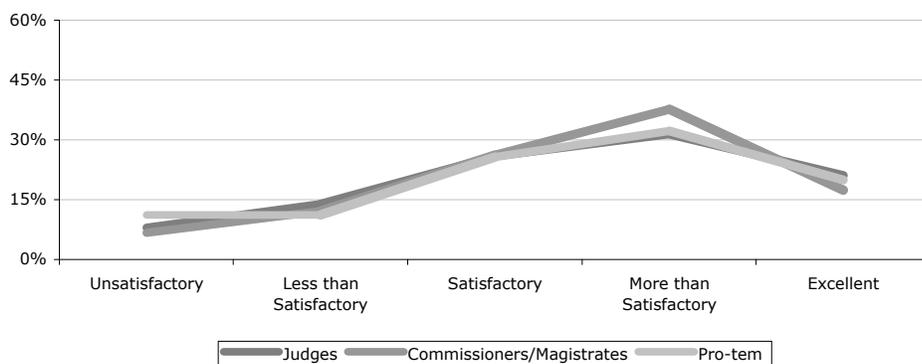


Figure 8: Aggregate Results for the Municipal Court, continued

Impartiality



Overall Performance



The King County District Court

The results for the 23 judges and seven pro-tem judges of the King County District Court are presented in Tables 3 to 7, which appear on the following five pages. These tables present the total number of valid evaluations and the percent of evaluations for each of the five evaluation dimensions. Judicial officers are grouped by type: judge or pro-tem; and judges are grouped by division: East, South, and West. Within each grouping judicial officers are ordered alphabetically.

Different lawyers evaluated each judicial officer and small differences between judicial officers are not necessarily meaningful. Thus, these surveys should not be used for comparative rankings of individual judges.

Table 3: King County District Court, Decision Making

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
<i>East Division</i>						
Admire, David	94	5%	6%	16%	37%	35%
Garrow, Janet	89	8%	12%	37%	28%	15%
Jacke, Linda	121	6%	14%	19%	32%	29%
Nault, Peter	101	5%	3%	5%	36%	51%
Ottinger, Mary	100	8%	23%	21%	34%	14%
Smith, Douglas	72	1%	6%	35%	38%	21%
Steiner, David	95	16%	14%	29%	29%	12%
Yeatts, Fred	105	9%	10%	18%	37%	27%
<i>South Division</i>						
Bathum, Richard	85	2%	6%	25%	41%	26%
Christie, David	64	2%	8%	31%	39%	20%
Delaurenti, Charles	100	0%	3%	15%	34%	48%
Eide, Mark	66	3%	6%	33%	42%	15%
Eiler, Judith	91	15%	16%	21%	31%	16%
Harn, Corinna	52	8%	10%	27%	38%	17%
Phillipson, Darrell	87	3%	10%	17%	33%	36%
Seitz, Victoria	75	4%	11%	24%	31%	31%
Stephenson, Elizabeth	62	3%	10%	24%	35%	27%
Thompson, Linda	79	23%	29%	23%	16%	9%
<i>West Division</i>						
Chapman, Arthur	90	7%	16%	29%	32%	17%
Chow, Mark	113	12%	17%	33%	27%	12%
Kato, Eileen	116	9%	12%	24%	31%	24%
Linde, Barbara	96	8%	15%	18%	30%	29%
Spearman, Mariane	64	5%	2%	19%	48%	27%
Pro-tem						
Eng, Park	27	4%	11%	19%	41%	26%
Jorgensen, Karli	90	13%	8%	18%	39%	22%
LaSalata, Frank V.	69	12%	4%	26%	32%	26%
Leverette, Elwood T.	64	2%	8%	30%	36%	25%
Monroe-Asher, Elizabeth*	30	7%	10%	23%	40%	20%
Noonan, Susan J.	64	14%	23%	16%	27%	20%
Stead, Robert E.	45	0%	11%	31%	36%	22%

Table 4: King County District Court, Efficiency

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
<i>East Division</i>						
Admire, David	94	3%	6%	11%	40%	39%
Garrow, Janet	88	8%	13%	28%	34%	17%
Jacke, Linda	121	3%	5%	14%	44%	34%
Nault, Peter	101	2%	1%	10%	35%	52%
Ottinger, Mary	101	5%	13%	24%	33%	26%
Smith, Douglas	72	4%	8%	29%	33%	25%
Steiner, David	95	12%	9%	33%	29%	17%
Yeatts, Fred	105	10%	15%	15%	30%	30%
<i>South Division</i>						
Bathum, Richard	83	1%	4%	17%	49%	29%
Christie, David	64	5%	17%	22%	34%	22%
Delaurenti, Charles	100	0%	3%	12%	34%	51%
Eide, Mark	65	2%	8%	25%	46%	20%
Eiler, Judith	93	15%	14%	23%	33%	15%
Harn, Corinna	52	4%	6%	31%	35%	25%
Phillipson, Darrell	86	1%	9%	23%	33%	34%
Seitz, Victoria	75	7%	11%	28%	24%	31%
Stephenson, Elizabeth	62	5%	10%	21%	32%	32%
Thompson, Linda	80	14%	13%	33%	30%	11%
<i>West Division</i>						
Chapman, Arthur	91	7%	14%	35%	30%	14%
Chow, Mark	110	8%	14%	32%	29%	17%
Kato, Eileen	116	8%	10%	23%	26%	33%
Linde, Barbara	96	8%	14%	23%	32%	23%
Spearman, Mariane	65	6%	0%	23%	42%	29%
Pro-tem						
Eng, Park	27	0%	11%	22%	37%	30%
Jorgensen, Karli	90	9%	4%	22%	33%	31%
LaSalata, Frank V.	69	6%	7%	32%	33%	22%
Leverette, Elwood T.	65	2%	6%	40%	23%	29%
Monroe-Asher, Elizabeth*	30	7%	20%	23%	30%	20%
Noonan, Susan J.	65	9%	15%	35%	22%	18%
Stead, Robert E.	45	2%	11%	40%	22%	24%

Table 5: King County District Court, Demeanor

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
<i>East Division</i>						
Admire, David	94	5%	3%	12%	45%	35%
Garrow, Janet	88	14%	22%	31%	20%	14%
Jacke, Linda	120	9%	12%	23%	32%	25%
Nault, Peter	101	2%	2%	6%	23%	67%
Ottinger, Mary	101	20%	26%	24%	21%	10%
Smith, Douglas	72	3%	6%	26%	40%	25%
Steiner, David	94	17%	18%	18%	24%	22%
Yeatts, Fred	105	4%	9%	13%	31%	43%
<i>South Division</i>						
Bathum, Richard	83	4%	7%	12%	31%	46%
Christie, David	64	0%	3%	14%	38%	45%
Delaurenti, Charles	99	0%	3%	7%	32%	58%
Eide, Mark	65	2%	9%	20%	37%	32%
Eiler, Judith	94	46%	19%	16%	13%	6%
Harn, Corinna	52	2%	12%	33%	31%	23%
Phillipson, Darrell	86	5%	7%	16%	27%	45%
Seitz, Victoria	75	3%	7%	15%	32%	44%
Stephenson, Elizabeth	62	2%	11%	15%	35%	37%
Thompson, Linda	79	15%	23%	29%	22%	11%
<i>West Division</i>						
Chapman, Arthur	90	9%	17%	23%	27%	24%
Chow, Mark	112	9%	11%	27%	37%	17%
Kato, Eileen	116	9%	11%	29%	19%	31%
Linde, Barbara	95	8%	13%	21%	26%	32%
Spearman, Mariane	63	3%	3%	17%	37%	40%
Pro-tem						
Eng, Park	27	0%	7%	19%	41%	33%
Jorgensen, Karli	90	11%	18%	19%	21%	31%
LaSalata, Frank V.	68	6%	10%	24%	25%	35%
Leverette, Elwood T.	65	5%	5%	35%	29%	26%
Monroe-Asher, Elizabeth*	30	7%	3%	20%	30%	40%
Noonan, Susan J.	65	12%	14%	32%	26%	15%
Stead, Robert E.	44	0%	7%	20%	41%	32%

Table 6: King County District Court, Impartiality

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
<i>East Division</i>						
Admire, David	94	7%	5%	13%	39%	35%
Garrow, Janet	88	11%	14%	33%	23%	19%
Jacke, Linda	121	12%	21%	19%	24%	23%
Nault, Peter	101	6%	1%	5%	27%	61%
Ottinger, Mary	100	11%	25%	22%	24%	18%
Smith, Douglas	72	3%	6%	17%	43%	32%
Steiner, David	94	24%	18%	26%	17%	15%
Yeatts, Fred	105	9%	12%	18%	29%	32%
<i>South Division</i>						
Bathum, Richard	84	4%	5%	24%	30%	38%
Christie, David	64	2%	6%	14%	44%	34%
Delaurenti, Charles	100	0%	6%	16%	27%	51%
Eide, Mark	65	5%	6%	29%	31%	29%
Eiler, Judith	92	23%	16%	21%	29%	11%
Harn, Corinna	52	10%	13%	21%	31%	25%
Phillipson, Darrell	87	7%	11%	17%	22%	43%
Seitz, Victoria	75	4%	12%	19%	28%	37%
Stephenson, Elizabeth	62	3%	16%	15%	31%	35%
Thompson, Linda	79	33%	25%	18%	15%	9%
<i>West Division</i>						
Chapman, Arthur	90	10%	18%	27%	20%	26%
Chow, Mark	112	10%	14%	30%	29%	17%
Kato, Eileen	116	13%	9%	23%	24%	31%
Linde, Barbara	95	16%	15%	16%	24%	29%
Spearman, Mariane	62	3%	2%	26%	35%	34%
Pro-tem						
Eng, Park	27	4%	7%	33%	26%	30%
Jorgensen, Karli	90	19%	13%	24%	24%	19%
LaSalata, Frank V.	69	12%	9%	28%	25%	28%
Leverette, Elwood T.	64	5%	3%	33%	33%	27%
Monroe-Asher, Elizabeth*	29	7%	7%	17%	31%	38%
Noonan, Susan J.	65	17%	20%	28%	18%	17%
Stead, Robert E.	44	0%	9%	23%	36%	32%

Table 7: King County District Court, Overall Performance

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
<i>East Division</i>						
Admire, David	93	6%	5%	12%	46%	30%
Garrow, Janet	88	9%	15%	41%	19%	16%
Jacke, Linda	120	6%	12%	28%	32%	23%
Nault, Peter	101	4%	5%	2%	31%	58%
Ottinger, Mary	100	9%	26%	24%	30%	11%
Smith, Douglas	74	1%	4%	30%	43%	22%
Steiner, David	95	16%	19%	26%	27%	12%
Yeatts, Fred	105	8%	10%	25%	32%	26%
<i>South Division</i>						
Bathum, Richard	84	1%	8%	18%	42%	31%
Christie, David	63	0%	6%	25%	48%	21%
Delaurenti, Charles	99	0%	1%	14%	36%	48%
Eide, Mark	65	5%	8%	23%	48%	17%
Eiler, Judith	93	26%	22%	18%	24%	11%
Harn, Corinna	51	4%	18%	27%	33%	18%
Phillipson, Darrell	86	2%	9%	21%	31%	36%
Seitz, Victoria	75	3%	12%	27%	29%	29%
Stephenson, Elizabeth	62	5%	10%	24%	27%	34%
Thompson, Linda	78	24%	27%	24%	18%	6%
<i>West Division</i>						
Chapman, Arthur	90	8%	16%	34%	23%	19%
Chow, Mark	112	10%	17%	34%	28%	12%
Kato, Eileen	115	9%	13%	28%	23%	28%
Linde, Barbara	95	12%	14%	22%	23%	29%
Spearman, Mariane	64	6%	3%	20%	38%	33%
Pro-tem						
Eng, Park	27	4%	7%	26%	33%	30%
Jorgensen, Karli	90	12%	13%	22%	34%	18%
LaSalata, Frank V.	69	10%	7%	32%	28%	23%
Leverette, Elwood T.	64	2%	5%	38%	33%	23%
Monroe-Asher, Elizabeth*	30	7%	10%	17%	43%	23%
Noonan, Susan J.	65	12%	23%	31%	18%	15%
Stead, Robert E.	45	0%	9%	31%	33%	27%

The Municipal Courts

The results for the municipal courts are presented in Tables 9 to 13, which appear on the following 15 pages. These tables present the total number of valid evaluations and the percent of evaluations for each of the five evaluation dimensions. A total of 17 municipal courts are included here, with evaluations for 42 judicial officers (24 judges, 3 commissioners, 4 magistrates, and 11 pro-tem judges). The tables are organized by municipality (presented in alphabetical order), and within each municipality by judge, commissioner, magistrate, and pro-tem judge. Within each group judicial officers are ordered alphabetically.

Four of the judicial officers presented in this table appear in more than one court (see Table 8). The results for these individuals are replicated for each court they appeared. Also, Park Eng served as a commissioner for two municipalities (Kirkland and Tukwila), and served as a pro-tem judge for the King County District Court. Mr. Eng was rated separately for his commissioner and pro-tem duties.

Table 8: Judicial Officers with Multiple Courts

	<u>Court</u>	<u>Position</u>
Stephen Rochon	Maple Valley Pacific	Judge Judge
Park Eng	Kirkland Tukwila District Court	Commissioner Commissioner Pro-tem
Elizabeth Monroe-Asher	Lake Forest Park Tukwila District Court	Pro-tem Pro-tem Pro-tem
Norm Scott Stewart	Issaquah Kirkland Tukwila	Pro-tem Pro-tem Pro-tem

Different lawyers evaluated each judicial officer and small differences between judicial officers are not necessarily meaningful. Thus, these surveys should not be used for comparative rankings of individual judges.

Table 9: Municipal Courts, Decision Making

Auburn Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Burns, Patrick	50	14%	20%	44%	16%	6%
Pro-tem						
Curry, John F.	18	11%	11%	44%	22%	11%
Williams, Daniel	11	9%	9%	55%	27%	0%

Black Diamond Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
West, Robert	21	10%	19%	14%	33%	24%

Bothell Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rusden, John	45	0%	4%	24%	51%	20%

Des Moines Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Hartl, Colleen	41	5%	5%	15%	34%	41%

Enumclaw Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Berner, David	27	7%	15%	33%	22%	22%

Federal Way Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Tracy, David	45	7%	11%	33%	33%	16%
Commissioner						
Platter, Tony	37	3%	5%	16%	43%	32%

Issaquah Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jarvis, Peter	21	14%	14%	19%	33%	19%
Pro-tem						
Stewart, Norm Scott*	34	0%	0%	26%	41%	32%

Table 9: Municipal Courts, Decision Making, continued

Kent Municipal Court

Judge	Number	Unsatisfactory	<u>Less than Satisfactory</u>	Satisfactory	<u>More than Satisfactory</u>	Excellent
McSeveney, Robert	68	3%	4%	9%	41%	43%
Phillips, Glenn	42	5%	14%	21%	33%	26%

Kirkland Municipal Court

Judge	Number	Unsatisfactory	<u>Less than Satisfactory</u>	Satisfactory	<u>More than Satisfactory</u>	Excellent
Raines, Albert	86	5%	9%	20%	33%	34%
Commissioner Eng, Park*	29	0%	14%	14%	52%	21%
Pro-tem Stewart, Norm Scott*	34	0%	0%	26%	41%	32%

Lake Forest Park Municipal Court

Judge	Number	Unsatisfactory	<u>Less than Satisfactory</u>	Satisfactory	<u>More than Satisfactory</u>	Excellent
Portnoy, Linda	49	12%	24%	20%	29%	14%
Pro-tem Monroe-Asher, Elizabeth*	30	7%	10%	23%	40%	20%

Maple Valley Municipal Court

Judge	Number	Unsatisfactory	<u>Less than Satisfactory</u>	Satisfactory	<u>More than Satisfactory</u>	Excellent
Rochon, Stephen*	58	10%	14%	26%	34%	16%

Mercer Island Municipal Court

Judge	Number	Unsatisfactory	<u>Less than Satisfactory</u>	Satisfactory	<u>More than Satisfactory</u>	Excellent
Stewart, Wayne	35	3%	3%	29%	34%	31%

Pacific Municipal Court

Judge	Number	Unsatisfactory	<u>Less than Satisfactory</u>	Satisfactory	<u>More than Satisfactory</u>	Excellent
Rochon, Stephen*	58	10%	14%	26%	34%	16%

Renton Municipal Court

Judge	Number	Unsatisfactory	<u>Less than Satisfactory</u>	Satisfactory	<u>More than Satisfactory</u>	Excellent
Jurado, Terry	49	4%	24%	22%	37%	12%

Table 9: Municipal Courts, Decision Making, continued

SeaTac Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Codd, Paul	33	3%	9%	21%	48%	18%
Pro-tem						
Cordi-Bejarano, Elizabeth M.	24	17%	8%	50%	13%	13%

Seattle Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
Bonner, Fred	76	12%	18%	32%	26%	12%
Charles, Edsonya	15	33%	40%	13%	13%	0%
Hightower, Judith	90	6%	14%	32%	32%	16%
Holifield, George	91	19%	18%	29%	29%	7%
Hurtado, Michael	108	6%	14%	29%	31%	21%
Kondo, C. Kimi	71	21%	14%	38%	20%	7%
Mamiya, Ron	82	4%	12%	26%	34%	24%
Rietschel, Jean	66	5%	8%	14%	44%	30%
Commissioner						
Eisenberg, Adam	41	17%	20%	24%	27%	12%
Magistrates						
DeVilla, Francis	33	6%	3%	36%	39%	15%
Duffey, Charles	19	21%	5%	26%	32%	16%
Hankins, Debbie	28	14%	14%	18%	50%	4%
Wilson, Shirley	36	6%	11%	31%	42%	11%
Pro-tem						
Alicea-Galvan, Veronica	42	12%	12%	24%	38%	14%
Danieli, Ann	33	0%	6%	18%	39%	36%
Durham, Elsa R.	44	30%	27%	27%	9%	7%

Tukwila Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Walden, Kimberly	34	0%	15%	12%	44%	29%
Commissioner						
Eng, Park*	29	0%	14%	14%	52%	21%
Pro-tem						
Cromwell, Gregory F.	5	0%	20%	60%	20%	0%
Cufley, Christy Gerhart	9	0%	11%	44%	33%	11%
Monroe-Asher, Elizabeth*	30	7%	10%	23%	40%	20%
Prothero, Mark	10	10%	10%	10%	40%	30%
Stewart, Norm Scott*	34	0%	0%	26%	41%	32%

*This person's results are replicated in several places on this table.

Table 10: Municipal Courts, Efficiency

Auburn Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Burns, Patrick	50	20%	18%	30%	24%	8%
Pro-tem						
Curry, John F.	18	17%	0%	33%	44%	6%
Williams, Daniel	11	0%	9%	45%	45%	0%

Black Diamond Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
West, Robert	21	19%	5%	14%	33%	29%

Bothell Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rusden, John	46	2%	4%	22%	43%	28%

Des Moines Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Hartl, Colleen	42	5%	2%	12%	45%	36%

Enumclaw Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Berner, David	27	15%	26%	15%	26%	19%

Federal Way Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Tracy, David	46	7%	13%	30%	24%	26%
Commissioner						
Platter, Tony	37	3%	3%	11%	49%	35%

Issaquah Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jarvis, Peter	21	14%	10%	19%	38%	19%
Pro-tem						
Stewart, Norm Scott*	34	0%	0%	21%	47%	32%

Table 10: Municipal Courts, Efficiency, continued

Kent Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
McSeveney, Robert	68	3%	1%	15%	46%	35%
Phillips, Glenn	42	7%	7%	21%	36%	29%

Kirkland Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Raines, Albert	86	3%	10%	23%	29%	34%
Commissioner						
Eng, Park*	30	0%	10%	30%	40%	20%
Pro-tem						
Stewart, Norm Scott*	34	0%	0%	21%	47%	32%

Lake Forest Park Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Portnoy, Linda	49	6%	10%	35%	37%	12%
Pro-tem						
Monroe-Asher, Elizabeth*	30	7%	20%	23%	30%	20%

Maple Valley Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rochon, Stephen*	58	14%	24%	29%	22%	10%

Mercer Island Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Stewart, Wayne	35	3%	6%	29%	34%	29%

Pacific Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rochon, Stephen*	58	14%	24%	29%	22%	10%

Renton Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jurado, Terry	49	16%	14%	20%	35%	14%

Table 10: Municipal Courts, Efficiency, continued

SeaTac Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Codd, Paul	33	3%	6%	33%	39%	18%
Pro-tem						
Cordi-Bejarano, Elizabeth M.	24	17%	17%	29%	21%	17%

Seattle Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
Bonner, Fred	76	9%	14%	28%	28%	21%
Charles, Edsonya	15	27%	27%	20%	27%	0%
Hightower, Judith	90	11%	16%	34%	22%	17%
Holifield, George	90	19%	16%	28%	27%	11%
Hurtado, Michael	107	4%	4%	31%	34%	28%
Kondo, C. Kimi	71	13%	14%	44%	23%	7%
Mamiya, Ron	82	2%	12%	23%	38%	24%
Rietschel, Jean	67	3%	6%	24%	45%	22%
Commissioner						
Eisenberg, Adam	41	10%	7%	32%	29%	22%
Magistrates						
DeVilla, Francis	33	6%	0%	36%	36%	21%
Duffey, Charles	19	11%	21%	21%	37%	11%
Hankins, Debbie	28	7%	7%	50%	29%	7%
Wilson, Shirley	36	6%	3%	36%	47%	8%
Pro-tem						
Alicea-Galvan, Veronica	42	10%	14%	21%	36%	19%
Danieli, Ann	33	0%	3%	15%	52%	30%
Durham, Elsa R.	44	30%	27%	32%	5%	7%

Tukwila Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Walden, Kimberly	34	0%	9%	21%	32%	38%
Commissioner						
Eng, Park*	30	0%	10%	30%	40%	20%
Pro-tem						
Cromwell, Gregory F.	5	20%	0%	60%	20%	0%
Cufley, Christy Gerhart	9	0%	22%	33%	33%	11%
Monroe-Asher, Elizabeth*	30	7%	20%	23%	30%	20%
Prothero, Mark	10	10%	10%	0%	50%	30%
Stewart, Norm Scott*	34	0%	0%	21%	47%	32%

*This person's results are replicated in several places on this table.

Table 11: Municipal Courts, Demeanor

Auburn Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Burns, Patrick	50	12%	26%	38%	12%	12%
Pro-tem						
Curry, John F.	18	17%	6%	22%	39%	17%
Williams, Daniel	11	0%	0%	55%	36%	9%

Black Diamond Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
West, Robert	21	5%	5%	19%	38%	33%

Bothell Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rusden, John	46	2%	0%	9%	52%	37%

Des Moines Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Hartl, Colleen	42	5%	2%	2%	29%	62%

Enumclaw Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Berner, David	27	0%	15%	26%	30%	30%

Federal Way Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Tracy, David	46	9%	4%	35%	26%	26%
Commissioner						
Platter, Tony	37	0%	0%	0%	54%	46%

Issaquah Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jarvis, Peter	21	19%	10%	24%	29%	19%
Pro-tem						
Stewart, Norm Scott*	34	0%	0%	21%	44%	35%

Table 11: Municipal Courts, Demeanor, continued

Kent Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
McSeveney, Robert	68	1%	3%	10%	34%	51%
Phillips, Glenn	42	2%	7%	31%	31%	29%

Kirkland Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Raines, Albert	86	5%	3%	17%	35%	40%
Commissioner						
Eng, Park*	30	0%	3%	7%	60%	30%
Pro-tem						
Stewart, Norm Scott*	34	0%	0%	21%	44%	35%

Lake Forest Park Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Portnoy, Linda	49	8%	16%	35%	22%	18%
Pro-tem						
Monroe-Asher, Elizabeth*	30	7%	3%	20%	30%	40%

Maple Valley Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rochon, Stephen*	59	10%	12%	29%	25%	24%

Mercer Island Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Stewart, Wayne	35	3%	6%	23%	37%	31%

Pacific Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rochon, Stephen*	59	10%	12%	29%	25%	24%

Renton Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jurado, Terry	49	14%	22%	14%	27%	22%

Table 11: Municipal Courts, Demeanor, continued

SeaTac Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Codd, Paul	33	0%	6%	15%	39%	39%
Pro-tem						
Cordi-Bejarano, Elizabeth M.	25	12%	8%	32%	24%	24%

Seattle Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
Bonner, Fred	76	26%	18%	25%	16%	14%
Charles, Edsonya	15	33%	33%	13%	20%	0%
Hightower, Judith	91	10%	16%	29%	24%	21%
Holifield, George	91	24%	26%	16%	19%	14%
Hurtado, Michael	107	3%	6%	21%	35%	36%
Kondo, C. Kimi	71	6%	20%	44%	21%	10%
Mamiya, Ron	82	4%	6%	23%	33%	34%
Rietschel, Jean	67	0%	13%	10%	46%	30%
Commissioner						
Eisenberg, Adam	41	15%	7%	27%	29%	22%
Magistrates						
DeVilla, Francis	33	9%	3%	30%	36%	21%
Duffey, Charles	19	16%	0%	37%	26%	21%
Hankins, Debbie	28	11%	11%	29%	43%	7%
Wilson, Shirley	36	6%	0%	17%	53%	25%
Pro-tem						
Alicea-Galvan, Veronica	42	21%	12%	12%	31%	24%
Danieli, Ann	33	0%	3%	15%	36%	45%
Durham, Elsa R.	44	27%	14%	30%	18%	11%

Tukwila Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Walden, Kimberly	34	0%	3%	12%	32%	53%
Commissioner						
Eng, Park*	30	0%	3%	7%	60%	30%
Pro-tem						
Cromwell, Gregory F.	5	0%	0%	80%	20%	0%
Cufley, Christy Gerhart	9	0%	11%	33%	33%	22%
Monroe-Asher, Elizabeth*	30	7%	3%	20%	30%	40%
Prothero, Mark	10	10%	10%	0%	50%	30%
Stewart, Norm Scott*	34	0%	0%	21%	44%	35%

*This person's results are replicated in several places on this table.

Table 12: Municipal Courts, Impartiality

Auburn Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Burns, Patrick	49	22%	27%	31%	10%	10%
Pro-tem						
Curry, John F.	18	17%	11%	22%	44%	6%
Williams, Daniel	11	9%	9%	36%	36%	9%

Black Diamond Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
West, Robert	21	14%	10%	19%	24%	33%

Bothell Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rusden, John	46	2%	7%	15%	52%	24%

Des Moines Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Hartl, Colleen	41	7%	0%	22%	27%	44%

Enumclaw Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Berner, David	27	4%	26%	22%	26%	22%

Federal Way Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Tracy, David	46	9%	13%	37%	24%	17%
Commissioner						
Platter, Tony	37	0%	3%	11%	46%	41%

Issaquah Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jarvis, Peter	21	29%	10%	19%	29%	14%
Pro-tem						
Stewart, Norm Scott*	33	0%	0%	24%	39%	36%

Table 12: Municipal Courts, Impartiality, continued

Kent Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
McSeveney, Robert	68	4%	4%	15%	34%	43%
Phillips, Glenn	42	5%	10%	31%	29%	26%

Kirkland Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Raines, Albert	86	6%	6%	17%	28%	43%
Commissioner						
Eng, Park*	29	0%	7%	28%	31%	34%
Pro-tem						
Stewart, Norm Scott*	33	0%	0%	24%	39%	36%

Lake Forest Park Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Portnoy, Linda	49	20%	27%	20%	22%	10%
Pro-tem						
Monroe-Asher, Elizabeth*	29	7%	7%	17%	31%	38%

Maple Valley Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rochon, Stephen*	58	14%	21%	22%	24%	19%

Mercer Island Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Stewart, Wayne	35	3%	17%	20%	31%	29%

Pacific Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rochon, Stephen*	58	14%	21%	22%	24%	19%

Renton Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jurado, Terry	49	12%	20%	16%	31%	20%

Table 12: Municipal Courts, Impartiality, continued

SeaTac Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Codd, Paul	33	0%	12%	18%	42%	27%
Pro-tem						
Cordi-Bejarano, Elizabeth M.	24	13%	13%	46%	13%	17%

Seattle Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
Bonner, Fred	76	16%	26%	22%	17%	18%
Charles, Edsonya	15	40%	40%	7%	13%	0%
Hightower, Judith	91	5%	14%	30%	25%	25%
Holifield, George	91	23%	21%	25%	20%	11%
Hurtado, Michael	106	8%	12%	31%	22%	26%
Kondo, C. Kimi	71	15%	15%	35%	25%	8%
Mamiya, Ron	82	9%	15%	23%	30%	23%
Rietschel, Jean	67	6%	7%	21%	37%	28%
Commissioner						
Eisenberg, Adam	40	23%	20%	18%	25%	15%
Magistrates						
DeVilla, Francis	33	12%	9%	27%	27%	24%
Duffey, Charles	19	16%	0%	32%	32%	21%
Hankins, Debbie	28	14%	11%	32%	39%	4%
Wilson, Shirley	36	8%	6%	22%	50%	14%
Pro-tem						
Alicea-Galvan, Veronica	42	21%	12%	24%	19%	24%
Danieli, Ann	33	0%	6%	12%	39%	42%
Durham, Elsa R.	44	23%	30%	20%	16%	11%

Tukwila Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Walden, Kimberly	34	0%	12%	18%	29%	41%
Commissioner						
Eng, Park*	29	0%	7%	28%	31%	34%
Pro-tem						
Cromwell, Gregory F.	5	0%	0%	80%	20%	0%
Cufley, Christy Gerhart	9	0%	11%	33%	44%	11%
Monroe-Asher, Elizabeth*	29	7%	7%	17%	31%	38%
Prothero, Mark	10	10%	10%	0%	40%	40%
Stewart, Norm Scott*	33	0%	0%	24%	39%	36%

*This person's results are replicated in several places on this table.

Table 13: Municipal Courts, Overall Performance

Auburn Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Burns, Patrick	50	16%	26%	38%	12%	8%
Pro-tem						
Curry, John F.	18	22%	0%	28%	44%	6%
Williams, Daniel	11	0%	18%	45%	27%	9%

Black Diamond Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
West, Robert	21	10%	10%	19%	33%	29%

Bothell Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rusden, John	46	0%	4%	20%	48%	28%

Des Moines Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Hartl, Colleen	41	5%	2%	10%	39%	44%

Enumclaw Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Berner, David	27	0%	26%	33%	22%	19%

Federal Way Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Tracy, David	46	4%	17%	33%	35%	11%
Commissioner						
Platter, Tony	37	0%	3%	14%	49%	35%

Issaquah Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jarvis, Peter	21	19%	5%	29%	33%	14%
Pro-tem						
Stewart, Norm Scott*	33	0%	0%	24%	45%	30%

Table 13: Municipal Courts, Overall Performance, continued

Kent Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
McSeveney, Robert	68	1%	4%	10%	40%	44%
Phillips, Glenn	42	2%	12%	31%	26%	29%

Kirkland Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Raines, Albert	86	5%	7%	20%	34%	35%
Commissioner						
Eng, Park*	29	0%	7%	28%	34%	31%
Pro-tem						
Stewart, Norm Scott*	33	0%	0%	24%	45%	30%

Lake Forest Park Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Portnoy, Linda	49	12%	29%	27%	20%	12%
Pro-tem						
Monroe-Asher, Elizabeth*	30	7%	10%	17%	43%	23%

Maple Valley Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rochon, Stephen*	58	10%	17%	33%	28%	12%

Mercer Island Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Stewart, Wayne	35	3%	3%	31%	31%	31%

Pacific Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Rochon, Stephen*	58	10%	17%	33%	28%	12%

Renton Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Jurado, Terry	49	12%	18%	20%	35%	14%

Table 13: Municipal Courts, Overall Performance, continued

SeaTac Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Codd, Paul	33	3%	3%	21%	52%	21%
Pro-tem						
Cordi-Bejarano, Elizabeth M.	24	13%	17%	38%	21%	13%

Seattle Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judges						
Bonner, Fred	75	15%	20%	31%	23%	12%
Charles, Edsonya	15	47%	27%	20%	7%	0%
Hightower, Judith	91	8%	15%	29%	34%	14%
Holifield, George	91	18%	25%	22%	24%	11%
Hurtado, Michael	108	5%	11%	31%	31%	22%
Kondo, C. Kimi	71	11%	17%	41%	24%	7%
Mamiya, Ron	82	4%	11%	28%	35%	22%
Rietschel, Jean	67	4%	7%	16%	40%	31%
Commissioner						
Eisenberg, Adam	41	7%	32%	20%	34%	7%
Magistrates						
DeVilla, Francis	33	9%	9%	30%	33%	18%
Duffey, Charles	19	16%	11%	26%	32%	16%
Hankins, Debbie	28	14%	14%	36%	32%	4%
Wilson, Shirley	36	6%	6%	33%	44%	11%
Pro-tem						
Alicea-Galvan, Veronica	42	14%	14%	21%	31%	19%
Danieli, Ann	33	0%	3%	15%	39%	42%
Durham, Elsa R.	43	28%	26%	30%	9%	7%

Tukwila Municipal Court

	<u>Number</u>	<u>Unsatisfactory</u>	<u>Less than Satisfactory</u>	<u>Satisfactory</u>	<u>More than Satisfactory</u>	<u>Excellent</u>
Judge						
Walden, Kimberly	34	0%	12%	15%	44%	29%
Commissioner						
Eng, Park*	29	0%	7%	28%	34%	31%
Pro-tem						
Cromwell, Gregory F.	5	20%	0%	60%	20%	0%
Cufley, Christy Gerhart	9	0%	11%	44%	33%	11%
Monroe-Asher, Elizabeth*	30	7%	10%	17%	43%	23%
Prothero, Mark	10	10%	10%	0%	50%	30%
Stewart, Norm Scott*	33	0%	0%	24%	45%	30%

*This person's results are replicated in several places on this table.

Conclusion

The results of the 2005 Judicial Evaluation Survey present a favorable assessment of the judges, commissioners, magistrates, and pro-tems of the King County District and municipal courts. Overall, judicial officers received positive ratings (satisfactory and above) more than 77% of the time. The results of the survey are in-line with results from previous surveys of these same courts and individuals, which suggests they are reliable indicators of judicial performance.

Bibliography

Krosnick, Jon A. (1999). "Survey Research," *Annual Review of Psychology*, 50:537-67. Annual Reviews.

Materials received regarding

Adam Eisenberg

**THE WASHINGTON STATE GOVERNOR'S OFFICE
UNIFORM JUDICIAL EVALUATION QUESTIONNAIRE**

SUPPLEMENTAL RESPONSE

ADAM EISENBERG, WSBA #22040

Business Address:

Seattle Municipal Court
P.O. Box 34987
Seattle, WA 98124-4987
206-684-8713
adam.eisenberg@seattle.gov

Home Address:

1906 N. 49th Street
Seattle, WA 98103
206-235-6894
adameisenberg@comcast.net

Question No. 7: EVALUATIONS:

In 2008, I have been evaluated by the various bar associations for a judicial position on the King County Superior Court bench. I have received the following ratings:

King County Bar Association:	"Exceptionally Well Qualified"
Latino/Latina Bar Association of WA:	"Exceptionally Well Qualified"
Washington Women Lawyers:	"Exceptionally Well Qualified"
Q-Law:	"Exceptionally Well Qualified"
Loren Miller Bar Association:	"Well Qualified"
Joint Asian Bar Associations:	"Well Qualified"

PLEASE NOTE: In the process of determining judicial ratings, the Judicial Screening Committee of the King County Bar Association uses the Washington State Governor's Office Uniform Judicial Evaluation Questionnaire and this Supplemental Questionnaire, as well as reference checks, candidate interviews and other sources of information. (See Judicial Screening Rules and Procedures.)

The responses to the following questions on the Washington State Governor's Office Uniform Judicial Evaluation Questionnaire may be disclosed to persons other than the Judicial Screening Committee and, in the case of judicial elections, will be publicly available:

Position Sought, Name, Business Address, Business email
Professional History: #8, 9, 10, 11, 12, 13, 14, 15,
Educational Background: #16, 17
Professional Experience: #18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32
Community and Civic Activities: #33

At various times, groups not affiliated with KCBA have rated judicial applicants. The KCBA Judicial Screening Committee's bylaws preclude the Committee from disclosing the names of applicants seeking a rating for appointment to these other groups. However, if you are interested in obtaining the names and addresses of such other rating groups to request this information yourself, you may contact the Executive Director at the KCBA office, telephone: 206-267-7100.

Include the following materials in your application packet:

- Governor's Office Uniform Judicial Evaluation Questionnaire
- KCBA Supplemental Questionnaire
- A writing sample between 5-10 pages, as requested in question 45 of the Governor's questionnaire.

Please be advised that the Judicial Screening Committee may take into account the information provided in the questionnaire, the reference checks, the interview, and any other source of information available to it. Letters of recommendation will not be provided to the Committee and should not be solicited. Supplemental materials such as journal articles, legal research, motions, briefs or other documents that you have filed in court, other than the writing sample specifically called for in the Governor's Uniform Questionnaire, should not be included.

REFERENCES. The Committee finds it useful to speak with attorneys and non-attorneys who are familiar with you. One or more Committee members will attempt to contact each reference listed. All telephone numbers should be current and legible. You may contact references in advance if you so desire. The Committee may also call upon individuals not listed to obtain information.

(1) List the names and phone numbers of up to ten attorneys who have supervised you or who have reviewed and are familiar with your legal work, including your current supervisor and at least one other supervisor from your current workplace and at least one supervisor from each of your prior workplaces during the past fifteen years.

- a. Ron Mamiya, Presiding Judge, Seattle Municipal Court, 206-684-8708
- b. Max Nicolai, Supervisor, Allstate Staff Counsel, 206-689-4284
- c. Anthony Vidlak, Supervisor, Allstate Staff Counsel, 206-622-5791
- d. Mike Finkle, Supervisor, Seattle City Attorney's Office, 206-684-7757
- e. Robert Chung, Supervisor, Seattle City Attorney's Office, 206-684-7757
- f. Richard Green, Supervisor, Seattle City Attorney's Office, 206-684-7757
- g. Dan Soukup, Supervisor, King County Prosecutor's Office, 206-296-9000
- h. Denis O'Leary, Supervisor, King County Prosecutor's, 206-296-9000

(2) For the last five appellate matters in which you participated (whether as lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/phone number), and opposing counsel or counsel appearing before you (w/ phone number).

- a. Case Name: City of Seattle v. Loyd Stalsbrotten
Subject Matter: The admissibility of field sobriety tests in a DUI trial
Court: Washington State Supreme Court
Judge: The decision was written by Justice Durham (Retired)
Plaintiff's Attorney: Adam Eisenberg
Defense Attorney: Gene Grantham, 425-888-3421

- b. Case Name: City of Seattle v. Loyd Stalsbrotten
Subject Matter: The admissibility of field sobriety tests in a DUI trial
Court: Washington Court of Appeals, Division One
Judge: The Hon. H. Joseph Coleman (retired) for three-judge panel
Plaintiff's Attorney: Adam Eisenberg
Defense Attorney: Gene Grantham, 425-888-3421

c. During my two year stint as an appeals attorney for the Seattle City Attorney's Office, I argued many RALJ appeals in King County Superior Court and Motions for Discretionary Review in Division One of the Court of Appeals. Unfortunately, I don't have specific records for these cases. However, on the RALJ calendar I regularly appeared before The Honorable Ricardo Martinez, 206-370-8880, and The Honorable Nicole K. MacInnes, 206-296-9210. Opposing counsel included Neal Fox, 206-624-9694 ext. 105; James Koenig 206-689-4265; and Jeanette Brinster, 206-674-4700.

I certify under penalty of perjury of the laws of the state of Washington that the above information is true, accurate and complete. I agree to notify KCBA if there are material changes in this information between the time the Uniform Questionnaire and this cover sheet are completed and the expiration of any rating received.



Signature

Adam Curtis Eisenberg

Print Name

12/4/07

Date

Washington State Bar Association
Office of Disciplinary Counsel
1325 Fourth Ave Suite 600
Seattle, WA 98101

RE: WAIVER AND AUTHORIZATION TO RELEASE INFORMATION

I, Adam C. Eisenberg, WSBA No. 22040 have requested rating for
judicial office by the King County Judicial Screening Committee.

Pursuant to ELC 3.4(c) I authorize and request the Washington State Bar
Association, to disclose the record of disciplinary grievances filed against me and the
status of otherwise confidential disciplinary investigations and proceedings and to
provide copies of nonpublic information to the Judicial Screening Committee of the King
County Bar Association, 1200 Fifth Avenue, Suite 600, Seattle, Washington 98101.

Dated this 4th day of Dec, 2007

Signature

Print Name

WSBA Number

I _____, WSBA No. _____, decline to authorize the
release of confidential discipline information under RD 11.1(n) to the King County Bar
Association Committee.

Dated this _____ of _____, 20__.

Signature

Print Name

WSBA Number

THE WASHINGTON STATE GOVERNOR'S OFFICE UNIFORM JUDICIAL EVALUATION QUESTIONNAIRE¹

Position Sought (Court/Division/District): KING COUNTY SUPERIOR COURT

By Appointment: X By Election:

Personal Information

1. Eisenberg, Adam Curtis WSBA #22040

Last Name	First Name	Middle Name	WSBA Bar Number
-----------	------------	-------------	-----------------

2. Business Address: Seattle Municipal Court
Business-Name
P.O. Box 34987
Street or P.O. Box
Seattle, WA 98124-4987
City State Zip
Business Phone No. 206-684-8708 After-hours/direct dial: 206-684-8713

3. Home Address: Work e-mail address: adam.eisenberg@seattle.gov
1906 N. 49th Street
Street or P.O. Box
Seattle, WA 98103
City State Zip
Home Phone No. 206-633-4180 Mobile Phone No.: 206-235-6895
Home e-mail address: adameisenberg@comcast.net

4. Date of Birth: 11/03/59 5. Social Security Number:²

6. City/State/Place of Birth: New York City, New York

Prior Evaluation / Application History

7. Please state the date of all other judicial evaluations you sought, bar polls you participated in, and appointment applications you submitted. Please specify whether you sought appointment or election for each, from whom the evaluation was sought, the position sought, and the outcome.

1. King County Bar Association judicial evaluation, May 2004. Rated "Extremely Well Qualified" for a position in Seattle Municipal Court and King County District Court. There were no open positions at that time.

2. Washington Women Lawyers judicial evaluation, May 2004. Rated "Highly Qualified" for a position in Municipal and District Courts. There were no open positions at that time.

¹ The Governor's Office uses this questionnaire exclusively for candidates seeking judicial appointment. The Washington State Bar Association and other state bar associations noted on the last page also accept this questionnaire in their judicial evaluation process. The Governor's Office reserves the right to update this questionnaire and will post updated versions of the questionnaire on the Governor's webpage. Please direct all questions about the questionnaire to the Governor's Office of General Counsel.

² Only include your social security number on the copy of the questionnaire forwarded to the Governor's Office.

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3. Asian Bar Association of Washington judicial evaluation, May 2004. Rated "Well Qualified" for a position in Seattle Municipal Court, and "Qualified" for a position in King County Superior Court." There were no open positions at that time.

4. In 2005, I was listed in the King County Bar Association Poll of Attorneys for my role as Seattle Municipal Court Commissioner.

Professional History

8. Year admitted to practice law in Washington: 1992

9. Employment History (in reverse chronological order):

a. Start Date: August 2004 End Date: Not Applicable – this is my current position

Organization: Seattle Municipal Court

Address: 600 Fifth Avenue, Room 1037, P.O. Box 34987, Seattle, WA 98124-4987

Phone No.: 206-684-8713

Position/Title: Court Commissioner

Supervisor: The Honorable Ron A. Mamiya, Presiding Judge

Nature of Practice (including frequency of court appearances):

As a permanent, full-time court commissioner, I fill in for the 8 elected judges in criminal court, and also serve as a judge in traffic court. Typical criminal cases involve domestic violence assaults, DUIs, stalking, harassment, thefts, minor drug crimes, property destruction and street crimes. Every week I preside over the Saturday arraignments in the King County Jail. I am in court daily (Tuesday through Saturday), and preside over every stage of the criminal cases, from arraignment and jury trials to sentencings and probation reviews. I also serve regularly in Mental Health Court and Community Court, both team-oriented, therapeutic-style courts. Several times a year I also serve in a mediator-type role for civil pre-settlement conferences on City of Seattle land use and building code violation cases. In addition to my daily work, I also handle various administrative tasks for the Court at the direction of the Presiding Judge. One of the valuable strengths I have gained from this position is adaptability because I am frequently asked to step into any court in our building on a moment's notice, whether it's Mental Health Court, the jail, or a trial court.

Reason for leaving: Not Applicable

b. Start Date: November 1999 End Date: August 2004

Organization: Allstate Insurance Company

Address: 900 Fourth Avenue, Suite 1470, Seattle, WA 98164

Phone No.: 206-622-5791

Position/Title: Senior Trial Attorney

Supervisor: Max Nicolai; Anthony Vidlak

Nature of Practice (including frequency of court appearances):

As a senior civil trial attorney for Allstate, I appeared regularly in superior and district courts throughout Western Washington as defense counsel on personal injury lawsuits (auto accidents, dog attacks, property damage, etc.). I handled every stage of a civil trial practice, from depositions of lay people and experts to discovery motions, summary judgment motions, jury trials, mediations and settlement conferences. I am particularly proud of the fact that 95% of my cases settled before trial.

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Reason for leaving: I left to take the Seattle Municipal Court Commissioner position.

c. Start Date: February 2003 End Date: July 2004
Organization: Seattle Municipal Court
Address: 600 Fifth Avenue, Room 1037, P.O. Box 34987, Seattle, WA 98124-4987
Phone No.: 206-684-8708
Position/Title: Judge Pro-tempore
Supervisor: The Honorable Fred Bonner, Presiding Judge
Nature of Practice (including frequency of court appearances):

I served as a pro-tem more than 30 times, and handled diverse calendars including jail arraignments, pretrials, sentencings, probation calendars, Night Court and Mental Health Court.

Reason for leaving: I was hired full-time as a commissioner.

d. Start Date: February 1993 End Date: November 1999
Organization: Seattle Law Department Criminal Division (Seattle City Attorney's Office)
Address: P.O. Box 94667, Seattle, WA 98124-4667
Phone No.: 206-684-7757
Position/Title: Assistant City Attorney (Criminal Prosecutor)
Supervisor: Mike Finkle
Nature of Practice (including frequency of court appearances):

As a criminal prosecutor, I appeared on a daily basis in Seattle Municipal Court, where I handled every stage of prosecution. I prosecuted thousands of cases, handled more than 100 jury trials and countless bench trials. For two years, I argued appeals in King County Superior Court, the Washington Court of Appeals Division One, and the Washington State Supreme Court where I successfully argued City of Seattle v. Stalsbroten, 138 Wash.2d 227, 978 P.2d 1059 (1999). This case established that in the state of Washington field sobriety tests may be given in DUI cases pre-arrest and pre-*Miranda* rights. During my tenure with the Seattle City Attorney's Office, I also served as a liaison between the City Attorney's Office and the Seattle Police Department East Precinct, requiring me to attend numerous community meetings to address citizen concerns.

Reason for leaving: I wanted to explore a civil trial practice with Allstate.

e. Start Date: July 1992 End Date: January 1993
Organization: King County Prosecuting Attorney's Office
Address: King County Courthouse, 516 Third Avenue, Seattle, WA 98104
Phone No.: 206-296-9000
Position/Title: Deputy Prosecuting Attorney (Part-time)
Supervisor: Dan Soukup, Denis O'Leary
Nature of Practice (including frequency of court appearances):

Trial attorney with daily appearances in District Courts throughout King County.
Reason for leaving: I was hired for a full-time position with the Seattle City Attorney's Office.

f. Start Date: June 1991 End Date: September 1991
Organization: Davis Wright Tremaine
Address: 1201 Third Avenue, Seattle, WA 98102-3045
Phone No.: 206-622-3150

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Position/Title: Summer Associate
Supervisor: I don't recall.
Nature of Practice (including frequency of court appearances):

Research and writing of briefs on a wide range of topics including Japanese contracting, tax laws and public utility statutes in other states. Also represented a guardian ad litem in a King County Superior Family Court matter.

Reason for leaving: I had to complete my third year in law school.

g. Start Date: June 1982 End Date: September 1989
Organization: *Cinefex Magazine*
Address: P.O. Box 20027, Riverside, CA 92516
Phone No.: 951-789-8590
Position/Title: Writer/Associate Editor/Contributing Editor
Supervisor: Don Shay
Nature of Practice (including frequency of court appearances):

(NON-LEGAL) I wrote behind-the-scenes articles about the making of such films as "Ghostbusters," "The Right Stuff," "Indiana Jones and the Last Crusade," "Who Framed Roger Rabbit," and "Ghostbusters II." I also served as a member of the editorial staff.

Reason for leaving: Went to law school.

h. Start Date: January 1983 End Date: September 1991
Organization: Shinji Nakako, a Japanese writer/editor
Address: Los Angeles and Japan
Phone No.: I don't know the current phone number.
Position/Title: Research Consultant/writer
Supervisor: Shinji Nakako
Nature of Practice (including frequency of court appearances):

(NON-LEGAL) Research consultant for books and magazines published in Japan; also served as a consultant on "Hollywood Eigamura," a movie memorabilia exhibition that toured Japan in 1991.

Reason for leaving: To begin my legal career.

i. Start Date: 1979 End Date: 1990
Organization: Free-lance film journalist for magazines and newspapers in the United States, Japan, France and England
Address: Various.
Phone No.: Various
Position/Title: Free-lance journalist covering movies and television
Supervisor: Various
Nature of Practice (including frequency of court appearances):

(NON-LEGAL) I wrote for a wide range of publications including *The Los Angeles Times*, *The Denver Post*, *The San Francisco Chronicle*, *Los Angeles Daily News*, *Moviegoer*, *Cinefex Magazine*, *American Film*, *Twilight Zone Magazine*, *American*

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Cinematographer, Prevue Magazine, Cinefantastique, Starfix (France), L'Cran Fantastique, (France), Starlog (Japan), Kinema Jumbo (Japan), Voyager (England). Articles focused on behind-the-scenes articles about the making of such movies as "Return of the Jedi," "The Right Stuff," "Ghostbusters I & II," and "Indiana Jones and the Last Crusade." I interviewed such celebrities as Tom Cruise, Harrison Ford, Bill Murray, Dan Ackroyd, Sigourney Weaver, James Cameron, George Lucas and Steven Spielberg.

Reason for leaving: I decided to go to law school.

10. Please list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.

U. S. District Court, Western Division of Washington, 1993 (?)
Licensed in Colorado, March 2003

11. Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.

1. District and Municipal Court Judges' Association (DMCJA). Board Member, July 2007-Present. Rules Committee Member 2005-Present. Salary and Compensation Committee Member, 2007-Present.
2. Q-Law, Member.
3. King County Bar Association, Member.

Prior to becoming a judicial officer, I was a member of the Washington Defense Trial Lawyers Association (1999-2004), and a member of WASAMA (1993-1999).

12. Are you in good standing in every bar association of which you are a member? Yes.
13. If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. Please state the dates of service for each.
1. I am a board member of the District and Municipal Court Judges Association (2007), and serve on Rules Committee (2005-Present) and the Salary and Pension Committee (2007).
 2. In Seattle Municipal Court, I sit on our Local Rules Committee for the year 2007.
 3. In Seattle Municipal Court, I served on the Martin Luther King Day Celebration Committee, 2005.

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14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported (and copy of the opinion)).

I am very proud to have been appointed to be Seattle Municipal Court Commissioner. This appointment was made by the elected judges in Seattle Municipal Court, and followed 18 months as a pro-tempore in that court. In my position as Commissioner, I handle the Saturday arraignments in King County Jail, fill in for the 8 elected judges in criminal court, and also serve as a judge in traffic court. I particularly enjoy my time serving in our Mental Health and Community Courts, both therapeutic courts in which all of the parties involved collaborate to help defendants address their issues with mental illness, drug and alcohol addiction and homelessness.

As Media Chair of the City of Seattle Domestic Violence Council (1999-2004) I produced 11 public forums on different issues of relationship abuse, from elder abuse and teen dating violence to domestic violence in the Latina/o, Asian, African-American, immigrant and same-sex communities. In preparing the various public discussions, I worked extensively with a wide range of community groups including Asian Counseling and Referral Service, Consejo, the African American Task Force on Domestic Violence, Refugee Women's Alliance and the City of Seattle Sexual Minority Commission. Often times, our forums required bringing together groups from different parts of our community, and the resulting discussions involved multi-cultural and multi-ethnic explorations of relationship abuse. Co-sponsored by the Domestic Violence Council and the Seattle City Council, the forums were videotaped in the City Counsel Chambers and broadcast citywide on The Seattle Channel.

I successfully argued before the Washington Supreme Court in City of Seattle v. Stalsbrot, 138 Wash.2d 227, 978 P.2d 1059 (1999). This case established that in the state of Washington field sobriety tests may be given in DUI cases pre-arrest and pre-*Miranda* rights.

Since 1996, I have written articles to inform the public about a variety of legal issues including mentally ill defendants, domestic violence, county health code violators, and the unique history of Seattle female police officers. My articles have been published in *The Seattle Post-Intelligencer* and *Seattle Weekly*.

In 1995-1996, I co-coordinated revising the Spanish versions of Seattle Police Department Miranda warnings and DUI Implied Consent Warnings. Working with SPD Sergeant Terri MacMillan and Spanish interpreters, we revised the SPD forms to make the translations more culturally sensitive for Spanish speakers.

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15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.

I successfully argued before the Washington Supreme Court in City of Seattle v. Stalsbrotten, 138 Wash.2d 227, 978 P.2d 1059 (1999). I also argued the issue before the Court of Appeals in City of Seattle v. Stalsbrotten, 91 Wash.App. 226, 957 P.2d 260 (1998).

Of the cases I tried as a criminal prosecutor, I am particularly proud of my work on domestic violence crimes because I was able to convict repeat abusers and thereby give their victims at least a brief window to escape from the cycle of violence. Of particular note: City of Seattle v. Kevin Michael Lee, Seattle Municipal Court case # 161861, December 20, 1993, trial date. The defense attorney was Duncan Lewis of the Associated Counsel for the Accused. In Seattle v. Lee, the defendant was charged with assault because he repeatedly beat his girlfriend with a weight lifting belt, a fire poker and the butt of a gun. He abused her for six hours, then he left her locked inside their house. While he was away, she escaped to her mother's house and called 911. During the phone call she was sobbing and hysterical. She told the operator what had happened. Two officers arrived and took photos of her injuries – she had huge bruises up and down her legs and back. She remained hysterical, afraid that her boyfriend would find her and abuse her some more. She repeated her story several more times and later signed a written statement. At the trial she suddenly recanted. She claimed that it was all a misunderstanding and that she had actually been beaten by three women outside of a bowling alley in Skyway. She tearfully told the jury that she loved the defendant and that he had never harmed her. On cross-examination and during my closing argument, I used the photos and the 911 tape to impeach her new story. The 911 tape was particularly powerful – her voice was unmistakably raw and real, and she sobbed while telling the operator what her boyfriend had done. Despite the victim's recantation, the jury convicted Mr. Lee, and the judge sentenced him to the maximum sentence for a gross misdemeanor.

In City of Seattle v. Rodolfo Gonzales, Seattle Municipal Court, No. 282788, trial date January 29, 1997, the defendant was charged with assault and harassment. The victim was his wife whom he'd met through an arranged marriage. This case was significant because while the defendant was on trial for this minor assault, he was being held on an attempted murder charge in King County Superior Court involving the same victim. He was convicted of both counts.

Currently, as Seattle Municipal Court Commissioner, I have presided over 20 jury trials. One of the most memorable was City of Seattle v. Abdurahman Mohamed, case nos. 488187, 482482, 482484, 492655. The two-week-long trial involved 3 counts of violation of a Domestic Violence Protection Order, 3 counts of Violation of Civil Anti-Harassment Order, 1 count of Harassment, 1 count of Stalking. Besides the number of counts, the case also involved many witnesses and the need for Oromo and Somali interpreters at most stages of the proceedings. One count was dismissed at halftime; the jury acquitted on the other 8 counts.

Another memorable case was City of Seattle v. Allen Bradford, case no. 493085. The defendant was charged with assault for beating his 6-year-old stepson with a belt; the defense was parental discipline. Despite pictures showing considerable bruising, the jury deadlocked at 3 to 3.

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Educational Background

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

University of Colorado at Boulder College/University	June 1978 through May 1982 Dates of Attendance	Bachelor of Science, Journalism
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17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

University of Washington Law School	September 1989 - June 1982 Dates of Attendance	Juris Doctor w/Honors Degree
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Professional Experience

18. Please summarize, briefly, the general nature of your current law practice.

As a permanent, full-time court commissioner, I fill in for the 8 elected judges in criminal court, and also serve as a judge in traffic court. Typical criminal cases involve domestic violence assaults, DUIs, stalking, harassment, thefts, minor drug crimes, property destruction and street crimes. Every week I preside over the Saturday arraignments in the King County Jail. I am in court daily (Tuesday through Saturday), and preside over every stage of the criminal cases, from arraignment and jury trials to sentencings and probation reviews. I also serve regularly in Mental Health Court and Community Court, both team-oriented, therapeutic-style courts. Several times a year I also serve in a mediator-type role for civil pre-settlement conferences on City of Seattle land use and building code violation cases. In addition to my daily work, I also handle various administrative tasks for the Court at the direction of the Presiding Judge. One of the valuable strengths I have gained from this position is adaptability because I am frequently asked to step into any court in our building on a moment's notice, whether it's Mental Health Court, the jail, or a trial court.

19. If you are in practice, please describe your typical clients and any areas of special emphasis within your practice.

Not Applicable

20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.

Not applicable.

21. Within the last 5 years, did you appear in trial court:

Regularly Occasionally Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

Regularly Occasionally Infrequently

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23. Within the last five years, how often did you appear in the court for which you are applying:

Regularly (1999-2004) Occasionally Infrequently

24. Career Experience

(a) What percentage of your appearances in the last five years was in:

(1) Federal appellate courts	_____ %
(2) Federal trial courts	_____ %
(3) State appellate courts	_____ %
(4) State trial courts	_20_ %
(5) Municipal courts	_60_ %
(6) District courts	_20_ %
(7) Administrative tribunals	_____ %
(8) Tribal courts	_____ %
(9) Other	_____ %
TOTAL	100%

(b) What percentage of your practice in the last five years was:

(1) Civil litigation (excl. family law)	_35_ %
(2) Criminal litigation	_65_ %
(3) Family law litigation	_____ %
(4) Non-litigation	_____ %
TOTAL	100%

(c) What percentage of your trials in the last five years were:

(1) Jury trials	_100_ %
(2) Non-jury trials	_____ %
TOTAL	100%

(d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel; jury trials; and trials where you were the arbiter/decision maker.

<u>Number</u>	<u>Court</u>	<u>% as Sole / Chief Counsel</u>	<u>% Jury</u>	<u>% as the Arbiter</u>
100	Municipal	_90_ %	_____ %	_10_ %
10	State Dist.	_100_ %	_____ %	_____ %
8	State Superior	_100_ %	_____ %	_____ %
_____	Federal Dist.	_____ %	_____ %	_____ %
_____	Administrative	_____ %	_____ %	_____ %
_____	Tribal Courts	_____ %	_____ %	_____ %
_____	Other	_____ %	_____ %	_____ %

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(e) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

1. Boston v. Barker, trial dates June 8-14, 2004, in King County Superior Court before the Honorable Carol Schapira. Opposing Counsel was Ralph Pittle, 206-644-4394. Personal injury trial in which plaintiff was claiming ongoing injuries from a car accident. Case was interesting because plaintiff has many unrelated injuries both prior to and after the car accident in question. At issue was what injuries and damages were related to my client's car accident, and what were due to other causes.

2. Miller v. Estate of Evelyn Soper, King County Superior Court, November 3-6, 2003, before The Honorable Jay V. White. Plaintiff's attorney: Richard Robinson, 206-340-1314. Plaintiff claimed car accident re-injured old surgeries and a prior fusing of her back. The case became a battle of experts on what injuries were reasonably related to the relevant car accident, and what were degenerative changes related to aging.

3. Sanchez v. Simmons, King County Superior Court, April 22-24, 2003, The Honorable Dean S. Lum presiding. Plaintiff attorney: Glenn K. Carpenter, Jr., 253-839-8449. This personal injury case involved a hit-and-run driver and the allocation of fault between a named defendant and a named John Doe. There was no dispute over the extent of plaintiff's injuries; rather, the question was how much fault should be attributed to my client. Ultimately, the jury awarded partial fault to my client, and partial fault to the unknown John Doe.

4. City of Seattle v. Rodolfo Gonzales, Seattle Municipal Court, No. 282788, trial date January 29, 1997, before the Honorable Ron A. Mamiya. Defense Attorney: Russell Leonard, 253-593-6710. Domestic violence assault and harassment. This case was interesting because while the defendant was on trial for this minor assault, he was being held on a attempted murder charge in King County Superior Court involving the same victim.

5. City of Seattle v. Kevin Michael Lee, Seattle Municipal Court case # 161861, December 20, 1993, before the Honorable Deborah St. Singh, Pro-tem. Defense counsel was Duncan Lewis, 206-624-8105. Defendant was accused of domestic violence assault. Please see Question 15 above for more details.

(f) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

Not applicable.

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25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

In my volunteer role as Media Chair for the City of Seattle Domestic Violence Council (1999-2004) I produced 11 public forums on different issues of relationship abuse; from elder abuse and teen dating violence to domestic violence in the Asian, African-American, Latina/o, immigrant and same-sex communities. In preparing the various public discussions, I worked extensively with a wide range of community groups including Asian Counseling and Referral Service, Consejo, the African American Task Force on Domestic Violence, Refuge Women's Alliance and the City of Seattle Sexual Minority Commission. Often times, our forums required bringing together groups from different parts of our community, and the resulting discussions involved multi-cultural and multi-ethnic explorations of relationship abuse. This was a terrific experience for me. It allowed me to meet and work with people from every part of our community, and it gave me a much better understanding of the dynamics of domestic and family violence.

I have also written articles for *The Seattle Post-Intelligencer* and *Seattle Weekly* on a variety of legal issues including domestic violence and the homeless mentally ill. These projects have allowed me greater insight into the issues involved. Please see Question No. 42 for more details.

In 1995, I served as co-coordinator on a project to revise Seattle Police Department's Spanish Miranda rights and DUI Implied Consent Warnings forms. Working with several interpreters, we commissioned new translations of the forms so the Spanish used was more culturally sensitive and, therefore, more understandable to Spanish-speaking suspects and defendants. When the project was completed in early 1996, SPD adopted the new translations. I believe this furthered justice because it enabled Spanish-speaking suspects to better understand their rights in our criminal system.

When I was a criminal prosecutor, I served for two years as a liaison with the East Precinct of the Seattle Police Department. In this role, I frequently attended neighborhood meetings to learn about concerns citizens were having in their community. I also worked with the precinct command staff when they had questions about fine points of criminal law and procedure.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

Not applicable.

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27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

I am very proud of my work as Media Chair for the City of Seattle Domestic Violence Council (1999-2004). As previously noted, I produced 11 public forums on different issues of relationship abuse, from elder abuse and teen dating violence to domestic violence in the Asian, African-American, Latina/o, immigrant and same-sex communities. In preparing the various public discussions, I worked extensively with a wide range of community groups including Asian Counseling and Referral Service, Consejo, the African American Task Force on Domestic Violence, Refugee Women's Alliance and the City of Seattle Sexual Minority Commission. Our forums brought together groups from different parts of our community, and the resulting discussions involved multi-cultural and multi-ethnic explorations of relationship abuse. This was an extraordinary experience for me. It allowed me to meet and work with people from every part of our community, and it gave me a better understanding of the dynamics of domestic and family violence. My involvement with the Domestic Violence Council also allowed me to explore issues of relationship abuse in articles for *The Seattle Post-Intelligencer*.

I am currently serving as a board member on the District and Municipal Court Judges' Association. My term began last summer, and I am enjoying the opportunity to experience the organization from the board perspective.

28. In 50 words or less, please describe why you should be appointed/elected and are seeking a judicial position.

I should be appointed for three reasons. First, I have experience. In the 15 years since I became an attorney, I have served as a commissioner, judge pro tempore, civil trial attorney and criminal prosecutor in municipal, district and superior courts throughout Western Washington. Second, I am an educator – I know how to explain complex legal ideas in terms defendants, lay citizens and attorneys can understand. Third, I would bring compassion and a strong sense of justice to the bench.

I am seeking the position because I believe I have the experience needed to be effective, I am eager to expand on my commitment to community service, and I am ready for a new challenge.

29. In 50 words or less, please describe your judicial philosophy.

I believe it is important for defendants, victims, civil litigants and attorneys to feel they have had an opportunity to present their cases before a well-prepared, neutral and fair judge. It is important to listen to all of the views presented, weigh the competing concerns, research the relevant law, and reach a just decision.

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30. Have you ever held a judicial office or have you ever been a candidate for such office?
Yes. If you answered "yes", please provide details, including the courts involved, whether elected or appointed, and the periods of your service.

Since August 2004, I have served as Court Commissioner in Seattle Municipal Court. I was appointed to this position by the 8 elected judges in SMC, and I serve in criminal and traffic court on a daily basis.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? No.

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

February 2003 to July 2004, I served as a Judge Pro-tem in Seattle Municipal Court. Since August 2004, I have served as Court Commissioner in Seattle Municipal Court. Please see Question No. 50 for a list of the attorneys who have appeared before me.

Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.
1. In my role as an instructor/senior student at EMERALD CITY AIKIDO DOJO (1997-Present), I teach aikido to adults, teenagers and children. Aikido is a martial art that teaches how to physically unbalance an opponent in order to neutralize their attack. While it can be very powerful and even deadly art, the underlying philosophy of aikido emphasizes how to accept challenge and change in life, and how to neutralize conflicts that occur in daily living. It teaches compassion for others and, most importantly, for oneself.
Working with the kids and teenagers ages 9 to 18 has been an incredibly rewarding experience. I have watched several young men and women train through high school and go off to college with a greater understanding of themselves (mentally and physically) and others. One of my former students attends art school in New York City, while another just started his freshman year at the Rhode Island School of Design. Yet another is a junior at Lewis And Clark College in Portland. All three are exceptional human beings. Watching them grow into adults through aikido has been one of the highlights of my life.
 2. Mentor for University of Washington Law Students, 2006 – Present. For the past two years, I have served as a mentor for First Year law students.
 3. Volunteer, neighborhood project: WALLINGFORD LADY BUG, 2006, 2007. My neighbors and I worked together to design and paint a large lady bug and flower in the middle of our intersection. The project's goal has been to create a greater sense of community and pride in our neighborhood, and to also slow traffic traveling through the intersection. The lady bug was approved by the City of Seattle Department of Neighborhoods, and has been repainted once a year for the past two years.
 4. CITY OF SEATTLE DOMESTIC VIOLENCE COUNCIL, Media chairperson, (1999-2004). As chairperson, I produced live 11 public forums on domestic violence issues co-sponsored by Seattle City council members. Please see Question Nos. 14, 25 and 27 above for more details.
 5. LEADERSHIP TOMORROW, 1998 Graduate. Participated in the nine-month-long course designed to encourage community-oriented leadership. Sponsored by the City of Seattle City Attorney's Office.
 6. KAWALO BASIN MARINE MAMMAL RESEARCH LABORATORY, Volunteer: I served as a research volunteer on projects studying dolphins. Spring 2001, Honolulu, Hawaii.
 7. PRIDE FOUNDATION, 1999, 2006: Served on interview committee for scholarship award winners.
 8. BOOMTOWN CAFÉ, 1999-2001, Served breakfast to homeless on Christmas morning.
 9. RISE N' SHINE, 1999: Volunteered at a major fundraising event to raise money for children who suffer from AIDS or had family members who suffered from AIDS.
 10. PONCHO ART AUCTION, 1999: Volunteer.
 11. COMMON MEALS (Now FARE START), 1998-99, Volunteer waiter for Guest Chef Nights.

Discipline and Disputes

34. Have you ever been held, arrested, charged or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation or ordinance? No.
35. Has a client ever made a claim or suit against you for malpractice? No.
36. Please describe your direct experience, if any, with domestic violence and sexual harassment.

I grew up in a household in which my father was very angry and verbally abusive. Fortunately, he did not physically abuse my mom or my brothers, but he frequently belittled and harassed all of us, a situation that became much worse when my mother was dying of cancer.

37. Have you been a party in interest, witness, or consultant in any legal proceeding? Yes.

If you answered "yes", please provide details. Do not list proceedings in which you were merely a guardian ad litem or stakeholder.

1. My parents passed away in the fall of 2006, and I am serving as Personal Representative on their estates in Colorado. In my capacity as P.R. I was involved in a lawsuit initiated by one of my brothers. His claims have been dismissed with prejudice.

2. In my role as Court Commissioner, I have been named as a defendant in a lawsuit initiated by a criminal defendant in U.S. District Court, Eastern District of Washington under the case name Vaksman v. City of Seattle, et. al., Cause No. C07-236-LRS. I am named because I issued a bench warrant after Mr. Vaksman failed to appear for his out-of-custody arraignment on the charge of harassment. Other named defendants include the Seattle City Attorney who charged the defendant and other staff at the City Attorney's office. Mr. Vaksman's lawsuit alleged a wide variety of civil rights and U.S. Constitutional violations. As of this moment, the case has been dismissed without prejudice, but the defendant may appeal that decision or re-file his lawsuit.

3. In 1996 and 1997, I was a witness in proceedings initiated by the City Prosecutor's union against the sitting Seattle City Attorney. Hearings were held before the Public Employee Relations Commission (PERC) concerning allegations of unfair bargaining.

38. Have you ever been the subject of a complaint to any bar association, disciplinary committee, court, administrative agency or other professional group? No.
39. Have you ever been disciplined or cited for breach of ethics or unprofessional conduct? No.
40. If you have served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you? Yes. If you answered "yes", please provide details.

I answered "Yes" because of the Vaksman v. Eisenberg, et. al. case described under Question 37. That case was dismissed without prejudice. Otherwise, the answer is NO.

Miscellaneous

41. Are you aware of anything that may affect your ability to perform the duties of a judge? No.

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42. Have you published any books or articles in the field of law? If so, please list them, giving the citations and dates. Also, please give the dates and forums of any Continuing Legal Education presentations that you have made.

I have written the following articles on law-related issues:

"Domestic Abuse Survivor Gives Hope," *The Seattle Post-Intelligencer*, October 17, 2003, pg B7. On the web at <http://seattlepi.newssource.com/opinion/144219-domviolence17.html>. This article focused on the harrowing story of a domestic violence survivor who has gone on to become a King County Councilmember.

"The First Nine – Lure of equal pay changed SPD culture forever," *The Seattle Post-Intelligencer*, FOCUS SECTION, October 28, 2001, pg. D4 (D Section of *The Sunday Seattle Times*). Republished at HistoryLink.Org under the title, "Seattle's First Female Officers on the Beat: Seattle Women in Blue." On the web at: http://www.historylink.org/essays/output.cfm?file_id=3628. This article explored what happened in 1976 when Seattle's first female patrol officers hit the streets.

"Bringing the legal concept of domestic violence to the world stage," *The Seattle Post-Intelligencer*, October 1, 2000, FOCUS SECTION, pp. G1, G3, (G Section of *The Sunday Seattle Times*). On the web at <http://seattlepi-i.newssource.com/opinion/focus011.shtml>. This piece told the story of an American woman who was taken to court by her abusive German husband under the international Hague Convention for allegedly kidnapping their children.

"Drawing Them Out: Counselors use art to help young domestic violence victims mend," *The Seattle Post-Intelligencer*, October 3, 1999, FOCUS SECTION, pp. C1, C3. (C Section of *The Sunday Seattle Times*.) On the web under the title, "Helping Young Domestic Violence Victims Mend," <http://seattlepi-i.newssource.com/opinion/focus03.shtml>.

"I Smell A Rat," *Seattle Weekly*, vol. 22, no. 13, 26 March 1997, pp. 9-12. This article explored the daily activities of King County Health Inspector Jack Alexander.

"Safeguarding Their Rights But Not Their Well-being," *The Seattle Post-Intelligencer*, 8 December 1996, FOCUS Section, pp. J1, J3. This article discussed how mentally ill misdemeanor defendants were treated in the court system before the tragic death of retired firefighter Stevenson. Approximately 1 year after my article appeared, the laws in Washington were changed to give misdemeanor courts the ability to have mentally ill defendants evaluated for competency and possible restoration.

Regarding CLE presentations, in March 2002 I was invited to speak with attorney Pat Trudell at the Washington State Court Interpreters and Translators Society (WITS) conference. Our topic was how interpreters are used in depositions.

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43. Please list any honors, prizes, awards or other forms of recognition that you have received and whether they were professional or civic in nature.
1. INNOVATOR AWARD 2005, Seattle Municipal Court.
 2. I have earned the rank of Third Degree Black Belt in Aikido.
 3. Selected co-Class Speaker, LEADERSHIP TOMORROW Class of 1998.
 4. Selected Graduation Speaker, University of Washington School of Law, June 1992.
 5. Graduated, Juris Doctor with Honors.
 6. Member, Moot Court Honor Board
 7. Finalist, 1991 NORTHWEST REGIONAL MOOT COURT COMPETITION.
 8. First Place Team, 1991 JUDSON FALKNOR MEMORIAL APPELLATE COMPETITION.
44. Are you aware of anything in your background or any event you anticipate in the future that might be considered to conflict with the Code of Judicial Conduct? No.
45. Please provide a writing sample of your work (between 5 and 10 pages long), written and edited solely by you, within the last 4 years.

Access to Justice

46. Please describe activities that you have engaged in to eliminate bias or improve access to the judicial system for indigent populations and ethnic, racial and sexual minorities. As a member of the bench, what, if any, role do you believe a judge has to enhance equal access to justice?

In my voluntary position as media chairperson for the City of Seattle Domestic Violence Council, 1999 – 2004, I produced public forums on a variety of issues including elder abuse, teen dating violence, and domestic violence in the Latina/o, African-American, Asian, Gay/Lesbian/Bisexual/Transgender and immigrant communities. The forums sought to educate the public and government officials about relationship abuse in order to raise awareness and offer help to victims. At the end of every forum we provided contact information for government agencies, advocacy and support groups for victims of domestic abuse.

I have written articles for *The Seattle Post-Intelligencer* and *Seattle Weekly* about such legal issues as homelessness, domestic violence, county health code violators and the discrimination female police officers have faced from their male counterparts and commanders. Please see Question 42 above.

In 1995, I served as co-coordinator on a project to revise Seattle Police Department's Spanish Miranda rights and DUI Implied Consent Warnings forms. Working with several interpreters, we commissioned new translations of the forms so the Spanish used was more culturally sensitive and, therefore, more understandable to Spanish-speaking suspects and defendants. When the project was completed in early 1996, SPD adopted the new translations. I believe this furthered justice because it enabled Spanish-speaking suspects to better understand their rights in our criminal system.

During my stint as a criminal prosecutor (1993-99) I served for two years as liaison between the City Attorney's Office and the Seattle Police Department East Precinct. I built strong working relationships with the senior staff of the precinct, and with neighborhood community leaders. I sat on one continuing committee focused on crime problems around Volunteer Park, and participated in other community meetings in the precinct.

In my current position as Court Commissioner in Seattle Municipal Court, I strive every day to ensure all defendants have equal access to justice. This may involve making certain defendants have attorneys appointed when they cannot afford private counsel, or have interpreters present when English is not their primary language. It may also involve making pro se defendants understand the rights they are giving up by proceeding without an attorney. Equal access to justice also requires judges to listen to the diversity of ideas and interests that come before them, and to understand that diversity in order to be effective and neutral decision-makers.

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47. Please describe the frequency, time commitment and substantive nature of your direct participation of free legal services to indigent populations, and ethnic, racial and sexual minorities.

I have not participated in any particular programs directly related to providing services to those populations. However, in my work producing public forums co-sponsored by the City of Seattle Domestic Violence Council and the City Council, we featured many different agencies that provide such services.

Diversity in the Legal Profession

48. Please briefly describe your understanding of the issue of "diversity within the legal profession."

Besides the need for greater diversity within the ranks of the legal profession, I believe this issue also highlights the need for greater acceptance of diversity of ideas. As a judge, people come before you from every conceivable walk of life. It is important to be open to the diversity of ideas that they bring with them due to their age, sex, orientation, race, economic position, level of education, etc. A judge must be willing to consider many points of view in order to be an effective and neutral decision maker.

References

It is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. One or more participants in the evaluation process may contact each of your references. All telephone numbers should be current and legible. If a reference is unreachable, your rating/evaluation may be delayed. **Please use a separate piece of paper for each list.** You may contact references in advance if you so desire. Individuals not listed by you as a reference may be contacted to obtain information about you.

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49. If you have been in practice within the past fifteen years, list the names and phone numbers of ten opposing counsels who know you best, including at least three opposing counsels on cases that went to trial.

1. Timothy Farley, 425-339-1323
2. Glenn K. Carpenter, Jr., 253-839-8449
3. Max Nicolai, 206-689-4284
4. Theresa Roberson, 206-447-3900.
5. Burns Petersen, 206-624-8105, ext. 229
6. Lorraine Roberts, 206-447-3900
7. Pat Trudell, 425-822-2200
8. Jon Scott Fox, 425-451-1995
9. Mary F. Louis, 206-234-9757
10. William C. Coats, 425-990-8399

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50. If you have been a judge or otherwise have served as a neutral decision-maker within the past fifteen years, please list the names and phone numbers of the last ten attorneys who have appeared before you.

1. Duncan Lewis, 206-624-8105 ext. 224
2. Andrea Chin, 206-684-7772
3. Russell Kurth, 206-624-8105 ext. 244
4. Kevin Kilpatrick, 206-233-5181
5. Karen Murray, 206-624-8105 ext. 247
6. Darby DuComb, 206-684-8814
7. Amy King, 206-624-8105 ext. 290
8. Laurel Gibson, 206-624-8105 ext. 355
9. Moses Garcia, 206-667-8263
10. Kirk Davis, 206-684-9339

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51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.

1. Evelyn Chapman, 206-282-7826
2. Judy Ashley, 206-733-9152
3. Lloyd Jansen, 206-427-1982
4. E. Kerry Bramhall, 206-850-6175
5. Fran O'Donnell, 206-498-4595
6. Paul Verba, 206-226-8021

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).

In my role as Court Commissioner, I served as the judge for the following jury trials:

1. City of Seattle v. Allen Bradford, Seattle Municipal Court case no. 493085.
Criminal trial for 1 count of Assault.
Prosecutor: Lorna Staten Sylvester, 206-684-7757
Defense: Karen Baker, 206-624-8105 ext. 201
2. City of Seattle v. Abdurahman Mohamed, Seattle Municipal Court case nos. 488187, 482482, 482484, 492655.
Criminal trial for 3 counts of violation of a Domestic Violence Protection Order, 3 counts of Violation of Civil Anti-Harassment Order, 1 count of Harassment, 1 count of Stalking.
Prosecutor: Henry Chae, 206-684-7847
Defense: Theresa Allman, 206-447-3900
3. City of Seattle v. Gregory A. Roy, Seattle Municipal Court case no. 488267.
Criminal trial for 1 count of Theft.
Prosecutor: Jason Logan, 206-684-7762
Defense: T.Chiang-Lin, 206-624-8105 ext.
4. City of Seattle v. Armando Parra, Seattle Municipal Court case no. 477323.
Criminal trial for 1 count of Physical Control of Motor Vehicle.
Prosecutor: Mary Lynch, 206-684-0842
Defense: Michelle Jensen, (206) 370-7827
5. City of Seattle v. John C. Blue, Seattle Municipal Court case no. 476637.
Criminal trial for 1 count of Assault (Domestic Violence), 1 count Reckless Endangerment.
Prosecutor: Rebecca Robertson, 206-684-8526
Defense: Deborah Wilson, 206-624-8105 ext. 202

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

53. List the names and phone numbers of ten additional attorneys familiar with your professional qualifications, skills, experience or attributes.

1. Janice Albert, 425-388-3333
2. Drue Kirby, 425-487-2927
3. Craig Day, 206-500-4324
4. Robert Murashige, 206-684-0843
5. Alan Garrett, 206-633-1310
6. Judy Heit, 425-806-4188
7. Jennifer Johnson Grant, 206-684-8531
8. Eric Delos Santos, 253-680-8483
9. Anthony Vidlak, 206-689-4270
10. Gail Stone, 206-733-5925

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Certification

54.

By signing below, I declare under penalty of perjury under the laws of the State of Washington that the information provided by me in responding to this questionnaire is true and correct to the best of my knowledge.

Date: 12/4/07

Signature: 

NOTE: The Governor's Office strongly encourages individuals seeking judicial appointment to utilize, to the fullest extent possible, the ratings processes from state, county, and minority bar organizations. Contact information for the minority bar associations can be found on the Washington State Bar Association's website at (<http://www.wsba.org/public/links/minoritybars.htm>). It is the applicant's responsibility, however, to obtain these evaluations in a timely manner. To that end, all applicants are strongly encouraged to commence the evaluation process for other bar associations as soon as possible. To facilitate the process, the following organizations have agreed to accept this questionnaire as the principal application in their evaluation process and may also require candidates to complete an additional supplement questionnaire:

State Bar Association

Washington State Bar Association (WSBA) (appellate court evaluations only)

County Bar Associations

King County Bar Association (KCBA)

Minority Bar Associations

Latina/o Bar Association of Washington (LBAW)

Loren Miller Bar Association (LMBA)

The Joint Asian Judicial Evaluations Committee of Washington³

Pierce County Minority Bar Association (PCMBA)

Q-Law / GLBT (Gay Lesbian Bisexual Transgender) Bar Association

Washington Women Lawyers⁴ (WWL)

As of the date of your certification above and submission of this questionnaire to the Governor's Office, please check, as necessary, beside each of the above organizations if you have contacted them to evaluate you for the position for which you have applied.

³ A joint committee of the Asian, Korean, South Asian and Vietnamese American Bar Associations of Washington.

⁴ Washington Women Lawyers has approved the use of the Governor's Uniform Judicial Evaluation Questionnaire for its statewide and all county chapters.

MUNICIPAL COURT OF THE CITY OF SEATTLE
KING COUNTY, WASHINGTON

CITY OF SEATTLE,)	No. 462143
Plaintiff,)	
vs.)	DECISION RE: DEF'S
)	CHALLENGE TO THE
)	CONSTITUTIONALITY
ELIZABETH M. ALBERT,)	OF SHB 3055
Defendant.)	
_____)	

Defendant, Elizabeth M. Albert, having moved the Court to suppress the breath alcohol content ("BAC") reading on the grounds that Substitute House Bill ("SHB") 3055 is unconstitutional; the Court having considered the briefs submitted by the parties and having heard oral argument, rules as follows:

1. **Is SHB 3055 unconstitutional because the title of the legislation violates Article II Section 19?**

A statute enacted by the legislature is presumed to be constitutional. Amalgamated Transit v. State, 142 Wash. 2d 183, 205, 11 P. 3d 762 (2000). A party challenging the statute's constitutionality bears the heavy burden of establishing its unconstitutionality beyond a reasonable doubt. Id. This standard is met if argument and research show that there is no reasonable doubt that the statute violates the constitution. Id.

Article II, § 19 of the Washington Constitution provides: "No bill shall embrace more than one subject, and that shall be expressed in the title." State v. Thomas, 103 Wash. App. 800, 807, 14 P.3d 854 (2000). Our Supreme Court has interpreted article II, section 19 as two separate prohibitions: "(1) No bill shall embrace more than one subject;

and (2) the subject of every bill shall be expressed in the title." Id. Violation of either the subject or the title requirement alone is sufficient to render the relevant bill provisions unconstitutional. Id.

A legislative title is constitutionally sufficient if it "gives such notice as should reasonably lead to an inquiry into the body of the act itself, or indicates, to an inquiring mind, the scope and purpose of the law." Id. For purposes of an article II, section 19 analysis, the title is the word, phrase, or phrases following "AN ACT Relating to ..." and preceding the first semicolon. Id. at 808-09. The enumeration of the numbers of the sections in the title of the amendatory act is unnecessary and may be treated as surplusage. Id.

a. General vs. restrictive titles and the single subject rule.

The first requirement of article II, section 19, is that the title must contain one subject. Amalgamated, 142 Wash. 2d at 207. Titles may be general or restrictive. A general title is one which is broad rather than narrow. Id. Examples include "AN ACT Relating to tort actions;" "AN ACT Relating to violence prevention;" "AN ACT Relating to community colleges," and "AN ACT Relating to industrial insurance." Id. at 208. Where a title is general, all that is required is rational unity between the general subject and the incidental subjects. Id. at 209.

A restrictive title "is one where a particular branch of a subject is carved out and selected as the subject of the legislation." State v. Broadaway, 133 Wash. 2d 118, 127, 942 P. 2d 363 (1997). A restrictive title is "narrow," as opposed to broad, and it expressly limits the scope of the act to that expressed in the title. Id. A restrictive title will not be regarded as liberally as a general title, "and provisions not fairly within it will not be

given force.” Amalgamated, 142 Wash. 2d at 210. Examples of restrictive titles include: “An act relating to local improvements in cities and towns;” “An act relating to the rights and disabilities with respect to land;” and “An act relating to the venue of civil actions in justice courts.” Broadaway, 133 Wash. 2d at 127 n. 2.

The title for SHB 3055 reads: “AN ACT Relating to admissibility of DUI tests.” The Court finds that this title is restrictive because it carves out a particular branch of the more general subject of laws related to motor vehicle offenses or alcohol-related offenses. As a result, any provisions not fairly within the title will not be given force pursuant to the “single-subject” requirement. Amalgamated, 142 Wash. 2d at 210, 211.

The Court finds that sections 1, 2 and 4 fall within the subject of the title. Section 1 concerns the legislative intent of the bill, and relates to the title. Section 2 concerns implied consent warnings that are administered before a breath or blood test can be taken. The section also addresses search warrants and authorizes the taking of tests when a suspected DUI driver is either unconscious, dead, or suspected of the crimes of vehicular assault and vehicular homicide. This section falls within the scope of “admissibility of DUI tests” because these issues are a necessary step, indeed the very first step, in getting the tests admitted into court. To put it another way, breath and blood tests are not admissible if the officer fails to read implied consent warnings to a defendant where the defendant was not otherwise unconscious, dead or suspected of vehicular assault or vehicular homicide.

Similarly, section 4 falls within the title because it concerns the steps necessary to admit the breath test result at trial.

The only section of SHB 3055 that does not appear to relate directly to the title is section 3 because it concerns the consequences of refusals and test results on license suspension. This Court finds that section 3 does not fall within the subject “AN Act relating to the admissibility of DUI tests.”

This finding, however, does not automatically mean that SHB 3055 must be struck down in its entirety as unconstitutional. Where proposed legislation with a single subject title has multiple subjects, those matters not encompassed within the title are invalid, but the remainder is not unconstitutional if

- (a) the objectionable portions are severable in a way that a court can presume the enacting body would have enacted the valid portion without the invalid portion, and
- (b) elimination of the invalid part would not render the remainder of the act incapable of accomplishing the legislative purpose.

Broadaway, 133 Wash. 2d at 128. A severability clause may provide the assurance that the legislative body would have enacted remaining sanctions even if others are found invalid. Amalgamated, 142 Wash. 2d at 228. However, a severability clause is not necessarily dispositive on the question of whether the legislative body would have enacted the remainder of the act. Id.

In Broadaway, the Court found the objectionable provisions of Initiative 159 were severable and concluded the remainder of the act survived the constitutional challenge. Broadaway, 133 Wash. 2d at 128. The Court held that the passage of the valid portions could be presumed, and that the elimination of the unconstitutional provisions did not render the remainder of the Act incapable of accomplishing the legislative intent. Id. The Court made this finding before noting the act had a savings clause. Id.

Here, SHB 3055 does not contain a severability clause, but the Court does not find that dispositive. Instead, the Court finds the remaining portions of SHB 3055 are constitutional. More specifically, the legislative purpose behind SHB 3055 is spelled out in Section 1:

The legislature finds that previous attempts to curtail the incidence of driving while intoxicated have been inadequate. The legislature further finds that property loss, injury, and death caused by drinking drivers continue at unacceptable levels. This act is intended to convey the seriousness with which the legislature views this problem. To that end, **the legislature seeks to ensure swift and certain consequences for those who drink.**

To accomplish this goal, the legislature adopts standards governing the admissibility of tests of a person's blood or breath. **These standards will provide a degree of uniformity that is currently lacking, and will reduce the delays caused by challenges to various breath test instrument components and maintenance procedures.** Such challenges, while allowed, will no longer go to admissibility of test results. Instead, such challenges are to be considered by the finder of fact in deciding what weight to place upon an admitted blood or breath test result. (Emphasis added).

Given this purpose, the Court presumes that the legislature would have enacted sections 1, 2 and 4 without the invalid section 3. In fact, it is difficult to see how section 3 relates to the legislative intent since it does not deal directly with the admissibility of the BAC ticket. The Court further finds that even if the ICW and search warrant issues were not addressed, section 4 by itself accomplishes the legislative intent of providing a degree of uniformity and or reducing the delays caused by challenges to the instrument components and maintenance procedures.

Ultimately, the Court finds that (a) the objectionable portion of SHB 3055 (section 3) is severable in a way that allows the Court to presume the enacting body would have enacted the valid portion without the invalid portion. In addition, the Court finds (b) that elimination of the invalid part does not make the remainder of the act

incapable of accomplishing the legislative purpose. As a result, the remaining portions of SHB 3055 are constitutional.

b. The subject-in-title rule.

The second requirement of article II, section 19 is that the subject of an act must be expressed in its title. Amalgamated, 142 Wash. 2d at 217. This is known as the “subject-in-title” rule. Id. The title of an act complies with this requirement if it gives notice which would lead to an inquiry into the body of the act or indicates the scope and purpose of the law to an inquiring mind. Id. The title need not be an index to the contents, nor must it provide details of the measure. Id.

Here the issue is whether the title “AN ACT Relating to the admissibility of DUI tests” can be read broadly enough to encompass implied consent warnings, consequences at DOL and other provisions covered in SHB 3055. The Court finds that the implied consent warning and search warrant issues raised in section 2 are compatible with the admissibility of the DUI tests and fall within the subject in title. Once again, however, the Court concludes that section 3 does not.

Given this finding, the Court again holds that the remaining portions of SHB 3055 are constitutional because section 3 can be severed without undermining the remaining sections of SHB 3055 or the legislative intent. In addition, the Court finds that it is reasonable to believe the Legislature would have passed the acceptable provisions without section 3 because they go directly to the legislative intent. Amalgamated, 142 Wash. 2d at 227-228. To put it another way, the legislative intent can be accomplished by section 2 and 4 without section 3. As a result, the remaining portions survive the article II, section 19 challenge. Id.

Defense argues that by putting section 3 into SHB 3055, the Legislature is guilty of unconstitutional logrolling. The Court denies this argument, finding that the defense has not established this beyond a reasonable doubt.

2. Does SHB 3055 violate the separation of powers doctrine?

Section 4 of SHB 3055 amends RCW 46.61.506(4) and the procedure for admitting breath tests. (4)(a) establishes that a breath test is admissible at trial or in an administrative proceeding if the prosecutor or department produces *prima facie* evidence. The section then lays out the seven steps necessary to establish this evidence.

(4)(b) reads:

For purposes of this section, “prima facie evidence” is evidence of sufficient circumstances that would support a logical and reasonable inference of the facts sought to be proved. In assessing whether there is sufficient evidence of the foundational facts, the court or administrative tribunal **is to assume the truth of the prosecution’s or departments evidence and all reasonable inferences from it in a light most favorable to the prosecution or department.** (Emphasis added.)

Defendant contends that the highlighted language of (4)(b) above violates the separation of powers doctrine because it impermissibly requires courts to “assume the truth of the prosecutor’s evidence.”

The legislature has the authority to establish rules of evidence and those evidence rules are substantive law. State v. Pavelich, 153 Wash 379, 382-83, 279 P 1102 (1929).

Where a rule of court is inconsistent with a procedural statute, the court's rulemaking power is supreme. State v. Ryan, 103 Wash. 2d 165, 178, 691 P. 2d 197 (1984).

Nonetheless, apparent conflicts between a court rule and a statutory provision should be harmonized, and both given effect if possible. Id. Statutory enactments of evidentiary

rules are subject to judicial review, this court being the final arbiter of evidentiary rules.

Id.

It is well established under Washington law that before the result of a breath test can be admitted into evidence, the prosecution must produce *prima facie* evidence that the test was performed in a manner required by RCW 46.61.506. State v. Baker, 56 Wash.2d 846, 810, 355 P.2d 806 (1960). Originally, those requirements were spelled out by reference in the Washington Administrative Code. (See, Seattle v. Allison, 148 Wash. 2d 75, 59 P. 3d 85 (2002)). More recently, in SHB 3055, the legislature has chosen to establish the steps needed for admissibility in RCW 46.61.506 itself. In doing so, the legislature also decided to refer directly to the *prima facie* standard instead of relying on the extensive case law.

The Court notes that in defining *prima facie* in SHB 3055, the legislature has restated the same standard Washington courts have adopted in other areas of the law. For instance, regarding the *corpus delicti* rule, a defendant's confession to a crime is admissible if the prosecutor establishes independent proof of the crime on a *prima facie* basis. State v. Aten, 130 Wash. 2d 640, 656, 927 P. 2d 210 (1996). *Prima facie* evidence is "evidence of sufficient circumstances which would support a logical and reasonable inference' of the facts sought to be proved." Id. In determining whether the State presents *prima facie* evidence, "the court **assumes the truth of this evidence and make reasonable inferences in the State's favor.**" Id. at 658. (emphasis added.)

The language for *prima facie* admissibility under *corpus delicti* cases is identical to the language in (4)(b). It seems unlikely that the courts would establish a different standard for *prima facie* evidence for admitting DUI tests results than for the admission

of a defendant's confession in *corpus* cases. In this instant, the Legislature has put into the statute the *prima facie* standard long established by the courts for the admission of DUI tests, and has defined it as it has been defined by the courts. As a result, this Court does not find this to be an unconstitutional reach by the Legislature.

Defendant also challenges the constitutionality of (4)(c) under a similar separation of powers argument. (4)(c) reads:

Nothing in this section shall be deemed to prevent the subject of the test from challenging the reliability or accuracy of the test, the reliability or functioning of the instrument, or any maintenance procedures. **Such challenges, however, shall not preclude the admissibility of the test once the prosecution or department has made a prima facie showing of the requirements contained in (a) of this subsection.** Instead, such challenges may be considered by the trier of fact in determining what weight to give the test result. (emphasis added.)

Defendant argues that this section makes admissibility of the breath test results mandatory once foundation has been established, and therefore limits a court's ability to be the ultimate arbitrator of admissibility.

The Court rejects defendant's position. In (4)(c), the Legislature has restated a position Washington courts have previously and consistently concluded. For instance, in Seattle v. Allison, 148 Wash. 2d 75, 59 P. 3d 85 (2002), the Court stated:

Once the foundational requirements are established and the test results are admitted, a defendant may then attack the test results in a particular case by introducing evidence refuting the accuracy and reliability of the test reading.

Allison, 148 Wash. 2d at 80, citing, State v. Straka, 116 Wash. 2d 859, 875, 810 P. 2d 888 (1991). While the wording used by the Legislature in SHB 3055 is more detailed and conclusive, the result is the same: if the prosecutor makes a *prima facie* showing, the breath test results go before the jury and any challenges to the accuracy or reliability of

the results go to the weight and not the admissibility. Since this is consistent with long-standing case law, the Court finds no unconstitutional intrusion by the Legislature.

3. Is SHB 3055 unconstitutional because it creates an improper mandatory rebuttable presumption?

Defendant argues that SHB 3055 creates an improper mandatory rebuttable presumption. Her position rests in large part on the notion that it is improper for the court to “assume the truth” of the prosecutor’s evidence in determining a *prima facie* basis to admit the breath test. She contends this creates burden shifting, requiring defendant to affirmatively produce evidence to rebut the validity of the breath tests.

The Court rejects defendant’s arguments. First, the standard for *prima facie* evidence laid out in SHB 3055 is identical with *corpus delicti* cases, and therefore is permissible. State v. Aten, 130 Wash. 2d at 356, 358.

Second, SHB 3055 reiterates long-standing case law on the admissibility standards for breath test results. As Allison makes clear, once the prosecutor has presented a *prima facie* case for foundation, the breath test ticket comes into evidence and “a defendant may then attack the test results in a particular case by introducing evidence refuting the accuracy and reliability of the test reading.” Allison, 148 Wash. 2d at 80. Placing this long-standing principle in the legislation does not create an improper rebuttable presumption.

4. Conclusion.

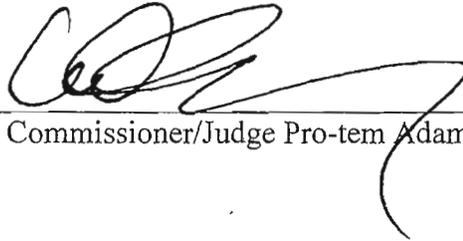
Defendant’s motion to suppress the BAC ticket on the grounds that the title of SHB 3055 violates article II, section 19 is DENIED.

Defendant’s motion to suppress the BAC ticket on the grounds that SHB 3055 violates the separation of powers doctrine is DENIED.

Defendant's motion to suppress the BAC ticket on the grounds that SHB 3055 creates an improper mandatory rebuttable presumption is DENIED.

The Court is aware defendant has a remaining motion regarding foundation and traceability. This motion will go forward as scheduled since it addresses a foundational issue under RCW 46.61.506(4)(a)(iv) relating to admission of the BAC ticket.

DATED this 31st day of March 2005.

A handwritten signature in black ink, appearing to read 'Adam Eisenberg', is written over a horizontal line.

Commissioner/Judge Pro-tem Adam Eisenberg

**Materials received regarding
Rebecca Graham**

Questionnaire, as well as reference checks, candidate interviews and other sources of information. (See Judicial Screening Rules and Procedures.)

The responses to the following questions on the Washington State Governor's Office Uniform Judicial Evaluation Questionnaire may be disclosed to persons other than the Judicial Screening Committee and, in the case of judicial elections, will be publicly available:

Position Sought, Name, Business Address, Business email
Professional History: #8, 9, 10, 11, 12, 13, 14, 15,
Educational Background: #16, 17
Professional Experience: #18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32
Community and Civic Activities: #33

At various times, groups not affiliated with KCBA have rated judicial applicants. The KCBA Judicial Screening Committee's bylaws preclude the Committee from disclosing the names of applicants seeking a rating for appointment to these other groups. However, if you are interested in obtaining the names and addresses of such other rating groups to request this information yourself, you may contact the Executive Director at the KCBA office, telephone: 206-267-7100.

Include the following materials in your application packet:

- Governor's Office Uniform Judicial Evaluation Questionnaire
- KCBA Supplemental Questionnaire
- A writing sample between 5-10 pages, as requested in question 45 of the Governor's questionnaire.

Please be advised that the Judicial Screening Committee may take into account the information provided in the questionnaire, the reference checks, the interview, and any other source of information available to it. Letters of recommendation will not be provided to the Committee and should not be solicited. Supplemental materials such as journal articles, legal research, motions, briefs or other documents that you have filed in court, other than the writing sample specifically called for in the Governor's Uniform Questionnaire, should not be included.

REFERENCES. The Committee finds it useful to speak with attorneys and non-attorneys who are familiar with you. One or more Committee members will attempt to contact each reference listed. All telephone numbers should be current and legible. You may contact references in advance if you so desire. The Committee may also call upon individuals not listed to obtain information.

(1) List the names and phone numbers of up to ten attorneys who have supervised you or who have reviewed and are familiar with your legal work, including your current supervisor and at least one other supervisor from your current workplace and at least one supervisor from each of your prior workplaces during the past fifteen years.

- a. Judge Patricia Clark, King County Superior Court, 206 296-9190
- b. Judge LeRoy McCullough, King County Superior Court, 206 296-9245
- c. Judge Suzanne Barnett, King County Superior Court, 206 296-9213
- d. Judge Judith Eiler, King County District Court, 206-2967794
- e. Judge Albert Raines, former presiding judge, Kirkland Municipal Court, 206-617-4461
- f. Judge Jean Rietschel, former presiding judge, Seattle Municipal Court, 206-386-9032
- g. Judge Robert McSeveney, presiding judge, Kent Municipal Court, 253-856-5730
- h. David S. Marshall, Law Office of David S. Marshall, 206-826-1400
- i. Mark Prothero, former felony supervisor, Associated Counsel for the Accused, 253-520-5000
- j. David Chapman, Director, Associated Counsel for the Accused, 206-624-8105 ext. 237

(2) For the last five appellate matters in which you participated (whether as lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/phone number), and opposing counsel or counsel appearing before you (w/ phone number).

- a. Case Name:
Subject Matter:
Court:
Judge:
Plaintiff's Attorney:
Defense Attorney:
- b. Case Name
Subject Matter
Court:
Judge:
Plaintiff's Attorney
Defense Attorney:
- c. Case Name:
Subject Matter:

Court:
Judge:
Plaintiff's Attorney:
Defense Attorney

d. Case Name:
Subject Matter:
Court:
Judge:
Plaintiff's Attorney:
Defense Attorney

e. Case Name:
Subject Matter:
Court:
Judge:
Plaintiff's Attorney:
Defense Attorney

I certify under penalty of perjury of the laws of the state of Washington that the above information is true, accurate and complete. I agree to notify KCBA if there are material changes in this information between the time the Uniform Questionnaire and this cover sheet are completed and the expiration of any rating received.

Rebecca Graham

Signature

Rebecca Graham

Print Name

3/21/08

Date

THE WASHINGTON STATE GOVERNOR'S OFFICE
UNIFORM JUDICIAL EVALUATION QUESTIONNAIRE¹

Position Sought (Court/Division/District): King County Superior Court

By Appointment: By Election:

Personal Information

1.

Graham	Rebecca	Jean	20494
Last Name	First Name	Middle Name	WSBA Bar Number

2. Business Address: Law Office of Rebecca J. Graham
Business Name

2207 30th Avenue South
Street or P.O. Box

Seattle Washington 98144
City State Zip

Business Phone No. (206) 335-0399
After-hours/direct dial: (206) 335-0399

Work e-mail address: maxwellgraham@yahoo.com

3. Home Address: 2207 30th Avenue South
Street or P.O. Box

Seattle Washington 98144
City State Zip

Home Phone No. (206) 723-0399
Mobile Phone No.: (206) 335-0399

Home e-mail address: maxwellgraham@yahoo.com

4. Date of Birth: 1/15/1963
5. Social Security Number: 

6. City/State/Place of Birth: New York City, New York

¹ The Governor's Office uses this questionnaire exclusively for candidates seeking judicial appointment. The Washington State Bar Association and other state bar associations noted on the last page also accept this questionnaire in their judicial evaluation process. The Governor's Office reserves the right to update this questionnaire and will post updated versions of the questionnaire on the Governor's webpage. Please direct all questions about the questionnaire to the Governor's Office of General Counsel.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Prior Evaluation / Application History

7. Please state the date of all other judicial evaluations you sought, bar polls you participated in, and appointment applications you submitted. Please specify whether you sought appointment or election for each, from whom the evaluation was sought, the position sought, and the outcome.

King County Bar Association, 4/11/05, Exceptionally Well Qualified for appointment or election to the King County Superior Court.

Loren Miller Bar Association, 7/8/07, Extremely Well qualified for appointment or election to the King County Superior Court.

Latina/o Bar Association of Washington, 9/20/05, Well Qualified for appointment or election to the King County Superior Court.

King County Chapter Washington Women Lawyers, 3/24/06, Highly Qualified for appointment or election to the King County Superior Court.

QLaw-GLBT Bar Association of Washington, 8/28/06, Well Qualified for appointment or election to the King County Superior Court.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Professional History

8. Year admitted to practice law in Washington: 1991

9. Employment History (in reverse chronological order):

a. Start Date: September 2001 End Date: current
Organization: Law Office of Rebecca J. Graham
Address: 2207 30th Avenue South, Seattle, Washington 98144
Phone No.: (206) 335-0399
Position/Title: Attorney
Supervisor: self
Nature of Practice (including frequency of court appearances):

I currently serve as a judge pro tem in State Superior and District courts. I preside over juvenile offender, dependency, at-risk youth, truancy, and involuntary commitment calendars in King County Superior Court. In King County District Court, I serve on the criminal, civil, anti-harassment, and traffic calendars. From January 2002 to March 2004, I served as a judge pro tem in Kirkland, Seattle, and Kent Municipal Courts. I have served as a judge pro tem since December 2001 and have sat over 600 days on the bench. I preside over a wide variety of civil, criminal, and family law matters.

I worked for David S Marshall as a contract attorney from February 2006-October 2007. I represented adults and juveniles charged with criminal offenses in state superior court. My practice typically involved obtaining sexual deviancy evaluation and treatment on behalf of my client and negotiating a settlement. I appeared in court 1-2 times monthly. I have also represented clients on anti-harassment and protection order matters.

I was retained by the Seattle Mayor's Office to evaluate the city's car impound clinic from February to May 2003.

The following judges have supervised my work as a pro tem judge:

Judge Patricia Clark, Chief Judge, (206) 296-9190, King County Superior Court, Juvenile Division

Judge LeRoy McCullough, King County Superior Court, (206) 296-9245.

Judge Harry McCarthy, King County Superior Court, (206) 296-9209.

Judge Suzanne Barnett, King County Superior Court, (206) 296-9213.

Judges Linda Jacke, (206) 296 3660 and David Steiner, (206) 296-3685, King County District Court, Northeast Division.

Judge Judith Eiler, King County District Court (206) 296-7794.

Judge Albert Raines, former presiding judge, (206) 617-4461, Kirkland Municipal Court.

Judge Robert McSeveney, presiding judge, (253) 856-5730, Kent Municipal Court.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

9. Judge Jean Rietschel, presiding judge, (206) 386-9032, Seattle Municipal Court.

David S. Marshall can be reached at (206) 826-1400.

Reason for leaving: None.

b. Start Date: September, 1990 End Date: September, 2001
Organization: Associated Counsel for the Accused
Address: 110 Prefontaine Place, Seattle, Washington 98104
Phone No.: (206) 624-8105
Position/Title: Staff Attorney
Supervisor: David Chapman
Nature of Practice (including frequency of court appearances):

Indigent defense of persons accused of felonies and misdemeanors, including juvenile defendants.
Daily court appearances in Superior, District and Municipal courts.

Reason for leaving: Resigned following birth of second child.

c. Start Date: September, 1988 End Date: May, 1990
I left this office in December 1989 when I went to work for the Law Office of David Graham. I returned to this office in April 1990 where I remained until June 1990.
Organization: State of New Mexico Public Defender
Address: 301 North Guadalupe Street, Santa Fe, New Mexico 87501
Phone No.: (505) 827-3100
Position/Title: Staff Attorney
Supervisor: Jeffrey Jones
Nature of Practice (including frequency of court appearances):

Indigent defense of persons accused of felonies and misdemeanors. Daily court appearances in adult felony and misdemeanor courts.

Reason for leaving: Relocated to Seattle, Washington.

e. Start Date: December, 1988 End Date: May, 1990
Organization: Law Office of David Graham
Address: 323 Los Pamos Road, Taos, New Mexico 87571
Phone No.: (907) 752-0808
Position/Title: Associate attorney
Supervisor: David Graham
Nature of Practice (including frequency of court appearances):

General civil and criminal practice. I handled civil, criminal, and administrative matters. I was a court appointed guardian ad litem on a litigated dependency matter, represented clients on contract disputes, personal injury, and criminal matters. Infrequent court appearances.

Reason for leaving: Relocated to Santa Fe, New Mexico and returned to state public defender office.

10. Please list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.

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Federal Court for the Western District of Washington, admitted October 2005
Washington State Bar, admitted 1991
State Bar of New Mexico, admitted 1988. Voluntarily resigned 2005.

11. Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.

Loren Miller Bar Association, co-chair judicial evaluations committee, 1996-1998.
King County Washington Women Lawyers, board member, 1998, 2003-04.

12. Are you in good standing in every bar association of which you are a member? Yes/No. If you answered "no", please explain.

Yes.

13. If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. Please state the dates of service for each.

None.

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14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported (and copy of the opinion).

1. In 2003, while serving on the board of King County Washington Women Lawyers as minority bar liaison, I designed and organized a forum to encourage women, particularly women of color, to pursue judicial careers with the goal of improving diversity on the bench. I created an agenda that included preparing for a judicial career, running for election vs. the appointment process, and balancing career and family. I solicited a diverse panel of eleven judges and two non-judicial officers. I moderated the event, which was presented as a Continuing Legal Education course entitled "So You Want to be a Judge." I was proud to present this Continuing Legal Education course, as I believe that a diverse and inclusive bench furthers the goal of access to justice.

2. I have served over 250 days as a pro tem judge and family law commissioner in King County Superior Court, Juvenile Division. I am one of a handful of attorneys, who are not retired judges, who preside as pro tem judges in the Court. I believe I have earned the respect of the judges in whose courts I preside and the attorneys who appear before me for my demeanor, knowledge of the law, preparedness, decision-making ability, fairness, and compassion.

3. I co-chaired the Loren Miller Bar Association Judicial Evaluations Committee from 1996-98. We evaluated and rated candidates for judicial office on behalf of the African-American Bar. As committee chair, I strived to ensure that candidates who received our highest ratings demonstrated a commitment to diversity and sensitivity to minority issues.

4. I represented a 19-year-old woman who was the sole caretaker for her 3-month-old baby. She was charged with 2 counts of conspiracy to deliver cocaine, charges that would have resulted in a lengthy prison sentence had she been convicted. Over the course of my representation, I learned her tragic history, which included physical and sexual abuse, the recent death of her father, and the domestic abuse she suffered at the hands of her ex-boyfriend who was the baby's father. I engaged the services of an expert psychologist, who concluded that she was a domestic violence victim and was coerced into participating in drug activity by her violent and abusive boyfriend. The charges were reduced to one count of possession of cocaine to which she pleaded guilty and received an alternative sentence of community service and probation. (*State v. Nancy Scheimann*, 1998).

5. I was selected as co-counsel, with Louis Frantz, to represent a defendant charged with first-degree rape and first degree kidnapping where the primary evidence involved DNA. At the time, DNA evidence was not generally admissible, as the science was not generally accepted as reliable within the scientific community. Both the State and defense retained and exhaustively interviewed experts from both sides to testify regarding the statistical and molecular biology of DNA evidence. I was the first female attorney in our large office to handle a complex case involving DNA evidence. (*State v. David Purnell*, 1993).

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15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.

1. I presided over a hearing where a 17-year-old youth had a warrant outstanding for a year and a half. He was a dependent child though Department of Children and Family Services was not actively involved with him since he refused services, was on runaway status, and lived on the streets. His former case manager from the Department of Social and Health Services appeared at the hearing. The youth said he was tired and scared of living on the streets and asked for help. The social worker agreed to place him in group care but the youth needed a parent to sign a voluntary placement agreement. His only parent resided in the King County jail. I continued the matter one day, kept the youth in detention, and set it before the dependency judge. The father was transported to court the next day, signed the voluntary placement agreement, and the youth was released to DSHS to be placed in a group home. Many cases I hear are significant and unique in their own way, but the most gratifying are those where everyone works together to serve the needs of troubled and challenging children. (January 2005)

2. I presided over an arraignment and detention hearing where the youth was charged with delivery of controlled substance. Her adult sister appeared with her but no parent appeared. The youth lived with her mother who was a drug addict and recently had given birth to a drug-addicted infant. The youth showed a lot of promise despite her poor home environment. Her sister loved and cared for her even though their only bond was an absent father and they had met only a few years earlier. I was touched by the compassion of the adult sister for her younger sibling who agreed to take responsibility for her while the matter was pending and the youth agreed to live with her and follow the rules in her sister's home. I remain hopeful that with consistent care and nurturing, this youth will turn around and reach her potential. (December 2004)

3. As a pro tem dependency commissioner, I presided over a motion to remove a 2 year old child from the foster home he had been in since birth because the foster parents tested positive for marijuana. Testimony showed that the foster parents nurtured and provided for the child and that the child was thriving in the home. A subsequent urinalysis test showed the parents' THC (marijuana) levels were declining, suggesting they were not currently using drugs. I ruled to keep the child in the home and ordered the foster parents to obtain a drug and alcohol evaluation, follow treatment recommendations, take regular and random urinalysis, and gave the Department of Social and Health Services authority to remove the child if there was another positive urinalysis. This was significant because of the balance of protecting the child from potential harm while making sure he had nurturing, stable, and consistent parenting. (June 2004)

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15. Continued.

4. As a pro tem juvenile court judge, I denied a motion for a deferred disposition which allows dismissal of a felony charge if the juvenile follows all court imposed conditions for a period of supervision. The following week, a different judge granted a deferred disposition to a co-respondent who was similarly situated. The defense moved for reconsideration in my case. I denied the motion but it raised legitimate concerns about disparate treatment of similarly situated offenders. I raised this issue with the presiding judge to try to correct the problem of having different judges reach significantly different outcomes given similar facts. (June 2004)

5. I presided over a probation violation in Kent Municipal Court. The defendant was a young woman with a four-month-old baby who had a long history of criminal convictions. She repeatedly violated the conditions of her probation with new law violations and using alcohol and drugs. While her attorney advocated for her to remain out of custody to care for her child, I believed the needs of her child and the community were best served by a lengthy jail sentence. I sentenced her to four months in jail where she had an opportunity to get the drug and alcohol treatment and parenting skills she needed. (2004)

6. I represented a woman confined to a wheelchair with multiple sclerosis and severe depression charged with arson in the first degree. She attempted suicide by overdosing on medications and then by attempting to burn herself. A serious fire resulted in her apartment complex from which she escaped without injury though she was hospitalized for the drug overdose. I tried this matter to jury using a diminished capacity defense and engaged an expert psychologist who testified at trial. The State presented expert testimony about the likely cause and path of the fire. The jury convicted her of the misdemeanor charge of reckless endangerment in the second degree. This matter was significant because of the complex issues regarding my client's mental health and disabilities as well as for the complex issues regarding fire investigation. (1994)

7. I represented an Egyptian man at trial accused of custodial interference who took his children from their custodial parent (mother) to Egypt. The trial lasted three weeks and involved numerous novel issues of jurisdiction, cultural and language, and Egyptian law, as the children were taken first to Canada with the mother's consent and then to Egypt, without her consent. My client was found guilty and repeatedly refused to disclose the whereabouts of the children despite civil contempt proceedings that resulted in him serving more jail time than he served on the criminal charges. (1994)

8. In one of my first felony cases as a King County public defender, I represented a developmentally disabled man accused of assault in the second degree, "shaken baby" syndrome, against his child. After extensive investigation with numerous medical experts, the charge was reduced to assault in the fourth degree. The case presented complex medical issues (particularly since the baby had a history of seizures from birth), and issues regarding care taking of children by parents with developmental disabilities. (1993)

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Educational Background

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

New School for Social Research 1977-78, Freshman Year Program for advanced high school seniors. Most students transfer to four-year institutions following this program.

State University of New York, College at Purchase, 1979-1983, Bachelor of Arts in Political Science.

17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

University of New Mexico Law School	1985-1988 Dates of Attendance	Juris Doctor Degree
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Professional Experience

18. Please summarize, briefly, the general nature of your current law practice.

I work primarily as a judge pro tem and family law commissioner in King County Superior Court and King County District Court. I serve or have served on the juvenile offender calendar, the dependency calendar, the at-risk youth and truancy calendars, and the involuntary commitment calendars in Superior Court. I serve on all calendars in King County District Court including jury trials, civil non-jury trials, civil motions, sentencings, reviews, pre-trials, and anti-harassment/protection order calendars

19. If you are in practice, please describe your typical clients and any areas of special emphasis within your practice.

NA

20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.

As a state public defender, my clients were all found to be indigent. I did not have any special emphasis but worked in all state courts, superior, district, and municipal. The work I did for David Marshall involved the complexity of child sexual abuse. My clients were typically first time offenders who had mental illness and/or were in need of sexual deviancy treatment. This area of law involves the interchange of expert sexual deviancy evaluators, treatment providers, and mental health professionals.

21. Within the last 5 years, did you appear in trial court:

Regularly Occasionally Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

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Regularly Occasionally None. Infrequently

23. Within the last five years, how often did you appear in the court for which you are applying:

Regularly Occasionally X Infrequently

24. Career Experience

Over the last five years, I have had few court appearances as a practicing attorney as I have mostly worked as a judge pro tem. In the past two years, I have appeared in court as an attorney less than 10 times. I have not participated as a lawyer in a trial over the last five years.

(a) What percentage of your appearances in the last five years was in:

(1) Federal appellate courts	_____	%
(2) Federal trial courts	_____	%
(3) State appellate courts	_____	%
(4) State trial courts	<u>80</u>	%
(5) Municipal courts	<u>20</u>	%
(6) District courts	_____	%
(7) Administrative tribunals	_____	%
(8) Tribal courts	_____	%
(9) Other	_____	%
TOTAL		100%

(b) What percentage of your practice in the last five years was:

(1) Civil litigation (excl. family law)	_____	%
(2) Criminal litigation	<u>80</u>	%
(3) Family law litigation	<u>20</u>	%
(4) Non-litigation	_____	%
TOTAL		100%

(c) What percentage of your trials in the last five years were:

(1) Jury trials	<u>0</u>	%
(2) Non-jury trials	<u>0</u>	%
TOTAL		100%

(d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel; jury trials; and trials were you were the arbiter/decision maker.

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<u>Number</u>	<u>Court</u>	<u>% as Sole / Chief Counsel</u>	<u>% Jury</u>	<u>% as the Arbiter</u>
170+	Municipal	100%	80%	5%
80+	State Dist.	100%	80%	20%
60+	State Superior	100%	35%*	30%
_____	Federal Dist.	_____	_____	_____
_____	Administrative	_____	_____	_____
_____	Tribal Courts	_____	_____	_____
_____	Other	_____	_____	_____

*Approximately 20 of the trials I took to verdict in Superior Court involved juvenile defendants that are tried to the bench. The cases where I was the decision maker in Superior Court were all tried to the bench.

(e) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

1. State v. Billy Staples, Judge Larry Jordan (retired), (206) 223-1669. I no longer recall the name of the prosecutor. This was my first felony trial in King County. My client was an 18 year-old African-American man charged with delivery and possession of cocaine in two separate incidents. He faced a significant amount of time in prison. He was released on his personal recognizance but was returned to jail pending trial. When his trial date was set beyond the maximum time limit, I filed a written objection but the date went unchanged. The day of trial, I moved to dismiss the charge on speedy trial grounds. After a day of argument and deliberation, the Judge dismissed the delivery charge on speedy trial grounds. We then moved to suppress his arrest and search on the unrelated possession of cocaine charge based on lack of reliability of the informant. The Judge found the officer lacked probable cause and the charge was dismissed. 1992.

2. State v. Hussein Khedr, Judge Leroy McCullough, (206) 296-9245, Laura Banks, prosecutor, (206) 542-1840. My client was an Egyptian man charged with custodial interference who had taken his children, in violation of a court order, to Egypt. The case addressed many complex issues involving family law and the application of Egyptian law on his right to remove his children. This case was tried to jury. 1993.

3. State v. Cesar Gardner, Judge Brian Gain, (206) 296-9170 opposing counsel, Catherine Shaffer (now Superior Court judge), (206) 296-9185. A young man pleaded guilty to a charge of burglary and then successfully withdrew his plea. I represented him on the plea withdrawal and trial, which had a memorable moment when, during trial, the homeowner was shown an item presumably taken from his house during the burglary and denied that it belonged to him. This case was tried to jury. 1994.

4. State v. Melvin Modest, Judge Donald Haley, (retired), (206) 524-1080, opposing counsel, Renee Cespedes, (425) 462-6434. Drug delivery charge involving police sting operation and multiple police witnesses whose testimony differed substantially from their written reports. This case was tried to jury. 1994.

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(e) Continued.

5. State v. Tuong Huynh, Judge Anthony Wartnik (retired), (206) 290-0451, opposing counsel, Andrew Herman, (206) 343-4583 ext.104. This was a juvenile case where my client was charged with assault in the 2nd degree based on accomplice liability. I interviewed numerous witnesses and developed the theory that while the youth had been at the scene of this violent shooting, he had not actively participated in the offense. After many days of trial the youth was acquitted. This case was tried to the bench. 1997.

(f) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

None.

25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

I completed a five-day mediation-training course through the University of Washington School of Law in 2005. This training has served me well on the bench as many of the disputes that come before me can be resolved when the parties have a judge who listens well and is able to suggest solutions.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

None.

27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

I am the current chair of the Ethnic Diversity in the Legal Profession Committee with the King County Bar Association.

I co-chaired the Loren Miller Bar Association judicial evaluation committee for three years from 1996-1998.

I served as a board member for the King County Chapter of Washington Women Lawyers for three years in 1998 and 2003-04.

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed/elected and are seeking a judicial position.

I have the breadth of experience, integrity, compassion, common sense, and commitment to justice to be an excellent asset to the bench. I am well prepared to step into a position of leadership. I am particularly interested in juvenile and family court where I may continue to work on issues that help strengthen fragile families and children.

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29. In 50 words or less, please describe your judicial philosophy.

I treat all people who appear before me with dignity and acknowledge their humanity. I am well prepared, listen actively, set clear expectations, and am courteous. I take an active role to ensure that parties' rights are honored while balancing the needs of public safety.

30. Have you ever held a judicial office or have you ever been a candidate for such office? Yes / No. If you answered "yes", please provide details, including the courts involved, whether elected or appointed, and the periods of your service.

No.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? Yes / No. If you answered "yes", please provide details, including the offices involved, whether elected or appointed, and the length of your service.

No.

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

Since May, 2004, I have served as a pro tem judge on the juvenile offender calendar and as a family law commissioner on the dependency, at-risk youth, children in need of supervision (CHINS), truancy, and involuntary commitment calendars in King County Superior Court. I hear a wide variety of civil, criminal, and family law matters including juvenile offender fact-findings (bench trials), dependency, truancy and at-risk youth fact-findings, criminal and family law motions, arraignments, detention reviews, probation modifications, pleas and sentencings.

I have served as a pro tem judge in district and municipal courts. From 2005-present, I served as a pro tem judge in King County District Court on the criminal, small claims, domestic-violence anti-harassment/protection order, and traffic calendars. I have presided over several jury trials, (including domestic violence trials), civil and criminal bench trials, numerous small claim trials, motions, probation reviews, pre-trial hearings, arraignments, and contested traffic hearings.

From January 2002-2003, I served as a pro tem judge in Kirkland, Kent, and Seattle Municipal Courts. I presided over criminal and civil calendars including two domestic violence jury trials, numerous bench trials and motions, probation reviews, arraignments, pre-trial hearings, contested traffic matters, and a civil trial concerning a vehicle impound.

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32. Continued.

The following is a non-exhaustive list of attorneys who have appeared before me frequently or on matters of substance. This list represents attorneys who have appeared before me in different courts and calendars.

Kenneth Bromet, (206) 325-1929
Christine Wyatt, (206) 842-5083
Renee Alsept, (206) 447-3900 ext. 726
Robert Jourdan, (206) 322-2062
Kimberly Exe, (206) 322-8400 ext. 3126
Jomel McNair, (425) 778-2429
David Smith, (206) 816-1392
Kim Ambrose, (206) 543-3434
Brad Meryhew, (253) 852-6600
Liza Burke, (206) 624-9694
Benjamin Santos, (206) 205-7431
Devon Gibbs, (206) 447 3900 ext 779, (206) 341-4106
Maureen Mckee, (206) 447-3900 ext. 503
Joseph Marshall, (425) 486-8138
Jonathan Milstein, (206) 464-7829
Kevin Trombold, (206) 382-9200
Stephen Lotzkar, (425) 643-9424
Jeanne Mucklestone (206) 623-3343
Francisco Duarte, (425) 451 1995
Russell Joe, (425) 451-1995
Jana Heyd, (206) 322-8400 ext. 7763

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Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.

I am a board member of the Northwest Children's Fund, an organization that grants money to social service agencies that help abused and neglected children and their families. Each board member is responsible for a substantial financial contribution, fundraising, assisting with the annual auction, and visiting the agencies we fund. I am familiar with many of the agencies through my work as a pro tem judge in juvenile court including the Pediatric Interim Care Center (provides skilled post natal care for infants born to drug or alcohol addicted mothers), Ryther Child Center (provides therapeutic in-patient care to seriously developmentally and emotionally disturbed youth), and Childhaven (provides therapeutic childcare to foster children). I joined this board in October 2006.

I am active in my children's schools and volunteer regularly in the classroom and serve lunch in the cafeteria. Each year, we adopt a family in need for the holidays. I participate in kindergarten recruitment. In 2005, I coordinated the dessert auction part of the school's general auction and raised over \$3000.

Our family is a member of Temple Beth Am, a reform synagogue, where our children attend Hebrew school.

I was a volunteer coach for the Mt. Baker-Lakewood soccer team in the Fall of 2006. I organized the end of the season party and recognition for the lead coach.

Since 2003, I have organized and served meals to the women and staff at Jubilee House, a transitional shelter for homeless women on Capitol Hill. I have done this through King County Washington Women Lawyers and also individually.

I spearhead our neighborhood emergency preparedness planning. We meet to discuss planning for an emergency, such as a blackout or earthquake, caring for elderly or ill persons, identifying neighbors with special skills, and having a phone tree to check on the health and safety of all in the event of an emergency. I teach about preparing a three-day emergency kit and distribute city handbooks on emergency preparedness. I recently completed a wilderness emergency first aid class offered through the Mountaineers Club.

I participate yearly in the YWCA "Clean Your Closets" week, a program for professional women to donate gently used professional clothes to low-income women newly entering the work force.

In 2002, I served as co-chair on the board of the Mt. Baker Preschool Cooperative. I was responsible for recruiting new families, running monthly parent meetings, resolving conflicts, and overseeing budget and contract negotiations.

I am a School Days sponsor through the YWCA and I purchase and donate back to school supplies and clothing for needy families.

My family volunteers for the annual Mt. Baker Day in the Park, the Mt. Baker Children's garden, and our neighborhood P-Patch, Bradner Gardens.

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Discipline and Disputes

34. Have you ever been held, arrested, charged or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation or ordinance? Yes / No. If you answered "yes", please provide details. (Do not include traffic violations for which a fine of \$150.00 or less was imposed.) Please feel free to provide your view of how it bears on your present fitness for judicial office.

No.

35. Has a client ever made a claim or suit against you for malpractice? Yes / No. If you answered "yes", please provide details and the current status of the claim and/or suit.

No.

36. Please describe your direct experience, if any, with domestic violence and sexual harassment.

I have presided over two domestic violence jury trials and the domestic violence protection order calendars in King County District Court. I am familiar with the judges' handbook on domestic violence. As an attorney, I have represented many individuals charged with domestic violence or who were victims of domestic violence. While in college, I was a paid staff member at a domestic violence shelter in Westchester County, New York where I was the sole staff person from 10 p.m. to 6 a.m. I also volunteered at a domestic violence shelter in Albuquerque, New Mexico and where I provided counseling and support for the women and their children.

37. Have you been a party in interest, witness, or consultant in any legal proceeding? Yes / No. If you answered "yes", please provide details. Do not list proceedings in which you were merely a guardian ad litem or stakeholder.

Yes.

I was a plaintiff in an automobile accident in King County, Washington in 2006. The case settled prior to trial. *Rebecca Graham v. Benjamin Zapata et.al, 05-2-13592-1SEA*

My husband and I were plaintiffs in a matter concerning a consumer protection act violation. *Rebecca J. Graham and Michael A. Maxwell, husband and wife v. Wells Fargo Home Mortgage*. King County District Court West Division Cause no. 45-7490: filed September 13, 2004. The matter settled prior to trial.

I was named as a defendant in Federal District Court by a pro se litigant arising out of a criminal matter in my capacity as a judge pro tem in Kirkland Municipal Court. The matter was dismissed. *David R. Myrland v. City of Kirkland, et.al*. Case no. C04-1640L. United States District Court for the Western District of Washington

I was a plaintiff in a case involving an automobile accident in Santa Fe County, New Mexico in 1998. The case settled prior to trial. I no longer have the case name or cause number.

I was a party in non-contested marriage dissolution. King County Superior Court. *Rebecca J. Graham v. Mason I. Flint, 92-3-09214-3*. Filed December 4, 1992.

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38. Have you ever been the subject of a complaint to any bar association, disciplinary committee, court, administrative agency or other professional group? Yes / No. If you answered "yes", please provide details.

No.

39. Have you ever been disciplined or cited for breach of ethics or unprofessional conduct? Yes / No. If you answered "yes", please provide details.

No.

40. If you have served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you? Yes / No. If you answered "yes", please provide details.

No.

41. Are you aware of anything that may affect your ability to perform the duties of a judge? Yes / No. If you answered "yes", please provide details.

No.

42. Have you published any books or articles in the field of law? If so, please list them, giving the citations and dates. Also, please give the dates and forums of any Continuing Legal Education presentations that you have made.

I presented a CLE, "So You Want to be a Judge" in 2003 when I was the minority bar liaison for King County Washington Women Lawyers.

I presented a CLE titled "Real and Demonstrative Evidence" in 1996 to the attorneys with whom I worked as a public defender. In conjunction with this, I authored a 15-page summary and analysis of common evidentiary issues that was distributed to all staff attorneys in the office. It was titled "Real and Demonstrative Evidence: Trial Worksheets for Working Attorneys." It covered the relevant evidence rules on admitting real and demonstrative evidence as well as introducing and authenticating evidence such as exhibits, recordings, fingerprints, public records, photographs, and prior testimony.

43. Please list any honors, prizes, awards or other forms of recognition that you have received and whether they were professional or civic in nature.

I received the Washington Women Lawyers Chapter Member of the Year award in 2004 for my work on the CLE "So You Want to be a Judge" and for my efforts organizing meals for Jubilee House, a transitional housing shelter for homeless women.

In law school, I received an award for highest GPA among African-American students.

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44. Are you aware of anything in your background or any event you anticipate in the future that might be considered to conflict with the Code of Judicial Conduct? Yes / No. If you answered "yes", please explain.

No.

45. Please provide a writing sample of your work (between 5 and 10 pages long), written and edited solely by you, within the last 4 years.

Attached.

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Access to Justice

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46. Please describe activities that you have engaged in to eliminate bias or improve access to the judicial system for indigent populations and ethnic, racial and sexual minorities. As a member of the bench, what, if any, role do you believe a judge has to enhance equal access to justice?

I believe judges have a duty to enhance equal access to justice both in the courtroom and in the community and to continue to improve legal services provided to people of limited economic means.

I chair the Ethnic Diversity in the Legal Profession Committee with the King County Bar Association. We engage in many activities to improve access and eliminate bias to the legal profession for racial and ethnic minorities. Our committee decides how to allocate scholarship to the University of Washington and Seattle University Law Schools based on their efforts to improve student and faculty minority representation, we host a courthouse tour for minority law students, and we host continuing legal education and other programs to encourage retention of and facilitate networking for minority lawyers.

I am a mentor to law students both at the University of Washington and Seattle University. My most recent mentee is an African-American woman who wishes to be a judge. I was honored when she recently asked me to sign her "declaration of moral character" for admission to the Washington State Bar. I have mentored four law students.

I am active in the Loren Miller Bar Associations' Fresh Start program. This program was started two years ago to help disadvantaged youth expunge or seal their juvenile court convictions so they would not have a barrier to college, employment, or housing. I developed written materials on the law of sealing and expunging that we use in our presentations. We also encourage minority youth to make good choices and avoid activities that could lead to criminal charges by discussing the consequences of getting into trouble with the courts and providing positive role models.

I served as a board member of King County Washington Women Lawyers in 1998, 2003, and 2004. In my first year, I served as an at-large member and in my subsequent two years as minority bar liaison. KCWWL's mission is to promote and provide support and access to women in the law. One of my goals was improving access to judicial careers for women of color and women lawyers with children. In 2003, I spearheaded a CLE, titled "So You Want to be a Judge". The goal of this CLE was to demystify the judicial election and appointment process for all women, particularly women of minority backgrounds. I included as many women speakers of color on the panel and reached out to other minority bar organizations to publicize the event. The topics covered challenges facing women of color and sexual minorities running for office and serving as judicial officers.

I participated as a judicial panelist in the "Choices Conference" sponsored by Seattle University Law School in 2005. This conference is designed to promote leadership and options for law students and I spoke about the many paths to becoming a judge as well as the opportunities a career on the bench may bring.

I was asked to facilitate an Initiative for Diversity Governing Council (IDGC) meeting. This diverse group of attorneys meets to implement changes in the way all law firms, public and private, hire and retain a diverse professional work force.

I am a volunteer attorney for Youth and Law forums, which are designed to help underprivileged youth gain an understanding of our criminal justice system with the goal of keeping our youth out of trouble. These forums expose children to a wide range of role models, from police and judges to prosecutors and criminal defense lawyers.

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46. Continued.

I served as co-chair of the Loren Miller Bar Association Judicial Evaluation Committee from 1996-98. During my tenure, I established procedures and guidelines designed to assist committee members in the evaluation process and minimize the potential for bias. Many of the procedures and guidelines I implemented are still used today. It is an important goal of the LMBA judicial evaluation committee to recommend candidates for judicial office who are highly competent, fair, actively involved in the community and committed to equal access to justice and diversity in the courts.

I organized a CLE on reading Court Services Sheets at the Regional Justice Center for judges and attorneys who relied on the information in making recommendations and decisions regarding pre-trial release. Many court personnel misinterpreted this information to the detriment of criminal defendants. My goal was to educate judges and attorneys so that the parties would be better able to make well-informed decisions on release issues, a matter of great significance to the majority of poor and minority defendants.

I volunteer for and donate money to the Hate Free Zone, an organization that provides legal services to immigrants targeted by discrimination.

I was a volunteer attorney for the Northwest Battered Women's Coalition. The NWBWC was formed to assist incarcerated defendants before the Indeterminate Sentencing Review Board who had been convicted of murdering their spouse or significant other and had claimed, unsuccessfully, a battered spouse defense. I investigated my client's claim, filed a brief, and appeared and argued the issue before the Indeterminate Sentence Review Board.

47. Please describe the frequency, time commitment and substantive nature of your direct participation of free legal services to indigent populations, and ethnic, racial and sexual minorities.

I am involved in the Fresh Start program through the Loren Miller Bar Association. We developed a program to go to schools and other organizations where disadvantaged youth are disproportionately represented to discuss the dangers of getting into trouble with the law and how to seal, vacate or expunge a juvenile record. I actively participated in the formation of this program, developed the written materials, and presented the material to the involved lawyers. I have participated in presenting the forum to youth. I estimate my time commitment thus far to be approximately 30 hours.

I am on the board of the Northwest Children's Fund, an organization that grants money to social service agencies that help abused and neglected children and their families. While I do not provide legal services, we fund agencies that provide legal services to children of immigrants. This grant cycle, I have the privilege of visiting the Immigrant Rights Project to determine how much money we will give to their program that provides legal services to undocumented children so they may obtain legal residence. This is a working board and I spend approximately 10-20 hours monthly between fund-raising, visiting organizations, and board meetings.

I have facilitated the Initiative for Diversity Governing Council, a group of diverse lawyers who are working on a resolution to ensure that all private, public, and government law firms recruit and retain a diverse legal work force. I spent approximately 10 hours on this one time opportunity.

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47. Continued.

I volunteered to represent an incarcerated individual who could no longer afford counsel and was no longer eligible for public defender services through the Northwest Battered Women's Coalition. I investigated my client's claim of spousal abuse, prepared a brief for the Indeterminate Sentence Review Board (ISRB) and argued the issue before the board. I estimate my time commitment to be approximately 60 hours.

I volunteered to assist the Hate Free Zone on their first fund raising auction and have given them financial support. The HFZ is an organization that provides free legal services to immigrants who have been targeted by discrimination. I estimate I spent 20 hours as a volunteer.

As a state public defender for twelve years in both King County and New Mexico, I worked daily to provide excellent legal representation to persons of limited financial means. The majority of my clients were persons of color or ethnic minorities. Many were sexual minorities. It is an integral part of our criminal justice system that defendants who cannot afford private counsel have access to competent counsel. I believe I represented each of my clients to the best of my ability and within the guidelines of the law. As this was my full-time employment, I averaged over 160 hours monthly.

Diversity in the Legal Profession

48. Please briefly describe your understanding of the issue of "diversity within the legal profession."

Diversity in the legal profession means that women and all minorities, including sexual minorities, and the disabled, are well represented at all levels in the legal profession and that law firms and government agencies actively recruit and retain these groups.

References

It is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. One or more participants in the evaluation process may contact each of your references. All telephone numbers should be current and legible. If a reference is unreachable, your rating/evaluation may be delayed. Please use a separate piece of paper for each list. You may contact references in advance if you so desire. Individuals not listed by you as a reference may be contacted to obtain information about you.

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49. If you have been in practice within the past fifteen years, list the names and phone numbers of ten opposing counsels who know you best, including at least three opposing counsels on cases that went to trial.

1. Judge Catherine Shaffer, King County Superior Court and former King County Senior Deputy Prosecutor, (206) 296-9185 (*State v. Cesar Gardner*, jury trial, 1994)
2. Bonnie Glenn, King County Senior Deputy Prosecutor, (206) 296-9035
3. Roger Rogoff, former Senior Deputy Prosecuting Attorney, (206) 553-7970
4. Kathy Goater, former King County Senior Deputy Prosecutor, (206) 622-8000
5. Janice Albert, former Seattle City Attorney, (425) 388-3417
6. Drew Kirby, former Seattle City Attorney, (425) 487-2927
7. Renee Cespedes, former King County Deputy Prosecutor, (425) 462-6434 (*State v. Andres Hernandez*, jury trial, 1994; *State v. Jerry Jones*, suppression hearing, 1994; *State v. Melvin Modest*, jury trial, 1994)
8. Veronica Galvan, former Seattle City Attorney, (206) 464-5446
9. Charles Lind, former King County Senior Deputy Prosecutor, (253) 373-7842
10. Laura Banks, former King County Deputy Prosecutor, (206) 542-1840 (*State v. Hussein Khedr*, jury trial, 1993)

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50. If you have been a judge or otherwise have served as a neutral decision-maker within the past fifteen years, please list the names and phone numbers of the last ten attorneys who have appeared before you.

1. Robyn Painter, (206) 372-7549
2. Rebecca Vasquez, (206) 841-1297
3. Kirk Davis, (206) 684-9339
4. Devon Gibbs, (206) 447-3900 ext 779 or (206) 341-4106
5. Tomacki Kim (206) 849-6750 or (206) 322-8400 ext.3816
6. Renee Cespedes, (425) 462-6434
7. Danika Adams, (206) 205-7069
8. Stephen Hayne, (425) 450-6800
9. Tomas Gahan (206) 28880
10. Ted Barr, (425) 462-4224

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51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.

1. Susan Fox, Director, Jubilee House, (206) 325-2163
2. Victoria Helm, Director, Northwest Children's Fund, (206) 682-8447
3. Ann Lokey, Board Member, Northwest Children's Fund, (206) 232-9597
4. Barbara Deming, Program Project Manager, Community Corrections Division,
(206) 296-3408
5. Holly Morris-Bennet, former U.S. attorney, (206) 779-9349
6. Darling Johnson, King County Juvenile Court Probation Officer, (206) 296 1529

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52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).

- (1) Case Name: State of Washington v. Jan Wahlstrom
Subject Matter: Jury Trial, Hit and Run Attended, Driving While License Suspended
Court: King County District Court, Redmond Division
Date: January 10th, 2008
Judge: Self
Prosecutor: Danika Adams (206) 296-9000
Defendant's attorney: Kirk Davis (206) 684-9339
- (2) Case Name: City of North Bend v. Jessica L. Allen
Subject Matter: Jury trial, assault 4th degree, domestic violence
Court: King County District Court, Issaquah Division
Date: June 13, 2005
Judge: Self
Prosecutor: Roman Dixon (253) 804-3117
Defendant's attorney: Moi Masania (Mr. Masania is working in American Samoa and can be reached by email @moi_jr@hotmail.com
- (3) Case Name: State of Washington v. Marissa Mackay
Subject Matter: Bench trial, assault 4th degree, domestic violence
Court: King County Superior Court
Date: May 10th, 2005
Judge: Self
Prosecutor: Claire Gilchrist (206) 296-9588 or 296 9000
Defendant's attorney: Robert Jourdan (206) 322-2062
- (4) Case Name: State of Washington v. Jae Gary
Subject Matter: Bench trial; assault 4th degree
Court: King County Superior Court
Date: January 7, 2005
Judge: Self
Plaintiff's attorney(s)/Prosecutor(s): Alexandra Keller (206) 296-9000
Defendant's attorney(s): Renee Alsept (206) 447-3900 ext. 726
- (5) Case Name: In Re Dependency of Jaden Wisner
Subject Matter: 72 hour shelter care hearing
Court: King County Superior Court
Date: October 22, 2004
Judge: Self
Plaintiff's attorney(s)/Prosecutor(s): Jonathan Milstein (206) 464-7829
Respondent's attorney(s):
Jana Heyd, attorney for mother, (206) 322-8400 ext. 7763;
Michael Stoddard, attorney for father, (206) 674-4700 ext. 3172

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53. List the names and phone numbers of ten additional attorneys familiar with your professional qualifications, skills, experience or attributes.

1. Judge Anne Schindler, Washington State Court of Appeals, (206) 464-7659
2. Judge Deborah Fleck, King County Superior Court, (206) 296-9273
3. Judge Michael Spearman, King County Superior Court (retired), (206) 223-1669
4. Judge Richard Jones, Federal District Judge, (206) 370-8870
5. Justice Charles Z. Smith (retired), Washington State Supreme Court, (206) 324-0776 or (360) 273-0964
6. Judge Theresa Doyle, King County Superior Court, (206) 296-9144
7. Judge Robert Alsdorf King County Superior Court (retired), (206) 628-7696
8. Judge Larry Jordan, King County Superior Court (retired) (206) 223-1669
9. Ronald Ward, (206) 957-1272
10. Ms. Marcella Fleming-Reed (425) 424-1232 ext.114

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Certification

54.

By signing below, I declare under penalty of perjury under the laws of the State of Washington that the information provided by me in responding to this questionnaire is true and correct to the best of my knowledge.

Date: 3/26/08 Signature: Rebecca Shaw

NOTE: The Governor's Office strongly encourages individuals seeking judicial appointment to utilize, to the fullest extent possible, the ratings processes from state, county, and minority bar organizations. Contact information for the minority bar associations can be found on the Washington State Bar Association's website at (<http://www.wsba.org/public/links/minoritybars.htm>). It is the applicant's responsibility, however, to obtain these evaluations in a timely manner. To that end, all applicants are strongly encouraged to commence the evaluation process for other bar associations as soon as possible. To facilitate the process, the following organizations have agreed to accept this questionnaire as the principal application in their evaluation process and may also require candidates to complete an additional supplement questionnaire:

State Bar Association

Washington State Bar Association (WSBA) (appellate court evaluations only)

County Bar Associations

King County Bar Association (KCBA)

Minority Bar Associations

- Latina/o Bar Association of Washington (LBAW)
- Loren Miller Bar Association (LMBA)
- The Joint Asian Judicial Evaluations Committee of Washington²
- Pierce County Minority Bar Association (PCMBA)
- Q-Law / GLBT (Gay Lesbian Bisexual Transgender) Bar Association
- Washington Women Lawyers³ (WWL)

As of the date of your certification above and submission of this questionnaire to the Governor's Office, please check, as necessary, beside each of the above organizations if you have contacted them to evaluate you for the position for which you have applied.

² A joint committee of the Asian, Korean, South Asian and Vietnamese American Bar Associations of Washington.

³ Washington Women Lawyers has approved the use of the Governor's Uniform Judicial Evaluation Questionnaire for its statewide and all county chapters.

I. INTRODUCTION

In April of 2002, the Car Recovery Clinic (hereinafter "Clinic") was funded by the Seattle City Council to assist persons whose vehicles had been impounded under the Driving While License Suspended (hereinafter DWLS) impound ordinance. The Clinic had a 9-month budget of \$140,000. The current budget proposal for fiscal year 2003 is \$75,000. The Clinic operates in conjunction with University of Washington law students and *pro bono* attorneys under the supervision of an adjunct professor who is also the Clinic supervisor.

The stated goal of the Clinic is to assist eligible people whose vehicles have been impounded recover them through the administrative and legal system. The success of the Clinic is measured not by the number of appeals filed but rather by the number of cars the Clinic assists in successfully recovering.

II. Scope of Work

This report addresses the following issues:

1. What services does the Clinic provide?
2. How does the Clinic market its services?
3. Has the Clinic been successful at efficiently reducing the number of cars going to auction?
4. Can cases be resolved more efficiently prior to adjudication?
5. Has the Clinic helped the city in improving "Operation Impound" by identifying and assisting with removal of barriers to car recovery?
6. What are the additional costs to other city agencies because of the Clinic?
7. What is the impact of the recent Supreme Court decision in *All Around Underground*¹ to "Operation Impound" and the Clinic?

III. Impound Law and Car Recovery

In 1998, The Seattle City Council passed Ordinance # 119180 (and amended it in 2000) authorizing police to impound any vehicle where the driver is arrested for driving a motor vehicle while one's license is suspended or revoked. The Ordinance specified mandatory impound hold periods depending on the degree of suspension of the driver and the number of times the car has been impounded previously under the Ordinance. The Ordinance allows for redemption of the vehicle in the following ways:

1. Release to the registered owner or authorized party after any mandatory hold period upon satisfaction of any penalties, fines, or forfeitures.²
2. Release to the registered owner prior to expiration of any mandatory hold period provided that owner was not the driver. This policy is referred to as the "owner/loaner" waiver or "early

¹ *All Around Underground Inc. vs. State of Washington*, 148 Wn.2d 145, 60 P.3rd 53, December 12, 2002

² SMC 11.30.120A. The full text of this provision is "If the vehicle was impounded pursuant to the DWLS section (sic) and was being operated by the registered owner when it was impounded, it may not be released to any person until all penalties, fines, or forfeitures owed by the registered owner have been satisfied by payment in full, by establishment of a time payment agreement with the Municipal Court, or by other means acceptable to the Municipal Court.

release” provision. The owner is eligible for this provision one time only and the administrative fee is waived.³

3. Release to spouse or registered domestic partner of the driver prior to expiration of any mandatory hold period upon a showing of economic or personal hardship to spouse or domestic partner. (“Hardship release”.)⁴

4. Immediate release to registered owner if no mandatory hold period unless owner was also driver at time of impound. Then release only after fines, penalties, and forfeitures are paid in full, by time payments, or to the court’s satisfaction.

The Ordinance allows for a hearing to challenge the validity of the impound by a Municipal Court judicial officer. The issues to be determined at the hearing are first, whether the impound was valid and second, whether the associated removal, storage, towing, and administrative fees were proper.⁵ The Ordinance further allows for an appeal *de novo* to the Municipal Court.⁶

The Ordinance provides for several different lengths of car impound when a driver is DWLS. The length of the impound depends on the degree of suspension and the number of times the car has been impounded previously under this ordinance. The impound periods are as follows:

DWLS 3: Car impounded but no mandatory hold period unless **both** the following apply:⁷

One (or more) prior DWLS conviction/s **and** 2 (or more) prior impounds, pursuant to SMC 11.30 = 30 day mandatory hold.

DWLS 2: No prior convictions=30 day mandatory hold
One prior conviction=60 day mandatory hold
Two or more prior convictions= 90 day mandatory hold

DWLS 1: No prior convictions = 30 day mandatory hold
One prior conviction = 60 day mandatory hold
Two or more prior convictions =90 day mandatory hold

If the driver is the registered owner of the vehicle, the driver may not redeem the car until the mandatory hold period has elapsed and the driver has paid all fines, penalties, or forfeitures owed, set up a time payment agreement, or resolved those matters by other means acceptable to the Municipal Court. SMC 11.30.120B. The latter requirement applies even when there is no mandatory hold period.

IV. Services the Clinic Provides

The Clinic provides various legal services to persons seeking to recover their own, their spouses’, or domestic partners’ vehicles after impound. The staff offers advice, provides active

³ SMC 11.30.120B. While the administrative fee is waived, the towing and storage fees remain the responsibility of the owner.

⁴ SMC 11.30.120C.

⁵ SMC 11.30.120.D and 11.20.160.

⁶ SMC 11.30.130.F. SMC Local rule 73.

⁷ The ordinance states that a driver who is suspended in the third degree could have multiple convictions for DWLS and not be subject to mandatory impound unless the car has been impounded twice before under the SMC Ordinance.

representation to resolve license status, and represents persons on *de novo* appeals. The Clinic assists persons whose cars have already been sold at auction in challenging the impound and recovering the value of the car through the appeal process. The Clinic also advises people whose cars were auctioned about the availability of the "surplus fund"⁸. In some instances, the Clinic obtains the assistance of an interpreter to assist in the car recovery process. The majority of cases where the Clinic actively represented a client led to their recovering his or her automobile. The Clinic keeps data regarding the assistance that is given. The following is a breakdown of the Clinics services through January 31, 2003:

Contact Courts; correct errors:	13%
Contact DOL:	6%
Contact DOL; correct errors:	1%
Payment plan with SMC:	5%
Payment plan with KCD ⁹ :	4%
Payment plan; other jurisdiction:	2%
Payment plan; outside collection agency:	4%
Referral to CAMP,LELO,or ANEW: (community based agencies) ¹⁰	<1%
Letter to magistrate, judge, attorney or city attorney:	11%
Appeal <i>de Novo</i> :	16%
Advice:	38%
Total:	100%

The Clinic refers people to the relicensing programs through SMC and the King County District Court (hereinafter KCD). The Clinic indicates in its data that this assistance is advice only and not active representation. These efforts include contacting the SMC DWLS ombudsperson to help low-income persons get on a time-payment plan and contacting the relicensing coordinator at KCD for assistance with time-payment plans. Should the individual need assistance with out-of-jurisdiction unpaid tickets (FTA's), the Clinic often refers the individual to a community based relicensing program such as CAMP or LELO.¹¹ This assistance involved just fewer than 10% of the Clinic's cases. The Clinic also contacts other courts to determine what the person needs to do to pay outstanding tickets and whether time payment plans are available when a person has out-of-jurisdiction holds. The staff has attempted to obtain time payments when not routinely available but has not had success in these attempts.

Sometimes clients represented by the Clinic are non-English speakers. The Clinic has obtained interpreters to assist these persons. The primary languages interpreters needed are Somali,

⁸ Surplus funds represent the difference between the auction sale price and the storage/tow/administrative fees owed the tow company and the City. Any excess money remaining after the costs are satisfied goes to the State of Washington. The surplus can be recovered by the registered vehicle owner within one year. The tow companies typically do not advise owners about the availability of surplus funds.

⁹ King County District Court

¹⁰ These community based agencies assist individuals with license recovery. Central Area Motivation Program (CAMP); Northwest Labor and Employment Law Office (LELO); Apprenticeship and Non-Traditional Employment for Women and Men (ANEW).

¹¹ CAMP and LELO provide legal advocates to low income persons to regain their licenses. These agencies often write to a court or appear with a client in court to assist them in getting on a time payment plan or removing tickets from collections. This tends to be a lengthy process and usually takes several weeks or longer. It is not appropriate where the individual needs to recover his license quickly to avoid further impound storage fees and his car is at risk of auction.

Spanish, Laotian, Cambodian, and Vietnamese.¹² Assistance for non-English speakers is the same as for English speaking clients. Interpreter costs are paid out of the Clinic budget and are \$30.00 hourly. The Clinic was unable to provide this consultant with specific data on the use of interpreters or on how much it has cost the Clinic to date. This would be helpful information for the Clinic to keep in the future.

The Clinic also assists individuals in requesting time payments to pay the impound costs through the magistrate office. Time payments (discussed below) are available to qualifying persons but the Clinic indicates that few people are made aware of this option.

The Clinic actively represented clients in license recovery to enable them to recover their cars in 37% of the cases. The Clinic represented clients on appeal 16% of the time and provided “advice only” in 38% of the cases. The remaining cases (9%) involved setting up a time payment plan with the SMC or KCD. Less than 1% involved referral to a community-based organization such as CAMP or LELO. Of the 288 cases the Clinic opened since its inception in April 2002 through January 31, 2003, 48 cases (16%) resulted in the filing of an appeal. The following is a breakdown of the appeal results:

Full hearing:	20
Result in favor of appellant:	13
Result in favor of City	6
Mixed Result:	1 ¹³
Resolved short of hearing	21
City agreed to release vehicle at No or minimal cost	8
Officer failed to appear for hearing	8
Appeal withdrawn or stricken	4
Agreed order releasing at minimal cost	1
Pending	7

Most people who seek assistance from the Clinic have cars that are impounded. Sometimes, the person seeking assistance has already had his or her car sold at auction. On occasion, the help requested was only in recovering his or her license.

The following is a breakdown of the assistance requested and the cases where the Clinic was able to help in car recovery.

Assistance requested:

Car recovery:	50%
Unpaid tickets (FTA):	17%

¹² Car Recovery Clinic year end report pg. 7

¹³ The Court found the impound was lawful but released the car to the owner/driver even though he had unpaid tickets in another jurisdiction.

License recovery: 33%
Total: 100%

Car recovered:

Yes: 54% (139)
No: 12% (31)
Pending: 23% (60)
N/A 8%
Not Provided: 3%
Totals: 100%

V. How the Clinic Markets its Services

The Clinic maintains a table outside the magistrate's office that is staffed from 2 p.m. onwards every weekday. This coincides with the time magistrate impound hearings are held. Flyers are posted outside the magistrate office near the Clinic table clearly visible to anyone appearing for a hearing. These signs state that a person whose car is in impounded and needs assistance may speak with the personnel at the tables.

The magistrates often refer individuals to the Clinic staff for assistance. Otherwise, individuals are referred by the tow companies, Operation Impound, the individual's attorney on the underlying DWLS charge, personnel in the SMC or KCD relicensing programs, and by community based agencies such as CAMP, LELO, or ANEW. The Clinic also has a working referral relationship with SMC court personnel involved in the relicensing process who routinely refer clients to the Clinic.

Nothing sent by SPD, the tow companies, or the information the driver receives at the scene informs a party about the Clinic.

The Clinic has not taken active steps to reach the population affected by impound who do not request a hearing. When asked about this, the Clinic supervisor indicated that the Clinic is too busy with the volume of cases it receives to promote its services to additional groups. The Clinic contract allows the Clinic to provide signs to the tow companies for posting notifying the public how to contact the Clinic.¹⁴ This Clinic has not undertaken this task.

Should the City wish to provide information about the Clinic services to a wider population, a flyer could be included with the information SPD sends regarding the impound hold¹⁵ or the citing officer could provide this information to the driver at the tow scene.¹⁶ Additionally, the tow company sends notice to the registered owner regarding where the car is held.¹⁷ The tow companies could be required to include information about the Clinic with this notice.

¹⁴ Consultant agreement no. FNS-02-04.

¹⁵ SPD sends notice of police hold status to the registered owner within 48 hours of impound. The notice includes where the car is held and the length of the hold.

¹⁶ The citing officer at the scene provides a packet of information to the driver stating why the car was impounded, how to redeem the car, and how to recover one's license. This information, while helpful, is not necessarily received by the registered owner who is often not the driver.

¹⁷ The tow company sends notice to the registered owner of vehicle impound within 24 hours. Included in this notice is information on how to have the car released and how to request a magistrate hearing.

VI. Effectiveness and Efficiency of the Impound Clinic

This consultant will look at two primary issues to answer whether the Clinic is an effective and efficient use of resources. One, does the Clinic play a critical role in reducing the number of cars that are auctioned because of a DWLS impound, and two, is the Clinic model an efficient use of City resources.

Determining whether the Clinic reduces the number of cars going to impound is difficult to quantify. The consultant analyzed the Clinic data and attempted to review general impound data.¹⁸ Clinic data cannot determine if the client would have recovered his or her car without the Clinic's assistance. The Clinic kept the following data regarding car recovery: What the person seeking assistance requested (car recovery, help with FTA tickets, and license recovery), what action was taken (advice, active representation to clear up license or otherwise, or appeal) whether the car recovered, if not, why not, what assistance was provided, and whether the client found the assistance helpful. (The last category is client reported).

This consultant analyzed these categories in order to determine whether the assistance actually led to car recovery and whether the person would have recovered his or her car without the Clinic's assistance. Determining whether the Clinic assistance resulted in car recovery in each case is difficult to determine without knowing the specific outcome of the Clinic assistance. It would be beneficial in the future for the Clinic to maintain data on the outcome of the assistance it provides to determine whether that was instrumental in car recovery.

This consultant examined the cases where the Clinic engaged in active representation of a client (as opposed to advice only) where the assistance was for car recovery. Of 136 cases the consultant analyzed, 114 clients recovered their cars. The majority of persons who did not recover their car were the result of a lost appeal *de novo*. Not surprisingly, all of the people who recovered their car reported that the Clinic's help was beneficial.

Of the 114 cases analyzed, the consultant found that in most cases, the Clinic provided assistance in one or multiple ways including contacting DOL and correcting errors, setting up a time payment plan and writing a letter to a judge, magistrate, attorney, and contacting DOL, and setting up a time-payment plan. This consultant's finding is that the Clinic's efforts in the majority of cases (89%) played a critical role in the recovery of those vehicles. In 10 cases, (11%), the finding is that the Clinic's assistance did not play a critical role in vehicle recovery as the help was in setting up a time payment plan through the SMC or the KCD or referring the client to a community based agency. This effort could have been accomplished through the SMC relicensing program.

The second issue, whether the Clinic is an effective use of City resources, is an easier question to answer. The Clinic started with an operating budget of \$140,000 for the nine-month period April-December 31, 2002. The current yearly budget is \$75,000. The Clinic model is of a supervising attorney who staffs the Clinic with the assistance of University of Washington Law

¹⁸ The consultant contacted SPD to find general impound data and to compare the outcome of persons who sought an impound magistrate hearing with persons who sought Clinic assistance. SPD does not keep specific data on the outcome of the magistrate hearings and would have to gather that data by hand, a task which they did not have resources to complete. The consultant thinks this information would be of limited value given the relatively small number of people who seek assistance through the Clinic and the many variables involved in car recovery. This avenue was not pursued further.

Students and *pro bono* King County Bar Association (KCBA) attorneys. The Clinic is responsible for providing classroom instruction to the law students and coordinating with the *pro bono* attorneys. The Clinic also trains and supervises up to 20 law students per quarter to represent clients on appeals and staff the Clinic table. The University of Washington does not financially support the Clinic.

For the period April- December 31, 2002, the Clinic handled 266 clients. Of these clients, 129 ultimately recovered their vehicles. Assuming the Clinic's efforts were responsible for the vehicle being recovered, the cost per car for recovery is \$1,085. The Clinic filed 43 appeals through December 2002. Of those appeals, the Clinic was instrumental in helping recover the car in 36 cases. (Of those cases, seven were the result of the Officer not appearing for the hearing). The cost to recover the 36 vehicles is \$3,888 per vehicle.

From January 2003- March 2003, the Clinic recovered 29 vehicles at a cost of \$646 per vehicle. Of the cases appealed (eight), the Clinic was instrumental in recovering 5 vehicles at the time of this report. Two cases were pending and one vehicle was repossessed. The cost per vehicle recovered is \$3750.

The following areas are identified as those where the Clinic model is an inefficient use of City resources:

1. The Clinic utilizes law students from the University of Washington to represent persons on appeal under the supervision of the Clinic supervisor. This model is unlikely to encourage resolution of cases, as the students generally want the benefit of courtroom experience. The Clinic also uses *pro bono* attorneys through the KCBA. A more efficient model would eliminate the law students but continue to use *pro bono* attorneys who are more inclined to resolve cases given their time constraints.
2. Minimal efforts are made to resolve cases before the day of trial. This results in more cases on the court's calendar and thus more cost for officer testimony and the Law Department in case preparation time. When a case is resolved the day of trial, the officer is still paid his minimum three-hour overtime. A more efficient model would be to require the parties to engage in a pre-settlement conference (addressed further below) to reduce the number of trials.
3. The Clinic does not have a policy of requiring income or asset limits and does not limit services to Seattle residents. This results in the Clinic representing people who may not have an economic need for Clinic service. A different model would require all persons requesting Clinic assistance to provide all requested information, including income limits. It is also recommended that the Clinic not represent people who do not meet indigency guidelines or who own a car over a certain value. A further suggestion is that the Clinic limit its representation to non-Seattle residents.¹⁹

The consultant also spoke with many court staff and judges as well as staff from operation impound and SPD regarding the Clinic's role. The consensus is that the Clinic provides a valuable service and that without legal assistance many people who should recover their cars would be unable. There was also agreement that without legal assistance, many people whose

¹⁹ The original contract between the City and the Impound Clinic did not specify residency requirements. The current contract, effective April 1, 2003, requires that the Clinic limit representation to Seattle residents.

cars are impounded would not be able to negotiate the complicated legal process required to present a valid appeal issue or recover one's license.

Cynthia Ford, the relicensing ombudsperson, reports that the Clinic has done a good job in preventing cars from being auctioned and in helping people get their cars back. She thinks the Clinic has a good success rate on appeals and regularly refers cases to the Clinic. One involved a couple that lived in their vehicle and another where the person had multiple FTA's in outside jurisdictions. She reports that some people have the incentive to determine the steps necessary to recover their cars while others have difficulty negotiating the legal system and getting access to the courts. She reports that the Clinic works well with the relicensing program and refers cases to her regularly.

The consultant spoke with several SMC judges about the impound clinic. The judges report that the Clinic helps people who otherwise would have a difficult time with accessing the judicial system. They also report that the appeals filed were significantly fact-based and meritorious. The judges felt the Clinic is an efficient and effective use of resources and provides a valid system of checks and balances.

This consultant also spoke with Lyle Turnbull, who works for operation impound and who is responsible for appearing at the magistrate impound hearings and appeal impound hearings. Mr. Turnbull's opinion is that the Clinic tries to help people but that the majority of appeals filed are without merit. He also indicates that the advice given to persons at the impound hearing and through SPD notices is adequate to inform persons regarding how to recover their cars and licenses as well as how to request a hearing and/or appeal. Mr. Turnbull further indicates that they are now providing interpreters at the magistrate hearing when the need arises. Litigants are also informed about the availability of time payments to pay the impound costs.

VII. Resolution of Cases Prior to Litigation

Cases are often resolved on the courthouse steps, so to speak. This can create frustration for parties who have to prepare nonetheless for pending litigation. It is clear to this consultant after interviewing the concerned parties, that many impound appeals could be resolved prior to hearing. There are undoubtedly many reasons for why cases are not resolved earlier. Chief among these is that the Clinic is staffed by law students who would like courtroom experience, the quick turn around time of the impound appeals, and inadequate communication.²⁰ In speaking with the various parties, the chief complaint from the Law Department about why cases are not resolved earlier is that the Clinic staff fail to communicate the issues to the City and that the Clinic model discourages prompt resolution of cases since the Law students want and anticipate trial experience.²¹

The Clinic's response to why cases are not resolved earlier is that the system is adversarial. They indicate that the City attorney was not initially inclined to resolve cases prior to hearing but that now when a clear error exists and the Clinic is able to get the required information to the City in time, the City will resolve the matter. When a legal error is alleged, such as lack of probable cause for the stop, they are unwilling to resolve the case prior to litigation.

²⁰ Once an impound appeal *de novo* is filed, it must be heard within twenty-one days.

²¹ See Law Department Evaluation of Car Recovery Clinic, pg. 5.

This consultant recommends that should funding for the Clinic continue, the parties be required to have a weekly pre-hearing settlement conference before a Seattle Municipal Court judge.²² All parties, Law Department, SMC judges, and Clinic Supervisor, are receptive to this suggestion. Such a procedure should significantly reduce the number of appeals actually litigated and reduce costs across the board. If this recommendation is adopted, it would be wise to have one judge preside over the settlement conferences and if a resolution is not reached, a different judge preside over the trial.

This consultant cannot answer why this was not suggested previously by the parties except to note that the appeal process is an adversarial one and that this procedure is not typically utilized in criminal matters.

VIII. Fiscal Costs to City from Impound Clinic

The Seattle Law Department, the Seattle Police Department, the Seattle Municipal Court, and the City of Seattle are financially impacted by the Clinic. This consultant received budget information from the above agencies regarding the fiscal impact of the Clinic.

The City of Seattle pays for the Clinic's operating budget. The Clinic budget for April – December 31, 2002 was \$140,000. For fiscal year 2003, the operating budget is \$75,000. Through the end of 2002, the Clinic opened 266 cases at a cost of \$547 per case. Of these cases, the Clinic represented 43 clients on appeal at a cost of \$3255 per case. From January 1, 2003-March 31, 2003, the Clinic opened 65 cases at a cost of \$288 per case. Of these cases, the Clinic represented 8 clients on appeal at a cost of \$2,343 per case.

When an appeal is filed by the Clinic and either litigated and won or a resolution is reached with the City Attorney, the City of Seattle is responsible for the cost of the tow, damages for loss of use, and/or the value of the car if it was previously auctioned. The Law Department provided this consultant with the following breakdown of these costs.

\$9600.00 for value of auctioned cars
\$3100.00 damages for loss of use
\$13,000 towing/storage fees²³

The Law Department is impacted by the Clinic since it represents the City on impound appeals, most of which are filed by Clinic staff.²⁴ It costs the Law Department \$561.99 to represent the City per appeal.²⁵ From inception in April 2002 to January 31, 2003, the Clinic filed 48 appeals for a cost of \$26,975.52 to the Law Department. Assuming 64 appeals are filed yearly by the Clinic, the costs to the Law Department annually would equal \$35,967.36.

The Seattle Police Department is impacted by the Clinic since officers are required to testify at the appeal hearings. Officers are paid overtime to appear in court and are paid a 3-hour minimum. The average hourly overtime wage is \$45.00. Assuming 64 annual cases, the estimated yearly cost to SPD for officers' testimony would be \$8,640.00.²⁶

²³ Information from Richard Greene, impound appeals supervisor. Effective date 5/1/03.

²⁴ For further information from the Law Department on the Clinic impact to the Law Department, see Law Department Evaluation of Car Recovery Clinic Pilot Project, March 19, 2003.

²⁵ The law Department does not represent the City prior to appeal.

²⁶ Information from Trisha Ellermeier, Seattle Police Department Budget Analyst.

Several employees staff operation Impound as well. When an appeal is litigated, an employee from Operation Impound is required to testify at the hearing regarding the length of impound and other issues. Generally, there is little additional cost for this testimony. However, should the hearing be in the evening, the staff member is paid overtime. This consultant's understanding is that most, if not all impound appeals are now heard during regular court hours, leaving little fiscal impact.

The Impound Clinic also financially impacts the Seattle Municipal Court. These costs represent the time the relicensing manager spends with the Clinic staff and the personnel time the relicensing division spend running driving record abstracts (ADR) for the Clinic staff. The total cost for this service is \$3,542.68 yearly.

The Seattle Municipal court administrator was contacted regarding additional fiscal impact to the Court. This consultant also spoke with SMC judges regarding the fiscal impact of the Clinic. The Court does not maintain statistics or track the budget costs of impound appeals. Due to the large volume of cases the Court handles yearly, the information available suggests a negligible and not quantifiable budget impact to the Court. The Court also does not keep information on the number of interpreters used at impound appeals. This would have a financial impact but the amount is unknown.

Many filed appeals do not result in litigation and, if a resolution is reached before trial, the associated costs are saved. For example, of the 48 appeals filed by the Clinic since inception, four were withdrawn and in eight, the city agreed to release the car. That reduced the number of appeals remaining set for trial to 36. Reducing the number of cases set on the trial calendar reduces the fiscal impact to the Law Department and SPD proportionally.

IX. How has the Clinic assisted the City in Identifying Barriers to Car Recovery?

There are numerous barriers to car recovery. The legal staff at the impound Clinic have made limited attempts to assist the City with identifying barriers to car recovery. In this consultant's opinion, the system that is in place is an adversarial one and does not lend itself well to resolving problems systematically or through negotiated efforts. The approach to problem solving appears to be more an issue of appellate review than of trying to solve the underlying problem. The Clinic has made limited attempts to solve problems such as writing to the supervising magistrate outlining where the Clinic believed the law to be misapplied, notifying the mayor's office regarding discrepancies in storage fees, and meeting with the City Attorney to discuss improvements in how the law is applied. These efforts, though, do not address resolving systematic barriers to car recovery and the Clinic has not been helpful in identifying those barriers.

X. Impact of *All Around Underground*

Recently, the Washington State Supreme Court in *All Around Underground, Inc. vs. State of Washington*²⁷ struck down mandatory vehicle impounds were the driver's license is suspended. This consultant spoke with Leo Poort, legal advisor to SPD and Richard Greene, supervisor of impound appeals for the Law Department. The Law Department and the police department interpret *All Around Underground* to require that an officer must now consider reasonable

²⁷ *All Around Underground Inc. vs. State of Washington*, 148 Wn.2d 145, 60 P.3rd 53, December 12, 2002

alternatives to impound. Prior to *All Around Underground*, SPD had a mandatory impound rule when a driver was driving on a suspended license. Now, SPD officers are instructed that they are to use their discretion in determining whether to impound a car. Factors such as whether a licensed driver is available and whether the car can be parked safely at the scene are to be considered but their absence is not a prerequisite for impound. The most important factor is public safety and risk to public safety should the car not be impounded.²⁸ This policy has significantly reduced the number of DWLS impounds since the beginning of the year.

SPD and the Law Department estimate that once officers are familiar with the new policy, impounds will be 40-50% of previous levels.²⁹ Currently, impounds for driving while license suspended are at approximately 30% of previous levels.³⁰ This will significantly affect the number of requests for assistance the Clinic receives.

XI. Conclusion

While the Clinic plays a critical role in assisting people who otherwise would not have access to the judicial system in recovering their vehicles, the cost to the City per car actually recovered is very high and resources are used in an inefficient manner. Some of the Clinic's services overlap with other existing services and the Clinic engages in service that is outside the scope of its contract.

One alternative is to staff the Clinic with a part-time attorney without involving the law students. Another is to have an attorney in the relicensing program through SMC. An attorney who was part of the relicensing program would likely have better success in communicating with the Law department but would need to be very familiar with the impound statute and defenses. The consultant believes that it is important to have an attorney assist in impound matters because interpretation of the ordinance is not consistent, the ordinance is confusing and difficult to interpret, and legal issues regarding licenses suspension are difficult for laypersons to identify.

²⁸ See SPD Bulletin B02-001, 12/27/2002.

²⁹ Based on information from Seattle city attorney, Thomas Carr and SPD deputy chief, John Diaz.

³⁰ Based on available information from Seattle city attorney, Thomas Carr.

Materials received regarding

Anne Harper

KING COUNTY BAR ASSOCIATION
Supplemental Questionnaire for Candidates Seeking Appointment
or Election to Judicial Office

COVER SHEET

NAME Harper, Anne Cathleen
(Last) (First) (Middle)

Business Address: Auburn Municipal Court
340 E. Main St.
Auburn, WA 98002

Telephone: 253.931.3076 (general); 253.876.1910 (inside)

Business Email: aharper@auburnwa.gov

Position Sought: By Election _____
By Appointment _____

- X Auburn Municipal Court - Election
- X King County District Court (Seattle Division) - Appointment/Election
- X King County Superior Court - Appointment
- ___ Washington State Court of Appeals, Div.I
- ___ Washington State Supreme Court

PLEASE NOTE: In the process of determining judicial ratings, the Judicial Screening Committee of the King County Bar Association uses the Washington State Governor's Office Uniform Judicial Evaluation Questionnaire and this Supplemental Questionnaire, as well as reference checks, candidate interviews and other sources of information. (See Judicial Screening Rules and Procedures.)

The responses to the following questions on the Washington State Governor's Office Uniform Judicial Evaluation Questionnaire may be disclosed to persons other than the Judicial Screening Committee and, in the case of judicial elections, will be publicly available:

Position Sought, Name, Business Address, Business email
Professional History: #8, 9, 10, 11, 12, 13, 14, 15,
Educational Background: #16, 17
Professional Experience: #18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32
Community and Civic Activities: #33

At various times, groups not affiliated with KCBA have rated judicial applicants. The KCBA Judicial Screening Committee's bylaws preclude the Committee from disclosing the names of applicants seeking a rating for appointment to these other groups. However, if you are interested in obtaining the names and addresses of such other rating groups to request this information yourself, you may contact the Executive Director at the KCBA office, telephone: 206-267-7100.

Include the following materials in your application packet:

- Governor's Office Uniform Judicial Evaluation Questionnaire
- KCBA Supplemental Questionnaire
- A writing sample between 5-10 pages, as requested in question 45 of the Governor's questionnaire.

Please be advised that the Judicial Screening Committee may take into account the information provided in the questionnaire, the reference checks, the interview, and any other source of information available to it. Letters of recommendation will not be provided to the Committee and should not be solicited. Supplemental materials such as journal articles, legal research, motions, briefs or other documents that you have filed in court, other than the writing sample specifically called for in the Governor's Uniform Questionnaire, should not be included.

REFERENCES. The Committee finds it useful to speak with attorneys and non-attorneys who are familiar with you. One or more Committee members will attempt to contact each reference listed. All telephone numbers should be current and legible. You may contact references in advance if you so desire. The Committee may also call upon individuals not listed to obtain information.

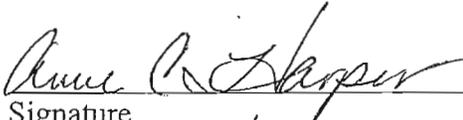
(1) List the names and phone numbers of up to ten attorneys who have supervised you or who have reviewed and are familiar with your legal work, including your current supervisor and at least one other supervisor from your current workplace and at least one supervisor from each of your prior workplaces during the past fifteen years.

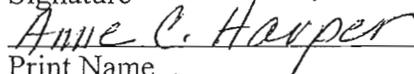
- a. Roy Howson (360) 336.8722 (ACA)
- b. Donald Madsen (253) 520-6509 x: 226 (ACA)
- c. Barry Gay(360) 792-3390 or 512.565.1130 (ACA)
- d. William Jaquette 425.339.6300 x: 201(SnoCo PDA)
- e. Susan Gaer 425.388.7933 (SnoCo PDA)
- f. Judge Darcy Goodman (Ret.) (206) 344-4174 (District Court)
- g. Judge James Cayce (206) 296-9444 (District Court)
- h. Judge David Steiner (206) 296-3667 (District Court)
- i. Judge Patrick Burns, 253.804.3109 (direct line) (Auburn Muni)
- j. Judge Gain, (206) 296-9170 (RJC Special Master)

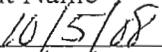
(2) For the last five appellate matters in which you participated (whether as lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/phone number), and opposing counsel or counsel appearing before you (w/ phone number).

I have not practiced in appellate cases.

I certify under penalty of perjury of the laws of the state of Washington that the above information is true, accurate and complete. I agree to notify KCBA if there are material changes in this information between the time the Uniform Questionnaire and this cover sheet are completed and the expiration of any rating received.



Signature


Print Name


Date

THE WASHINGTON STATE GOVERNOR'S OFFICE UNIFORM JUDICIAL EVALUATION QUESTIONNAIRE¹

Position Sought (Court/Division/District):

King County Superior Court/ King County; appointment

King County District Court, Seattle Division; appointment and election

Auburn Municipal Court, Judge; appointment and election

By Appointment: By Election:

Personal Information

1.

Harper <small>Last Name</small>	Anne <small>First Name</small>	Cathleen <small>Middle Name</small>	11844 <small>WSBA Bar Number</small>
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2. Business Address: Auburn Municipal Court
340 E. Main Street
Auburn, WA 98002

Business Phone No. 253.931.3076
After-hours/direct dial: 253.8761910
Work e-mail address: aharper@auburnwa.gov

3. Home Address: 5643 3rd Ave. NW Seattle, WA 98107
Home Phone No. 206.783.9819 Mobile Phone No.: 206. 300.3511
Home e-mail address: anne.harper@comcast.net

4. Date of Birth: 6/21/55
5. Social Security Number: ²N/A
6. City/State/Place of Birth: Jersey City, New Jersey, USA

300-9151

Prior Evaluation / Application History

7. Please state the date of all other judicial evaluations you sought, bar polls you participated in, and appointment applications you submitted. Please specify whether you sought appointment or election for each, from whom the evaluation was sought, the position sought, and the outcome.

1994 District Court Commissioner, King County. Appointment only position. Application submitted to King County District Court Judges. No bar evaluations. The evaluation of materials and references was done internally within King County District Court administration.
Result: Appointed as District Court Commissioner, 1995 -2001.
Participated in the 2001 King County Bar Association Judicial Evaluation Survey

¹ The Governor's Office uses this questionnaire exclusively for candidates seeking judicial appointment. The Washington State Bar Association and other state bar associations noted on the last page also accept this questionnaire in their judicial evaluation process. The Governor's Office reserves the right to update this questionnaire and will post updated versions of the questionnaire on the Governor's webpage. Please direct all questions about the questionnaire to the Governor's Office of General Counsel.

² Only include your social security number on the copy of the questionnaire forwarded to the Governor's Office.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

KING COUNTY BAR ASSOCIATION, JUDICIAL SURVEY RESULTS, 2001

District Court Commissioner		Less than Satisfactory	Satisfactory	More than Satisfactory	Excellent	Total
Decision Making	2%	10%	20%	35%	34%	100%
Courtroom Efficiency	2%	5%	19%	38%	37%	100%
Judicial Demeanor	5%	5%	20%	34%	38%	100%
Appearance of Fairness	3%	8%	18%	29%	42%	100%
Overall Performance	3%	7%	18%	38%	34%	100%

N=130

Averages

Decision Making	3.9
Courtroom Efficiency	4.0
Judicial Demeanor	3.9
Appearance of Fairness	4.0
Overall Performance	3.9

1995 Ex Parte Court Commissioner, King County. Appointment only position. Application submitted to King County Superior Court. Evaluated by King County Bar Association Judicial Evaluation Committee. Rated: Well Qualified (highest rating). A Superior Court Judges' Committee also assessed each candidate.

Result: 2nd in a field of 20+ candidates

2000 – King County Superior Court Judge. I sought appointment by Governor Locke. Evaluated for appointment only. I was on Governor Locke's short list of three candidates for appointment. Application materials were submitted to Governor Locke and the King County Bar Association, Judicial Screening Committee. Supplemental questionnaires were submitted to the King County Labor Council, the King County Corrections Guild, King County Women's Political Caucus and Washington Women Lawyers.

Evaluation results:

Exceptionally Well Qualified: KCBA; Loren Miller Bar Association; Asian Bar Association, Hispanic Bar Association; LEGALS;

Highly Qualified: Washington Women Lawyers

2000 - 2001 Endorsements for Superior Court Appointment: Washington State Patrol Troopers Association, King County Sheriff's Deputies' Guild; King County Corrections Guild (Rated Exceptionally Well Qualified); King County Labor Council; Amalgamated Transit Workers Union; King County Women's Political Caucus

I was on Governor Locke's short list for appointment from 2000 to 2002. I removed my name from the appointment list to seek the position as The Public Defender for King County.

2008 – Court Commissioner, Auburn Municipal Court

Appointed by Judge Patrick Burns to serve as the Court Commissioner. No bar evaluations. Written materials were submitted to the Auburn Municipal Court. The candidates for this position were interviewed by a panel and Judge Burns made the final selection.

I received the appointment and am currently serving as the Court Commissioner for Auburn Municipal Court.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Additional non-competitive appointments:

1996 – 1997 - Auburn Municipal Court Judge, under an interlocal contract between King County and the City of Auburn. King County District Court was providing judicial services to the City of Auburn. I was the Court Commissioner for King County District Court at the time of the appointment. An appointment statement was submitted to the Auburn City Council. The Auburn City Council made the appointment.

1998 – 2000 – Appointed by the King County Superior Court to serve as the Special Master at the Regional Justice Center. This appointment was supplemental to my appointment as the Court Commissioner for King County District Court. No written materials were submitted.

Non Judicial Appointment:

2003 – 2005 – The Public Defender for King County. Application materials were submitted to the King County Public Defender Selection Committee and to the King County Council. No non-County evaluations were done. King County Executive, Ron Sims, appointed me to this position and the King County Council confirmed the appointment

Professional History

8. Year admitted to practice law in Washington: 1981

9. Employment History (in reverse chronological order):
a. Start Date: 6/2008 End Date: Presently employed
Organization: Auburn Municipal Court
Address: 304 E. Main Street Auburn, WA 98002
Phone No. 253.931.3076
Position/Title: Court Commissioner
Supervisor: Judge Patrick Burns, 253.804.3109 (direct line)

Nature of Practice (including frequency of court appearance):

I am on the bench every day, addressing all cases and hearings that a Municipal Court Judge would handle, including jury trials.

b. Start Date: 6/2006 End Date: 5/2008
Organization: Snohomish County Public Defender Association
Address: 1721 Hewitt, 2nd Floor Everett, WA 98201
Phone No.: 425.339.6300 x: 205
Position/Title: Felony Attorney
Supervisor: William Jaquette x: 201;
Susan Gaer, 425.388.7933 (Currently a Court Commissioner in Snohomish County Superior Court)

Nature of Practice (including frequency of court appearances):

Felony level public defense in Snohomish County Superior Court. I defended 150 felony cases per year, on all types of felony charges including the following crime types: Homicide, violence, sex; domestic violence; property, fraud and drug offenses. I was in court every day. During my tenure in this position, I represented approximately 300 felons and was specially assigned to a drug treatment review calendar, which I helped create.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Reason for leaving: I did not feel that I was using my full potential and sought to have a larger impact within the justice system.

c. Start Date: 1/2003 End Date: 4/2005
Organization: King County Office of The Public Defender
Address: 123 3rd Ave. S., #400 Seattle, WA 98104
Phone No.: 206.296. 7662
Position/Title: The Public Defender
Supervisor: Jackie MacLean, Director, King County Department of Community and Human Services phone: 206.263.9006

Nature of Practice (including frequency of court appearances):
I was the head of the King County Public Defense system. I did not represent individual clients. I appeared infrequently in court, addressing issues of appointment of counsel and expert appointments. I established policies for the public defense system. I represented the public defense system in public meetings and within King County government and at the state level. I monitored public defense contracts with 4 law firms. I reformed the public defense system in King County, making it more transparent and accountable to the clients and the people of King County.

Reason for leaving: In 2002, the King County Council passed Ordinance #14412, creating the position of The Public Defender and requiring that the Public Defender is an attorney with public defense experience. This was the beginning of a reform effort within King County Public Defense. I was the first person appointed to this position. As such, I was an agent of change. During my tenure, I made fundamental changes in the public defense system, which I describe below. I left this position because the process of change was very difficult for the contracting law firms. I felt that a new director would best serve the system, bringing new ideas and an ability to forge new relationships with the contractors.

d. Start Date: January 1995 End Date: December 2001
Organization: King County District Court
Address: General: Office of the Presiding Judge 516 3rd Ave. W-1034
Phone No.: 206.205.2820
Position/Title: Court Commissioner

Supervisor:	Judge Darcy Goodman (Ret.)	(206) 344-4174
	Judge James Cayce	(206) 296-9444
	Judge David Steiner	(206) 296-3667

Nature of Practice (including frequency of court appearances):

King County District Court had 26 judges serving in 9 separate division courthouses. I covered calendars for the judges who are involved in the administrative work of the court. I also provided emergency and overflow coverage for all courts within the District Court system. I appeared on the bench in every division of the court, and I handled all of the calendars that a judge would handle. These included:

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

<p>CRIMINAL Jury trials Bench trials Motions, pretrial and post trial Pretrial hearings Sentencing Review and revocation hearings Arraignments Misdemeanor bail Felony investigation hearings Ex Parte felony arrest & search warrants</p>	<p>CIVIL Jury trials Bench trials Motions, pretrial and post trial Pretrial hearings Post judgment hearings Protection orders Anti-harassment orders Small claims trials Contested traffic cases</p>
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Reason for leaving: My position was eliminated as a result of a King County budget cut in 2002.

e. Start Date: 1998 End Date: 2000
 Organization: King County Superior Court, RJC
 Address: 401 4th Avenue North
 Kent, WA 98032-4429
 Phone No.: (206) 205-2501
 Position/Title: Special Master, King County Superior Court
 Supervisor: Judge Gain, (206) 296-9170
 Nature of Practice (including frequency of court appearances):

I presided over the Status and Non-compliance Calendar for all civil and domestic cases filed at the Regional Justice Center in Kent. This was a case management calendar that required a thorough knowledge of the civil rules and the internal policies and procedures of the Civil Division of the Superior Court. This was an appointed position that I filled through a cooperative agreement between King County Superior and District Courts.

Reason for leaving: I was assigned to Northeast Division of District Court in Redmond.

f. Start Date: January 1985 End Date: December 1994
 Organization: Associated Counsel for the Accused
 Address: 110 Prefontaine Pl. S. #200
 Seattle WA 98104

Phone No.: 206.624.8105

Position/Title: Senior Trial Attorney (1989-1995)
 Felony Supervisor (1992)
 Trainer (1991)
 Staff Attorney (1985-1988)

Supervisor: Barry Gay (360) 792-3390
 Donald Madsen (253) 520-6509 x: 226
 Roy Howson (360) 336.8722

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Nature of Practice (including frequency of court appearances):

I appeared in court every day. I represented indigents in every court in King County and in Seattle Municipal Court. I have represented adults and juveniles charged with crimes, ranging from minor to serious violent. I also have represented juveniles and adults on the civil commitment calendar.

As the Felony Supervisor, I was an administrator within the felony division, within my firm and within the King County Superior Court.

As the Trainer, I taught regularly at in-house CLE's and created the materials for the CLE's. I also represented ACA at public CLE's as a presenter and teacher. I have taught seminars on evidence, trial practice and ethics.

I have handled every type of crime from minor property offenses to Aggravated Murder in the First Degree (non death penalty). As a Senior Trial Attorney, I specialized in complex litigation, such as multiple counts of Securities Fraud. I was also assigned to complex violence cases, primarily homicide cases. I handled high profile cases with media involvement. During my 14-year career as a King County public defender, I have represented approximately 3,000 clients. In the Felony Division of the Superior Court, I have represented approximately 1,800 clients. I have represented 21 clients charged with Homicide.

Reason for leaving: I wanted to use my skills, knowledge and vision to have a broader impact in the justice system.

g. Start Date: October 1980 End Date: December 1984

Organization: Eastside Defender Association

Address: firm no longer exists

Phone No.: None

Position/Title: Staff Attorney

Supervisor: Jerry N. Parks (deceased)

Nature of Practice (including frequency of court appearances):

Public defense; Criminal defense in District Courts, Seattle Municipal Court, Juvenile and Felony Divisions of King County Superior Court. I was in court constantly.

Reason for leaving: The firm's contract to provide public defense services fro King County was not renewed.

h. During 2002 and 2005-2006 I worked as a pro tem judge in King County Superior Court, King County District Court, Kent Municipal Court and Auburn Municipal Court. This was always a temporary assignment.

i. 1970 to 1980

I have been employed since the age of 15. I worked while I was in school and during the summer. My jobs have been: farm labor, restaurant work, warehouse laborer, aide at a nursing home, clerical staff at WPPSS #2 Nuclear Plant in Richland WA., and a summer clerk for Levy and Taber, a civil firm in Pasco, WA. I have always left my job to continue my education.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

10. Please list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.

Federal District Court and 9th Circuit Court of Appeals, 1982

11. Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.

Bar Association: Washington State Bar Association

Professional Associations:

Snohomish County Bar Association – 2006 - 2008

District and Municipal Court Judges Association – 1995 to 2001

South County Bar Association – 1997 to 2000; 2008

Washington Association of Criminal Defense Attorneys – 1991 to 1994

Bar Association Activities:

2006 - Present	WSBA, Criminal Law Section, Member
2003	Washington Supreme Court, GR 15/22 Workgroup
1999-2001	Washington Pattern Instructions Committee, Member
1999-2000	SCBA, Board of Governors
1992-1994	WACDL, Board of Governors
1992-1994	WACDL, Legislative Committee, Member
1991-1993	WSBA, Corrections Committee, Member
1992	WSBA/YLD, Equality in Practice Committee, Member
1991	WSBA/YLD, Public Education Committee, Member

12. Are you in good standing in every bar association of which you are a member? Yes. If you answered "no", please explain.
13. If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. Please state the dates of service for each.

1997-2001	Long Range Planning Committee, DMCJA
2000	Status Conference work group, King County Superior Court
1998	Mental Health Court Task Force, King County District Court
1998	Domestic Violence Fast Track work group, King County District Court
1997	Civil Rules Task Force, King County District Court
1996	Criminal Rules Task Force, King County District Court
1995-96	Jail Committee, King County District Court
1995-96	Court Operations Committee, King County District Court
1992-94	Ad Hoc Committee, King County Superior Court, Criminal Division
1992	Superior Court Accelerated Sentencing work group

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported (and copy of the opinion).

- 1) **2003 - 2005 - the Public Defender, King County**, I provided vision and change within the King County public defense system. I established the credibility of the public defense system within all levels of King County government. I am highly committed to quality public defense services. I began a process of reform, dedicated to improving the effectiveness, quality, transparency and accountability of the public defense function.

I reformed the internal workings of the Office of the Public Defender:

- Creating a transparent, data based system for caseload projections, which form the budgeting basis for the system;
- Creating a system for reliable case assignment distribution, allowing predictable workload management within the contract law firms;
- Overseeing the creation a new database for King County public defense operations;

I established policies and procedures that affected King County and the contract agencies. The policies and procedures included:

- Conflicts policy;
- Establishing a system to address client complaints in a reliable manner;
- Requiring the contract firms to report extraordinary occurrences to OPD, such as ineffective assistance of counsel, sexual contact with a client and sexual harassment within the contract firms;
- Requiring the establishment of practice standards for objectively assessing attorney and support staff performance
- Creation of a market based funding model to produce a rational and transparent funding base for public defense.
- Addressing information technology security at the contract firms.

I participated in fundamental King County policy formation at all levels of the criminal and juvenile justice system, including the police, the jail, public defense, the Prosecutor's Office and District and Superior Court.

- 2) **2004 - Seattle Municipal Court (SMC) Community Court** - At the time I accomplished this, King County was providing public defense services to the City of Seattle under an interlocal agreement. As the head of King County Public Defense, I worked with Judge Bonner, Presiding Judge of SMC, Tom Carr, Seattle City Attorney and Lori Cox, SMC Court Resources Center Director. We evaluated court and social service data, evaluated other programs in other jurisdictions, discussed social justice policies and designed the Community Court. The Community Court focuses on chronically homeless offenders, who were committing quality of life crimes. The Community Court substitutes social services and community involvement for incarceration. Through this court, the homeless population is provided with services and they perform community service. The community service sites are provided by community groups, who are brought into the court as partners, connecting them to the social justice agenda of the court. Additional information about Community Court is available on the Seattle Municipal Court website.

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- 3) **1999 - King County District Court Mental Health Court** – I served on the Mental Health Court Task Force, contributing to the design of a system, which closely links mentally ill offenders with a full range of social services. I served as the Mental Health Court judge for 4 months and provided judicial support to the Mental Health Court judge for 2 years. Washington State University evaluated the King County Mental Health Court in 2004. The court was evaluated as a successful program. The report is available on the King County District Court website.
 - 4) **2007 – Establishment of Community Based Drug Offender Sentencing Alternative (DOSA) review system in Snohomish County Superior Court.** During 2007, the Snohomish County Superior Court judges began using a legislatively authorized treatment based sentencing alternative known as Community Based DOSAs. The statute requires review hearings and leaves the structure of the review hearings to each county. I worked with Judge David Kurtz, DPA Tim Geraghty and the Department of Corrections (DOC) to establish a DOSA review calendar with a unified structure and treatment based philosophy similar to the Drug Court model. We established a system with a single judge, prosecutor, defense attorney and DOC Community Corrections Officer. We had regular hearings for review of the cases, to assure that the clients are remaining sober and contributing to the community, as well as remaining employed. Communication flows easily within this system. A firm commitment to compassion and accountability pervades this system. I was very pleased to be part of this planning process. I served as the assigned defense attorney on this calendar. I understand that DOC intends to use the Snohomish County DOSA Review model throughout the state.
15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.
- 1) **State v. Mountry Songvilay Murder 1, self defense, April 1990**
Judge Anne Ellington (206) 464-6046, Prosecutor Fred Yeatts, phone number unavailable;
The verdict was not guilty. I tried this case during a very stressful time in my life. My father suffered a non-fatal heart attack during preliminary motions. I learned to truly separate my personal life from my court work and I was able to focus on each piece of evidence and the case as a whole. This case was very difficult, and I emerged as a stronger person, with a clearer sense of myself.
 - 2) **State v. Ronald Dunn Multiple counts of Robbery 1, Eyewitness Identity defense, 1984**
Judge Patricia Aitken, (206) 622-5267, Prosecutor Timothy X. Sullivan, (425) 383-5533;
This was an eyewitness identification case where 5 victims identified my client as the robber (single incident). We produced three witnesses from Phoenix, Arizona, who testified that my client was with them on the day of the robbery. The jury found my client guilty. Peter Camiel (206.624.1551) took the case after verdict and continued my investigation, gathering additional evidence, which had not been available to me because witnesses were untruthful with me. Eventually, the real robber came into Judge Aitken's court and confessed to the crimes. The case was dismissed against my client. The real robber could not be prosecuted because the statute of limitations had expired.

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- 3) **State v. Lee**; Rape 1, eyewitness identification, 1994;
No assigned judge; Prosecutor Brenda Bannon, (206) 623-8861.

Mr. Lee was charged with a violent rape, and the victim had identified him. DNA test results showed that he was not the rapist. Preparation for this case involved thorough study of DNA evidence when DNA evidence was at its inception.

- 4) **State v. Alphonse David**; Assault 2, 1985
Judge Brucker (206) 232-8882; Prosecutor Victoria Seitz (206) 296-0133;

Mr. David was convicted of Assault 2. He shot his wife and she survived. I argued that he was mentally ill, but that argument was rejected at trial and at sentencing. After Mr. David was released from prison, he went to great lengths to find his wife. Once he located her, he killed her and his five-year-old daughter and himself. His wife was 8 months pregnant at the time of the homicide. This was an extreme case of domestic violence.

- 5) **State v. Gordon Strauss**; Rape 2 Judge Holman (deceased), 1987,1990,
Judge Otero (retired, phone number unknown), 1994
Prosecutor(s) Anne Bremner (206) 623-9900,
Rebecca Roe, (206) 622-8000

54 Wn.App. 408(1989), 119 Wn.2d 401(1992), 93 Wn.App. 691(1999)

Judge Holman tried the case. There were no trial issues on appeal. The exceptional sentence of 10 years was appealed three times and reversed three times, creating new law in the area of exceptional sentences. The fourth exceptional sentence withstood appeal. I did not represent Mr. Strauss at the fourth sentencing hearing. He has since been declared a sexually violent predator.

- 6) **State v. William Argo**; 24 counts of Theft and Securities Fraud, 1994
Judge Gain (206) 296-9170, Prosecutor John Bell (360) 375-2126

81 WnApp.552 (1996)

This case was factually very complex, with evidence that spanned 12 years. The financial records were in disarray. The case presented issues of the definition of a security, scope of the statute of limitations, proof issues associated with financial tracing and the valuation of an unmarketed patent. A Federal Bankruptcy proceeding that began approximately 1 year before the felony case was filed further complicated the case.

- 7) **State v. Matthew Alwood** Driving While Under the Influence, 1997
Defense Counsel: Robert Williams (253) 520-6509; Prosecution Paige Ulery (206) 296-9000
94 Wn.App.396 (1999)

In this case I erred and allowed a deferred prosecution where, after further review of the file, I felt that the defendant was dangerous because of his extreme level of alcoholism. Although I believe very strongly that a judge should make considered decisions from the bench and the decision is final, this case involved a public safety issue that required me to recall the deferred prosecution, and I did so immediately. The case was affirmed on appeal.

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Educational Background

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

College/University	Dates of Attendance	Degree
University of Washington	September 1973 to June 1978	BA Sociology
2000	North Seattle Community College	Microbiology class
2001 - 2002	University of Washington	Organic Chemistry series
2005 - 2006	North Seattle Community College	Biology series (Science Major)

17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

Law School	Dates of Attendance	Degree
University of Washington	September 1978 to June 1981	JD

Professional Experience

18. Please summarize, briefly, the general nature of your current law practice.
I am a Court Commissioner for the City of Auburn. I work with Judge Patrick Burns to address all cases which come before the Auburn court. These are misdemeanor cases and traffic infractions and other civil infractions. I also work with Judge Burns and the probation department to address administrative issues within the court.
19. If you are in practice, please describe your typical clients and any areas of special emphasis within your practice.
I am currently a judicial officer. I focus on my daily caseload, assuring that I am prepared to address all cases. I also work within the court system to address issues which arise in an effort to address issues as a matter of preventative maintenance.
20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.
My previous practice as an attorney was in King County with Associated Counsel for the Accused (ACA) and Snohomish County, as a public defender from 1980 to 1995 and 2006 to 2008. I served primarily in the felony division, for 13 years. However, I have also represented clients in all misdemeanor courts in King County and the City of Seattle, Juvenile Court and Mental Commitment Court. I served as the ACA Felony Division Supervisor and the first Trainer for Associated Counsel for the Accused, a firm of 65 attorneys and 20 investigators.
- From 1995 to 2001 I served on the bench as the Court Commissioner for King County District Court. I also served as the Auburn Municipal Court Judge and the Special Master for King County Superior Court at The RJC. These two appointments were through agreements with King County District Court.
- From 2003 to 2005, I served as the Public Defender of King County. I was the head of the public defense system for King County and the City of Seattle. I did not represent clients. I established policy for the King County public defense system. I participated in King County criminal justice system improvements and policy decisions. I consulted with the Executive Office, the King County Council, and the District and Superior Courts. I decided issues of expert appointments in all cases within King County. I created budgets and monitored the contracts for public defense. The King County public defense system addresses 35,000 cases per year, with an annual budget of

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approximately 36 million dollars. I addressed the budget and management issues specifically associated with the Ridgway case.

During 2002 and 2005-2006 I worked as a pro tem judge in King County Superior Court, King County District Court, Kent Municipal Court and Auburn Municipal Court.

21. Within the last 5 years, did you appear in trial court:

Regularly

Occasionally

Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

No. Specialized State public defense contract attorneys do public defense appeals.

23. Within the last five years, how often did you appear in the court for which you are applying:

Regularly

Occasionally

Infrequently

24. Career Experience

(a) What percentage of your appearances in the last five years was in:

(1) Federal appellate courts	0%
(2) Federal trial courts	0%
(3) State appellate courts	0%
(4) State trial courts	70%
(5) Municipal courts	10%
(6) District courts	20%
(7) Administrative tribunals	0%
(8) Tribal courts	0%
(9) Other	0%
TOTAL	100%

(b) What percentage of your practice in the last five years was:

(1) Civil litigation (excl. family law)	5%
(2) Criminal litigation	50%
(3) Family law litigation	0%
(4) Non-litigation	45%
TOTAL	100%

(c) What percentage of your trials in the last five years were:

(1) Jury trials	100%
(2) Non-jury trials	0%
TOTAL	100%

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- (d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel; jury trials; and trials where you were the arbiter/decision maker.

Number	Court	% as Sole / Chief Counsel	% Jury	% as the Arbiter
70 (approx.)	Municipal	98 %	2%	10%
300(approx.)	State Dist.	50%	98%	50%
130	State Superior	99%	98%	0 %
0	Federal Dist.	0 %	0 %	0 %
0	Administrative	0%	0%	0 %
0	Tribal Courts	0%	0%	0 %
	Other	0 %	0%	0 %

- (e) No appellate experience.
- (f) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

1) State v. Viscussi; Assault 2 (Three Strikes) (2007), Snohomish County

Judge Michael Downes, 425.388.3075

Prosecution: Helene Blume, 425.388.3333

This case involved a seriously mentally ill defendant who wanted to plead guilty to a third strike case. Mr. Viscussi entered a plea of guilty. This case is pending appeal and a motion to withdraw the plea. The parties may not be free to talk to you about this.

2) State v. Roger Seavey, Murder 1, 2 counts (1988), King County

Judge: Frank Sullivan (deceased)

Prosecution: Hon. Nicole MacInnes, 206.296.9210.

Mr. Seavey was grossly mentally ill. He was found not guilty by reason of insanity after being incompetent to stand trial for in excess of 1 year.

3) State v. Albert Otto, Statutory Rape 1, 15 counts (1984), King County

Judge; Robert Dixon, Deceased

Prosecution: Jeffrey Baird, 206.296.9000.

Mr. Otto was charged with multiple counts of sexual contact with children as a result of his involvement in an isolated religious community on Vashon Island, calling itself the Wesleyan Church. They had no relation to the established Wesleyan Church. The case was the subject of significant media attention. The case had issues of the social psychology of small group formation and dissolution. There were also significant issues of change of venue due to pretrial publicity. The case was resolved with a plea to one count of Indecent Liberties.

4) State v. Tony Humbarger, Rape 1 (1990) King County

Judge: Patricia Aitken

Prosecution: Don Raz

Judge Aitken found my client not guilty by reason of insanity in a contested bench trial.

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- (g) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

None.

25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

I served as the Court Commissioner for King County District Court for 7 years. I served as The Public Defender for King County for 2+ years. In each of these positions I addressed administrative matters within the court system and the criminal justice system. I established budgets, changed court procedures and rules and established policies and procedures that affected people who come to the court to address cases and who work within the court. I addressed social service needs, criminal justice issues, issues of homelessness, racial disparity, and cultural competency, as well as issues concerning information sharing among governmental entities. Through this experience I became very aware of the broad effect of government and the need for government to conduct itself in a thoughtful, transparent and accountable manner.

As the Court Commissioner and The Public Defender, I worked in King County committees, including members of the bar and social service agencies to establish changes in the court system, such as modifications to the status conference calendar procedures in King County, changes in the District Court procedures for addressing Domestic Violence cases and State case consolidation within the District Court system. I believe in the integrity and competence of the system of justice and I realize that the structure, management and funding of the system is as important as the day-to-day handling of individual cases.

I understand that King County does not act independently of the State of Washington. I have worked with state legislators, state agencies, governmental associations, the Washington State Office of Public Defense, on Supreme Court Committees and state court committees. I have a great appreciation for the fact that King County is part of a larger justice system, which must react to statewide issues in a thoughtful manner.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

Pike Market Child Care and Preschool (PMCCP); early childhood education and care of children and families; Member, Board of Directors; fiscal and policy duties; term ends 2009. I will remain on this Board. This is important work. PMCCP has been in existence for 25 years. The organization has never been involved in a lawsuit in King County.

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27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

Please see #11.

1999–2001, I enjoyed working on the Washington State Pattern Jury Instructions Committee. The committee includes a broad range of interests and opinions and the atmosphere was always collegial, intellectual and focused on doing good work for everyone in the state.

1992–1994, I worked on the WACDL Legislative Committee, seeking treatment-based alternatives to drug crime sentencing. This committee established the groundwork for changes in drug crime sentencing, which were later adopted by the Legislature. I worked in Snohomish County as an attorney helping to administer these treatment based sentences through the court. The work has been very fruitful in reducing recidivism and improving the lives of people who had few options before treatment was made available.

1992–1994, I served on the Ad Hoc Committee, Criminal Division, King County Superior Court. This committee was established when Judge Otero was the Criminal Division Presiding Judge. I worked with Judge Otero to establish the committee. The purpose of the committee was to require the judges, prosecutors and defense bar to meet and regularly discuss small problems within the criminal justice system, in a preventive maintenance manner, avoiding larger issues in the future. This committee continues to be in existence today as the Criminal Justice Operations Committee. It does good work, managing the day-to-day issues of administration, which arise within the criminal justice system.

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed/elected and are seeking a judicial position.

I have 26 years of legal experience, including work as a judge and in criminal justice policy. I understand when a case is about more than legal issues. I believe that the role of judges is to serve. I honor the legal, emotional and public elements of every court decision.

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29. In 50 words or less, please describe your judicial philosophy.

I respect the court as a core governmental institution. As a judge, I am part of this larger whole. When litigants appear before the court, the case must be addressed respectfully from a legal, human and institutional perspective, without regard for the personal feelings of the judge. I believe this.

30. Have you ever held a judicial office or have you ever been a candidate for such office?
Yes. If you answered "yes", please provide details, including the courts involved, whether elected or appointed, and the periods of your service.

Please see #9. I have served in the following appointed judicial positions:

Court Commissioner, Auburn Municipal Court, 2008-Present

Court Commissioner for King County District Court, 1995 – 2001

Special Master for King County Superior Court- RJC, 1998-2000

Auburn Municipal Court Judge 1996-1997

I have not been a candidate for an elective judicial office.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? Yes If you answered "yes", please provide details, including the offices involved, whether elected or appointed, and the length of your service.

The Public Defender for King County 1/2003 to 4/2005. This was an appointed position. I was responsible for the public defense system in King County. I represented public defense in numerous public and internal King County venues. This position is discussed in more detail in other sections of this questionnaire.

I have not been a candidate for elective office.

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

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32 2008 Auburn Municipal Court Commissioner

PROSECUTORS WHO HAVE APPEARED BEFORE ME:

These are City of Auburn prosecutors who appear before me on a regular basis.
The City Attorney's Office phone number is 253.931.3030.

- Harry Boesche
- Sasha Alessi
- Stacy (Huei Ching) Chao
- Jennifer Azure
- Allison Stanhope

DEFENSE COUNSEL WHO HAVE APPEARED BEFORE ME:

- Matt Rusnak – 253.939.3464 He is the public defender for the City of Auburn
- Donna Johnston – 206.323.9021 Serves as a public defender in Auburn Municipal Court
- Erik Kaeding – 253.850.8430
- Kenneth Fornabai – 253.833.4485
- Donna Person - 253. 840.0288

1995 to 2001 King County District Court Commissioner; 1996 Auburn Municipal Judge, appointed through King County District Court; 1998-2000 King County Superior Court Special Master, RJC; appointment through King County District Court.

These positions are discussed in several sections above. Please see #24 (e)

PROSECUTORS WHO HAVE APPEARED BEFORE ME

- Ian Taylor 206.296.0430 Was the prosecutor's supervisor for Aukeen District Court; has appeared before me on numerous occasions, including jury trials
- Shaya Calvo 206.296.9000 Was the prosecutor's supervisor for Aukeen District Court; has appeared before me numerous times as a prosecutor, including jury trials
- Alice Degen 206.205.7400 Was the prosecutor assigned to Aukeen District Court; appeared in front of me almost daily for 6 months.
- Charles Sergis 206.296.9446 Was a prosecutor in the Aukeen Division; appeared in front of me almost every day for at least 6 months
- Paige Ulery 206.296.9000 Was a prosecutor in Aukeen District Court
- Craig Sims 206.726.6600 Was a prosecutor in Aukeen District Court. Has co-taught Trial Ad with me for 3 years at University of Washington
- Ian Goodhew 206.296.9000 Was a prosecutor in Aukeen District Court.
- Lisa Lawrence 206.218.1010 X:225 Appeared before me as a prosecutor in Mental Health Court
- Manka Dingra 206.296.9000 Appeared before me as a prosecutor in Mental Health Court.

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DEFENSE COUNSEL WHO HAVE APPEARED BEFORE ME

Greg Girard	253.520.5000 x: 2026	Worked with me from 1980 to 1995; was a Senior Trial Attorney with me at ACA; appeared before me on numerous occasions when I was the District Court Commissioner
Robert Williams	206.520.6509 x233	Has appeared in front of me; worked with me for 8 years at ACA
Sharon Gill	253.624.8105 x280	Has appeared in front of me; worked with me for 10 years at ACA
Rick Bathum (Judge)	206.296.7758	Has appeared before me on numerous occasions from 1997 to 2000 as a defense counsel
Barbara Bowden	253.473.4262	Has appeared before me on numerous occasions as defense counsel from 1997 to 2000
→ Bill Bowman	425.451.3512	Has appeared before me as a prosecutor and defense counsel during my 7 years as Court Commissioner
Dan Felker	206-933.1700	Worked with me at ACA for 8 years; has appeared before me as defense counsel on numerous occasions
Ken Fomabi	253.83.-4485	Has appeared before me on numerous occasions as defense counsel
Marjorie Tedrick	253-350.9350	Has appeared before me on numerous occasions as defense counsel; was a prosecutor when I was a public defender.

Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years
- | | |
|----------------|---|
| 2006- present; | |
| 1999 - 2002 | Board of Directors, Pike Market Childcare and Preschool |
| 1992 - present | Arts Committee, Phinney Ridge Neighborhood Association |
| 1998 | Center for Dispute Resolution Instructor, Mediator Training |
| 1998 - 2000 | Judge, YMCA Mock Trial Program |
| 1993 | Speaker, University of Oregon "Myths of Drug Abuse" symposium |
| 1992 | Speaker, WSBA/YLD "Opportunities in Law" seminar for high school students |
| 1990 - 92 | Member, Metro Citizens' Water Quality Advisory Committee |
34. Have you ever been held, arrested, charged or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation or ordinance? No.
35. Has a client ever made a claim or suit against you for malpractice? No.

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- 36 Please describe your direct experience, if any, with domestic violence and sexual harassment.

I have represented battered women who are charged with crimes. I have represented batterers.

As the Court Commissioner for District Court, I presided over numerous cases of Domestic Violence. I worked on the Domestic Violence fast track work group with the purpose of improving the quality of case processing in Domestic Violence cases. This project provided the basic framework for the Domestic Violence Courts. I have served occasionally as the Domestic Violence Court judge.

I have been threatened by two of my probationers, who were on probation for domestic violence. My family left our house for a weekend because of the credible quality of the threats to us. One of these defendants was prosecuted at the felony level for threats against his victim and her family.

As the Public Defender, I worked with the King County Domestic Violence Coalition (Merrill Cousin) to present a CLE focused on representing Battered women who are charged with crimes.

On the bench, I have addressed issues of sexual harassment on Small Claims calendars and the Protection and Anti-Harassment Orders calendars. My firm addressed issues of sexual harassment within the firm, during the time I was a felony attorney at Associated Counsel for the Accused.

37. Have you been a party in interest, witness, or consultant in any legal proceeding? Yes.
If you answered "yes", please provide details. Do not list proceedings in which you were merely a guardian ad litem or stakeholder.

Yes. **Marc Chavez and Anne Harper, marital community v. Royce Milaskey**, King County District Court # Y0-000343. This was a very unfortunate case. The case was addressed in Seattle District Court. A judgment was entered for approximately \$15,000.00. The judgment has not been paid. Royce Milaskey was a friend of my husband's from architecture school. He was having significant financial, emotional and legal difficulties between 1995 and 1997. My husband and I made a series of loans to him during this period, so he could support his three children. He owed us approximately \$15,000. He reestablished himself and refused to return the money loaned. We hired Robert Friedman to collect the debt.

As the Public Defender, I was a technical party to the following lawsuits:

King County v. Teresa Olson and The Defender Association, 2002, 02-2021884-9, King County Superior Court. This was a contract based civil suit against an attorney who engaged in sexual relations in the jail with a Homicide client. Her firm was sued for negligent supervision.

King County v. Northwest Defender Association, 2002, unknown case number, King County Superior Court

A public defense contractor was taken into court ordered receivership for financial and management based contract violations.

Dolan v. King County, 2006, 06-2-04611-6, Pierce County Superior Court. As The Public Defender, I am a potential witness and potential plaintiff. This is a class action lawsuit being prosecuted by current and former public defense attorneys, claiming employee status and retroactive retirement benefits from King County.

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38. Have you ever been the subject of a complaint to any bar association, disciplinary committee, court, administrative agency or other professional group? Yes. If you answered "yes", please provide details.

The WSBA recently dismissed a complaint filed by a client in Snohomish County. Ronnie Mason was pending trial and presentation of a motion to suppress evidence due to unconstitutional search and seizure in Snohomish County Superior Court. He was charged with Felon in Possession of a Firearm. The Federal government threatened to charge him, if we proceeded with the motion. He believed erroneously, that I caused these threats to be made. The letter from the federal prosecutor shows that the state prosecutor initiated the federal involvement in the case.

39. Have you ever been disciplined or cited for breach of ethics or unprofessional conduct?
No.
40. If you have served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you?
No. However, the Judicial Conduct Commission does not notify judges of complaints, which are dismissed at the initial assessment stage.

Miscellaneous

41. Are you aware of anything that may affect your ability to perform your duties as a judge?
No.

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42. Have you published any books or articles in the field of law? If so, please list them, giving the citations and dates. Also, please give the dates and forums of any Continuing Legal Education presentations that you have made.

Publications:

1. "Washington Strikes Out," Defender Magazine, January 1994
2. CLE materials for the CLE's below
3. "Racially Disparate Rates in Drug Prosecution and Incarceration in Washington State," an unpublished paper which I presented at a symposium at the University of Oregon in 1993

Teaching Experience

- | | |
|---------------------------|--|
| 2008 | Teacher, Emory University School of Law, Intensive Trial Skills Program |
| 1998-present | Trial Advocacy Instructor, University of Washington, School of Law |
| 1998, 1999,
2005-2008 | Instructor, NITA Northwest Trial Advocacy College |
| 2005 | Speaker, Criminal Ethics and Client Relations, WSBA Preadmission Program, Snohomish County |
| 2004 | Facilitator, KCBA Annual Bench Bar Conference: Practicing in a World of Change |
| 2003 | Speaker, WSBA Annual Criminal Justice Institute, Public Defense funding issues |
| 2003 | Speaker, Mental Illness Evaluations, Superior Court Judges Association, Spring Judicial Conference |
| 2002 | Seminar Chair, Mental Illness and the Law, UW Foundation |
| 2000 | Speaker, WACDL, "Issues of competency to stand trial and Primer on Mental Health Court" |
| 2000 | Speaker, KCBA "Mental Health Court Procedures" |
| 2003, 2001,
1999, 1996 | Speaker, King County District Court, Pro Tem Training |
| 1999 | Mock Trial Judge, Seattle University School of Law; Clinical Program |
| 1998 | Speaker, WACDL, "Judicial Perspective: Bond in sexual abuse and domestic violence cases" |
| 1997 | Seminar Co-chair, SKCBA, "District Court: A Court for all Reasons" |
| 1994 | Speaker, SCRAP, "Persistent Offender Sentencing Issues" |
| 1994 | Speaker, Washington Defender Association, "I-593 Issues" |
| 1994 | Speaker, Washington Women Lawyers, "Gender Bias in Jury Selection" |
| 1991 | Speaker, Washington Defender Association, "Defense of a Drug Case" |
| 1989, 90, 92 | Instructor, Washington Defender Association, 3 day Trial Practice College |

43. Please list any honors, prizes, awards or other forms of recognition that you have received and whether they were professional or civic in nature.

- | | |
|--------------|--|
| 1994-Present | AV Rating, Martindale Hubble |
| 1993, 1994 | WACDL Certificate of Appreciation |
| 1992 | Certificate of Appreciation, Metro Water Resources Division |
| 1979, 80 | Albright Scholarship, University of Washington School of Law |
| 1978 | Graduated Cum Laude, University of Washington |

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44. Are you aware of anything in your background or any event you anticipate in the future that might be considered to conflict with the Code of Judicial Conduct? No.
45. Please provide a writing sample of your work (between 5 and 10 pages long), written and edited solely by you, within the last 4 years.

Access to Justice

46. Please describe activities that you have engaged in to eliminate bias or improve access to the judicial system for indigent populations and ethnic, racial and sexual minorities. As a member of the bench, what, if any, role do you believe a judge has to enhance equal access to justice?

As a public defender I provided access to criminal justice system. As a public defender I have attempted to provide limited ancillary services or referrals for clients who have civil legal issues, such as forfeiture hearings, powers of attorney, landlord tenant issues or dissolution issues.

As the Court Commissioner and Special Master, I worked with the South County Bar Association and the court facilitators to make sure that the facilitators and volunteer attorneys were accommodated to aid Pro Se litigants in addressing their cases.

On the bench I am very aware of the issue of bias. I conduct myself in a respectful and attentive manner and seek to avoid bias or the appearance of bias in my daily life on and off the bench. I do not tolerate statements that intimate bias. I have always sought qualified interpreters as a part of the court proceedings whenever it appeared that interpreters might be needed.

As The Public Defender, I worked with Superior Court and the Family Law Court Services staff to obtain a grant from DSHS to provide limited publicly assigned counsel in the family law area for Unified Family Court cases. I helped focus the program on serving members of racial and ethnic minority communities.

I unfortunately, also had to address a contract violation, which involved a public defense attorney who had used a racial epithet toward a client in a courtroom. I found that the violation occurred and required contract based corrective action to address the problem.

I worked with Judge Clark in Juvenile Court to address issues of cultural competency and racial disparity in incarceration rates in Juvenile Court and the racially disparate impact in the dependency cases. Through Judge Clark's leadership, these efforts bore fruit. I brought issues of racial disparity to the Criminal Justice Council. I also required clear deliverables in the Racial Disparity Project grant, which King County was funding through OPD to The Defender Association.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

46. I believe that judges have a duty to assure that the court system is culturally competent and without racial, ethnic or other bias in the delivery of services. Judges can require training, which helps to accomplish this goal. Annual County employment Performance Assessments for court employees can include issues such as lack of bias. Judges also have a duty to lead by example.

The Code of Judicial Conduct allows judges to advocate for changes in the administration of justice. The appearance of bias is a violation of the Code of Judicial Conduct. Access to justice is a significant issue as noted in In re Marriage of King, #79978-4, a recent Washington Supreme Court opinion.

Court leadership in anti-bias and access to justice issues may include advocating for court-based programs. I believe it is appropriate for a judge to support bar association involvement or bar regulations, which improve the access to civil justice in general. The court may partner with bar associations to aid in the provision of pro bono legal services through grants of space or equipment or through calendaring changes. I believe it is appropriate for the judges to advocate within King County government for grant funding to private non profit entities to provide pro bono services, particularly as a method of case management improvements. These grants would have to be awarded and administered within the executive branch to avoid an appearance of unfairness. Judges may not solicit funds other than through budgeting decisions. Judges may not advocate for access to justice in individual cases.

47. Please describe the frequency, time commitment and substantive nature of your direct participation of free legal services to indigent populations, and ethnic, racial and sexual minorities.

I have been a full time public defender for 16 years. My average work week was 60 hours.

Diversity in the Legal Profession

48. Please briefly describe your understanding of the issue of "diversity within the legal profession."

Diversity is an all-encompassing word. It includes racial, ethnic, sexual and cultural differences, as well as differences in physical capacity, psychological capacity, financial support and community support. It includes the present situation as well as the past. Diversity is a source of questions about the nature of our existence. Openly experiencing the diversity around us causes us all to grow in wisdom and appreciation for the value of other people, as well as us. Diversity is real. To fail to understand the value of diversity is to bind yourself in blindness and limit your own possibilities. The legal profession is no different than any other profession in this regard. As attorneys, we provide services to human beings. If we do not understand them, we fail in our purpose. The profession itself has to be diverse in order to engage in real education of its members. As Thomas Friedman has written, "The world is flat". If we do not explore, appreciate and respond to the diversity around us, we will fail.

References

It is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. One or more participants in the evaluation process may contact each of your references. All telephone numbers should be current and legible. If a reference is unreachable, your rating/evaluation may be delayed. **Please use a separate piece of paper for each list.** You may contact references in advance if you so desire. Individuals not listed by you as a reference may be contacted to obtain information about you.

49. If you have been in practice within the past fifteen years, list the names and phone numbers of ten opposing counsels who know you best, including at least three opposing counsels on cases that went to trial

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

50. If you have been a judge or otherwise have served as a neutral decision-maker within the past fifteen years, please list the names and phone numbers of the last ten attorneys who have appeared before you.
51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.
52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).
53. List the names and phone numbers of ten additional attorneys familiar with your professional qualifications, skills, experience or attributes.

Certification

54. By signing below, I declare under penalty of perjury under the laws of the State of Washington that the information provided by me in responding to this questionnaire is true and correct to the best of my knowledge.

Date: _____ Signature: _____

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

NOTE: The Governor's Office requires individuals seeking judicial appointment to utilize, to the fullest extent possible, the ratings processes from state, county, and minority bar organizations. Contact information for the minority bar associations can be found on the Washington State Bar Association's website at (<http://www.wsba.org/public/links/minoritybars.htm>). It is the applicant's responsibility, however, to obtain these evaluations in a timely manner, and to forward evaluations received to the Governor's Office. To that end, all applicants are strongly encouraged to commence the evaluation process with the various bar associations as soon as possible. To facilitate the process, the following organizations have agreed to accept this questionnaire as the principal application in their evaluation process and may also require candidates to complete an additional supplement questionnaire:

State Bar Association

Washington State Bar Association (WSBA) (appellate court evaluations only)

County Bar Associations

X King County Bar Association (KCBA)

Spokane County Bar Association (SCBA)

Tacoma-Pierce County Bar Association (TPCBA)

Minority Bar Associations

X Latina/o Bar Association of Washington (LBAW)

X Loren Miller Bar Association (LMBA)

X The Joint Asian Judicial Evaluations Committee of Washington³

Pierce County Minority Bar Association (PCMBA)

X Q-Law / GLBT (Gay Lesbian Bisexual Transgender) Bar Association

X Washington Women Lawyers⁴ (WWL)

As of the date of your certification below and submission of this questionnaire to the Governor's Office, please check beside each of the above organizations you have contacted to evaluate you for the position for which you seek.

Certification

54.

By signing below, I declare under penalty of perjury under the laws of the State of Washington that the information provided by me in responding to this questionnaire is true and correct to the best of my knowledge.

Date: 10/5/08

Signature: 

³ A joint committee of the Asian, Korean, South Asian and Vietnamese American Bar Associations of Washington.

⁴ Washington Women Lawyers has approved the use of the Governor's Uniform Judicial Evaluation Questionnaire for its statewide and all county chapters.

49 If you have been in practice within the past fifteen years, list the names and phone numbers of ten opposing counsels who know you best, including at least three opposing counsels on cases that went to trial

1. Hon. Ricardo Martinez 206-553-1396 Has known me since 1981; was a prosecutor when I was a public defender; negotiated cases with me; was opposing counsel in trial; presided over a trial where I was defense counsel. Judge Martinez is a Federal District Court Judge. He cannot write a letter of recommendation, but he can answer all questions, if he is contacted
2. Hon Monica Benton 206-296-9242 Was a prosecutor when I was a public defender; was opposing counsel in trial; was a District Court Judge when I was Court Commissioner; is familiar with my bench work; has co-chaired CLE's with me.
3. Hon. Vicky Seitz 206-296-0133 Was opposing counsel in State v. David (listed in #15); Was a District Court Judge when I was the Court Commissioner; is familiar with my bench work.
4. Hon. Linda Jacke 206-296-3650 Has known me since 1981; has been opposing counsel in numerous cases including Murder 2 (State v. Ramirez 49 Wn.App. 322(1987)). Was a District Court Judge when I was the Court Commissioner.
5. Hon. Dean Lum 206-296-9295 Has known me since 1982; was a prosecutor when I was a public defender; was opposing counsel; I helped him with a seminar on "Opportunities in the Law" for minority high school students.
6. Hon. Steve Moore 425-481-4439 Has been opposing counsel in numerous trials, including a Murder 1 case
7. Hon. Patricia Clark 206-296-9190 Worked as a prosecutor when I was a public defender; has been opposing counsel; has observed my trial work when she was a prosecutor's supervisor; Worked with me when I was the Public Defender, she was the Juvenile Court Presiding Judge when I was the Public Defender.
8. Robin Fox 206-296-9450 Has been opposing counsel in numerous cases. Worked with me on Mental Commitment Court issues when I was the Public Defender.
9. Margaret Nave 206-296-9000 Has been opposing counsel in numerous cases. Worked on District Court consolidation project with me when I was the Public Defender.
10. Tammy Bayard 425.388.3333 Worked with me in Northeast District Court for 2 years, as a bailiff. Has worked as opposing counsel in Snohomish County as a county prosecutor.
11. Lynn Moberly 425.313.5767 Worked as opposing counsel when I was a pubic defender. Has appeared before me when I was on the bench in King County District Court.

50. If you have been a judge or otherwise have served as a neutral decision-maker within the past fifteen years, please list the names and phone numbers of the last ten attorneys who have appeared before you.

32 ← (page 17 of Uniform Questionnaire)
418
See #31 and #52.

The attorneys listed in #32 generally have had multiple hearings in front of me on a regular basis over an extended period of time.

The attorneys listed in #32 under Auburn Municipal Court are the last 10 attorneys to appear before me.

The attorneys in this supplemental list have limited experience in front of me because they appeared in front of me while I was working as a Pro Tem judge during 2005 –2006.

Additional Attorneys:

1. Cindy Ahrens, 206.624.8105 x: 255, Associated Counsel for the Accused
2. Ronald P. Abernethy 206.443.1555, Solo Practitioner
3. Jeffrey C. Grant, 206.624.900 Aoki Sakamoto Grant, LLP
4. Anna Bruslanowski, 206.624.8105 x: 203, Associated Counsel for the Accused
5. David Wieck, 425.391.7427, O'Brien Barton Wieck & Joe, PLLP
6. Lori D. Hansen, 425.637.3067, Solo Practitioner
7. Elizabeth Abbott, 206.296.9000, King County Prosecutor's Office
8. Nikole Hecklinger, 206.322.8400, Society of Counsel Representing Accused Persons (SCRAP)

51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.
- 1) Le Sanchez 360.886.0232 Was the court administrator at Aukeen District Court; has worked with me on a daily basis for almost 4 years; has over 25 years of experience in the court system
 - 2) Joanne Hanson 296-205-2070 Has worked as a clerk in the court system for over 20 years; was my bailiff for at least 2 years in Aukeen District Court; has been with me in court during some very difficult hearings
 - 3) Jorene Moore 206.296.9400 Director, King County Family Court Operations. Worked with me on the Status Conference Calendar work group and on The Family Law Improvement Project.
 - 4) Paul Sherfey 206.296.9327 Director, Superior Court Administration. Worked with me on several committees and projects while I was The Public Defender.
 - 5) Susan Butler 206.296.1484 Mental Health Specialist with King County Mental Health Court. Worked with me as when I served as the Mental Health Court Judge.
 - 6) Steve Wede 206.296.3592 Mental Health Specialist with King County Mental Health Court. Worked with me as when I served as the Mental Health Court Judge.
 - 7) Toni Rezab 425.646.9264(home) Worked as an Executive Office Budget and Operations Analyst with me on numerous committees and projects while I was the Public Defender.
 - 8) Michael Olivieri 425.673.4999 (home) Worked with me as the Assistant Director of The Office of The Public Defender.
 - 9) Lori Cox 206.615.1606 Worked with me on the Seattle Municipal Court (SMC) Diversion Task Force, where we created the SMC Community Court.
 - 10) Dave Winger 206.296.1230 Is the Assistant Director of King County Community Correction. Worked with me on a project to re-design the jail screening system, identifying inmates with alcohol, drug and mental illness issues at intake.
 - 11) Catherine Cornwall 206.684.8725 Is the City of Seattle Criminal Justice Analyst for the Office of Policy and Management within the Mayor’s Office. Worked with me on City contract budgeting and public defense issues for the City.

52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).

As a Judge: 5 most recent Jury trials

- A) 1) **McDermott v. Malmquist**; Auto Negligence; Seattle District, 2006
Plaintiff Counsel: Lori D. Hansen, 425.637.3067
Defense Counsel David Wieck, 425.391.7427.
- B) 2) **City v. Monahan**; DUI, Auburn Municipal, 2008
Prosecution: Stacy Chao 253.931.3030
Nicole Franklin 253.833.4485
- C) 3) **City v. Holmberg**; Assault 4, DV; Auburn Municipal, 2008
Prosecution: Sasha Alessi, 253.931.3030
Defense Counsel: Steven Johnson, (206) 625-1711
- 4) **City v. Lawrence**; Assault 4, Malicious Mischief; auburn Muncipal, 2008
Prosecution: Stacy Chao 253.931.3030
Defense Counsel: Erik Kaeding, 253.850.8430
- 5) **City v. Sisul**; Assault 4, Auburn Municipal, 2008
Prosecution: Harry Boesche, 253.931.3030
Defense Counsel: Charles Ferguson (206) 223-0979

As an Attorney: 5 most recent Jury trials

- D) 1) **State v. Popach**; Vehicular Assault; (2008) Superior Court, Snohomish County
Judge Anita Farris (425) 388-3449
Prosecution: Ed Stemler, 425.388.3333
- E) 2) **State v. Crafts**; Burglary 2 (2006); Superior Court, Snohomish County
Judge Gerald Knight, 425.388.3571
Prosecution: Sean Reay, 425.388.3333
- 3) **State v. LaPalm**; Attempted Rape of a Child (2006), Snohomish County
Judge Michael Downes, 425.388.3075
Prosecution: Ed Stemler, 425.388.3333
- 4) **State V. McClane**; Assault 1, Assault 2, Assault 3 (2007), Snohomish County
Judge Ronald Castleberry, 425.388.3356 (check)
Prosecution: John Adcock, 425.388.3333
- 5) **State v. Frank**; Possession of Methamphetamine (2007) Snohomish County
Judge Cowsert, 425.388.3417
Prosecution: Ed Stemler and Al Treacy, 425.388.3333

53. List the names and phone numbers of ten additional attorneys familiar with your professional qualifications, skills, experience or attributes.
- 1) Thomas Carr (206) 684-8288, Seattle City Attorney. Worked with me on numerous issue related to Seattle Municipal Court, particularly the design of the Seattle Municipal Court Community Court.
 - 2) Mariane Spearman 206.296.3630, King County District Court Judge. Worked as a public defender when I was a public defender. Was a District Court Judge when I was the Court Commissioner. Has known me for over 20 years.
 - 3) David Chapman 253.381.4474 , was the Director of Associated Counsel for the Accused while I was The Public Defender for King County. Worked with me as an attorney at ACA for 7 years. Has known me for 25 years
 - 4) Maureen Howard (206) 616.6236, is the UW Professor of Trial Advocacy. Has known me for 10 years.
 - 5) John Bell 425-454-8304, has known me since 1986; has been opposing counsel on numerous cases; was the prosecutor in State v. Argo (listed in #15)
 - 6) Jeff Baird 206-296-9521, went to law school with me; has known me for 28 years; was a prosecutor during my entire tenure as a trial pubic defender; is currently the Chief Criminal Trial Deputy for King County Prosecutor's Office; was opposing counsel in numerous cases; is aware of my reputation among prosecutors
 - 7) Mark Larson 206-296-9000, is the Chief Criminal Deputy for King County Prosecutor's Office; has been opposing counsel; has worked with me on the Domestic Violence Fast Track work group; is aware of my reputation among prosecutors. Worked closely with me when I was The Public Defender.
 - 8). Kathy Van Olst 206.296.9000, was Assistant Chief Criminal Deputy during the time when I was the Public Defender. Worked with me on numerous committees and criminal justice system projects.
 - 9) Tim Geraghty 425.388.3690, is the Drug Court Prosecutor for Snohomish County. Worked with me to design the Drug Offender Sentencing Alternative Review calendar.

- 10) Hon. George Bowden 425.388.3532, is the Snohomish County Drug Court Judge. I substituted for the regular Drug Court Judge and work with him on those calendars. He has spent considerable time discussing Drug Court issues with me.
- 11) Hon. David Kurtz 425.388-3881, is a Snohomish County Superior Court Judge. I have appeared in front of him on numerous occasions. He is the Community based DOSA Judge. I helped design the system and practice in front of him, handling the calendar.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

STATE OF WASHINGTON)
)
)
Plaintiff,)
)
vs.)
JOHN C. BLAKE)
Defendant)

No. 06-1-02917-2
Defendant's motion and memorandum on
suppression of the fruits of an unlawful stop,
arrest and search

Motion

Comes now, John C. Blake, represented by Anne C. Harper, Snohomish County Public Defender Association, and moves the court to suppress the fruits of a detention, arrest and search of Mr. Blake conducted on 15 September 2006 in the city of Monroe. Specifically, the defense moves to suppress: methamphetamine and drug paraphernalia found in the search of Mr. Blake's person; statements made to Officer Erdmann and Ryan, Monroe Police Department.

This motion is based upon the Fourth and Fifth Amendments to the United States Constitution and Article 1, Section 7 of the Washington State Constitution. This motion is based upon the memorandum of law, which is incorporated by reference herein.

Respectfully submitted this 7th day of May 2007,

Anne C. Harper, #11844

1
2 Memorandum

3 Statement of Facts

4 On 15 September 2006, Officer in Monroe received a "suspicious circumstances" call
5 from an area in Monroe with a motorcycle shop. They were advised that a reporting party had
6 heard a noise, but had not observed any theft or other evidence of wrongdoing. They stopped Mr.
7 Blake several blocks away. They discovered that Mr. Blake was taking his own dirt bike into his
8 own place of employment. Mr. Blake answered their questions. The officer went into the
9 building and searched. There was no Theft. There was no Burglary. At that point, instead of
10 releasing Mr. Blake and his companion, Mr. Matherly, the officers started running names for
11 warrants. There were no warrants. They continued to "investigate" and determined that Mr.
12 Blake had a suspended driver's license. They continued to detain the individuals while they
13 searched for evidence of driving. Mr. Matherly, who was with Mr. Blake, confirmed that Mr.
14 Blake had been driving earlier. At this point, the officers arrested Mr. Blake for DWLS and
15 started searching his person. During the search of his person, after an arrest for DWLS, the
16 officers asked questions of Mr. Blake, without advising him of Miranda warnings. He admitted
17 that he had methamphetamine on his person. The officers recovered the methamphetamine.

18 An expanded version of the events follows:

19 Mr. Blake owns a motorcycle. The motorcycle is a dirt bike, which is not licensed for
20 highway use. Mr. Blake would ride the dirt bike on an 86-acre piece of property owned by Gene
21 Dahlman. He also had been storing the motorcycle at Gene Dahlman's home. Mr. Blake was
22 concerned about the security of the bike and was afraid that others were using it or that it was
23 likely to be stolen.

24 On 15 September 2006, Mr. Blake and his friend, Charlie Matherly, went over to
25 Robert Tyler's house and borrowed Mr. Tyler's flatbed pick up truck. They went over to Mr.

1 Dahlman's house and picked up Mr. Blake's dirt bike. Mr. Blake had decided to store the dirt
2 bike at his place of employment, a workshop owned by Custom Wood Crating in Monroe, so he
3 took the dirt bike into the city of Monroe.

4 On the way to the shop, they stopped behind a motorcycle shop and took an old
5 battery, which had been thrown out as garbage. They recharge the batteries and use them for dirt
6 bikes. When they threw the discarded battery in the back of the truck, it made a clunking sound.
7 This alerted Mr. Scott McMillen. Mr. McMillen confronted the two men, who told him that they
8 were just going to the bathroom. Mr. McMillen knows that there aren't any motorcycles left
9 outside at night, so he was not concerned about the theft of a motorcycle. He saw nothing else
10 amiss. The two men left the area and drove away. Mr. McMillen called the police and reported
11 "suspicious circumstances", giving a license plate number and information that someone was
12 "loitering" behind the motorcycle shop.

13 Messrs. Blake and Matherly drove a short distance to the building where Custom
14 Wood Crating is located. This is an industrial park in Monroe. Mr. Blake had the key to the shop.
15 He opened the shop and took the motorcycle into the shop. At the time, Mr. Blake was the only
16 employee working out of that shop. The workshop area was very crowded with tools and wood,
17 so Mr. Blake placed the motorcycle in the bathroom area of the shop. A piece of cardboard was
18 also in the bathroom. The cardboard fell on the bike, covering it. Mr. Blake was leaving the
19 building, locking up, when Officer Erdmann arrived. Mr. Blake was using the key.

20 Officer Erdmann responded to Mr. McMillen's suspicious circumstances call about
21 activity behind the motorcycle shop. The wood shop is a few blocks from the motorcycle shop.
22 Officer Erdmann could not see the license plate on the truck at the time he approached. The truck
23 had been identified as having a motorcycle in the bed. When the officer approached, there was
24 no motorcycle in the back of the truck. Mr. Blake was locking the shop door and getting ready to
25

1 leave, when the officer pulled up. The officer pulled up, partially blocking Mr. Blake from
2 leaving the area. This was a show of force.

3 The officer got out of the car and started asking questions. He asked general questions,
4 such as, "What are you doing here?" Mr. Blake told him that he worked in the building and he
5 was just leaving. The presence of keys confirmed this statement. Officer Erdmann suspected that
6 the motorcycle was stolen, so he asked where the motorcycle was. Mr. Blake told him that he
7 had put the motorcycle in the shop. The officer asked to see the motorcycle. Mr. Blake let him
8 into the shop. Inside the shop, the bathroom door was open. Mr. Blake showed the officer the dirt
9 bike. The officer found the cardboard "suspicious", but did not run any identification numbers or
10 ask any other questions about the bike. They left the shop and the officer told Mr. Blake, "Go sit
11 there", pointing to the bumper of the car. Mr. Blake did as he was told.

12 Several other officers arrived, perhaps as many as 4 additional officers. One of the
13 officers was Officer Ryan. Neither Mr. Blake nor Mr. Matherly had engaged in any conduct,
14 which would indicate that they had weapons or were dangerous in any way.

15 Officer Ryan detained Mr. Matherly to run his name for warrants. Mr. Matherly had
16 no warrants. Officer Erdmann detained Mr. Blake and ran a warrants check. Mr. Blake had no
17 warrants. The officers checked DOL and found that Mr. Blake was suspended in the third degree.
18 Mr. Matherly had a valid license. At this point, Officer Erdmann continued to investigate,
19 shifting his focus to evidence of prior driving. Officer Erdmann had not seen any driving, so he
20 relied upon the reports of informants. Mr. Matherly, who was in police detention, implicated Mr.
21 Blake as the driver of the truck earlier in the day. The officers decided to arrest Mr. Blake for
22 DWLS. Mr. Blake was not cited for DWLS at any time. Officer Ryan advised Mr. Blake that he
23 was under arrest. Without advising Mr. Blake of his Miranda warnings, the officer asked a
24 specific question, "Is there anything on your person that you want to tell me about, prior to being
25 searched?" Mr. Blake admitted that there was methamphetamine in his pocket. The

1 Methamphetamine and a pipe were recovered from the search of Mr. Blake's person. After the
2 arrest, Mr. McMillen called and provided additional information about the identity of the driver
3 of the truck.

4 Argument

5 There are four legal issues in this case:

- 6 1. The validity of the initial detention as an investigatory stop.
- 7 2. The determination of a point of arrest and whether there was probable cause.
- 8 3. The legitimacy of the assertion of probable cause, whether the assertion of DWLS is a
9 pretext arrest.
- 10 4. Whether Mr. Blake was interrogated contrary to the requirements of the Miranda
11 decision.

12 I. MR. BLAKE AND MR. MATHERLY WERE DETAINED WITHOUT ARTICULABLE 13 SUSPICION.

14 The defense challenges the initial detention and all results, which flow from that.
15 The initial detention is a warrantless search. The warrantless search is deemed invalid unless the
16 party advocating for admissibility, the State, can prove that the evidence is admissible under an
17 exception to the warrant requirement. The State has the burden of proving the validity of the
18 search by the preponderance of the evidence State v. Ferguson 131 Wash.App. 694, 128 P.3d
19 1271 (2006).

20 In this case, the officer had received a call from an informant, reporting "suspicious
21 circumstances". The only facts that were provided to the officer were that two males were in the
22 back of a motorcycle shop. A description of the car and license plate was given to the police.
23 The informant is a named informant. The suspects were described as loitering. This small
24 amount of information is insufficient to establish articulable suspicion or probable cause.
25

1 The case on point is State v. Seiler, 95 Wash.2d 43, 621 P.2d 1272 (1980). In that case,
2 the facts are very similar and the holding is controlling. The Supreme Court found a lack of
3 articulable suspicion and suppressed the fruits of the illegal search.

4 In State v. Seiler (supra), a school secretary received a tip from a named, but otherwise
5 unidentified informant, stating that a drug deal had just happened in the school parking lot. The
6 car and the individuals involved were specifically described, but no underlying facts were
7 provided, to explain how the informant came to the conclusion that a drug deal had occurred.
8 The school secretary called the police. The principal went out to take a look at the car and saw
9 that there were four people in the car, playing cards. The principal was unable to confirm the
10 informant's observations or conclusions. When the police arrived they walked up to the parked
11 car and began questioning the occupants, this was deemed to be a Terry stop. The court found
12 that the State had not established a well-founded suspicion, grounded in facts; therefore the
13 evidence was suppressed, requiring dismissal of the case.

14 The facts in the case at bar are less persuasive than the facts in Seiler. The informant is
15 identified, but has no proof of identity as a citizen or a criminal subculture informant. The report
16 of loitering is conclusory only. In Seiler the informant reported that a drug deal had occurred. In
17 this case the report is of "suspicious circumstances". The informant did not report that there had
18 been a motorcycle theft. The informant did not report a burglary. The informant reported hearing
19 a thud sound, but could not identify the source. The informant gave a description of the truck,
20 including the license plate. There was no further description of the behavior and truck, beyond
21 this. When the officer arrived, he found a flatbed truck with people coming out of the shop, with
22 keys in their hands. There is nothing criminal about that. As in Seiler, there is insufficient
23 articulable suspicion.

24 The court's reasoning in Seiler was a three-part analysis. The elements of the analysis
25 address the issues of both quantum and quality of the information.

1 The elements are: a credible informant; information which is reliable and a sufficient
2 quantum of evidence to establish an articulable suspicion.

3 The usual pattern of police investigatory stops is when the police view an incident
4 which arouses their suspicion, as in Terry v. Ohio 391 US1, 88 S.Ct. 1868, 20L.Ed.2d 889
5 (1968). The police are allowed to rely upon an informant's tip to conduct an investigatory stop.
6 When the police do this they are governed by the two requirements of Aguilar- Spinelli, State v.
7 Hopkins 128 Wn. App. 855, 117 P.3d 377 (2005). 1) The informant must be established to be a
8 credible person. 2) The information must be reliable. The essence of this requirement is that the
9 informant must be deemed to be speaking from first hand experience. This is also known as the
10 basis of knowledge prong. If the evidence establishes an informant's reliability and the
11 informant's basis for knowledge, the final issue is the sufficiency of the quantum of evidence.
12 Does the information amount to an articulable suspicion? If the informant's basis of knowledge
13 is in question, the police may bolster that lack of reliability with independent corroboration of the
14 details of the tip.

15 In State v. Seiler the court found that the tip was insufficient to establish articulable
16 suspicion. The tip was a conclusion, not an explanation of facts. The tip came from a person
17 whose name was identified, however there were no other additional facts provide about the
18 informant. Therefore, the individual was not classified as a citizen informant. If a person is not a
19 citizen informant, the State must show a basis in previous performance, which would establish a
20 reasonable person in concluding that the informant can be trusted to provide reliable information.
21 This is the "track record" element. If there is no track record, the police may substitute
22 corroboration of the informant's information to establish this prong only.

23 The informant in this case is identified. The first prong of the analysis, the credibility
24 of the informant, is completely missing. When Officer Erdmann arrived on scene, he saw people
25 coming out of a different shop with keys. There was no sign of forced entry of theft from within

1 the building. The officers had no information, which would indicate that a theft had occurred at
2 the previous building. The observations of the officer do not corroborate suspicious details,
3 which would create an articulable suspicion. The definition of articulable suspicion was provided
4 in State v. Walker, 66 Wn.App. 622,834 P.2d 41 (1992)

5 “Police may conduct an investigatory stop if the officer has a reasonable and
6 articulable suspicion that the individual is involved in criminal activity. State v. Sieler,
7 95 Wash.2d 43, 46, 621 P.2d 1272 (1980). A reasonable suspicion is the “substantial
8 possibility that criminal conduct has occurred or is about to occur.” State v. Kennedy,
9 107 Wash.2d 1, 6, 726 P.2d 445 (1986).

10 An officer's suspicion of criminal activity must be based on facts that are objective,
11 specific, and articulable. Utter, Survey of Washington Search & Seizure Law: 1988
12 Update, 11 U. Puget Sound L.Rev. 411 § 4.6(a), at 515 (1988); State v. DeArman, 54
13 Wash.App. 621, 774 P.2d 1247 (1989). “The reasonableness of the officer's suspicion is
14 determined by the totality of the circumstances known to the officer at the inception of
15 the stop.” State v. Rowe, 63 Wash.App. 750, 753, 822 P.2d 290 (1991). The court
16 considers the officer's knowledge and experience in determining the validity of an
17 investigatory stop. State v. Glover, 116 Wash.2d 509, 806 P.2d 760 (1991).

18 A reasonable suspicion justifying an investigatory stop may be based on an informant's
19 tip if the tip possesses sufficient indicia of reliability, i.e., if (1) the circumstances
20 suggest the informant's reliability; and (2) there is some corroborative observation
21 suggesting the presence of criminal activity or that the information was obtained in a
22 reliable manner. State v. Hart, 66 Wash.App. 1, 830 P.2d 696 (1992). Kennedy, 107
23 Wash.2d at 7, 726 P.2d 445; State v. Lesnick, 84 Wash.2d 940, 530 P.2d 243, cert.
24 denied, 423 U.S. 891, 96 S.Ct. 187, 46 L.Ed.2d 122 (1975); Sieler, 95 Wash.2d at 47,
25 621 P.2d 1272.

State v. Walker, 66 Wn.App. 622, at 626, (1992)

18 In State v. Walker, the State was not able to establish the credibility of the informant or the
19 sufficiency of the information to establish articulable suspicion. This case is subject to the same
20 infirmity.
21

22 In this case, the officer suspected that the motorcycle which was seen in the back of the
23 truck was a stolen vehicle. There is no basis for this suspicion, other than the fact that Mr. Blake
24 and Mr. Matherly were behind a motorcycle shop. The informant, Mr. McMillen works at the
25 motorcycle shop. He knows that there are no motorcycles left outside at night, so he did not

1 report a possible theft of a motorcycle. He simply reported loitering. The officers had no basis to
2 believe that the motorcycle was stolen and in fact the motorcycle was not stolen.

3 The defense request that the court finds that the initial detention is invalid.

4 II. WHEN THE OFFICER STARTED SEARCHING THE BUILDING, THEY HAD
5 ARRESTED MR. BLAKE BECAUSE THEY EXCEEDED THE SCOPE OF AN
6 INVESTIGATORY STOP. THIS WAS DONE WITHOPUT PROBABLE CAUSE.

7 Officer Erdmann stopped Mr. Blake and Mr. Matherly. He started asking questions. He
8 received truthful and non-suspicious answers to his questions. He was told that Mr. Blake
9 worked at the location. Mr. Blake had keys, which corroborated this assertion. The officer took
10 no further steps to investigate that fact, such as calling the owner of the business.

11 The officer requested permission to search the building and view the motorcycle. Mr.
12 Blake allowed the officer into the building. He showed him the motorcycle. The officer did not
13 run the motorcycle for reports of stolen. He found that the motorcycle's location was
14 "suspicious", but took no further steps to confirm or deny the suspicions. The motorcycle was
15 not in fact stolen. Officer Erdmann had Mr. Matherly wait outside while he and Mr. Blake went
16 inside. The officer spent several minutes inside the building. Officer Ryan arrived and several
17 other officers arrived. The defense position is at this point, the officers had strayed so far from an
18 initial detention that they had arrested Mr. Blake and Mr. Matherly.

19 The case on point is State v. Williams, 102 Wash.2d 733, 689 P.2d 1065 (1984) In
20 State v. Williams, the officers were responding to a call of a Burglary in progress. They
21 responded to the scene and conducted a Terry stop for investigation, placing Mr. Williams in the
22 back of a patrol car. The officers stopped talking to Mr. Williams and began to investigate the
23 scene. They looked around the building and left Mr. Williams in a state of detention for
24 approximately 20 minutes. This was deemed to be an arrest. The court considered the following
25 factors in determining that an arrest had occurred: the purpose of the stop, the physical intrusion

1 and the time to affect the stop. In this case, the focus of the officers had strayed from what the
2 two men were doing. Mr. Blake estimates that he was in police detention for at least 20 minutes
3 prior to the announcement of a formal arrest.

4 The Williams court stated:

5 “The (U.S. Supreme) Court subsequently applied the Terry standard to permit a “brief
6 stop of a suspicious individual, in order to determine his identity or to maintain the
7 status quo momentarily while obtaining more information”. Adams v. Williams, 407
8 U.S. 143, 146, 92 S.Ct. 1921, 1923, 32 L.Ed.2d 612 (1972). Under Terry, the Court has
9 generally approved pat-down searches for weapons, and brief, on-the-spot questioning,
10 see, e.g., Adams v. Williams, supra, but disapproved of more intensive seizures without
11 consent. For instance, in Dunaway v. New York, 442 U.S. 200, 99 S.Ct. 2248, 60
12 L.Ed.2d 824 (1979), the Court held that the police had illegally seized a murder suspect
when, after getting a “lead” from a police informant, they brought him to the station for
questioning. In finding that the subsequent interrogation of the defendant was illegal,
the Court rejected a balancing analysis and concluded that detention for custodial
interrogation—regardless of its label—intrudes so severely on interests protected by the
Fourth Amendment as necessarily to trigger the traditional safeguards against illegal
arrest.”

13 “...in evaluating investigative stops, a court must make several inquiries. First, was the
14 initial interference with the suspect's freedom of movement justified at its inception?
15 Second, was it reasonably related in scope to the circumstances which justified the
16 interference in the first place? Terry v. Ohio, supra, 392 U.S. at 19-20, 88 S.Ct. at 1878-
1879. To justify an intrusion, the police officer must be able to point to “specific and
articulable facts which, taken together with rational inferences from those facts,
reasonably warrant that intrusion.” Terry, 392 U.S. at 21, 88 S.Ct. at 1880.

17 As to this second inquiry, the United States Supreme Court has suggested at least three
18 relevant factors in determining whether an intrusion on the suspect's liberty is so
substantial that its reasonableness is dependent upon probable cause: the purpose of the
stop, the amount of physical intrusion upon the suspect's liberty, and the length of time
the suspect is detained.

19 State v. Williams (supra at 740-41)

20
21 The officers in this case were specifically investigating a stolen motor vehicle. They
22 searched the building, taking Mr. Blake with them. They did not run the ID numbers on the dirt
23 bike. They were not generally investigating the circumstances, asking general questions of the
24 people stopped, which is the scope of an investigatory stop. Whether there is probable cause
25 must be determined at the point of arrest. At this point, there was no probable cause to believe
that any crime had occurred. The defense would request that the court find that the officer had

1 conducted a functional arrest at the point when he started searching the building. The defense
2 would also request that the court find that there was no probable cause at this point and suppress
3 the fruits of this arrest.

4 III. THE OFFICER'S ARREST OF MR. BLAKE WAS A PRETEXT TO SEARCH MR.
5 BLAKE.

6 The officer did not find any evidence that the motorcycle was stolen in the search of
7 the building. The officers began running Mr. Blake and Mr. Matherly for warrants. They found
8 no warrants. They ran Mr. Blake and Mr. Matherly for licenses. They discovered that Mr.
9 Matherly had a valid license and Mr. Blake had a suspended license. At this point, they began
10 questioning to determine who was driving the truck at a prior point in time. Mr. Matherly, who
11 was in a state of police detention, indicated that Mr. Blake had been driving. The officers did not
12 see Mr. Blake driving. At this point, the officers arrested Mr. Blake for a suspended license. The
13 case on point is State v. Ladson 138 Wn.2d 343, 979 P.2d 833 (1999). The Ladson court
14 acknowledged that a pretext stop is an illegal stop.

15 "We have observed that ultimately our state constitutional provision is designed to
16 guard against "unreasonable search and seizure, made without probable cause." State v.
17 Fields, 85 Wash.2d 126, 130, 530 P.2d 284 (1975). However, the problem with a
18 pretextual traffic stop is that it is a search or seizure which cannot be constitutionally
19 justified for its true reason (i.e., speculative criminal investigation), but only for some
20 other reason (i.e., to enforce traffic code) which is at once lawfully sufficient but not the
21 real reason. Pretext is therefore a triumph of form over substance; a triumph of
22 expediency at the expense of reason. But it is against the standard of reasonableness
23 which our constitution measures exceptions to the general rule, which forbids search or
24 seizure absent a warrant. Pretext is result without reason."
25 State v. Ladson, (supra at 351)

22 Officers must be able to articulate a reasonable basis for their stop or arrest. In this
23 case, the officers were continuing to detain Mr. Blake, looking for some basis to arrest him and
24 search him. The stolen vehicle investigation had come to a dead end, so they were proceeding to
25

1 look for another basis to arrest. They used the DWLS arrest as a basis to search Mr. Blake. The
2 court should find that this was a mere pretext arrest.

3 IV. MR. BLAKE WAS QUESTIONED WHILE IN A STATE OF ARREST AND HE WAS
4 NOT AFFORDED THE PROTECTIONS OF MIRANDA.

5 Officer Ryan notified Mr. Blake that he was arresting him for a suspended license. He asked Mr.
6 Blake, "Is there anything on your person that you want to tell me about, prior to being
7 searched?" This was interrogation under Rhode Island v. Innes 446 U.S. 291(1980). This was a
8 specific question designed to elicit incriminating information. At that point, Mr. Blake admitted
9 to the officer that he had methamphetamine in his pocket. The officer went into the pocket and
10 discovered the methamphetamine and a small pipe used for smoking methamphetamine. These
11 items were the fruit of the non-Mirandized questioning of Mr. Blake and should be suppressed
12 under State v. Williams (supra) as fruit of the poisonous tree.

13 The defense respectfully requests that the court suppress the arrest of Mr. Blake and the search
14 of his person, his statements and the controlled substances and paraphernalia.

15
16 Respectfully submitted this 8th day of May, 2007

17 _____
18 Anne C. Harper #11844
19
20
21
22
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24
25



January 30, 2009

Bob Ferguson
King County Council District 1
516 3rd Ave, 12th floor
Seattle WA. 98104

Dear Council Member ~~Ferguson~~,

The King County Council soon will be appointing a judge in King County District Court, West Division, Position #5. I am a candidate for this appointment.

Judges must be clearly focused on the people and legal issues before them. They also must be able to focus on the future. I am requesting this appointment because I can bring new energy, knowledge and experience to the court; serving the court and everyone in King County. During my 27 year career, I have been committed to a quality justice system. I have significant experience as a judge and as an administrator, addressing criminal justice policy and budget issues. I have over two decades of face to face experience with human beings in the justice system.

I am acutely aware of the budget issues that King County has been addressing and will continue to address. My years of experience give me institutional knowledge of our criminal justice system and mental health system since 1980. I know what works and what does not work. I also know why. I am willing to work with completely new ideas. I have worked to create and use therapeutic courts and public safety based alternatives to detention in King County, Snohomish County and the City of Seattle.

I have significant experience with the needs of the various communities within King County. I am currently working as the Court Commissioner in Auburn Municipal Court. This position has given me critical knowledge about the municipal court system in King County. Judge Burns, the Presiding Judge in Auburn Municipal Court, has endorsed my request for appointment. I also served as the Court Commissioner for King County District Court for seven years, from 1/1995 to 12/2001. During that time, I traveled all over the county, sitting in every District Court and learning about the needs of the various communities in King County.

My commitment to a quality justice system includes a commitment to quality management, creating a system which is transparent and accessible. I would work to reduce duplication of effort and improve use of technology within the courts. I would also work with the cities and Superior Court to assure that we are at least coordinated, if not consolidated in our response to criminal and civil needs of all of the people of King County.

I have been assessed as Exceptionally Well Qualified by the King County Bar Association. I am endorsed by the District Court clerks and probation officers union, AFSME Local 21-DC. These are the people who worked with me for seven years, when I was the Court Commissioner for King County District Court.

I would be very grateful for your support.

I remain,
Sincerely Yours,

Anne C. Harper



Anne C. Harper

Seattle District Court, Position 5 2009 Judicial Appointment by King County Council

Vision and Change, Commitment to Justice

- **Domestic Violence** – Worked to create the Domestic Violence Fast Track calendar, which became Domestic Violence Court, King County District Court
- **Mental Health Court** – Served on the Mental Health Court Task Force and served as the Mental Health Court judge, District Court
- **Seattle Municipal Court Community Court** – Worked with Judge Bonner and Seattle City Attorney Tom Carr to create a Community Court which focuses on homeless people living in downtown Seattle.
- **Drug Sentence Review Calendar** – worked to create a special drug offender supervision calendar in Snohomish County Superior Court

Experience and Service – 27 years

- **King County District Court, Court Commissioner: 7 years** – Served as a judge, handling all types of cases, highly rated
- **King County Superior Court, Special Master: 3 years** – served Superior Court, handling pretrial hearings for civil cases
- **The Public Defender for King County: 2 years** – served, providing leadership in a public defense system that handles 40,000 cases per year and has a 40 million dollar per year budget
- **Public defender in King County and Snohomish County: 16 years** – served as Senior Trial Attorney and Felony Supervisor, representing clients in all courts: misdemeanors, juveniles, mental commitments and felony practice, representing over 3000 clients
- **22 homicide cases** in King and Snohomish counties
- **Complex litigation cases**, such as Securities Fraud
- **Exceptionally Well Qualified**, KCBA, Loren Miller Bar Association, QLaw, Washington Women Lawyers
- **Well Qualified**, Joint Asian Bar Association Judicial Evaluation Committee

Commitment to Education

- Educated at University of Washington, undergraduate and law school
- 11 years as Trial Advocacy teacher at University of Washington
- Taught 32 Legal Education classes to lawyers
- Provided legal education to mental health professionals and citizen mediators
- Served as YMCA Mock Trial Judge for high school students
- Law student mentor

Personal: 35 year resident of Seattle, living in Ballard for 18 years, with husband, Marc Chavez, an architect and daughter Diana, a student at Blanchet. Serves on the Board of Pike Market Child Care and Preschool and the Phinney Neighborhood Association Arts Committee

Endorsements

MLKing County Labor Council
AFSME Local 21-DC (District Court Clerks and Probation Officers)
National Women's Political Caucus – King County

Senator Jeanne Kohl-Welles, 36th District

Washington State Court of Appeals

Judge Anne Ellington, Washington State Court of Appeals, Div. 1
Judge Linda Lau, Washington State Court of Appeals, Div. I

King County Superior Court

Judge Cheryl Carey
Judge James Cayce
Judge Joan DuBuque
Judge Richard Eadie
Judge Michael J. Fox
Judge Laura Inveen
Judge Dean Lum
Judge George T. Mattson
Judge Richard McDermott
Judge Julie Spector
Judge Jeffrey Ramsdell
Judge Michael Trickey

Snohomish County Superior Court

Judge James H. Allendoerfer
Judge George N. Bowden
Judge Michael T. Downes
Judge Anita L. Farris
Judge Linda Krese
Judge David A. Kurtz
Judge Ellen Fair
Commissioner Susan Gaer

King County District Court

Judge Robert McBeth, King County District Court, Ret
Judge Darrell Phillipson, King County District Court
Judge Robert Stead, King County District Court, Ret

King County Municipal Courts

Judge Patrick Burns, Auburn Municipal Court
Judge Elizabeth Cordi-Bejarano, Seatac Municipal Court
Judge Michael Lambo, Kirkland Municipal Court
Judge Robert McSeveney, Kent Municipal Court
Judge Glenn Phillips, Kent Municipal Court
Judge Linda Portnoy, Lake Forest Park Municipal

Attorneys

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Sara Ayoubi
Eric Broman
Anna Buzzard
Heather Carroll
Annika Carlsten
Haley DeBell
Marybeth Dingley
Joshua Field,
Rachel Forde
Neal Friedman
Stephen Garvey
Clare Gilbert
Anna Goykhman
Pat Halsell
Karen Halverson
Anthony Howard
Sonja Hardenbrook
Demetri Heliotis
Roy Howson,
William Jaquette
Amy Kaestner
James Koenig
Mick Krom
Kathleen Kyle
Carl Luer
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Cassandra Lopez de Arriaga
Caroline Mann
Guss Markwell
Laura Martin
Frederic Moe
Martin Mooney
Max Nicolai
Jeannie O'Brien
Robert O'Neal
Gurjit Pandher
Burns Peterson
Anthony Platter
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Christine Sanders

Jason Schwarz
Kenneth Scearce
Will Steffener
Natalie Tarantino
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Tony Vidlak
Donald Wackerman
Diana Zottman

**Snohomish County Deputy
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Tobin Darrow
Bob Hendrix
Matt Hunter
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Sean Reay
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Ed Stemler
Bonnie Tweten
Katherine Wetmore
Francesca Yahyavi

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Kristie Pasibe
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Anne Cathleen Harper
 5643 3rd Ave. NW
 Seattle, WA 98107
 (206) 783-9819
Anne.Harper@comcast.net

JUDICIAL EXPERIENCE

Court Commissioner, Auburn Municipal Court, 2008 – Present

I preside over the full range of criminal case hearings, please see below.

Court Commissioner, King County District Court, 1995-2001

I presided over the full range of calendars in all divisions of District Court.

Civil

Jury trials
 Bench trials
 Pretrial motions
 Post judgment proceedings
 Protection orders
 Anti-harassment orders
 Small Claims proceedings
 Contested traffic hearings

Criminal

Jury trials
 Bench trials
 Pretrial motions
 Sentencing
 Probation revocation hearings
 Arraignments
 Misdemeanor bail hearings
 Felony investigation hearings

Special Master, King County Superior Court, 1998-2001

I presided over the status and non-compliance hearings for all civil and domestic cases filed at the Regional Justice Center in Kent. This is a case management calendar that requires thorough knowledge of the internal procedures and policies of the Civil Division of the King County Superior Court. This was an appointed position that I filled through a cooperative agreement between the King County Superior and District Courts.

TRIAL ADVOCACY EXPERIENCE

Trial Attorney, Eastside Defender Assoc. 1980-84; Associated Counsel for the Accused 1985-95; Snohomish County Public Defender 2006- 2008

16 years of criminal trial experience. I have practiced in the misdemeanor, juvenile, civil commitment and felony courts in King County and felony court in Snohomish County. From 1988-95, I was a Senior Trial Attorney. I have specialized in felony practice for 13 years, representing approximately 2000 felons. I had full responsibility for the preparation and presentation of 130 felony jury trials, including Aggravated Murder. I have extensive experience with expert testimony in the following areas: crime scene forensics, medical evidence, DNA evidence and psychological & psychiatric evidence. My areas of expertise include the Rules of Evidence, Criminal Rules and constitutional criminal law. At ACA, I supervised a felony unit of 20 attorneys.

ADMINISTRATIVE EXPERIENCE

The Public Defender, King County Office of the Public Defender, 2003 – 2005

I was the first person to serve as The Public Defender for King County. I provided leadership for public defense within the King County criminal and civil court system. I served on more than 30 committees and workgroups.

During my tenure:

The Office of the Pubic Defender stabilized budgeting and caseload distribution. An objective and transparent market based model was created as a funding base. The King County Council modified and ratified this model. A data driven caseload projection and distribution system was established, providing predictability for budgeting and contract management.

The contracts with the 4 public defense law firms were redrafted, requiring measures of accountability; case reporting; performance measures and compliance with new county policies and procedures addressing: conflicts of interest; reporting extraordinary circumstances; IT security measures; and client complaints.

Public defense was recognized as exercising a legitimate leadership role in King County justice system planning. I represented public defense in numerous King County criminal justice policy-making bodies. In this capacity, I helped establish the Seattle Municipal Court Community Court; addressed issues of: social service integration with the criminal justice system; information sharing across civil and criminal justice systems in Juvenile Court, and the IT integration of the criminal justice system. In 2003, I served on the Washington Supreme Court, GR 15/22 Workgroup.

District Court Commissioner, 1995 - 2001

I served on local administrative committees and on committees for the statewide District and Municipal Court Judges' Association. Overall, I have worked to assure that the court's administration is effective, practical, efficient, transparent and accessible to all who use the system. I have served on the following committees:

1999-2001	Washington Pattern Instructions Committee
1997-2001	Long Range Planning Committee, DMCJA
2000	Status Conference work group
1998	Mental Health Court Task Force, King County District Court
1998	Domestic Violence Fast Track work group, King County District Court
1997	Civil Rules Task Force, King County District Court
1996	Criminal Rules Task Force, King County District Court
1995-96	Jail Committee, King County District Court
1995-96	Court Operations Committee, King County District Court
1992-94	Ad Hoc Committee, King County Superior Court, Criminal Division
1992	Superior Court Accelerated Sentencing work group

TEACHING EXPERIENCE

Teaching Positions and CLE presentations

2008	Instructor, Emory University School of Law, Atlanta, GA. Intensive Trial Skills Program
1998-present	Trial Advocacy Instructor, University of Washington, School of Law
1998, 1999	
2004 - 2008	Instructor, NITA Northwest Trial Advocacy College
2006	Speaker, Criminal Ethics and Client Relations, WSBA Preadmission Program, Snohomish County
2004	Facilitator, KCBA Annual Bench Bar Conference: Practicing in a World of Change
2003	Speaker, WSBA Annual Criminal Justice Institute, Public Defense funding issues
2003	Speaker, Mental Illness Evaluations, Superior Court Judges Association, Spring Judicial Conference
2002	Seminar Chair, Mental Illness and the Law, UW Law Foundation
2000	Speaker, WACDL, "Issues of competency to stand trial and Primer on Mental Health Court"
2000	Speaker, KCBA "Mental Health Court Procedures"
2003, 2001,	
1999, 1996	Speaker, King County District Court, Pro Tem Training
1999	Mock Trial Judge, Seattle University School of Law; Clinical Program
1998	Speaker, WACDL, "Judicial Perspective: Bond in sexual abuse and domestic violence cases"
1997	Seminar Co-chair, SKCBA, "District Court: A Court for all Reasons"
1994	Speaker, SCRAP, "Persistent Offender Sentencing Issues"
1994	Speaker, Washington Defender Association, "I-593 Issues"
1994	Speaker, Washington Women Lawyers, "Gender Bias in Jury Selection"
1991	Speaker, Washington Defender Association, "Defense of a Drug Case"
1990	In House Firm Trainer, Associated Counsel for the Accused
1989, 90, 92	Instructor, Washington Defender Association, 3 day Trial Practice College

BAR ASSOCIATION ACTIVITIES

2008	WSBA Rule 9 Task Force
2004-05	WSBA Public Defense Committee
2000	South King County Bar Association, Board of Governors
1992-94	WACDL, Board of Governors
1992-94	WACDL, Legislative Committee
1991-93	WSBA, Corrections Committee
1992	WSBA/YLD, Equality in Practice Committee
1991	WSBA/YLD, Public Education Committee

COMMUNITY ACTIVITIES

1992-Present	Arts Committee, Phinney Ridge Neighborhood Association
1999-2001,	
2006-Present	Board of Directors, Pike Place Market Child Care and Preschool
2003-2005	Executive Committee, UW Fetal Alcohol Criminal Justice System SAMSA Grant
1998	Instructor, Mediator training, Center for Dispute Resolution
1998, 2000	Judge, YMCA Mock Trial Program
1993	Speaker, University of Oregon, "Myths of Drug Abuse" symposium
1992	Speaker, WSBA/YLD, "Opportunities in the Law" seminar for high school students
1990-92	Member, Metro Citizens' Water Quality Advisory Committee
1986	Speaker, Tri County Mental Health Assn., "Adolescent Suicide" symposium

EDUCATION

1981	University of Washington, School of Law, JD
1978	University of Washington, BA Sociology, Cum Laude

BAR ADMISSIONS

1981	Washington State
1983	Federal District Court, Western District of Washington

HONORS AND AWARDS

1994-Present	AV Rating, Martindale Hubble
1993, 1994	WACDL Certificate of Appreciation
1992	Certificate of Appreciation, Metro Water Resources Division
1979, 80	Albright Scholarship, University of Washington School of Law
1978	Graduated Cum Laude, University of Washington

KING COUNTY BAR ASSOCIATION, JUDICIAL SURVEY RESULTS, 2001

District Court		Less than		More than		
Commissioner	Unsatisfactory	Satisfactory	Satisfactory	Satisfactory	Excellent	Total
Decision Making	2%	10%	20%	35%	34%	100%
Courtroom Efficiency	2%	5%	19%	38%	37%	100%
Judicial Demeanor	5%	5%	20%	34%	38%	100%
Appearance of Fairness	3%	8%	18%	29%	42%	100%
Overall Performance	3%	7%	18%	38%	34%	100%

N = 130

Averages

Decision Making	3.9
Courtroom Efficiency	4.0
Judicial Demeanor	3.9
Appearance of Fairness	4.0
Overall Performance	3.9

Local 21-DC
AFSCME / AFL-CIO
Steven Wede, President

Bea Kriloff, Vice President
Sharie Husted, Treasurer

Treshelle Strand, Secretary
Jean Moore, Member-At-Large

December 4, 2008

Councilmember Julia Patterson, Council Chair
Dow Constantine, Council Vice Chair
Metropolitan King County Council
516 Third Avenue, Room 1200
Seattle, WA 98104

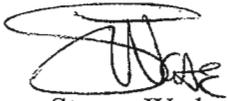
Dear Councilmembers:

Local 21-DC, representing District Court Clerks, Probation Officers and Probation Mental Health Specialists within King County District Court are pleased to provide our endorsement of Ms. Anne Harper for the position of District Court Judge in the West Division.

In addition to reviewing Ms. Harper's significant education, experience, community participation, awards and honors; we requested input from Local 21-DC members who have had an opportunity to work directly with Ms. Harper in District Court. Our member's response was that Ms. Harper consistently demonstrated thoughtful judicial deliberation, fairness and respect for all participants within the courtroom. Ms. Harper has shown a commitment to thoughtful use of therapeutic courts and other alternatives to reduce incarceration.

Thank you for considering Local 21-DC's endorsement of Ms. Anne Harper for the position of District Court Judge in the West Division.

Sincerely,



Steven Wede
President, Local 21-DC

CC: Kathy Lambert, Chair, Law, Justice and Human Services Committee
CC: Bob Ferguson, Vice Chair, Law, Justice and Human Services Committee
CC: Barbara Linde, Chief Presiding Judge, King County District Court



Martin Luther King, Jr. County Labor Council, AFL-CIO

2800 First Avenue, Suite 206 • Seattle, Washington 98121
Phone 206-441-8510 • Fax: 206-441-7103 • E-mail: office@mlkclc.org

January 22, 2009

Honorable Dow Constantine, Chair
Metropolitan King County Council
516 Third Avenue, Room 1200
Seattle, WA 98104-3272

Dear Councilman Constantine,

The M. L. King County Labor Council voted on January 21st to recommend Anne Harper for appointment to King County District Court, Position 5.

The members of this Council's Committee on Political Education have met with Ms. Harper and feel confident that, if appointed, she would be an excellent addition to the District Court.

Please feel free to call me at (206) 441-8510 if you have any questions regarding this recommendation. Thank you in advance for your consideration.

Sincerely,

David Freiboth
Executive Secretary

cc: Metropolitan King County Council

opeiu8/afl-cio



NATIONAL WOMEN'S POLITICAL CAUCUS - KING COUNTY

PO Box 94442 • Seattle, WA 98124 • (206) 654-4165 voice mail

January 27, 2009

Honorable Dow Constantine
Chair, King County Council
1200 King County Courthouse
516 Third Avenue
Seattle, Washington 98104

Dear Councilmember Constantine:

The King County Chapter of the National Women's Political Caucus requests your favorable consideration of Anne Harper for appointment to King County District Court, Seattle Division.

Ms. Harper has a balanced background that includes advocacy as well as administrative and judicial experience. She is very well prepared for the duties of a District Court judge. We have enclosed a copy of her resume to acquaint you with the breadth and depth of her experience in the courtroom and the community.

We believe you would not easily find a candidate for appointment with qualifications equal to hers.

Sincerely,

Karen Place
Endorsement Co-chair
King County Chapter

Kelsey Beck
Chapter Chair
King County Chapter

cc: Councilmember Julia Patterson
Councilmember Bob Ferguson
Councilmember Larry Gossett
Councilmember Kathy Lambert
Councilmember Larry Phillips
Councilmember Jane Hague
Councilmember Pete von Reichbauer
Councilmember Reagan Dunn

Enclosure

From: "Kohl-Welles, Sen. Jeanne" <Kohl-Welles.Jeanne@leg.wa.gov>

Anne, I apologize for taking so long to get back to you (to your letter of Dec 18 which I actually did not receive till last week). I'm very impressed with your materials and as the time is so constrained such that it will be difficult to meet with you, it's fine with me for you list me as an endorser.

Senator Jeanne Kohl-Welles
Chair - Labor, Commerce & Consumer Protection Committee
36th Legislative District
Olympia Office
219 John A. Cherberg Building
PO Box 40436 Seattle, WA 98109
Olympia, WA 98504-0436 (
(360) 786-7670
(360) 786-7450 – Fax

January 16, 2009

Pete von Reichbauer
King County Council
515 Third Avenue, Rm. 1200
Seattle. WA 98104

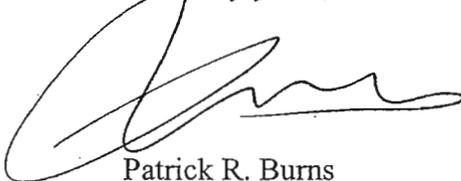
Dear Pete,

There is a vacancy on the King County District Court bench and Anne Harper, the court commissioner here at the Auburn Municipal Court, is applying for the position. I am writing to tell you that I strongly support her appointment to that position.

I have known Anne for close to two decades. All the endorsements she has gotten from various individuals, bar associations, agencies and unions have touted how she is a very bright and highly ethical person. That is an undisputed fact. I have had the additional exposure of having practiced law before her prior to my own elevation to the bench as well as the opportunity to work with her here at the Auburn Municipal Court as her colleague. Anne's judicial character and demeanor are top flight. I have never heard even a hint of a complaint by either the attorneys or members of the public who have appeared before her other than the occasional miscreant bemoaning receiving his or her due. There are only a handful of judges I can say that about. It is safe to say that should she receive the appointment neither you nor the county will be disappointed with her character, her demeanor or her work ethic.

No, I'm not trying to get rid of her, far from it. She is the best judge I have ever worked with and is very close and dear friend. Should she get the appointment it will leave a void here that I won't ever be able to fully fill. However I don't think it is fair for the Auburn Municipal Court to keep this jewel all to itself. My loss will be the county's gain.

Sincerely yours,



Patrick R. Burns
Presiding Judge
Auburn Municipal Court

Superior Court of the State of Washington
For the County of King

CHERYL B. CAREY
JUDGE OF THE SUPERIOR COURT

KING COUNTY COURTHOUSE
516 THIRD AVENUE #C-203
SEATTLE, WASHINGTON 98104-2321
(206) 296-9120

December 8, 2008

Dear Councilmember Patterson:

I am very pleased to recommend Anne Harper for a Seattle District Court Judicial Appointment.

I have known Anne Harper professionally for over nineteen years. As a King County Deputy Prosecutor I had the opportunity to work with Ms. Harper when she was a Criminal Defense attorney. Without exception she was extremely well prepared, a strong advocate for her client, she was firm and decisive, gracious and kind.

Throughout the years I have worked with Ms. Harper on other matters as well. She has appeared in front of me and not surprisingly she continued to be firm, decisive, focused and treated all parties and the Court with respect.

Over the years I have heard from members of our community how well liked and respected Ms. Harper is by Judges, attorneys and staff. She is an exceptionally hard worker and willing to do whatever is necessary to bring closure to hearings and projects.

Ms. Harper is a positive influence on others which I find to be very refreshing. She focuses on solutions rather than problems. She is enthusiastic about her work, is personally and intellectually honest, dependable and conscientious. She considers public service to be an honor.

I know that Ann Harper will make an excellent Judge and I am proud to recommend her. Thank you for considering this letter of recommendation.

Sincerely,



Cheryl Carey
King County Superior Court Judge

Joan E. DuBuque

JUDGE OF THE SUPERIOR COURT
KING COUNTY COURTHOUSE
SEATTLE, WASHINGTON 98104-2381

January 20, 2009

The Honorable Dow Constantine
Chair, King County Council
12th Floor, King County Courthouse
516 Third Ave
Seattle, Washington 98104

Re: King County District Court Judicial Vacancy and Anne Harper

Dear Council Member Dow:

This letter is written on behalf of Anne Harper's application for appointment to the King County District Court open judicial position. In my professional capacity as a Superior Court Judge, I have known Ms. Harper since 1989. She has appeared in my court on a number of occasions. I also worked with her when she was the head of the King County Office of Public Defender. She will make an excellent judge.

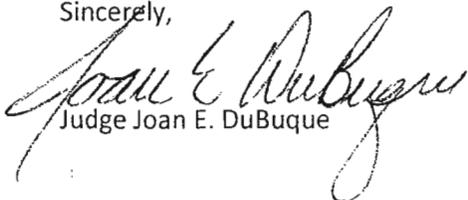
As a trial attorney, her legal skills, analytical ability and professional attitude were exceptional. She is one of the brightest trial attorneys I have ever had the pleasure of observing in my courtroom. She demonstrates a thorough understanding of the law and the rules of evidence. Her demeanor is excellent. Throughout her professional career she has demonstrated the highest standards of performance and excellence. She also has demonstrated excellent administrative and management skills during her tenure with the Office of Public Defense. We need judges who possess this remarkable combination of skills to continue the excellence of our local judiciary.

She would be an outstanding addition to the King County District Court. She has demonstrated her commitment to the improvement of the justice system and to the betterment of the community by the range of activities she has been engaged in as listed on her resume.

I strongly encourage you and your colleagues to give Ms. Harper the most serious consideration to fill the position vacated by Judge Marianne Spearman.

I will make myself available to you or your staff if you have any questions. I can be reached at 206-296-9255.

Sincerely,


Judge Joan E. DuBuque

**Superior Court of the State of Washington
for Snohomish County**

GEORGE N. BOWDEN
JUDGE

SNOHOMISH COUNTY COURTHOUSE
3000 ROCKEFELLER, M/S #502
EVERETT, WASHINGTON 98201

(425) 388-3532

January 14, 2009

To Whom it May Concern:

I'm writing to endorse Anne Harper for appointment to the King County District Court bench.

I first came to know Anne when I was in private practice through her work with the Washington Association of Criminal Defense Lawyers. It became apparent that she had an outstanding reputation as a public defender. Indigent clients can be most grateful for a hard working lawyer like Anne; they can also be irritating, demanding, difficult and a host of other adjectives. My impression of Anne, both then and now, was that she was quietly passionate about her calling but more interested in simply providing the very best representation for her clients. By doing just that and knowing the law and procedural rules so well, and by dint of her personality, she was able to garner the respect and cooperation of her clients, prosecutors and judges.

For the most part, I lost contact with Anne when I went on the superior court bench here in Snohomish County in 1998. So I was simply delighted when I found that she had joined the Snohomish County Public Defender office in 2006.

She immediately assumed a full caseload and it was clear that she was assigned some of the most difficult cases and clients. She not only hit the ground running, but it was clear to those of us on the bench that she brought a level of experience and competence that was most welcome, and placed her head and shoulders above most of those in her office.

In my capacity as presiding judge of our adult offender drug court, I worked with Anne to help develop the protocols for a new therapeutic sentencing alternative for offenders otherwise heading to prison for up to two years. If we were to provide meaningful intervention for these addicted offenders, Anne knew that accountability and structure, frequent testing and meaningful judicial supervision were necessary in addition to long-term residential and ongoing community-based treatment. She got her office to commit to this program along with the prosecutor; the only remaining challenge has been for the state Dept. of Corrections to find the resources and staffing to provide the levels of testing and supervision for this alternative to be as successful as it can be.

Anne's involvement with that program and our adult offender drug court also demonstrated her administrative and management abilities outside of courtroom advocacy.

While the judgment of anyone who would choose to live in Ballard may be questioned (especially by any of us who have ever watched "Almost Live"...), there is no question that Anne has the entire skill set from personality, demeanor, listening ability, legal knowledge, courtroom experience and capacity for hard work to be an outstanding judge --- at any level of our judicial system. There may be other qualified candidates seeking this position, but I would reserve my highest recommendation for Ms. Harper.

You simply cannot go wrong if you should select her for this judicial position.

Please feel free to contact me if you should have any questions or concerns whatsoever.

Very truly yours,


George N. Bowden

January 22, 2009

Ms. Julia Patterson, Chair, King County Council
516 3rd Ave., 10th Floor
Seattle, WA 98104

RE: Appointment of Anne Harper to District Court

Dear Chairperson Patterson:

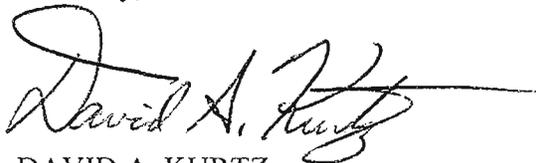
I am a Superior Court Judge. It is my pleasure to wholeheartedly endorse the appointment of Anne C. Harper to the position as Judge in the Seattle Division of the King County District Court.

Let me briefly explain my background. Governor Gregoire appointed me to the Snohomish County Superior Court bench three years ago. Before that, I had worked as an attorney since 1978, including a stint of having my own solo law practice and serving as a contract public defender. Then, for nearly 23 years I worked as a deputy prosecuting attorney for Snohomish County, handling everything from traffic tickets to aggravated murders. I also served on the State Bar Disciplinary Board, and as President of the Snohomish County Bar Association.

After becoming a Superior Court Judge, I had regular opportunity to see Anne Harper in action, up close and personal. In Snohomish County we have instituted a special review process for those defendants on community-based "DOSAs" (Drug Offender Sentencing Alternative). Anne played a critical role in the establishing that process and then implementing it. For over a year, I got to observe Anne frequently, at staff meetings and at regular court hearings. I was constantly struck not only by her care for her clients, but also by her common sense, intelligence, and good humor.

Your citizens deserve a Judge who will be smart, even-tempered, and fair. You'll get that in Anne Harper. She would make an excellent choice. Thanks for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Kurtz", with a long horizontal flourish extending to the right.

DAVID A. KURTZ
1514 Grand Avenue
Everett, WA 98201

✓cc: Anne Harper

Superior Court of the State of Washington
for Snohomish County

Snohomish County Courthouse
3000 Rockefeller Avenue
Everett, WA 98201-4060

James H. Allendoerfer
Judge, Department 9

(425) 388-3777

E-Mail:

james.allendoerfer@co.snohomish.wa.us

January 21, 2009

King County Council
516 Third Avenue, Rm. 1200
Seattle, WA 98104

Re: Judicial Qualifications of Anne C. Harper

Dear County Council Members:

Anne C. Harper is applying for appointment by the King County Council to a vacant position as judge of the King County District Court, Seattle Division. I highly recommend her for the appointment.

My familiarity with Ms. Harper arises from her past position as a senior public defender in Snohomish County. She developed a reputation as an excellent trial attorney, with an unusually fair, balanced and mature perspective. I am pleased to see that she has now used these talents by becoming a court commissioner in Auburn Municipal Court, and is seeking a full time judicial position with the King County District Court.

Ms. Harper's qualifications for a judicial appointment are founded upon her unassailable integrity, and include a track-record in developing innovative responses to many overwhelming issues of concern in urban counties, such as mental health, domestic violence and substance abuse.

Ms. Harper would be an excellent choice for a position on the King County District Court, and I urge your favorable consideration.

Very truly yours,



James H. Allendoerfer
Judge

Superior Court of the State of Washington for Snohomish County

JUDGE
ANITA L. FARRIS

SNOHOMISH COUNTY COURTHOUSE
M/S #502
3000 Rockefeller Avenue
Everett, WA 98201-4060
(425)388-3421 (425)388-3536

Department 8
(425) 388-7911

January 21, 2009

Anne C. Harper
5643 3rd AVE NW
Seattle, WA 98107

Dear Anne:

I hereby endorse you. If you need me to sign something else, let me know. I am also willing to speak to anyone checking your references, so please feel free to list me on any of your materials. You did an outstanding job here and showed the judgment and demeanor that would make an excellent judge. Good Luck.

Sincerely,



Anita L. Farris
Superior Court Judge

January 11, 2009

King County Councilmember Julia Patterson
King county Council
Seattle, Wa.

Dear Councilmember Patterson:

I am writing on behalf of Ms. Anne Harper, who is an applicant to be appointed to the King County District Court, Seattle Division. I have known Anne for approximately 15 years, first becoming acquainted with her when she served as the Court commissioner for the King County District Court. Since that time she has worked in the public defenders office both in King County and Snohomish. She currently is the Court Commissioner for the city of Auburn. As a result of observing her in a Judicial position, I am convinced that she would be an excellent choice for the vacancy which now exists, she is professional, intelligent, knows the law and maintains the highest standards of fairness. She would maintain the quality of the bench. I can without any reservation recommend her for the appointment. If there is additional information which I can provide please advise. Thank You for taking the time to consider this.

Sincerely,

Robert E. Stead

*This was sent
to each individual
council member today.
Bob*

ROBERT E. McBETH
18703 – 137th Court S.E.
Renton, WA 98058

AUGUST 9, 2005

Hon. Dow Constantine, Chair
King County Council
516 Third Avenue
Seattle, WA 98104

RE: LETTER OF COMMENDATION
MS. ANNE HARPER
King County District Court Position

Dear Members of the King County Council:

I am very pleased to submit this letter of recommendation on behalf of MS. ANNE HARPER in support of her application to fill the vacancy on the King County District Court bench.

Initially, I had the pleasure of working with Ms. Harper when she appeared in my Court as a trial attorney working for the Eastside Defender Association and Associated Counsel for the Accused as a public defender. Ms. Harper was always well prepared; had an outstanding ability to think on her feet, handled her workload very well, and handled her responsibilities in a very competent and professional manner. More than that, she had an ability to work cooperatively with the prosecutor and the court to “do justice”---making the entire system work more efficiently.

I then had the pleasure of working with Ms. Harper when she worked as a Court Commissioner in our Court from 1995 to 2001. In this capacity, Ms. Harper filled every single responsibility of a District Court Judge, and did so with distinction. I recall many instances during this period when Anne would be asked to take on several of our more difficult and sensitive cases----all of us believing that she had “what it takes” to do so with competence and professionalism.

During my tenure as President of the Washington State District & Municipal Court Judges Association, I leaned heavily on Anne’s expertise to develop legislative agendas, educational programs, and solutions to administrative problems. She is an exceptional worker---always willing to take on any task and find a solution that works for everyone affected.

In each of these capacities, I have had the occasion to work with Ms. Harper in a wide variety of situations and have had a good opportunity to observe the very outstanding manner in which she has conducted herself. She is a take-charge person and gets very involved in solving whatever problem she might be facing. She does not sit on the sidelines and “watch someone else do it”, but gets in and helps in a very active and supportive way. In every contact I have had with her, she has been the consummate professional, knowledgeable in every way, and has worked hard to develop and maintain simply outstanding relationships with her co-workers and the court.

Ms. Harper’s initiative, dependability, and resourcefulness have marked her as an exceptional individual. I have been impressed with her excellent work habits and her overall ability to handle any responsibility assigned to her—many times on very short notice. Anne always does more than required of her, exhibiting a rare dependability and initiative that is refreshing. She always completes any task assigned to her with dispatch and with exceptional attention to detail. All of her work is done extremely well—she is a completely reliable and dependable worker.

Having seen Ms. Harper in action, I cannot help but feel that she would be an outstanding addition to the District Court. I very much urge that you act favorably on her application.

Very truly yours,

ROBERT E. McBETH
KING COUNTY DISTRICT COURT JUDGE (Ret).

From:"Michael Lambo" <MLambo@ci.kirkland.wa.us>

To: anne.harper@comcast.net

Subject:RE: King County District Court appointment

Date:Monday, January 26, 2009 9:22:38 AM

Anne:

It is my honor to endorse you as our next King County District Court Judge. As you recall, I first worked with you many years ago when you were a young Public Defender. As a Deputy Prosecuting Attorney, I found you to be a skilled trial lawyer. You were always professional, articulate and very well prepared. I always knew defendants were getting the best representation when I saw you were the attorney of record. I distinctly remember you being friendly but professional. You were always a pleasure to work with.

Later, I recall appearing in front of you on occasion while I was in private practice. (I believe you would sit as a pro-tem or commissioner in several of the district and municipal courts) Again, I found your demeanor on the bench professional and courteous, but decisive; perfect qualities for a judge.

Over the years I continue to hear very good things about you from our peers. I have sat with you on occasion on judicial committees, and find your remarks intellectual and well thought out. You will be an excellent Judge Anne.

Please accept my endorsement. You may include my name on any literature you wish.

Sincerely,

Judge Michael J. Lambo

Dow Constantine, Chair King County Council
516 3rd Ave., 10th floor
Seattle, WA 98104

January 14, 2009

Re: Recommendation for Anne Harper for District Court Judge

I am an assistant professor and the Director of Trial Advocacy at the University of Washington School of Law in Seattle and I am writing in support of Commissioner Anne C. Harper's application for an appointment to the Seattle District Court bench. I believe Commissioner Harper's judicial demeanor, judgment, work ethic, and experience would serve the county very well.

I have known Commissioner Harper for approximately ten years. As both a former prosecutor and a former frequent pro tem judge in King County, I am very familiar with her work as a Commissioner for the King County District Courts. In addition, for the past seven years, I have had the pleasure of being her "boss" as the Director of the UW Trial Ad program in which she generously serves as an adjunct skills teacher for my students.

Commissioner Harper's reputation as a jurist is extraordinarily good. She is perceived as a thoughtful, intellectually honest judge who does her homework. She has a no-nonsense attitude on the bench, but is always respectful to those appearing before her. She is extraordinarily knowledgeable in the area of criminal law and procedure, and yet not hesitant to admit a need for additional research if she has a doubt about a point of law. Commissioner Harper was not just great ON the bench: she was always willing to volunteer time to working on administrative matters at the courthouse, and the court staff loved her.

As a teacher, I am blessed to have her on my adjunct faculty. She is tireless and always willing to do whatever the Trial Ad program needs to excel. The students love her and they have greatly benefitted from her instruction and mentoring.

I realize this letter is short, but I have to get back to grading Civil Procedure exams. If I can be of any further assistance please contact me at mahoward@u.washington.edu or by telephone at (206) 616-6236.

Sincerely,



Maureen A. Howard
Assistant Professor of Law
Director of Trial Advocacy
UW School of Law
Seattle, WA 98105
(206) 616-6236
mahoward@u.washington.edu
<http://www.law.washington.edu/Directory/Profile.aspx?ID=110>



**SNOHOMISH COUNTY
PUBLIC DEFENDER ASSOCIATION**

1721 HEWITT AVENUE, SUITE 200
EVERETT, WASHINGTON 98201

PHONE (425) 339-6300 • FAX (425) 339-6363

October 23, 2008

Councilmember Larry Gossett
King County Council
Room 1200
516 Third Avenue
Seattle, WA 98104

Councilmember Kathy Lambert
King County Council
Room 1200
516 Third Avenue
Seattle, WA 98104

Dear Councilmembers Gossett and Lambert:

Anne Harper is seeking an appointment as Judge to the King County District Court. During the past 27 years, I have worked with Ms. Harper as her colleague, courtroom opponent, and supervisor. I very strongly recommend her appointment to that bench.

Anne's first job as an attorney was at a public defender office where I worked. She quickly learned the intricacies of that practice. She was exceptionally dedicated to the work and quickly became a very effective advocate.

I had an opportunity to experience her effectiveness as an advocate when she defended a client on a murder charge I tried as the deputy prosecuting attorney. I was able to witness her preparation, dedication, and resourcefulness first hand.

In June of 2006, I hired Anne as a senior level attorney for the Snohomish County Public Defender Association. She brought with her the same dedication and resourcefulness I had observed years before, but also brought the insights of her considerable experience. She soon became one of the first persons other attorneys would go to for advice about their cases.

Gossett and Lambert; 10/23/08

Page Two

Anne's career has not been limited to criminal defense advocacy. She served for six years as a King County District Court Commissioner where she presided over all the different kinds of civil and criminal proceedings. She also served for two years as administrator of the King County Office of Public Defense. At the end of May of this year, Anne left our Association to become the court commissioner for the Auburn Municipal Court.

The diversity of her experiences, her intelligence, and dedication to her work make Anne uniquely qualified to be a district court judge. She knows the law and she is concerned about people. In addition, she has a clear vision how alternatives to current practices, such as mental health court and community court could help district court more effectively improve the community.

Anne Harper is an outstanding choice for King County District Court Judge.

Very truly yours,

A handwritten signature in cursive script that reads "Bill Jaquette". The signature is written in dark ink and is positioned above the printed name.

Bill Jaquette

Law Offices of Kenneth R. Scearce
420 Century Square Building
1501 Fourth Avenue
Seattle, WA 98101-3225
Telephone: (206) 326-4217
Facsimile: (206) 326-4220

January 24, 2009

The Honorable Dow Constantine
King County Council
King County Courthouse
516 Third Avenue
Seattle, WA 98104

RE: Anne Harper for King County District Court Appointment

Dear Councilmember Constantine:

I am writing to you to as a citizen of King County to urge you to vote to appoint Commissioner Anne Harper as Judge for the King County District Court.

I am the managing attorney for the Travelers Insurance Company staff counsel offices in Seattle and Portland. Prior to taking that position in 1999, I worked with Commissioner Harper for almost 10 years at Associated Counsel for the Accused (ACA) in Seattle, where Commissioner Harper was a supervising attorney. I tried a murder case as a second chair attorney to Commissioner Harper, and I consulted with her closely on dozens of my other cases. Since working with Commissioner Harper, I have followed her career with great interest. I have also been honored to be asked several times by Commissioner Harper to serve as an "expert witness" for the Trial Advocacy class she taught at the University of Washington School of Law.

You no doubt will review Commissioner Harper's resume and the materials submitted in support of her candidacy. I will not repeat that information here. What I do wish to impart to you is a sense of the person.

Anne Harper is, first and foremost, the hardest working lawyer and judge I have ever encountered – and I know many hard-working lawyers and judges. She was an inspiration to me as a young lawyer at ACA and I strove to find ways to get a slice of her time so that I could benefit from her experience and wisdom. She always gave me hours of her time despite her own crushing workload. Her steady and insightful counsel greatly improved the quality of my practice. Ms. Harper was there the earliest, she stayed the latest, and she gave 110% to her own clients while helping me and many others give our all to our own clients. Anne Harper would likewise be one of the hardest-working judges on the District Court.

Second, Commissioner Harper adheres to the highest ethical standards – and then some. Working with Commissioner Harper at ACA helped me appreciate the truth that all an attorney really has to offer is his or her ethics, whether the ethical imperative is working hard for a client, bettering one's competence, or being honest – especially, being honest with oneself about how one can improve. This truth holds no less for judges. Because of her sterling reputation, Commissioner Harper would complement the King County District Court bench by having the respect of her fellow judges, the court staff, the Bar, and litigants. Choosing Commissioner Harper would also reflect highly on the Council's good judgment.

Third, Commissioner Harper is by far the most-qualified candidate. Her credentials are outstanding. Her endorsements are predominantly from fellow judges, reflecting not only her many years of service as a court commissioner and pro tem judge, but also the sense of our local judiciary that Commissioner Harper has demonstrated the learning, high moral character, commitment to justice, willingness to shoulder the Court's daunting workload, and judicial demeanor so essential to effectiveness as a judge. A variety of attorneys – civil practitioners like myself as well as prosecutors and defenders (and former defenders) – strongly support Commissioner Harper's candidacy. I have no doubt whatsoever that Anne Harper would stand successfully for re-election. This is important, because we attorneys prefer our judges to have long tenure and because long-tenured judges benefit our entire community.

I have tried to give you a sense of Commissioner Harper as a lawyer and judge. I would be remiss not to offer a sense of her simply as a person. She has a warm personality and a ready and gentle wit. She has an easy way of bringing out the best in people. She is scrupulously trustworthy and someone you can confide in. She sets high standards for herself yet is forgiving of others. A good measure of her personality is that she has many friends and admirers who are prosecutors she has opposed vigorously and successfully in court. Part of it is her disarmingly genial nature; the other part is a healthy respect for her intellect, skill and resourcefulness. I know the King County District Court bench well, having practiced there for 20 years. Commissioner Harper would make a great fit, both as a judge and as a colleague.

I should tell you that Commissioner Harper is my friend. I am friends with many of the other candidates, too. I can only recommend Commissioner Harper for this position, because in good conscience I can only recommend the most qualified candidate.

I want to thank you for considering my comments and I wish you and the other Council members the best in making this important decision.

Very truly yours,

Kenneth R. Scarce

Joshua Forrester Field

Attorney at Law

206-852-0803 • fieldjoshua@gmail.com

King County Council
516 3rd Ave., 10th floor
Seattle, WA 98014
Via Email

January 28, 2009

Dear King County Council Member,

I urge you to appoint Anne Harper to the Seattle District Court.

I am in a unique position to recommend Anne because I know her as an instructor, mentor and colleague. As someone who works in politics, I also recognize the political considerations that public officials must make when making appointments. Considering both politics and the public good, Anne's experience, temperament and intelligence make her an ideal appointment to serve the people of Seattle on the bench.

In every point in our relationship, I relied on Anne's expertise and counsel. I first met Anne when she instructed my trial advocacy class at the University of Washington. Among UWLS students, Anne had a reputation as one of the top trial advocacy instructors in the program. My classmates and I learned the ins-and-outs of courtroom survival: everything from conquering the awkwardness of voir dire to properly submitting exhibits into evidence to developing a powerful closing argument. During my years as a public defender, my courtroom confidence came from the practical foundation that Anne provided.

My largest frustration with UWLS was the lack of support for students who wanted to begin their legal careers in public service. As one of the few in my class interested in public defense, I had to rely on people outside of the law school structure for guidance and networking. Over countless cups of coffee and email discussions, Anne took the time to provide insight that led to a rewarding start of my legal career at the Snohomish County Public Defender Association.

When I started my job in Everett, I was happy to discover that Anne was recruited to serve as a senior felony attorney. The best thing about having Anne as a colleague was the opportunity to watch her work. She handled the toughest clients with confidence and was the primary resource for attorneys who faced novel legal issues and challenges. Both junior and senior attorneys with a couple minutes of free time would often figure out what courtroom Anne was in, sit in the back, and hone their client control and courtroom-management skills by simply observing how Anne did it. She is a true professional.

Before law school, I worked in politics and recently returned to the business last July when I accepted a job as President Obama's Washington State Campaign Communications Director. I appreciate the significant political considerations that surround political appointments. Based on Anne's significant experience on the bench over two stints as a court commissioner, her diverse legal resume in both criminal and civil matters, and savvy rooted in her years as a public defender; Anne is an extremely qualified candidate. She would be a safe appointment because – quite simply – she would run her courtroom well and confidently dispense justice based on the rule of law.

Thank you for your consideration. Please feel free to contact me if you have any questions or concerns.

Sincerely,

Joshua Field
Attorney at Law

Mark W. Bridges
1708 Wetmore Ave.
Everett, WA 98201

January 29, 2009

Dow Constantine, Chair, King County Council
516 3rd Ave. 12th Floor
Seattle, WA 98104

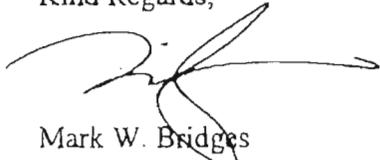
Re: Endorsement of Anne Harper for King County District Court Judge

Dear Councilman Constantine:

I am writing to endorse Anne Harper for King County District Court Judge. I first met Anne in 2006 while working as a Deputy Prosecuting Attorney in the Snohomish County Prosecutor's Office. We handled many cases together. Having observed her work as a defense attorney in the Snohomish County Public Defender's Office, I am confident that Anne Harper will make an outstanding judge.

Anne's knowledge of the law is precise and her sense of equity is refined. She was always prepared, always on time, and handled her cases efficiently. I can recall many instances of checking my e-mail in the morning and finding messages from Anne sent well after close of business. She always went the extra mile for her clients. However, it is not her skill as an advocate that will make her a great judge; it is her sense of equity. Anne understands justice and will see that justice is done in her courtroom. She treats people fairly and is committed to the correct application of the law. When faced with an ethical dilemma Anne always does the right thing. For these reasons I unqualifiedly endorse Anne Harper for King County District Court Judge.

Kind Regards,



Mark W. Bridges
Deputy Prosecuting Attorney, Snohomish County

*Kathryn Kelly
P.O. Box 95197
Seattle, WA 98145*

January 29, 2009

Metropolitan King County Council
King County Courthouse
516 Third Avenue
Room N1200
Seattle, WA 98104

Re: Anne Cathleen Harper
Seattle District Court Nominee

Dear Council Members,

I am writing in strong support of Ms. Harper's nomination as Judge of the Seattle District Court. I have worked with her for a number of years around issues of disability and the law and I agree with the King County Bar Association that she is Exceptionally Well Qualified for the position.

It has been my observation that she is unusually creative in problem solving, an excellent skill for a District Court Judge. She is also particularly understanding about the need for the criminal justice system to be responsive to and deal fairly with those with disabilities. Her sensitivity to those issues caused her to work to develop innovative treatment courts and related programs which have improved access to justice as well as access to services for these defendants.

She has a long history of service to King County, understands the public defense system from her years as the Chief of the King County Public Defender's Office and has excellent working relationships with both defense counsel and prosecutors. She has shown, as a Court Commissioner, her skills in the administration of justice in both civil and criminal matters and my observations of her courtesy suggest she possesses the judicial temperament so important for this work.

Thank you for reviewing this letter as a part of your efforts to select the best possible judges for the Seattle District Court.

Sincerely,

Kathryn Kelly

JUDGE MICHAEL T. DOWNES
SNOHOMISH COUNTY SUPERIOR COURT
EVERETT, WASHINGTON

Dow Constantine
Chair, King County Council
King County Courthouse, 12th floor
516 3rd Ave.
Seattle, WA 98104
January 30, 2009

Dear Council Member Constantine,

I write to endorse the candidacy of Anne Harper for appointment to a seat on the King County District Court, Seattle Division, bench. Ms. Harper will be a distinctively positive addition to the court. The citizens and the county will benefit greatly if she is appointed.

By way of background, I am a Snohomish County Superior Court judge. I have been in this position since July 2004. Before that I was a Snohomish County Deputy Prosecuting Attorney for 22 years. I worked in varied blue and white collar occupations prior to attending law school. I have worked with and observed hundreds of lawyers while participating in or presiding over thousands of hearings ranging from minor matters to death penalty proceedings. In the course of my career and my life generally, I believe I have come to be a good judge of people and talent.

Anne Harper will be an excellent judge. I have had the opportunity to observe her from the bench on multiple occasions. In situations involving very large calendars in crowded, noisy courtrooms Ms. Harper stood out as invariably calm, well prepared, and articulate. In cases in which she was only one of two lawyers in the room she presented in the same calm, dignified manner. She was always well prepared. Her presence lends dignity to the proceedings which is an important component of any court hearing.

In a world where the urge to be competitive negatively affects people and consequently the proceedings, I don't believe I ever saw Anne Harper lose focus, not even once. In my mind that is high praise. It is enormously to her credit that she could and did consistently maintain balance and grace in all her court appearances.

Anne knows the law and court procedures well. She has common sense and she has compassion. She has everything it takes to be a good judge. I recommend her to you without reservation.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Downes", with a stylized flourish at the end.

Michael T. Downes

Richard J. Thorpe
820 Edmonds St.
Edmonds, WA 98020

(425) 775-2380

January 30, 2009

Re: Anne C. Harper

To whom it may concern:

During the two or three years that Anne Harper was associated with the Snohomish County Public Defenders Association, she appeared before me in Superior Court many times.

Anne impressed me as a skilled trial lawyer, with good judgment.

She only picked fights that were worth picking and had a chance of succeeding, and diligently protected the rights of her clients and skillfully advocated for them.

I wholeheartedly endorse Anne C. Harper for appointment to the King County District Court because I am persuaded that she would be an excellent judge.

Yours very truly

A handwritten signature in black ink, appearing to read 'R. J. Thorpe', written over a horizontal line.

Richard J. Thorpe
Snohomish County Superior Court Judge (Retired)

Materials received regarding

Susan Noonan

KING COUNTY BAR ASSOCIATION
Supplemental Questionnaire for Candidates Seeking Appointment
or Election to Judicial Office

COVER SHEET

<u>NAME</u>	NOONAN	SUSAN	JANE
	(Last)	(First)	(Middle)

Business Address: 18050 MERIDIAN AVENUE N. , SHORELINE, WA 98133

Telephone: 206-296-3645

Business Email: susan.noonan@kingcounty.gov

<u>Position Sought:</u>	By Election	X
	By Appointment	X

X King County District Court (SEATTLE, WEST Division)

PLEASE NOTE: In the process of determining judicial ratings, the Judicial Screening Committee of the King County Bar Association uses the Washington State Governor’s Office Uniform Judicial Evaluation Questionnaire and this Supplemental Questionnaire, as well as reference checks, candidate interviews and other sources of information. (See Judicial Screening Rules and Procedures.)

The responses to the following questions on the Washington State Governor’s Office Uniform Judicial Evaluation Questionnaire may be disclosed to persons other than the Judicial Screening Committee and, in the case of judicial elections, will be publicly available:

Position Sought, Name, Business Address, Business email
Professional History: #8, 9, 10, 11, 12, 13, 14, 15,
Educational Background: #16, 17
Professional Experience: #18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32
Community and Civic Activities: #33

At various times, groups not affiliated with KCBA have rated judicial applicants. The KCBA Judicial Screening Committee's bylaws preclude the Committee from disclosing the names of applicants seeking a rating for appointment to these other groups. However, if you are interested in obtaining the names and addresses of such other rating groups to request this information yourself, you may contact the Executive Director at the KCBA office, telephone: 206-267-7100.

Include the following materials in your application packet:

- Governor’s Office Uniform Judicial Evaluation Questionnaire
- KCBA Supplemental Questionnaire
- A writing sample between 5-10 pages, as requested in question 45 of the Governor’s questionnaire.

Please be advised that the Judicial Screening Committee may take into account the information provided in the questionnaire, the reference checks, the interview, and any other source of information available to it. Letters of recommendation will not be provided to the Committee and should not be solicited. Supplemental materials such as journal articles, legal research, motions, briefs or other documents that you have filed in court, other than the writing sample specifically called for in the Governor’s Uniform Questionnaire, should not be included.

REFERENCES. The Committee finds it useful to speak with attorneys and non-attorneys who are familiar with you. One or more Committee members will attempt to contact each reference listed. All telephone numbers should be current and legible. You may contact references in advance if you so desire. The Committee may also call upon individuals not listed to obtain information.

(1) List the names and phone numbers of up to ten attorneys who have supervised you or who have reviewed and are familiar with your legal work, including your current supervisor and at least one other supervisor from your current workplace and at least one supervisor from each of your prior workplaces during the past fifteen years.

- a. HON. BARBARA L. LINDE 206-296-2820 CURRENT SUPERVISOR
- b. DAVID ROBERSON 206-465-9072
- c. PETER MOOTE 206-447-1615
- d. KATHY VAN OLST 206-296-9078
- e. DAN SATTERBERG 206-296-9064

(2) For the last five appellate matters in which you participated (whether as lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/phone number), and opposing counsel or counsel appearing before you (w/ phone number).

- a. Case Name: STATE v. VANGERPEN, 71 WN. APP. 94 (1983)
Subject Matter: CRIMINAL
Court: DIVISION 1
Judge: KENNEDY, BAKER, AGID.
Plaintiff's Attorney: SUSAN J. NOONAN
Defense Attorney: JEFF ELLIS, 206-262-0300
- b. Case Name: STATE v. HERTZOG, 69 WN. APP. 94 (1993)
Subject Matter: CRIMINAL
Court: DIVISION 1
Judge: BAKER, WEBSTER, COLEMAN.
Plaintiff's Attorney: SUSAN J. NOONAN
Defense Attorney: MARY JANE FERGUSON, 206296-2882
- c. Case Name: STATE v. MUELLER, 63 WN. APP.720 (1992)
Subject Matter: CRIMINAL
Court: DIVISION 1
Judge: BAKER, WEBSTER, AGID
Plaintiff's Attorney: SUSAN J. NOONAN
Defense Attorney: THOMAS OLMSTED, 360-778-9804
- d. Case Name: STATE v. VRIEZMA, 62, WN. APP. 437 (1989)
Subject Matter: CRIMINAL
Court: DIVISION 1
Judge: GROSSE, SCHOLFIELD, FORREST
Plaintiff's Attorney: SUSAN J. NOONAN
Defense Attorney: SCOTT BUSBY, 206-5998

e. Case Name: STATE v. JACKSON, 112 Wn.2d 867 (1989)
Subject Matter: CRIMINAL
Court: DIVISION 1
Judge: CALLOW, J (RET), ET AL.
Plaintiff's Attorney: SUSAN J. NOONAN
Defense Attorney: NEIL FOX, 206-624-9694 X105

I certify under penalty of perjury of the laws of the state of Washington that the above information is true, accurate and complete. I agree to notify KCBA if there are material changes in this information between the time the Uniform Questionnaire and this cover sheet are completed and the expiration of any rating received.



Signature
SUSAN J. NOONAN
Print Name
30 SEPTEMBER 2008
Date

THE WASHINGTON STATE GOVERNOR'S OFFICE
UNIFORM JUDICIAL EVALUATION QUESTIONNAIRE[1]

Position Sought (Court/Division/District): KING COUNTY DISTRICT COURT/SEATTLE

By Appointment: X By Election: X

Personal Information

1. NOONAN SUSAN JANE

WSBA Bar Number: 14081

2. Business Address: KING COUNTY DISTRICT COURT/SHORELINE COURTHOUSE
18050 MERIDIAN AVENUE NORTH
SHORELINE, WA 98133

Business Phone No. 206-296-3645

After-hours/direct dial: 206-296-3645

Work e-mail address: susan.noonan@kingcounty.gov

3. Home Address: 4754 UNIVERSITY VIEW PL NE
SEATTLE, WA 98105

Home Phone No. :206-522-1059 (UNLISTED) Mobile Phone No.:
206-595-0942

Home e-mail address: noons@earthlink.net

4. Date of Birth: 8/4/
1953

5. Social Security Number: [2]_____

6. City/State/Place of Birth: VANCOUVER, WA

Prior Evaluation / Application History

7. Please state the date of all other judicial evaluations you sought, bar polls you participated in, and appointment applications you submitted. Please specify whether you sought appointment or election for each, from whom the evaluation was sought, the position sought, and the outcome.

EVALUATION FOR ELECTION TO SEATTLE DISTRICT COURT 2002. KCBA APPLICATION:

KCBA: EXCEPTIONALLY WELL QUALIFIED.

LOREN MILLER BAR ASSOCIATION: EXCEPTIONALLY WELL QUALIFIED

WASHINGTON WOMEN LAWYERS: EXCEPTIONALLY WELL QUALIFIED

WASHINGTON LEGALS (NOW Q LAW): EXCEPTIONALLY WELL QUALIFIED

ASIAN BAR ASSOCIATION: WELL QUALIFIED

EVALUATION FOR APPOINTMENT TO KING COUNTY SUPERIOR COURT 2003. KCBA APPLICATION:

KCBA: WELL QUALIFIED

KCBA DISTRICT COURT BAR POLL 2005

Professional History

8. Year admitted to practice law in Washington: **MAY 1984**

9. Employment History (in reverse chronological order):

a. Start Date: MAY 1, 2006 End Date: CURRENTLY AFFILIATED

Organization: KING COUNTY DISTRICT COURT

Address: KING COUNTY COURTHOUSE, 516 JAMES STREET ROOM 1034, SEATTLE, WA 98104

Phone No.: 206-296-3645

Position/Title: COMMISSIONER

Supervisor: HONORABLE BARBARA L. LINDE

Nature of Practice (including frequency of court appearances): COURT COMMISSIONER. DAILY COURT APPEARANCES; TRAFFIC MITIGATION HEARINGS

b. Start Date: MARCH 2000 End Date: MAY 1, 2006

Organization: SUSAN J. NOONAN, ATTORNEY AT LAW

Address:

Phone No.:

Position/Title: SOLE PRACTITIONER/JUDGE PRO TEM

Supervisor:

Nature of Practice (including frequency of court appearances): CIVIL PRACTICE AND APPEARING IN KING COUNTY DISTRICT COURT AND OTHER KING COUNTY MUNICIPAL COURTS AS JUDGE PRO TEM. PRESIDED AS A PRO APPROXIMATELY 300 TIMES. HANDLED EVERY CALENDAR INCLUDING: CRIMINAL PRE TRIALS; MOTIONS, BENCH AND JURY TRIALS, SMALL CLAIMS AND CIVIL MOTIONS AND TRIALS. HANDLED ALL IN CUSTODY CALENDARS, REVIEWING PROBABLE CAUSE AND BAIL ISSUES. COVERED ALL SPECIALTY COURTS: MENTAL HEALTH AND DOMESTIC VIOLENCE.

ASSOCIATED WITH OTHER ATTORNEYS ON TRIAL CASES. FREQUENT COURT APPEARANCES

Reason for leaving: APPOINTED KING COUNTY DISTRICT COURT COMMISSIONER.

c. Start Date: MARCH 1998 End Date: MARCH 2000

Organization: PETER MOOTE AND ASSOCIATES

Address: 5492 HARBOR AVENUE SOUTH, FREELAND, WA 98249

Phone No.: 206-447-1615

Position/Title: ASSOCIATE ATTORNEY

Supervisor: PETER MOOTE

Nature of Practice (including frequency of court appearances): GENERAL CIVIL LITIGATION INCLUDING EMPLOYMENT CASES, SEXUAL HARASSMENT AND REPRESENTATION OF INJURED WORKERS. FREQUENT COURT APPEARANCES IN SUPERIOR COURT AND ADMINISTRATIVE HEARINGS, INCLUDING FULL TRIALS IN SUPERIOR COURT AND FULL HEARINGS BEFORE ADMINISTRATIVE BOARDS.

Reason for leaving: FAMILY RESPONSIBILITIES.

d. Start Date: AUGUST 1989 End Date: JANUARY 1998
Organization: KING COUNTY PROSECUTOR'S OFFICE
Address: 316 3RD AVENUE, SEATTLE, WA 98104
Phone No.:206-296-9000
Position/Title: SENIOR DEPUTY PROSECUTING ATTORNEY
Supervisor: NORM MALENG
Nature of Practice (including frequency of court appearances): TRIAL ATTORNEY, SUPERVISOR OF EARLY PLEA UNIT, SECOND CHAIR OF JUVENILE DIVISION; CHAIR JUVENILE DIVISION, SUPERVISOR OF DRUG UNIT. FREQUENT COURT APPEARANCES IN SUPERIOR COURT.

Reason for leaving: OPPORTUNITY IN CIVIL PRACTICE

e. Start Date: AUGUST 1989 End Date: SEPTEMBER 1991
Organization: UNIVERSITY OF PUGET SOUND SCHOOL OF LAW
Address: NOW SEATTLE UNIVERSITY SCHOOL OF LAW, SEATTLE, WA
Phone No.:
Position/Title: VISITING CLINICAL PROFESSOR OF LAW
Supervisor: BETSY HOLLINGSWORTH
Nature of Practice (including frequency of court appearances): WHILE ON LEAVE FROM THE KING COUNTY PROSECUTOR'S OFFICE, I WAS A FULL TIME CLINICAL PROFESSOR OF LAW TEACHING TRIAL ADVOCACY IN THE UPS LAW CLINIC. GUIDED SECOND AND THIRD YEAR LAW STUDENTS THROUGH THEIR FIRST TRIAL APPEARANCES IN KING COUNTY DISTRICT COURT. FREQUENT APPEARANCES IN COURT AS SUPERVISOR OF RULE 9 STUDENTS.

Reason for leaving: APPOINTMENT ENDED.

f. Start Date: MAY 1984 End Date: AUGUST 1989
Organization: KING COUNTY PROSECUTOR'S OFFICE
Position/Title: SENIOR DEPUTY PROSECUTING ATTORNEY
Supervisor: RON CLARK
Nature of Practice (including frequency of court appearances): STARTED AS A RULE 9 INTERN IN THE SUMMER OF 1982 APPEARING DAILY IN KING COUNTY DISTRICT COURT. ROTATED THROUGH ALL UNITS OF THE CRIMINAL DIVISION, INCLUDING FELONY TRIALS, CHARGING, SPECIAL ASSAULT UNIT (DOMESTIC VIOLENCE, SEXUAL ASSAULT AND CRIMES AGAINST CHILDREN). MULTIPLE APPEARANCES AT COURT OF APPEALS AND ONE APPEARANCE IN THE WASHINGTON SUPREME COURT. SUPERVISED THE DISTRICT COURT UNIT. MULTIPLE FELONY TRIALS OF ALL MAJOR CRIMES INCLUDING HOMICIDE, ASSAULT, AND ROBBERY.

SUPERVISED THE DISTRICT COURT UNIT FOR TWO YEARS. IN THAT TIME I OVERSAW YOUNG DEPUTIES APPEARING IN ALL DISTRICT COURTS IN KING COUNTY. I DEVELOPED DISTRICT COURT FILING AND DISPOSITION POLICIES AND PARTICIPATED IN HIRING AND BUDGET DECISIONS.

Reason for leaving: TOOK LEAVE TO TEACH

g. Start Date: OCTOBER 1983-MAY 1984
Organization: KING COUNTY SUPERIOR COURT
Position/Title: LAW CLERK TO THE HONORABLE ROBERT E. DIXON, SUPERIOR COURT JUDGE
Supervisor: THE HONORABLE ROBERT E. DIXON

Nature of Practice: LAW CLERK TO SUPERIOR COURT JUDGE; LEGAL RESEARCH; CUSTODY OF JURIES AND GENERAL ASSISTANCE TO SUPERIOR COURT JUDGE.

Reason for leaving: HIRED BY KING COUNTY PROSECUTOR.

10. Please list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements:

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
NOVEMBER 1985

UNITED STATES COURT OF APPEALS, 9TH CIRCUIT
NOVEMBER 1985

11. Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups

WASHINGTON WOMEN LAWYERS: PRESIDENT ELECT, 2005-06

WASHINGTON WOMEN LAWYERS: VICE PRESIDENT FOR GOVERNMENTAL AFFAIRS,
2003-2005

WASHINGTON WOMEN LAWYERS FOUNDATION: BOARD MEMBER, 2001-03

KCBA MEMBER: 2000-PRESENT

WASHINGTON WOMEN LAWYERS MEMBER: 2001-PRESENT

WASHINGTON STATE BAR ASSOCIATION: CIVIL RIGHTS COMMITTEE, 2005-06

WASHINGTON STATE BAR ASSOCIATION MEMBER 1984-PRESENT

12. Are you in good standing in every bar association of which you are a member? **YES**. If you answered "no", please explain.
13. If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. Please state the dates of service for each. **N/A**

14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported (and copy of the opinion).

APPOINTED KING COUNTY DISTRICT COURT COMMISSIONER, 2006

SELECTED AS PRESIDENT ELECT OF WASHINGTON WOMEN LAWYERS

DRAFTED PROSECUTOR'S FILING AND DISPOSITION STANDARDS FOR DISTRICT COURT

MEMBER, DISTRICT COURT REDISTRICTING COMMITTEE, KING COUNTY COUNCIL, 1988

APPOINTED SENIOR DEPUTY PROSECUTING ATTORNEY, 1988

SELECTED TO SPEAK AT NATIONAL LEVEL SEMINARS ON CHILD ABUSE

MENTORING MANY YOUNG ATTORNEYS AT THE BEGINNING OF THEIR CAREERS AS A SENIOR DPA AND LAW PROFESSOR.

15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.

State v. Ronquillo, et al: In 1994, I investigated and co-tried the case of 16-year-old Missy Fernandes who was shot and killed as she waited for a ride after school at Ballard High. This was a case involving multiple suspects which required care in determining each suspects level of participation in the murder. I worked the case from investigation through to verdict and appeal. It was significant because of the huge victim and community impact. An innocent student gunned down at her high school was terrifying. Lesson: Marshall all the facts to make sure charges are commensurate to the acts of each of the accused. Do not overcharge in the face of extraneous pressure.

Confidential settlement of sexual harassment case: In 1999, I worked on a civil case involving a plaintiff who had had a consensual (after dogged pursuit) affair with her boss, the defendant. After the defendant told his wife about it, the plaintiff was fired. Her work had been repeatedly evaluated as excellent. After in-depth investigation, it was apparent that the termination was actionable under the law. The case, however, presented all sorts of "she asked for it" arguments, and the client withstood difficult depositions and character assault. It was a tough case, but worth it. The client was a brave and wonderful person and the legal issues were challenging. The case settled before trial. Lesson: Don't fold under intense pressure. Hold your client's hand sometimes.

Decline Hearing of Robert Tredway: While at the Juvenile Division of the Prosecutor's Office in 1985, I handled a hearing to determine whether Tredway, a juvenile, would be tried in adult court for Murder in the First Degree. Tredway and an associate went to the home of the 12-year-old victim to steal guns in the course of a burglary. While there, they slit the-victim's throat. This case was significant to me because it was the first time I dealt with a child's violent death. It has stayed with me. Lesson: Act dispassionately when dealing with devastating facts.

Domestic Violence Protection Order charge before me as pro tem judge in District Court: In February 2001, I presided over a bench trial in a criminal case alleging violation of domestic violence protection order. The case involved a technical violation of the law, but the circumstances dictated a finding of not guilty. I was torn between the idea that the equity issue could be addressed in sentencing and the idea that the charge involved an arrest that appeared premature and unnecessary. The defendant had violated a protection order entered that day only because she needed to retrieve her belongings and a police officer had declined to accompany her. It struck me as inequitable that she was immediately arrested when she could have been peacefully escorted to and from the house by police. The technical violation of the law was not commensurate to the acts of the accused. Lesson: Don't toss fairness out the window; know what a case is worth.

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

EVERGREEN STATE COLLEGE 9/1971 TO 12/1972 NO DEGREE
TRANSFER TO UNIVERSITY OF WASHINGTON

CLARK COMMUNITY COLLEGE 1/1973 TO 6/1973 NO DEGREE
ATTAINING JUNIOR STATUS TO ATTEND UNIVERSITY OF WASHINGTON

UNIVERSITY OF WASHINGTON 9/1973 TO 6/1975 BACHELOR OF ARTS

WASHINGTON STATE UNIVERSITY 9/1977 TO 12/1978 NO DEGREE
GRADUATE STUDY IN POLITICAL SCIENCE. DECIDED TO ATTEND LAW SCHOOL

Educational Background

17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

UNIVERSITY OF PUGET SOUND SCHOOL OF LAW 8/1980 TO 5/1983
JURIS DOCTOR

Professional Experience

18. Please summarize, briefly, the general nature of your current law practice.

COURT COMMISSIONER FOR KING COUNTY DISTRICT COURT

19. If you are in practice, please describe your typical clients and any areas of special emphasis within your practice.

N/A

20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.

N/A

21. Within the last 5 years, did you appear in trial court:

Regularly Occasionally Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

Regularly Occasionally Infrequently

23. Within the last five years, how often did you appear in the court for which you are applying:

Regularly Occasionally Infrequently

24. Career Experience

- (a) What percentage of your appearances in the last five years was in:

(1)	Federal appellate courts	0%
(2)	Federal trial courts	0%
(3)	State appellate courts	0%
(4)	State trial courts	5%
(5)	Municipal courts	15%
(6)	District courts	80%
(7)	Administrative tribunals	0%
(8)	Tribal courts	0%
(9)	Other	0%
	TOTAL	100%

- (b) What percentage of your practice in the last five years was:

(1)	Civil litigation (excl. family law)	20%
(2)	Criminal litigation	0%

(3)	Family law litigation	0%
(4)	Non-litigation	80%
	TOTAL	100%

(c) What percentage of your trials in the last five years were:

(1)	Jury trials	98%
(2)	Non-jury trials	2%
	TOTAL	100%

(d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel, jury trials, and trials where you were the arbiter/decision maker.

<u>Number</u>	<u>Court</u>	<u>% as Sole / Chief Counsel</u>	<u>% Jury</u>	<u>% as the Arbiter</u>
1	Municipal	100	100	100
250	State Dist.	100	28	20
100	State Superior	90	99	
0	Federal Dist.			
10	Administrative	50	2	0
0	Tribal Courts			
	Other			

(e) State the number of appellate cases during your total career where you appeared as counsel of record in the following courts, and indicate for each court the following percentages: cases where you were sole counsel or chief counsel, and cases where you were the arbiter/decision maker (if applicable).

<u>Number</u>	<u>Court</u>	<u>% as Sole / Chief Counsel</u>	<u>% as the Arbiter</u>
50	State Superior Court	100	0
25	WA. Div. I COA	80	0
0	WA. Div. II COA		
0	WA. Div. III COA		
4	WA. Supreme Court	100	0
0	Fed. Cir. COA		
1	U.S. Supreme Court	100	0

- (f) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

SEE NUMBERS 15 AND 49.

- (g) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

NONE IN THE LAST FIVE YEARS; REGULAR APPEARANCES BEFORE THE BIIA AND SOCIAL SECURITY HEARINGS 1998-2000.

25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

TWO YEARS AS CLINICAL PROFESSOR OF LAW TEACHING TRIAL ADVOCACY. TEACHING AND MENTORING NEW ATTORNEYS IN THE KING COUNTY PROSECUTOR'S OFFICE. LECTURES AND SEMINARS ON TRIAL PRACTICE.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service.

If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

N/A

27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

WSBA- CIVIL RIGHTS COMMITTEE MEMBER-2005-06

PRESIDENT ELECT WASHINGTON WOMEN LAWYERS-2005-06

VICE PRESIDENT FOR GOVERNMENTAL AFFAIRS WASHINGTON WOMEN LAWYERS- 2003-2005

BOARD MEMBER-WASHINGTON WOMEN LAWYERS FOUNDATION-2001-03

KING COUNTY SUPERIOR COURT JUVENILE COURT COMMITTEE

MEMBER KING COUNTY DISTRICT COURT REDISTRICTING COMMITTEE, 1988

MEMBER KING COUNTY DOMESTIC VIOLENCE ADVISORY BOARD, 1988

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed / elected and are seeking a judicial position.

EVERY ONCE IN AWHILE A JUDGE CAN MAKE A PROFOUND DIFFERENCE IN A LIFE. I HAVE THE EXPERIENCE AND INSIGHT TO MAKE SURE THOSE OPPORTUNITIES ARE NOT MISSED. I WANT TO WORK ON FUNDING ISSUES SO THAT WE PRESERVE NOT JUST THE APPEARANCE OF JUSTICE BUT ALSO ITS REALITY.

29. In 50 words or less, please describe your judicial philosophy.

ALLOW EACH PERSON TO TELL THEIR STORY OR MAKE THEIR RECORD; MAKE INDIVIDUALISED DETERMINATIONS BASED ON THE LAW AND THE FACTS. MAKE SURE NO ONE IS MADE INVISIBLE BY VIRTUE OF RACE, GENDER, SEXUAL ORIENTATION OR ECONOMIC STATUS. TREAT EVERYONE FAIRLY. ACT WITH EFFICIENCY AND DEDICATION.

30. Have you ever held a judicial office or have you ever been a candidate for such office?

Yes . If you answered "yes", please provide details, including the courts involved, whether elected or appointed, and the periods of your service.

CANDIDATE FOR KING COUNTY DISTRICT COURT, SEATTLE DISTRICT, POSITION 1 2002. SURVIVED A THREE CANDIDATE PRIMARY ELECTION. DEFEATED IN GENERAL ELECTION BY JUDGE ART CHAPMAN.

CURRENTLY THE APPOINTED KING COUNTY DISTRICT COURT COMMISSIONER.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office?

NO. If you answered "yes", please provide details, including the offices involved, whether elected or appointed, and the length of your service.

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

I WAS A JUDGE PRO TEM FROM MAY 2000-MAY 2006. I APPEARED OVER 300 TIMES COVERING CIVIL AND CRIMINAL MATTERS TO TRIAL AND COVERING ALL CALENDARS HANDLED IN THE DISTRICT COURT INCLUDING: MENTAL HEALTH AND DV COURTS. I ALSO APPEARED IN AREA MUNICIPAL COURTS AS A JUDGE PRO TEM.

CURRENTLY I AM THE APPOINTED DISTRICT COURT COMMISSIONER FOR KING COUNTY DISTRICT COURT.

SEE NUMBERS 50 AND 52 FOR TRIALS AND ATTORNEYS WHO HAVE APPEARED IN FRONT OF ME.

Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.

WASHINGTON WOMEN LAWYERS CHARITABLE FOUNDATION, BOARD MEMBER, 2001-03

TUTOR, ADULT LITERACY, GOODWILL COMMUNITY LEARNING CENTER. SEATTLE, 1995-96. TUTORED ADULTS IN READING SKILLS. CERTIFICATE OF APPRECIATION, 1995

DIRECTOR, CHARITABLE CAMPAIGN, KING COUNTY PROSECUTOR'S OFFICE, 1993

Discipline and Disputes

34. Have you ever been held, arrested, charged or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation or ordinance? **NO**. If you answered "yes", please provide details.
(Do not include traffic violations for which a fine of \$150.00 or less was imposed.)
Please feel free to provide your view of how it bears on your present fitness for judicial office.
35. Has a client ever made a claim or suit against you for malpractice? **NO**. If you answered "yes", please provide details and the current status of the claim and/or suit.
36. Please describe your direct experience, if any, with domestic violence and sexual harassment.

ONLY AS AN ATTORNEY. I CHARGED, TRIED AND ARGUED APPEALS ON MANY DV CASES AS A PROSECUTING ATTORNEY. IN CIVIL PRACTICE I REPRESENTED CLIENTS ON SEXUAL HARASSMENT CASES. I SERVED ON COUNTY WIDE COMMITTEES ADDRESSING THE ISSUE.

37. Have you been a party in interest, witness, or consultant in any legal proceeding? **YES**
If you answered "yes", please provide details. Do not list proceedings in which you were merely a guardian ad litem or stakeholder.

AS A DEPUTY PROSECUTOR I TESTIFIED IN A CRIMINAL PRE-TRIAL HEARING REGARDING A CHARGING DECISION. THIS WAS CIRCA 1991.

38. Have you ever been the subject of a complaint to any bar association, disciplinary committee, court, administrative agency or other professional group? **YES**. If you answered "yes", please provide details.

I DECLINED TO FILE A CRIMINAL CASE AS PROSECUTOR AND THE ALLEGED VICTIM LODGED A COMPLAINT WITH WSBA. I FILED A REQUIRED RESPONSE. THE MATTER WAS CLOSED AS UNFOUNDED AND NO DISCIPLINE WAS METED OUT.

39. Have you ever been disciplined or cited for breach of ethics or unprofessional conduct? **NO**. If you answered "yes", please provide details.
40. If you have served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you? **NO**. If you answered "yes", please provide details.

Miscellaneous

41. Are you aware of anything that may affect your ability to perform the duties of a judge? **NO**.
If you answered "yes", please provide details.

42. Have you published any books or articles in the field of law? If so, please list them, giving the citations and dates. Also, please give the dates and forums of any Continuing Legal Education presentations that you have made.

PUBLICATIONS:

WASHINGTON LAWYER'S PRACTICE MANUAL: CRIMINAL TRIAL PRACTICE AND TECHNIQUES (CO-AUTHOR) 1993

WASHINGTON LAWYER'S PRACTICE MANUAL: MISDEMEANOR CRIMINAL PRACTICE IN COURTS OF LIMITED JURISDICTION (CO AUTHOR) 1989

CLE:

Instructor, National Institute for Trial Advocacy (Northwest Region) 1990

Director/Presenter, District Court Prosecution Seminar, Washington Association of Prosecuting Attorneys 1987, 1988, 1989

Lecturer, Washington State Bar Association: *Effective Use of Real Evidence* 1989

Lecturer, state and local seminars, Washington Association of Prosecuting Attorneys: *Jury Selection, Court Rules, Child Abuse, DWI, AIDS legislation, Direct Examination, Legislative Update* 1985 - 88

Lecturer, Washington State Trial Lawyers Association: *Plea Negotiations in District Court* 1988

Lecturer, National Center for the Prosecution of Child Abuse: *Shaken Infant Syndrome and Direct Examination of Expert Witnesses* 1987

43. Please list any honors, prizes, awards or other forms of recognition that you have received and whether they were professional or civic in nature.

PRESIDENT ELECT, WASHINGTON WOMEN LAWYERS, 2006-06, PROFESSIONAL/CIVIC

VICE PRESIDENT FOR GOVERNMENTAL AFFAIRS, WASHINGTON WOMEN LAWYERS, 2003-05, PROFESSIONAL/CIVIC

BOARD OF DIRECTORS, WASHINGTON WOMEN LAWYERS FOUNDATION, 2001-03
PROFESSIONAL/CIVIC

TUTOR, ADULT LITERACY, GOODWILL COMMUNITY LEARNING CENTER, 1995-96
CERTIFICATE OF APPRECIATION, 1995, CIVIC

INSTRUCTOR, NATIONAL INSTITUTE FOR TRIAL ADVOCACY, 1990, PROFESSIONAL

DIRECTOR, DISTRICT COURT PROSECUTION SEMINAR, WASHINGTON ASSOCIATION OF
PROSECUTING ATTORNEYS, 1987, 1988, 1989, PROFESSIONAL

DISTRICT COURT REDISTRICTING COMMITTEE, KING COUNTY COUNCIL, 1988,
PROFESSIONAL/CIVIC

ADVISORY BOARD, DOMESTIC VIOLENCE COMPREHENSIVE PLAN, KING COUNTY COUNCIL, 1988
PROFESSIONAL/CIVIC

44. Are you aware of anything in your background or any event you anticipate in the future that might be considered to conflict with the Code of Judicial Conduct? **NO**. If you answered "yes", please explain.

45. Please provide a writing sample of your work (between 5 and 10 pages long), written and edited solely by you, within the last 4 years.

I ATTACHED A SAMPLE FROM NINE YEARS AGO. I HAVE NOTHING NEWER.

46. Please describe activities that you have engaged in to eliminate bias or improve access to the judicial system for indigent populations and ethnic, racial and sexual minorities. As a member of the bench, what, if any, role do you believe a judge has to enhance equal access to justice?

AS A MEMBER OF WASHINGTON WOMEN LAWYERS FOUNDATION AND AS A BOARD MEMBER OF WWL WE HAVE WORKED TO EDUCATE ON DIVERSITY ISSUES; RECRUITED MINORITY MEMBERS TO THE BOARD AND WORKED IN GENERAL TO INCREASE DIVERSITY IN THE LEGAL SYSTEM. I TUTORED ADULT STUDENTS, MANY OF THEM MINORITIES AND WORKING POOR.

JUDGES ARE THE FACE OF THE JUSTICE SYSTEM. THAT ROLE REQUIRES JUDGES TO WORK FOR EQUAL ACCESS AND TREATMENT IN THE COURT ROOM EVERYDAY AND THROUGH PUBLIC EDUCATION. BUDGET CONCERNS ALSO ENTER HERE: SCHEDULING OF FOREIGN LANGUAGE INTERPRETERS CAN LEAD TO THE APPEARANCE OF UNFAIRNESS IF SCHEDULED SOLELY TO SAVE MONEY.

47. Please describe the frequency, time commitment and substantive nature of your direct participation of free legal services to indigent populations, and ethnic, racial and sexual minorities.

I ASSISTED CALLERS TO MY OFFICE ON DISABILITY ISSUES 1998-2000.

SEE NUMBER 46.

Diversity in the Legal Profession

48. Please briefly describe your understanding of the issue of "diversity within the legal profession."

THE COURTS ENSURE THE ORDERED RESOLUTION OF CIVIL DISPUTES AND DECIDE THE GUILT OR INNOCENCE OF THE ACCUSED. THIS IS IMPORTANT STUFF. IF THE FACE OF THE PROFESSION AND THE COURTS LACKS DIVERSITY IT CAN BE PERCEIVED AS OPPRESSIVE. THE PROFESSION AND THE COURTS MUST BE DIVERSE OR NEITHER CAN FULFILL THEIR OBLIGATIONS TO CLIENTS OR SOCIETY. DIVERSITY IS NOT JUST A MORAL IMPERATIVE IT IS PRACTICAL ONE AS WELL.

References

It is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. One or more participants in the evaluation process may contact each of your references. All telephone numbers should be current and legible.

If a reference is unreachable, your rating/evaluation may be delayed.

Please use a separate piece of paper for each list. You may contact references in advance if you so desire. Individuals not listed by you as a reference may be contacted to obtain information about you.

49. If you have been in practice within the past fifteen years, list the names and phone numbers of ten opposing counsels who know you best, including at least three opposing counsels on cases that went to trial.
50. If you have been a judge or otherwise have served as a neutral decision-maker within the past fifteen years, please list the names and phone numbers of the last ten attorneys who have appeared before you.
51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.
52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).
53. List the names and phone numbers of ten additional attorneys familiar with your professional qualifications, skills, experience or attributes.

NOTE: The Governor's Office requires individuals seeking judicial appointment to utilize, to the fullest extent possible, the ratings processes from state, county, and minority bar organizations. Contact information for the minority bar associations can be found on the Washington State Bar Association's website at (<http://www.wsba.org/public/links/minoritybars.htm>). It is the applicant's responsibility, however, to obtain these evaluations in a timely manner, and to forward evaluations received to the Governor's Office. To that end, all applicants are strongly encouraged to commence the evaluation process with the various bar associations as soon as possible. To facilitate the process, the following organizations have agreed to accept this questionnaire as the principal application in their evaluation process and may also require candidates to complete an additional supplement questionnaire:

State Bar Association

c Washington State Bar Association (WSBA) (appellate court evaluations only)

County Bar Associations

- c King County Bar Association (KCBA)
- c Spokane County Bar Association (SCBA)
- c Tacoma-Pierce County Bar Association (TPCBA)

Minority Bar Associations

- c Latina/o Bar Association of Washington (LBAW)
- c Loren Miller Bar Association (LMBA)
- c The Joint Asian Judicial Evaluations Committee of Washington[3]
- c Pierce County Minority Bar Association (PCMBA)
- c Q-Law / GLBT (Gay Lesbian Bisexual Transgender) Bar Association
- c Washington Women Lawyers[4] (WWL)

As of the date of your certification below and submission of this questionnaire to the Governor's Office, please check beside each of the above organizations you have contacted to evaluate you for the position for which you seek.

Certification

54.

By signing below, I declare under penalty of perjury under the laws of the State of Washington that the information provided by me in responding to this questionnaire is true and correct to the best of my knowledge.

Date:

9/30/18

Signature:



at Seattle, WA

[1] The Governor's Office uses this questionnaire exclusively for candidates seeking judicial appointment. The Washington State Bar Association and other state bar associations noted on the last page also accept this questionnaire in their judicial evaluation process. The Governor's Office reserves the right to update this questionnaire and will post updated versions of the questionnaire on the Governor's webpage. Please direct all questions about the questionnaire to the Governor's Office of General Counsel.

[2] Only include your social security number on the copy of the questionnaire forwarded to the Governor's Office.

[3] A joint committee of the Asian, Korean, South Asian and Vietnamese American Bar Associations of Washington.

[4] Washington Women Lawyers has approved the use of the Governor's Uniform Judicial Evaluation Questionnaire for its statewide and all county chapters.

49. TEN OPPOSING COUNSEL

- | | |
|----------------------|-------------------|
| 1. KRIS COSTELLO, | 206-749-5020 |
| 2. DEBRA HANULLA, | 415-730-3097 |
| 3. ANNE HARPER, | 253-931-3076 |
| 4. JANET AINSWORTH*, | 206-398-4017 |
| 5. GARY DAVIS*, | 206-624-8105 X213 |
| 6. NANCY MISHALANIE | 206-615-3619 |
| 7. ROD BENJAMIN | 206-447-3900 X713 |
| 8. DENNIS MCGUIRE*, | 206-784-3569 |
| 9. ANN CAREY, | 206-859-4550 |
| 10. SHAWN CROWLEY, | 206-447-3900 X701 |

*TRIAL CASES

50. LAST TEN ATTORNEYS WHO HAVE APPEARED IN FRONT OF ME:

- | | |
|--------------------------|-------------------|
| 1. CARMEN MCDONALD, | 206-205-5684 |
| 2. JOHNATHAN DICHTER, | 425-258-4595 |
| 3. FRED HOPKINS, | 425-391-7427 |
| 4. SARAH ROBERTS, | 205-205-5684 |
| 5. SHAWN CROWLEY, | 206-447-3900 X701 |
| 6. MANKA DHINGRA, | 206-296-8721 |
| 7. ROD BENJAMIN,
X713 | 206-447-3900 |
| 8. BONNIE GLENN, | 206-296-9035 |
| 9. KATHRYN HIGGINS, | 206-674-4723 |
| 10. ELIZABETH FLAVIN, | 206-464-1519 X244 |

51. NON-ATTORNEY REFERENCES

- | | |
|---------------------|--------------|
| 1. LAURIE LEMAY, | 206-283-4025 |
| 2. CAROLYN MCKEE, | 206-296-9459 |
| 3. NORMAN SHAFFER, | 206-550-2667 |
| 4. JUAN GALINDO, | 206-226-6439 |
| 5. LINDA JOHNSON, | 206-206-9103 |
| 6. CRYSTAL LAMPKIN, | 206-684-8135 |

52. LAST FIVE TRIALS AS DECISION MAKER

1. CITY OF SHORELINE v. DAVID STOVER: #CQ47548SH
KING COUNTY DISTRICT COURT, CITY OF SHORELINE
CRIMINAL BENCH TRIAL (DUI)
AUGUST 26, 2004

PROSECUTING ATTORNEY: CARMEN MCDONALD, 206-205-5684

DEFENSE ATTORNEY: GEORGE BIANCHI, 206-728-9300

2. STATE v. STEVEN LEVERETT: #C0486274
CRIMINAL JURY TRIAL (DUI)
KING COUNTY DISTRICT, REDMOND
JANUARY 12, 2005

PROSECUTING ATTORNEY: JULIE KLINE, 206-296-9000

DEFENSE ATTORNEY: SCOTT ROBBINS, 425-637-3022

3. DARROL ALVORD v. NORTHWEST ABATEMENT SERVICES: #Y4-989
KING COUNTY DISTRICT COURT, SEATTLE
CIVIL JURY TRIAL (CLAIM FOR WAGES)
MARCH 21-25, 2005

PLAINTIFF'S COUNSEL: ELIZABETH FLAVIN, 206-464-1519 X244

DAVID MARK, 206-340-1840

DEFENDANT'S COUNSEL: ROBERT BATTLES: 360-754-6001

4. SIRSIK PONGAURSIRA v. ALLSTATE CO.: #Y3-1423
KING COUNTY DISTRICT COURT, SEATTLE
CIVIL JURY TRIAL (AUTO ACCIDENT)
AUGUST 5, 2005

PLAINTIFF'S COUNSEL: JOHN WOODBERY, 425-637-3012

DEFENDANT'S COUNSEL: THOMAS SCHWANZ, 425-388-6392

53. TEN ADDITIONAL LAWYERS

1. HON. BOBBE BRIDGE (RET.)	206-696-7503
2. HON. CHERYL CAREY	206-296-9120
3. HON. CHAS. DELAURENTI, II	206-296-3445
4. HON. BARBARA LINDE	206-296-2820
5. HON. VICKY SEITZ	206-296-0132
6. DAN KINERK	206-296-9561
7. KERRY J. KEEFE	206-296-9040
8. JENNIFER GILMAN	206-948-1123
9. DAVID ROBERSON	206-465-9072
10. KAREN MURRAY	206-624-8105 X247
11. TIM BRADSHAW	206-296-9523

February 26, 1999

Appeals Council, Branch 14
Office of Hearings and Appeals
Social Security Administration
5107 Leesburg Pike
Falls Church, Virginia 22041-3255

Re:

Appeals Council:

Claimant appeals the unfavorable decision of the Administrative Law Judge (ALJ) dated May 26, 1998, denying DIB and SSI. The Judge erred by summarily refusing to give weight to Claimant's vocational expert's opinion that Claimant was incapable of substantial gainful employment; by finding Claimant had a severe impairment but retained the residual functional capacity (RFC) to return to past work; by improperly evaluating a treating physician's opinion; by improperly evaluating the credibility of Claimant's testimony and Claimant's lay witness's testimony.

I. CLAIMANT

Claimant is 32 years of age and completed the ninth grade in school. His work history includes car detailer, lube technician and assistant mechanic. He testified that he cannot function on the job because of severe mood swings. He has a documented psychiatric history and the ALJ found that he suffers bipolar disorder, a personality disorder and alcoholism. The impairments cause significant vocational limitations.

Claimant testified that he is either depressed and unable to get out of bed or is in a manic phase where sleep is impossible and he is consumed with the performance of unproductive tasks. He has repeatedly undertaken to control the bipolar disorder with prescribed medication and treatment. His current medication is ineffective. He describes manic episodes that cause racing and jumbled thoughts. He recounts periods of up to five days without sleep. After a manic phase he enters a depressed state and will retreat to his bed. He drinks in order to knock himself out of manic phases. These symptoms disrupt his ability to work at any job.

Claimant's ex-wife testified they were married from January 1997 to October 1997. She testified that Claimant wanted to work and would be energetic at the beginning of each job but inevitably he would have a crisis about every six weeks, cycling between manic and depressive states, leading to work termination. She corroborated Claimant's testimony about periodic sleeplessness

leading into the inability to get out of bed. As to daily activities she testified that Claimant was unable to care for the children, bathe or even get out of bed when depressed. While in a manic phase he would perform meaningless tasks such as repeatedly rearranging the furniture. He would isolate himself completely after a depressive event.

Claimant has experienced these mental problems for as long as he can remember.

II. ISSUES

A. The ALJ abused his discretion by giving no weight to the opinion of Claimant's vocational expert because his opinion was solicited by Claimant's attorney.

B. The ALJ erred by finding Claimant had a severe impairment but nonetheless retained the residual functional capacity to return to past work by

1. Improperly evaluating the credibility of Claimant and Claimant's lay witness.

2. Improperly evaluating the testimony of Claimant's treating psychiatrist.

A. CLAIMANT'S VOCATIONAL EXPERT'S OPINION WAS IMPROPERLY IGNORED BY THE ALJ.

Claimant submitted a written Vocational Assessment. The assessment concluded Claimant is not capable of any substantial gainful employment. The ALJ accorded "no weight" to the report:

On March 23, 1998 Claimant underwent a vocational assessment at the request of his attorney. Based on a review of Claimant's medical history and an interview, the vocational consultant was of the opinion that Claimant "is not capable [sic in the opinion, not in the original] of any substantial gainful employment on a reasonably continuous basis." (Exhibit 12E.) I accord no weight to this document. The vocational consultant was contacted for the sole purpose of providing support for a claim of disability, and not to provide vocational guidance. I regard this document as a result-oriented litigation device. Compare, *Weetman v. Sullivan*, 877 F.2d 20, 23 (9 Cir. 1989); *Burkhart v. Bowen*, 856 F.2d 1335, 1339 (9 Cir. 1988). Compare, *Nguyen v. Chater*, 100 F.3d 1462, 1464-65 (9 Cir. 1996).

Decision, p. 11-12.

The ALJ summarily dismissed the expert opinion because it was obtained at the request of Claimant's attorney. Claimant has the absolute right to representation and to the benefit of

qualified experts in presenting his case. He did not waive those rights. The ALJ abused his discretion by according no weight to the vocational expert's report because the opinion was sought by counsel.

The ALJ is compelled to make credibility determinations. Those determinations must be supported by substantial evidence in the record. This record contains *no support* for the credibility determination.

The expert's resume is attached as Appendix A. He possesses excellent credentials and is eminently qualified to render opinions on employability. He is registered with both the Washington State Department of Health and Social Services and the Social Security Administration as a vocational expert and has testified at the request of the government on numerous occasions. He is a Fellow in the American Board of Vocational Experts. He has unassailable qualifications.

Qualifications alone do not mandate acceptance of the expert's opinion, but they are important in evaluating whether the ALJ's decision to accord no weight to the expert's opinion was proper. The resume shows that he has testified on behalf of both state and federal agencies and does not simply provide opinions "for the sole purpose of providing support for a claim of disability ..."*Decision*, p. 12.

The cases cited by the ALJ are distinguishable from the factual record here. In Weetman v. Sullivan, 877 F.2d 20, 23 (9th Cir. 1989) the Court held that where a treating physician's opinion was inconsistent with his own medical notes and where the Claimant had in fact engaged in substantial gainful employment during part of the pertinent time period and where the physician's opinion was delivered **after** the ALJ had issued an adverse determination, the testimony could be disregarded. **None** of those circumstances exist here. The vocational consultant's opinion was solicited before the decision was rendered, his opinion was not impeached by prior inconsistent notes and the opinion was not impeached by finding that a **working** claimant was unemployable. Claimant's expert found:

He [Claimant] has been unemployable since his last unsuccessful attempt to work at a pizza shop ...

Exhibit 12E, page 8.

On page 6 of Exhibit 12E, he explains that the pizza job lasted for two weeks in September, 1997. The expert does **not** suggest that the Claimant was unemployable from June 28, 1996 to October 24, 1996. The ALJ found that that was a period of substantial gainful activity. *Decision*, p. 2. The vocational consultant **concurs**. Weetman, *supra*, is wholly in apposite to Claimant's case and provides no cognizable support for discounting the testimony of Claimant's expert.

The ALJ cites to Burkhart v. Bowen, 856 F.2d 1335, 1339 (9th Cir. 888). In Burkhart, the ALJ questioned the opinion of a treating physician not only because it was obtained at the request of counsel but because it was a bare conclusion unsupported by any "medical findings, personal

observations or test reports upon which Dr. Harper could have arrived at his conclusion." Burkhart, supra at 1339.

Here, the vocational expert conducted an extensive interview with Claimant, reviewed the Social Security Administration file, reviewed the medical records and reviewed all vocational assessment tools employed by the SSA. See Exhibit 12E. His assessment was not a bare conclusion. Burkhart, is also factually distinguishable from this record.

Last, the ALJ cites to, and invites us to compare, Nguyen v. Chater, 100 F.3d 1462, 1464-65 (9th Cir. 1996). This is the most recent case cited and one which is factually similar to Claimant's case. In Nguyen, the ALJ summarily discounted a treating physician's opinion without specific, legitimate reasons. The ALJ made conclusory and incorrect comments about the treating physician which were not supported by the record. The Nguyen Court vacated and remanded:

The ALJ also stated that Dr. Walter had pointed out that "the evidence was devoid of any findings or complaints relative to a mental disorder of the Claimant during the period of May 1988 until November 18, 1991, when the Claimant was examined by a psychologist, R. Wayne Brown, Ph.D., at the request of the Claimant's attorney." This is not a legitimate basis on which to discount Dr. Brown's opinion that Claimant has a severe depressive disorder. First, the fact that the examination was conducted at the request of an attorney is relevant where the opinion itself provides grounds for suspicion as to its legitimacy. **We have held the source of a referral to be relevant where there is no objective medical basis for the opinion, Burkhart v. Bowen, 856 F.2d 1335, 1339 (9th Cir. 1988), and where there is evidence of "actual improprieties" on the part of the doctor whose report the ALJ chooses to reject. Saelee v. Chater, 94 F.3d 520, 523 (9th Cir. 1996) (per curiam).** In Saelee, the ALJ notes among other things that there was no objective medical basis for the doctor's opinion and that the report was inconsistent with the doctor's own treatment notes. Id. Saelee relied on Burkhart for the proposition that under certain circumstances the ALJ may consider the purpose for which a doctor's report was obtained. In Burkhart, we held that consideration of the fact that a doctor's report was solicited by Claimant's counsel was "a permissible credibility determination given the evidence before the ALJ." Burkhart, 856 F.2d at 1339 (emphasis added). In that case, the evidence before the ALJ was that the report of the doctor that the ALJ rejected **consisted of no more than a wholly conclusory opinion unsupported by any objective medical findings, personal observations or test reports, and was directly contradicted by the conclusions of a number of other treating physicians whose opinions were based on objective medical findings.** Id.

In this case, none of the factors are present that would allow the ALJ to consider the source of the referral of Dr. Brown's patient in assessing the doctor's credibility. Dr. Brown's thorough report is based on an

examination, a battery of tests, and review of the Claimant's hearing testimony. His is not a mere "unsupported opinion." *Id.* Nor is there any evidence of any "actual improprieties," *Lester*, 81 F.3d at 832, on Dr. Brown's part, such as an inconsistency between his treating notes and the report he submitted to the ALJ or evidence that he was deliberately attempting to mislead the ALJ for the purpose of helping Claimant obtain benefits. See *Saelee*, 94 F.3d at 523. **To the contrary, Dr. Brown repeatedly set forth both the evidence that supported his conclusions and that which undermined them.**

That does not mean that Dr. Brown was correct or that his report must prevail, but it does mean that Dr. Brown's credibility is not subject to attack on the basis of the source of his patient's referral.

Nguyen, *supra*, emphasis added.

Such is the case here: There are no factors present which would permit the ALJ to dismiss the vocational expert's opinion. Proper consideration of his report would cause a different result because it refutes the finding that Claimant has the RFC to perform past relevant work. The testimony is crucial and has been disregarded without basis.

B. THE RECORD DOES NOT SUPPORT FINDING THE CLAIMANT HAS THE RESIDUAL FUNCTIONAL CAPACITY TO PERFORM PAST RELEVANT WORK.

The ALJ found that the Claimant does indeed have a mental disorder but then inexplicably discounts all sources of evidence which support Claimant's subjective complaints as they touch upon RFC. The ALJ finds Claimant incredible (Decision, p. 12); finds that "failure to follow treatment recommendations reflects on the credibility of impairments." (Decision, p. 12); Claimant's exaggerating of complaints justifies discounting testimony (Decision, p. 13); accords "little weight" to Claimant's lay witness, "which essentially confirms Claimant's serious alcohol problem," (Decision, p. 14); and accords "no weight" to Claimant's treating physician: "It is doubtful [the doctor] ever say [sic] Claimant sober ..." (Decision, p. 16). It is difficult to ascertain how the ALJ found a mental impairment from a record (in his opinion) so replete with half truths and bias.

The ALJ denigrates and discounts each and every piece of evidence such that it is difficult to envision what possible evidence could have persuaded the ALJ otherwise. The ALJ does not evaluate the evidence as a whole, but rather separates one source from the other and discounts it never perceiving how the Claimant's proof as a whole provides corroboration. This is plain error and an abuse of discretion.

The testimony, when given proper weight, clearly demonstrates Claimant has a combination of limitations which prevent substantial gainful employment. It shows he lacks the capacity to perform and sustain mental activities critical to job performance. The testimony shows he is

markedly withdrawn and reclusive and alternately unable to focus or command his thought processes.

1. The ALJ improperly evaluated the credibility of Claimant and Claimant's lay witness, his ex-wife.

The ALJ finds Claimant not credible because he drinks and is resistant to treatment. The record reflects a serious long-term addiction to alcohol as a method of self-medication against suicidal manic-depressive illness. The record reflects Claimant has repeatedly sought treatment, but that the nature of the disorder and the plateauing of medication, lead to bouts of drinking. Claimant and his ex-wife corroborate this cycle. See Exhibits 1F, 2F, 3F, 6F, 13F.

The ALJ states failure to follow treatment "reflects on credibility of impairments." This conclusion is fraught with problems. When dealing with mental impairments non-compliance can be the result of the mental impairment itself and may be neither willful or without justifiable excuse. See e.g. Mendez v. Chater, 943 F.Supp. 503, 508 (E.D. Pa 1996), citing Schena v. Secretary, 635 F.2d 15 (1st Cir. 1980).

The cases cited by the ALJ address failure to treat **physical** impairments. Decision, p. 12-13. Not one cited case addresses mental impairments in general let alone this Claimant's complex set of mental problems complicated by alcoholism. Moreover, even if the evidence showed a failure to treat, that would still lead to a finding of unemployability: The medical record addresses the difficulty of treating bi-polar disorder even with a compliant patient. Even with medication, Claimant is unable to function over time in a competitive work environment.

The dangers of rejecting such testimony are succinctly stated in Polny v. Bowen, 864 F.2d 661 (9th Cir. 1988): before rejecting subjective complaints as not credible in a mental impairment case, the judge must

exercise a delicate discretion in determining whether the Claimant's complaints are faked or the product of physical and psychological conditions beyond his control.

The ALJ here dedicated one sentence to the failure to treat finding.

The ALJ improperly, and in conclusory fashion, accords little weight to Claimant's ex-wife's testimony. (Decision, p. 14) The Court may not discount the opinion of a lay witness without reason. It appears that the reason the ALJ accords little weight is because the testimony is in Claimant's favor. His ex-wife does not just "confirm Claimant's serious alcohol problem." She testified as to daily activities, confirms the manic-depressive cycle, testifies as to Claimant's erratic behavior and sleep patterns. She is generally corroborative of other testimony and evidence. As the ex-wife, she has very little reason to testify in Claimant's favor. Her testimony about non-exertional limitations was critical and was ignored.

Disregarding the testimony of friends and family members violates 20 CFR 494.1513(e)(2). Having been directed to consider this testimony, the ALJ can reject the testimony of lay witnesses **only if he gives reasons germane to each witness.** Smolen v. Chater, 80 F.3d 1273 (9th Cir. 1996). Here, the ALJ again delivers a one-sentence conclusion, which incorrectly characterizes her testimony and certainly does not state reasons germane to his rejection of the testimony. There is no support whatsoever for his conclusion.

2. The ALJ improperly evaluated the testimony of Claimant's treating psychiatrist.

The deposition testimony of a treating physician is similarly disregarded. He testified that the nature of Claimant's mental problems made them difficult to treat. He testified to the long list of medications which were effective for a period then wore off leading Claimant into an inevitable bout of drinking to control manic outbursts. The doctor could not envision a return to work unless a super effective medication was available. His opinion was that the bipolar disorder predated the alcoholism. Exhibit 2F.

There is documented history of bipolar disease that even the consulting physicians acknowledge. It is not as if the treating doctor is making up diagnoses. His records do reflect a change in opinion over time. That does not mean he is incredible. There is no dispute in this record that Claimant has significant mental impairments. His treating physician is not alone in his assessment. *The ALJ found that the mental impairments exist.* It is therefore curious why the physician is denigrated by the ALJ.

The Secretary may not assume that doctors routinely lie in order to help their patients collect disability benefits.

Ratto v. Secretary, 839 F.Supp. 1415, 1462 (D.Or. 1993). The ALJ cannot insulate from review ultimate conclusions regarding disability by turning them into questions of credibility. Jones v. Heckler, 760 F.2d 993, 997 (9th Cir. 1985).

Because the Court improperly evaluated all favorable evidence regarding Claimant's RFC, the findings should be vacated. When proper weight is accorded the vocational assessment and the corroborating witness testimony a finding of disability is warranted.

IV. CONCLUSION

The errors compel a reversal and remand for the payment of benefits. The ALJ abused his discretion and substantial evidence does not support the findings.

Respectfully,

PETER MOOTE & ASSOCIATES

SUSAN J. NOONAN
Attorney at Law

SJN/cu

28 January 2009

RECEIVED

2009 JAN 30 PM 12:44

CLERK
KING COUNTY COUNCIL

Susan J. Noonan
4754 University View PL NE
Seattle, WA 98105
206-595-0942
noonse@earthlink.net

Ms. Anne Noris
Clerk of the Council
Metropolitan King County Council
516 Third Avenue Room 1200
Seattle, Washington 98104

Dear Clerk Noris:

Please accept these materials as my application for appointment to **Seattle District Court Judicial Position 5**. I hope to continue my long association with the King County District Court as a judge. I currently serve as the appointed **King County District Court Commissioner**. I will provide fair, effective and principled decision making as a district court judge. Enclosed please find evidence of eligibility for the position (Attachment 1), my resume (Attachment 2), Bar Association rankings (Attachment 3), and a list of my endorsements (Attachment 4). I have included nine copies of these materials.

I am an attorney in good standing at all times with the Washington State Bar Association (WSBA number 14081) and I am a **registered voter since 1982 in judicial district 2**. (Attachment #1). I have been a lawyer for 24 years and otherwise meet all statutory qualifications for office. I am ranked **Exceptionally Well Qualified by the King County Bar Association and Washington Women Lawyers**. I will meet with several other bar groups before January 30, 2009, and will seasonably update this letter.

I am uniquely qualified for this appointment having appeared as prosecutor, professor, pro tem judge, and commissioner before or presiding in King County District Court. My 24 years of practice include: Twelve years as a **Deputy and Senior Deputy Prosecuting Attorney for King County**, two as a **Professor of Law** at the University of Puget Sound School of Law, two as a private **civil practitioner**, and five plus years of continuous judge pro tem experience appearing in King County District Court and area municipal courts. I have served since May 2006 as the appointed King County District Court Commissioner. **I am a 2007 graduate of the Judicial College.**

As a pro tem judge and court commissioner, I have presided over all types of criminal and civil matters including **mental health and domestic violence courts**. In 2002, I ran for the District Court position being vacated by retiring Judge Darcy Goodman, prevailing in the primary and coming just short of victory in the general election. In that race I was **rated Exceptionally Well Qualified by the King County Bar Association, Loren Miller Bar Association, Washington LEGALS, Washington Women Lawyers, and Well Qualified by the Asian Bar Association.**

I was born and raised in Washington and graduated from the University of Washington. In 1983, I graduated from the University of Puget Sound School of Law and commenced several years practice with the King County Office of the Prosecuting Attorney. In 1982, I

started as a rule 9 Intern at Shoreline District Court. I was hired permanently in 1984 after **clerking for Superior Court Judge Robert E. Dixon** in the King County Superior Court. I spent several more months in Shoreline and Federal Way District Courts, as well as performing duties as the appellate attorney for all District Courts. I progressed through all units of the KCPAO including juvenile court, general felony trials, and Special Assault Unit trying cases involving child abuse, domestic violence and sexual assault. **In 1987 I was promoted to Senior Deputy Prosecuting Attorney and was made head of the District Court Unit.**

As the head of the District Court Unit I supervised all trial lawyers and staff in the (then)11 District Courts. I was responsible for all aspects of the unit including supervision of all trial lawyers and appellate advocates. I headed statewide training programs focused entirely on district court practice sponsored by the **Washington Association of Prosecuting Attorneys** for three years. I lectured on driving under the influence, domestic violence, trial advocacy, and other topics countless times. I **co-authored sections of training manuals on criminal law and procedures.** I prepared a compendium of cases and comment on ethical considerations for prosecutors. I was responsible for policy and budget recommendations and the administration and screening of Rule 9 candidates. (Rule 9 allows law students to appear in court, supervised by an attorney, after their first year of law school).

From 1989 to 1991, I was a **full-time Visiting Professor of Law** teaching trial advocacy at the University of Puget Sound School of Law. In that capacity I returned to the King County District Court system with law students as they tried their first real cases in Federal Way District Court. I rejoined the prosecutors office in 1991, prosecuting felonies and headed the Early Plea Unit. In 1994, I was promoted to **Vice Chair of the Juvenile Division.** I was promoted to the **Chair of the Juvenile Division** in 1996, and was responsible for supervising prosecution of all juvenile crime in King County. In 1997, I became the **head of the Special Drug Unit** in charge of all aspects of drug prosecution in King County.

In 1998, I entered **private civil practice** and litigated employment cases. I tried civil cases to verdict in superior court. In May 2000, I once again happily returned to the King County District Court as a **judge pro tem.** From 2000 to 2006 I served as judge pro tem nearly full time, covering all district court calendars and hearing both criminal and civil trials to verdict.

My long-term criminal trial experience as both trial lawyer and judge pro tem, is augmented by my experience as a **civil practitioner and pro tem judge presiding over civil trials in the King County District Court.**

During my career, I have given legal counsel to police departments, drafted proposed legislation, argued before the Supreme Court of the State of Washington, appeared before administrative agencies and **prepared and tried hundreds of cases.** As a Senior Deputy Prosecuting Attorney I was on call evenings and weekends to approve search warrants prepared by law enforcement officers before seeking judicial approval. I have **mentored** some of the finest trial lawyers in our area overseeing their first court trials. Some have gone on to the bench themselves.

I possess the education, experience and management skills required of a judicial officer. As Court Commissioner I have not had the opportunity to vote on court policy issues. I am, however, keenly interested in those areas and welcome the opportunity to participate in court administration. I have a positive outlook and willingness to problem solve with the team. My **endorsements** include lawyers, judges, community members and **most current**

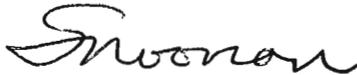
members of the King County District Court bench. I was also recently endorsed by the **King County Police Officer's Guild.** (Attachment #4).

My commitment to public service is strong and long lived. I would be honored to continue that service as a judge. I will be an efficient and ethical jurist, treating all who appear with dignity and respect. While the administration of the court is an obligation to be observed, the core function of a judge is to **fairly administer justice in the court room.** That is the preeminent obligation of the jurist.

In **bar related and community affairs I was the president-elect of Washington Women Lawyers** at the time of my appointment to the District Court Commissioner position. I was also a member of the Washington State Bar Association **Civil-Rights Committee.** In the past I volunteered as an **adult literacy tutor** with Goodwill Community Learning Center in Seattle. My resume outlines my other bar activities, lectures, publications and committee work. (Attachment 2).

Thank you for considering my application for appointment to Judicial Position 5. I have asked a number of people to send letters directly to the Council. I am ready to serve the court in anyway I am able. It is my sincere hope to be appointed District Court judge and continue my long, productive and fond association with the court.

Respectfully,



Susan J. Noonan

Encls.
SJN/hea

Business Address:
18050 Meridian Avenue North
Shoreline, WA 98133
206-296-3645
susan.noonan@kingcounty.gov

Susan J. Noonan

Objective **Appointment to Seattle District Court, Judicial Position 5**

Education University of Puget Sound School of Law, Juris Doctor,
May 1983

University of Washington, Bachelor of Arts 1975

**Professional
Experience**

King County District Court Commissioner
May 2006-present

Judge Pro Tempore
King County District Court
May 2000-May 2006

Associate Attorney
Peter Moote and Associates
General Civil Litigation
March 1998-March 2000

Senior Deputy Prosecuting Attorney
King County Office of the Prosecuting Attorney
Felony Trial Attorney and Supervisor of Juvenile Division and
Special Drug Unit
1991-1997

Visiting Clinical Professor of Law
University of Puget Sound Law School
Taught trial advocacy in clinical setting
1989-1991

Senior and Deputy Prosecuting Attorney
King County Office of the Prosecuting Attorney
Trial Attorney and Supervisor of the District Court Unit
1984-1989

Law Clerk to the Honorable Robert E. Dixon
King County Superior Court Judge
1983-1984

Professional Memberships

District Court and Municipal Judges Association
Washington State Bar Association
King County Bar Association
Washington Women Lawyers

Continuing Education

Judicial College
Graduate, 2007

Judge Pro Tem Training
King County District Court
June 2001

Graduate, 1995
Advanced Techniques in Homicide Investigation
WSCJTC

Graduate, June 1986
Career Prosecutor's Course
Houston, Texas

Honors and Committees

President-elect 2005-06
Washington Women Lawyers

WSBA Civil Rights Committee
Member, 2005-06

Vice President for Governmental Affairs
Washington Women Lawyers State Board 2003-05

Board Member, Washington Women Lawyers Foundation
2001-03

Hiring Committee
King County Prosecutor's Office
1987 to 1989 and 1991 to 1998

Member, District Court Redistricting Committee
King County Council 1988

Member, Advisory Board
Domestic Violence Comprehensive Plan
1988

**Seminars
And Lectures**

Instructor, National Institute for Trial Advocacy
Northwest Regional Program
Seattle, Washington, June 1990

Director, District Court Prosecution Seminar,
Washington Association of Prosecuting Attorneys
Coordinated Seminars 1987, 1988, and 1989

Lecturer, Washington Association of Prosecuting Attorneys, Various seminars, 1985 to 1988. Topics: Jury Selection, Court Rules, Child Abuse, Driving While Intoxicated, Direct Examination, New Legislation.

Lecturer, National Center for the Prosecution of Child Abuse, August 1987. Topic: Shaken Infant Syndrome; Demonstration of Direct Examination of Expert Witness.

Lecturer, Washington State Trial Lawyer's Association, November 1988. Topic: Plea Negotiations in District Court.

Lecturer, Washington State Bar Association, April 1989. Topic: Effective Use of Real Evidence.

Publications

Co-Author, **Washington Lawyer's Practice Manual: Criminal Trial Practice and Techniques, 1993**

Co-Author, **Washington Lawyer's Practice Manual: Misdemeanor Criminal Practice in Courts of Limited Jurisdiction, 1989**

**Bar
Admissions**

Washington State Bar Association: #14081

United States District Court for the Western District of Washington

United States Court of Appeals for the Ninth Circuit

ENDORSEMENTS

CURRENT KING COUNTY DISTRICT COURT JUDGES

HONORABLE ART CHAPMAN WEST DIVISION (PRESIDING)

HONORABLE DAVID CHRISTIE SOUTH DIVISION

HONORABLE CHAS DELAURENTI, III SOUTH DIVISION

HONORABLE JUDY EILER SOUTH DIVISION

HONORABLE JANET GARROW EAST DIVISION

HONORABLE LINDA JACKE EAST DIVISION

HONORABLE DOUGLAS SMITH WEST DIVISION

HONORABLE FRANK V. LA SALATA EAST DIVISION

HONORABLE PETER NAULT EAST DIVISION

HONORABLE VICKY SEITZ SOUTH DIVISION

FEDERAL COURT

**HONORABLE CAROLYN DIMMICK UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
WASHINGTON**

STATE SUPREME COURT

**HONORABLE BOBBE BRIDGE WASHINGTON SUPREME COURT
JUSTICE (RET.)**

STATE COURT OF APPEALS

HONORABLE ANN SCHINDLER DIVISION 1, SEATTLE

SUPERIOR COURT

HONORABLE TIM BRADSHAW	KING COUNTY SUPERIOR COURT
HONORABLE RUTH REUKAUF	YAKIMA COUNTY SUPERIOR COURT
HONORABLE JIM ROGERS	KING COUNTY SUPERIOR COURT
HONORABLE CATHY SHAFFER	KING COUNTY SUPERIOR COURT
HONORABLE MARY YU	KING COUNTY SUPERIOR COURT

MUNICIPAL COURT

HONORABLE L. STEPHEN ROCHON

**MAPLE VALLEY AND PACIFIC
MUNICIPAL COURTS**

POLICE

KING COUNTY POLICE OFFICER'S GUILD

ATTORNEYS

ANNE BREMNER

KRISTIN CHANDLER

KEN COMSTOCK

PROFESSOR CECE DYKAS

JENNIFER GILMAN

TOM GILMAN

DEBRA HANNULA

BECKY ROE

ROB KEEFE

TOM KEEFE

COLLEEN KINERK

TERRI LUKEN

LISA MARCHESE

PETER MOOTE

J.P. PENDERGAST

DAVID ROBERSON

JEFFREY H. SMITH

LANA WEINMANN

COMMUNITY MEMBERS

CONNIE DOTY

JOANNE KAUFFMAN

JOANNE KEEFE

CHRYSTAL LAMPKIN

JUDY MALENG

CAROLYN MCKEE

EDWARD J. NOONAN, MD

NORMAN SHAFFER

BOB LEMAY

LAURIE LEMAY

JOSEPH WHITTINGHILL



**King County
Police Officers Guild**

5701 6th Ave. S. Suite 491-B
Seattle, WA 98108

(Located in The Seattle Design Center)

Phone: (206) 957-0934
(800) 244-1860
Fax: (206) 957-0937

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Steve Eggert

Vice President
Bob Lurry

Secretary/Treasurer
Alan Kelley

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Rob Dorman
Jeff Nicolai
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Marcus Williams
K. Powell
Bob Garner

Website

www.kcporg.com

MEMBER OF THE KING COUNTY POLICE OFFICERS GUILD
OF WASHINGTON POLICE OFFICERS AND
SHERIFFS

January 28, 2009

J
Susan S. Noonan
4754 University View Pl. NE
Seattle, WA 98105

RECEIVED
2009 FEB -3 AM 10:41
CLERK
KING COUNTY COUNCIL

RE: Endorsement

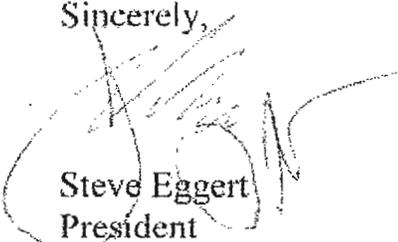
Dear Susan;

Thank you for seeking the endorsement of the King County Police Officers Guild and participating in our endorsement process.

The Political Action Committee and the Board of Directors are impressed with your views and positions on public safety issues.

This letter is official notification of our endorsement of your candidacy for appointment to King County District Court, Seattle Division. This letter may be used in any promotional literature that you deem appropriate.

Sincerely,



Steve Eggert
President
King County Police Officers Guild

cc: Board of Directors