

**Alaska Judicial Council
Performance Evaluation for:**

**Judge Michael Logue
Anchorage District Court**

<p>The Alaska Judicial Council finds Judge Logue met or exceeded performance standards, and recommends a “YES” vote for another term in office</p>

Judge Logue was appointed to the Anchorage District Court in February of 2018. This is his first retention election. Judge Logue handles civil and criminal cases.

Performance Summary:

After conducting its performance review, the Judicial Council determined that Judge Logue met or exceeded performance standards on all criteria, including legal ability, integrity, impartiality/fairness, temperament, diligence, and administrative skills.

The Council also determined that Judge Logue met or exceeded educational requirements set by the Alaska Supreme Court.

Because Judge Logue met or exceeded all performance and professional development standards, the Alaska Judicial Council recommends a “yes” vote on retention in office.

Performance Findings:

The Council conducts a thorough performance review of each judge standing for retention. Key findings for Judge Logue include:

- **Ratings by justice system professionals:** Attorneys and law enforcement officers who appeared before Judge Logue gave him good reviews, as did court employees.
- **Ratings by jurors:** Jurors who served in trials before Judge Logue during 2018 and 2019 rated him 4.9 overall on a five-point scale. One juror commented, “I was very impressed with the judge and the process.”

- **Professional activities:** The Council's review of Judge Logue's professional activities showed significant contributions to his community and to the administration of justice. Judge Logue presided over the Anchorage Coordinated Resources Project (a therapeutic court that works with individuals experiencing mental disabilities who are charged with crimes). He also volunteered for the Anchorage Municipal Wellness Court (a therapeutic court that seeks to rehabilitate individuals with substance abuse problems who are charged with misdemeanor crimes). He worked extensively with community treatment providers and government agencies to secure treatment services for participants in these therapeutic courts.
- **Other performance indicators:** The Council's review of other performance indicators, including Judge Logue's financial and conflict of interest statements, disqualifications from cases, and appellate reversal rates, raised no performance concerns.
- **Timeliness:** Alaska law requires judges' pay be withheld if a decision is pending longer than six months. The Council verified that Judge Logue was paid on schedule, and he certified that he had no untimely decisions.
- **Ethics:** There were no public disciplinary proceedings against Judge Logue, and the Council's review found no ethical concerns.

Documents:

- [Judge Logue's Judge Questionnaire](#)
- [Judge Logue's Attorney Survey Ratings](#)
- [Judge Logue's Peace and Probation Officer Survey Ratings](#)
- [Judge Logue's Court Employee Survey Ratings](#)
- [Juror Survey Memo](#)
- [Peremptory Challenges Memo](#)
- [Recusal Records Memo](#)



Print Questionnaire

Received
DEC 03 2019
Alaska Judicial Council

alaska judicial council

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Alaska Judicial Council Trial Judge Questionnaire

2020 Candidates for Judicial Retention

November 2019

Michael Logue

Anchorage District Court

Name

Court

1. Please estimate your workload during your present term.

a) 30 % civil cases

b) 13 # of jury trials/year

65 % criminal cases

19 # of non-jury trials/year

5 % court administrative work

0 # of administrative appeals/year

100 % Total

I began work as a district court judge in April 2, 2018 and the trial figures are from that date until November 15, 2019. All but two of the non-jury trials were small claims cases.

2. Please describe your participation on court/bar committees or other administrative activities during your current term of office.

Therapeutic court stakeholder committees--I am on the CRP Court (mental health) and Wellness Court stakeholder committees. We develop policy and procedures, address relevant issues as they arise. We participate in ongoing training with staff, attorneys and judges. We regularly meet with community mental health and substance abuse providers in order to coordinate services with our courts.

3. Please describe any judicial or legal education you have undertaken or provided during your current term in office.

2018--National Judicial College--General Jurisdiction Course (two weeks)
--Alaska Judicial Conference--(three days)

2019--Newer Judges Conference (three days)
--Science For Judges (five classes)
-The Judicial Gatekeeper Function: Frye and Daubert
-Scientific Evidence
-Forensic Evidence
-Civil Evidence
-Criminal Evidence in Pre-Trial and Post Trial Procedures
--Offender Assessment and Case Planning (therapeutic court training)
--Alaska Judicial Conference (three days)

2020 (scheduled)
--1/20 Sentencing to Reduce Recidivism in Impaired Driver Cases
--1/20 Newer Judges Conference
--3/20 Reducing Recidivism & Re-Entry Conference (mental health conference)
--3/20 Ethically Handling Commercial Drivers in Criminal and Traffic Cases
--10/20 Alaska Judicial Conference

4. Please describe any public outreach activities.

Therapeutic court stakeholder committees--The district court therapeutic court programs rely almost exclusively on community treatment providers and government agencies to provide treatment services for our participants. These organizations include the Veterans Administration, Department of Corrections, Mental Health Trust Authority, Anchorage Community Mental Health Services, Southcentral Foundation Behavioral Health, Hope Community Resources, Akeela, Inc., Cook Inlet Tribal Council, Salvation Army Clitheroe Center, API, Chris Kyle Patriots Hospital and other providers.

Simply put, our therapeutic courts could not function without the participation of these outside agencies and providers. As members of the CRP and Wellness Court stakeholder committees, we meet with directors and staff from these agencies and community providers; make on-site visits to speak with providers, tour their facilities, and learn about how they operate; discuss their needs and concerns; develop policies and procedures; and maintain long term contacts and goodwill.

UAA Paralegal Program--I am available to give courthouse tours, discuss employment opportunities, and be a guest speaker in class, whenever Dr. Deborah Periman calls on me.

5. Please assess, in one or two paragraphs, your judicial performance during your present term. Appropriate areas of comment could include: satisfaction with your judicial role, specific contributions to the judiciary or the field of law, increases in legal knowledge and judicial skills, or other measures of judicial abilities that you believe to be important.

When I began work as a district court judge in April, 2018, I was advised not to volunteer for any committees, specialized courts or projects for at least a year. Instead, I was told to focus on learning everything I could about my new job. This was good advice since I had to deconstruct several decades of approaching the law as an advocate. In the courtroom I had to quickly develop a consistent internal approach to every person who appeared in front of me, which I reduced to four words--Important, Respect, Listen, Decide. This gave me a simple framework for approaching each individual and case, as well as reference points to analyze where I needed to do a better job. I continue to apply this every day in court. In the office it took awhile to develop a similar approach to research and writing. I was fortunate enough to share a suite with a brilliant judge equipped with a red marker, who patiently guided me along in this process.

Now that my first year has passed, I have volunteered to work in two of our therapeutic courts--CRP Court and Wellness Court. Typically, it takes several years for a judge to develop a good understanding of both the therapeutic and procedural sides of these courts. Because of my previous therapeutic court experience and training, and having spent my first year learning about my new role as a judge, I expect to be able to immediately contribute to both courts. Every day I am reminded of the responsibilities which come with my position as a judge. This is particularly so when I am working in the therapeutic courts. It has been both an honor and a privilege to be able to take on these responsibilities.

6. During your most recent term as a judge, have you:
- a) had a tax lien filed or other collection procedure instituted against you by federal, state, or local authorities? Yes No
 - b) been involved in a non-judicial capacity in any legal proceeding whether as a party or otherwise? Yes No
 - c) engaged in the practice of law (other than as a judge)? Yes No
 - d) held office in any political party? Yes No
 - e) held any other local, state or federal office? Yes No
 - f) had any complaints, charges or grievances filed against you with the Alaska Commission on Judicial Conduct, the Alaska Bar Association, the Alaska Court System, or any other agency that resulted in public proceedings or sanctions?
 Yes No

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

8. Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2020 retention elections.

While in private practice I took part in the organization and development of the the CRP Court, Wellness Court, and Veterans Court. I practiced in the courts continuously for many years. As I judge I am now working in the CRP and Wellness programs. It is my goal to help grow and sustain these courts as long as I am able, as they provide a vital service to the participants, crime victims, and to our community.

For questions 9 - 12, please do not list any cases that have pending issues in your court.

- 9. Please list your three most recent jury trials including case names and numbers. Please list the names, current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these trials. (Attach additional pages if necessary.)

Case Number 1

Case Name: Municipality of Anchorage Case Number: 3AN-18-10512CR
 v. Robert Haynes

Attorneys Involved:

Name: <u>Travers Gee</u>	Name: <u>Igor Herbey</u>
Address: <u>632 W. Sixth Avenue, Suite 210</u>	Address: <u>750 W. Second Avenue, Suite 104</u>
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: <u>Anchorage, AK 99501</u>
Name: _____	Name: <u>Richard Payne</u>
Address: _____	Address: <u>750 W. Second Avenue, Suite 210</u>
City, State, Zip: _____	City, State, Zip: <u>Anchorage, AK 99501</u>

Case Number 2

Case Name: Municipality of Anchorage Case Number: 3AN-19-9386CR
 v. Kelly Harbottle

Attorneys Involved:

Name: <u>Travers Gee</u>	Name: <u>Barton Tiernon</u>
Address: <u>632 W. Sixth Avenue, Suite 210</u>	Address: <u>611 Timberline Circle</u>
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: <u>Anchorage, AK 99515</u>
Name: _____	Name: <u>OR</u>
Address: _____	Address: <u>PO Box 93144</u>
City, State, Zip: _____	City, State, Zip: <u>Anchorage, AK 99509</u>

Case Number 3

Case Name: Municipality of Anchorage Case Number: 3AN-17-10136CR
 v. Bryan Panamaroff

Attorneys Involved:

Name: <u>Michael Shaffer</u>	Name: <u>Henry Graper</u>
Address: <u>632 W. Sixth Avenue, Suite 210</u>	Address: <u>750 W. Second Avenue, Suite 104</u>
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: <u>Anchorage, AK 99501</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

- 11. Please list your three most recent cases, including case names and numbers, which did not go to trial, but on which you did significant work (such as settlement conference, hearings, motion work, etc.). Please list the names, current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these cases. (Attach additional pages if necessary.)

Case Number 1

Case Name: State of Alaska **Case Number:** 3AN-18-2608CR
 v. Kristin Wickberg

Attorneys Involved:

Name: <u>Joshua Tinajero</u>	Name: <u>John Roberson</u>
Address: <u>310 K Street, Suite 520</u>	Address: <u>900 W. Fifth Avenue, Suite 525</u>
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: <u>Anchorage, AK 99501</u>

Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: Municipality of Anchorage **Case Number:** 3AN-17-8117CR
 v. Jonathan Brister

Attorneys Involved:

Name: <u>Sarah Stanley</u>	Name: <u>Frederick Slone</u>
Address: <u>632 W. Sixth Avenue, Suite 210</u>	Address: <u>637 A Street</u>
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: <u>Anchorage, AK 99501</u>

Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: Municipality of Anchorage **Case Number:** 3AN-16-7497CR
 v. James Dicus

Attorneys Involved:

Name: <u>Sarah Stanley</u>	Name: <u>Phil Shanahan</u>
Address: <u>632 W. Sixth Avenue, Suite 210</u>	Address: <u>134 W. 15th Avenue, Suite</u>
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: <u>Anchorage, AK 99501</u>

Name: _____	Name: <u>OR</u>
Address: _____	Address: <u>PO Box 100279</u>
City, State, Zip: _____	City, State, Zip: <u>Anchorage, AK 99501</u>

- 12. *Optional:* If you deem it helpful to the Council, please list up to three other cases during your past term in which you believe your work was particularly noteworthy. Please list the names, current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these cases. (Attach additional pages if necessary.)

Case Number 1

Case Name: Therapeutic court calendars in general Case Number: _____

v. _____

Attorneys Involved:

Name: Erin McCrum
 Address: 632 W. Sixth Avenue, Suite 210
 City, State, Zip: Anchorage, AK 99501

Name: Laura Newton
 Address: 750 W. Second Avenue, Suite 104
 City, State, Zip: Anchorage, AK 99501

Name: _____
 Address: _____
 City, State, Zip: _____

Name: Richard Payne
 Address: 632 W. Second Avenue, Suite 104
 City, State, Zip: Anchorage, AK 99501

Case Number 2

Case Name: Municipality of Anchorage Case Number: 3AN-18-1674CR

v. Rodney Fitiausi

Attorneys Involved:

Name: Jennifer Ivers
 Address: 632 W. Sixth Avenue, Suite 210
 City, State, Zip: Anchorage, AK 99501

Name: Brett Watts
 Address: 1029 W. Third Avenue, Suite 110
 City, State, Zip: Anchorage, AK 99501

Name: _____
 Address: _____
 City, State, Zip: _____

Name: Dan Allan
 Address: 800 E. Dimond Blvd. Suite 3-620
 City, State, Zip: Anchorage, AK 99515

Case Number 3

Case Name: _____ Case Number: _____

v. _____

Attorneys Involved:

Name: _____
 Address: _____
 City, State, Zip: _____

Table 41
Judge Michael Logue
Demographic Description of Respondents - Bar Association Members

	<i>n</i>	<i>%</i>
All respondents	122	100
Experience with Judge		
Direct professional experience	100	82.0
Professional reputation	13	10.7
Other personal contacts	9	7.4
Detailed Experience*		
Recent experience (within last 5 years)	90	91.8
Substantial amount of experience	42	42.4
Moderate amount of experience	32	32.3
Limited amount of experience	25	25.3
Type of Practice		
No response	1	0.8
Private, solo	23	18.9
Private, 2-5 attorneys	14	11.5
Private, 6+ attorneys	13	10.7
Private, corporate employee	1	0.8
Judge or judicial officer	21	17.2
Government	36	29.5
Public service agency or organization	5	4.1
Retired	6	4.9
Other	2	1.6
Length of Alaska Practice		
No response	1	0.8
5 years or fewer	15	12.3
6 to 10 years	13	10.7
11 to 15 years	11	9.0
16 to 20 years	13	10.7
More than 20 years	69	56.6
Cases Handled		
No response	1	0.8
Prosecution	12	9.8
Criminal	19	15.6
Mixed criminal & civil	42	34.4
Civil	40	32.8
Other	8	6.6
Location of Practice		
No response	1	0.8
First District	2	1.6
Second District	-	-
Third District	115	94.3
Fourth District	2	1.6
Outside Alaska	2	1.6
Gender		
No response	2	1.6
Male	86	70.5
Female	34	27.9

*Only among those respondents reporting direct professional experience with the judge.

Table 42
Judge Michael Logue
Detailed Responses - Bar Association Members

	<i>n</i>	Legal Ability <i>M</i>	Impartiality/ Fairness <i>M</i>	Integrity <i>M</i>	Judicial Temperament <i>M</i>	Diligence <i>M</i>	Overall <i>M</i>
All respondents	122	4.1	4.2	4.3	4.2	4.2	4.2
Basis for Evaluation							
Direct professional experience	100	4.1	4.2	4.3	4.1	4.1	4.1
Experience within last 5 years	90	4.1	4.2	4.3	4.2	4.2	4.2
Experience not within last 5 years	8	3.8	4.0	3.9	3.6	3.6	3.6
Substantial amount of experience	42	4.1	4.2	4.3	4.0	4.2	4.1
Moderate amount of experience	32	4.1	4.1	4.1	4.2	4.0	4.1
Limited amount of experience	25	4.0	4.2	4.3	4.3	4.2	4.2
Professional reputation	13	4.4	4.4	4.5	4.4	4.4	4.4
Other personal contacts	9	4.3	4.6	4.7	4.4	4.1	4.4
Type of Practice*							
Private, solo	19	4.4	4.6	4.6	4.4	4.3	4.5
Private, 2-5 attorneys	12	3.6	3.8	3.9	3.7	3.8	3.8
Private, 6+ attorneys	9	4.2	3.9	4.3	4.3	4.3	4.2
Private, corporate employee	1	4.0	4.0	4.0	4.0	4.0	4.0
Judge or judicial officer	18	4.6	4.5	4.6	4.4	4.6	4.5
Government	31	3.7	3.8	3.9	3.8	3.8	3.7
Public service agency or organization	4	4.5	4.5	4.8	4.5	4.8	4.5
Retired	3	3.7	4.3	4.0	4.0	4.0	4.0
Other	2	4.5	5.0	5.0	4.5	4.5	4.5
Length of Alaska Practice*							
5 years or fewer	13	3.4	3.7	3.8	3.7	3.8	3.6
6 to 10 years	13	4.0	3.7	4.1	3.9	4.2	3.8
11 to 15 years	9	4.2	4.0	4.3	4.1	4.2	4.2
16 to 20 years	8	4.1	4.3	4.5	4.5	4.1	4.4
More than 20 years	56	4.2	4.4	4.3	4.2	4.2	4.3
Cases Handled*							
Prosecution	12	4.0	4.1	4.2	4.3	3.9	4.2
Criminal	18	3.3	3.4	3.7	3.6	3.7	3.3
Mixed criminal & civil	35	4.4	4.5	4.6	4.3	4.5	4.5
Civil	28	4.2	4.2	4.3	4.2	4.2	4.3
Other	6	4.2	4.5	4.0	3.8	3.8	3.8
Location of Practice*							
First District	2	3.5	3.0	4.0	3.0	4.0	3.0
Second District	-	-	-	-	-	-	-
Third District	93	4.1	4.2	4.3	4.1	4.1	4.1
Fourth District	2	4.0	4.0	4.0	4.0	4.0	4.0
Outside Alaska	2	4.5	4.5	4.5	4.5	4.5	4.5
Gender*							
Male	72	4.1	4.2	4.3	4.1	4.2	4.1
Female	26	4.0	4.1	4.1	4.1	4.0	4.1

*Ratings from only those respondents reporting direct professional experience with the judge.

Table 26:
Judge Michael Logue
Description of Respondents' Experiences - Peace and Probation Officers

	<i>n</i>	%
All respondents	23	100.0
Experience with Judge		
Direct professional experience	21	91.3
Professional reputation	2	8.7
Other personal contacts	-	-
Detailed Experience*		
Recent experience (within last 5 years)	20	100.0
Substantial amount of experience	4	19.0
Moderate amount of experience	7	33.3
Limited amount of experience	10	47.6

*Only among those respondents reporting direct professional experience with the judge.

Table 27:
Judge Michael Logue
Detailed Responses - Peace and Probation Officers

	<i>n</i>	Impartiality/ Fairness <i>M</i>	Integrity <i>M</i>	Judicial Temperament <i>M</i>	Diligence <i>M</i>	Overall <i>M</i>
All respondents	23	4.1	4.3	4.1	4.3	4.1
Basis for Evaluation						
Direct professional experience	21	4.1	4.3	4.1	4.3	4.1
Experience within last 5 years	20	4.2	4.4	4.3	4.4	4.2
Experience not within last 5 years	-	-	-	-	-	-
Substantial amount of experience	4	4.5	4.8	4.5	4.8	4.5
Moderate amount of experience	7	3.7	3.9	3.7	3.9	3.6
Limited amount of experience	10	4.2	4.4	4.3	4.5	4.3
Professional reputation	2	4.0	4.0	4.0	4.0	4.0
Other personal contacts	-	-	-	-	-	-

*Ratings from only those respondents reporting direct professional experience with the judge.

Table 35
Judge Michael Logue
Description of Respondents' Experience - Court Employees

	<i>n</i>	<i>%</i>
All respondents	22	100
Experience with Judge		
Direct professional experience	16	72.7
Professional reputation	4	18.2
Other personal contacts	2	9.1
Detailed Experience*		
Recent experience (within last 5 years)	16	100
Substantial amount of experience	6	37.5
Moderate amount of experience	7	43.8
Limited amount of experience	3	18.8

*Only among those respondents reporting direct professional experience with the judge.

Table 36
Judge Michael Logue
Detailed Responses - Court Employees

	<i>n</i>	Impartiality/ Fairness <i>M</i>	Integrity <i>M</i>	Judicial Temperament <i>M</i>	Diligence <i>M</i>	Overall <i>M</i>
All respondents	22	4.2	4.4	4.0	4.2	4.2
Basis for Evaluation						
Direct professional experience	16	4.1	4.3	3.8	4.1	4.1
Experience within last 5 years	16	4.1	4.3	3.8	4.1	4.1
Experience not within last 5 years	-	-	-	-	-	-
Substantial amount of experience	6	3.7	4.0	3.0	3.7	3.7
Moderate amount of experience	7	4.3	4.4	4.1	4.3	4.3
Limited amount of experience	3	4.3	4.7	4.7	4.3	4.3
Professional reputation	4	4.7	4.5	4.7	4.5	4.7
Other personal contacts	2	4.5	4.5	4.5	4.5	4.5



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MEMORANDUM

TO: Judicial Council
FROM: Staff
DATE: March 17, 2020
RE: Juror Survey Report

The Alaska Judicial Council surveyed all jurors who sat in trials during 2018 and 2019. The jurors sat before all of the 20 trial court judges eligible to stand for retention in 2020. A total of 754 jurors responded on Council-provided postcards that judges distributed to jurors at the end of each trial (see attached Juror Survey Card Example). Jurors completed the surveys on the postage-paid cards and mailed them to the Council.

Council staff entered the data from the surveys and ran basic descriptive statistics. This memorandum summarizes the findings. It is distributed to Council members and judges, and posted on the Council's website.

Table 1 shows the distribution of jurors by type of trial reported for each judge. Some jurors only wrote comments and did not rate the judge on the specific variables. Thus, there may be more respondents shown on Table 1 than appear on the judges' individual tables.

Table 1:				
Distribution of Jurors by Type of Trial, by Judge				
Alaska Judicial Council				
2020 Retention Juror Survey				
Judge	Civil	Criminal	No Answer	Total
Christian, Matthew	0	34	0	34
Crosby, Dani	19	0	1	20
DiBenedetto, Romano D.	0	26	2	28
Dickson, Leslie N.	3	72	5	80
Franciosi, Michael	1	46	1	48
Guidi, Andrew	25	29	7	61
Hanley, J. Patrick	4	38	5	47
Henderson, Jennifer	29	3	0	32
Lamoureux, Yvonne	15	12	0	27
Logue, Michael	0	30	1	31
McCrea, Kari	0	28	3	31
Miller, Gregory	1	0	0	1
Montgomery, Will	3	64	14	81
Peters, Nathaniel	1	21	12	34
Reigh, Christina	0	43	3	46
Roetman, Paul A.	4	5	0	9
Wallace, David	1	35	2	38
Washington, Pamela S.	1	37	3	41
Wells, Jennifer	0	39	9	48
Woodman, Jonathan	0	16	1	17

Table 2 shows the distribution of number of days served, as reported by the jurors. Seventy-three percent of the jurors served fewer than five days.

Table 2: Distribution of Days Served Alaska Judicial Council 2020 Retention Juror Survey		
Number of Days Served	%	N
1 - 2 Days	20	152
3 - 4 Days	53	397
5 - 7 Days	15	114
8 - 10 Days	6	46
11 - 20 Days	2	11
21 or More Days	0	1
No Answer	4	33
Total		754

Juror Survey Results 2020
Retention Evaluation
Logue, Michael

Survey Category	Mean	Poor (1)	Deficient (2)	Acceptable (3)	Good (4)	Excellent (5)	Total Responses
Impartiality / Fairness	4.8	0	0	1	4	26	31
Respectful / Courteous	4.9	0	0	1	1	29	31
Attentive During Proceedings	4.9	0	0	1	2	28	31
Control Over Proceedings	4.8	0	0	2	1	28	31
Intelligence / Skill as a Judge	4.9	0	0	1	2	28	31
Overall Evaluation	4.9	0	0	1	2	28	31



alaska judicial council

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MEMORANDUM

TO: Judicial Council
FROM: Staff
DATE: July 15, 2020
RE: Peremptory Challenges of Judges Eligible for Retention in 2020

I. Introduction

In Alaska, a defendant has a right to a fair trial before an unbiased judge and the right to preempt a judge without proving bias or interest.¹ Two different authorities govern the challenge right. The legislature created the substantive right and defines its scope by statute.² The court regulates peremptory challenge procedures by court rules.³ In general, each side in a case gets one peremptory challenge.⁴

This memo examines peremptory challenge records for judges who are eligible to stand for retention in November 2020. The tables display civil and criminal case challenges for each judge, by year. Because superior court judges' terms are six years, a six-year period is examined for them. Because district court judges' terms are four years, a four-year period is examined for them. Parties have no right to challenge an appellate judge, so those judges are not discussed.

¹See *Gieffels v. State*, 552 P.2d 661 (Alaska 1976).

²See *id.*; AS 22.20.020.

³See Alaska R. Crim. P. 25(d); Alaska R. Civ. P. 42(c).

⁴See *id.*

II. Context for evaluating peremptory challenge data

Although the peremptory challenge provisions were designed to ensure each litigant's right to a hearing by a fair and impartial judge, in practice many factors prompt litigants or attorneys to challenge judges. Some parties might challenge a judge because they perceive the judge to be unfair in a certain type of case, while others might challenge a judge because they perceive the judge to be "too fair," and hope their case will be reassigned to a judge who they perceive as being more favorable to their case. Such a scenario can be especially relevant in smaller judicial districts and communities, where attorneys often can predict which other judge will receive the reassigned case. Other reasons parties might challenge judges include unfamiliarity with a new judge or seeking to avoid the demands of a judge who insists on high standards of practice or timeliness. Sometimes an attorney will use a peremptory challenge with the hope that a change of judge will result in additional time to prepare the case.

The Alaska Court System provides the Council with data regarding "disqualifications." The data are categorized into disqualifications brought in criminal cases by defense attorneys or prosecutors, those brought in civil cases by plaintiffs or defendants, and those initiated by the judges themselves. Judge-initiated disqualifications are discussed in a separate memorandum. Children's delinquency cases are included among criminal cases in this analysis because that is how they are accounted for in the court's case management system. Child in Need of Aid cases are included in the civil category.

Please note that in Child in Need of Aid cases, guardians ad litem and parents have the right to preempt the judge. These are noted as "other" on the following charts. Please also note that a CINA "case" that a judge may handle may include several consolidated cases because each child in a family is assigned a different case number. So if a judge receives a peremptory challenge in a consolidated CINA case, challenges are recorded for each individual child's case, magnifying the effect of challenges in CINA cases.

One system was used for compiling the disqualification data. Over the past fourteen years, the court has instituted a computerized case management system (CourtView) that has facilitated the collection and reporting of more detailed and accurate data for all court locations in the state. All of the CourtView data were compiled and reported by the Alaska Court System to the Alaska Judicial Council.

Care must be taken when comparing judges because they have different caseloads. Judges with higher-volume caseloads generally will have more peremptory challenges than those with lower-volume caseloads. Presiding judges sometimes ease one court's heavy caseload by assigning cases to judges from other venues within their judicial district, and to *pro tem* judges. Moreover, superior courts with heavy caseloads may ease their burden somewhat by assigning the bulk of a case to masters and/or magistrates. Similarly, district court judges may have very different caseloads. Cases may be handled by magistrates as well as by district court judges. The court system's caseload data do not reflect when a judge regularly travels to another community

to hear cases. Finally, consideration must be taken of judges who handle predominately criminal or predominately civil caseloads, as superior court judges in Anchorage do, versus those judges who handle all cases.

Parties who have not previously exercised their right of peremptory challenge may challenge a judge when one is newly assigned midstream, as if their case had been newly filed. Consequently, challenges often increase when a judge is assigned to a different caseload (e.g., from civil to criminal). Challenges also often occur when a new judge is appointed because those judges are newly assigned to existing cases and because that judge is “unknown” and thus less predictable. Another factor to consider is that some communities have only one or two assistant district attorneys or assistant public defenders. If an assistant DA or PD perceives a reason to categorically challenge a particular judge, that judge’s criminal peremptory challenge rate will be high, even though just one or two attorneys might be responsible for virtually all of that judge’s challenges. This may also occur in high-volume civil cases that involve only a few public attorneys, such as in Child in Need of Aid practice.

Care must also be taken when comparing judges across judicial districts. In 1995, the Anchorage Superior Court consolidated into civil and criminal divisions. Since then, all civil cases (including domestic relations, Child in Need of Aid, and domestic violence protective order cases) have been assigned equally to each of the Anchorage Superior Court judges in the civil division. Criminal division judges handle criminal and child delinquency cases, but do not routinely handle domestic cases. For this reason, it may be misleading to compare the peremptory challenges of a superior court judge in Anchorage with the rate of a superior court judge in another judicial district. Also, some judges in some judicial districts currently handle the therapeutic courts, such as Wellness Court. The impact of those caseloads on a judge’s challenge rate is unknown.

Because so many factors may potentially affect the number of peremptory challenges filed, these numbers should only be used as a signal of a potential issue with a judge. Once a high number of challenges is identified from the table, please refer to the explanatory text on the following pages which gives context for the judge’s caseload and potential factors which may have affected his or her challenge rates.

Blank spaces in the tables represent years that preceded the judge’s appointment to his or her current position. “Other” signifies a parent, or guardian ad litem in a Child in Need of Aid case.

III. Peremptory Challenge Records - Superior Court Judges

Peremptory Challenges of Judges - Superior Court																		
Judicial District	Judge	Party	2014		2015		2016		2017		2018		2019		Summary			
			Civil	Criminal	Total	Mean*	Median*											
Second	DiBenedetto, Romano D	Defendant	0	1	1	1	0	2	21	7	5	
		Plaintiff	.	.	.	.	.	.	1	0	0	0	1	0
		Other	.	.	.	.	.	.	12	0	0	0	2	0
	Roetman, Paul A	Defendant	0	1	1	3	0	9	0	5	0	0	0	0	32	5.3	5	
		Plaintiff	0	0	3	0	2	1	1	0	1	1	3	0				
		Other	0	0	0	0	0	0	0	1	0	0	0	0				
Summary															53	5.9	5	
Third	Crosby, Dani R	Defendant	.	.	0	0	5	0	3	0	1	0	3	0	28	5.6	6	
		Plaintiff	.	.	3	0	4	0	5	0	0	0	3	0				
		Other	.	.	1	0	0	0	0	0	0	0	0	0				
	Guidi, Andrew	Defendant	6	0	2	0	2	0	6	1	9	0	31	1	157	26.2	21	
		Plaintiff	7	0	11	0	14	0	23	0	16	0	22	0				
		Other	0	0	3	0	1	0	0	0	0	0	2	0				
	Henderson, Jennifer S	Defendant	2	0	3	0	0	0	28	9.3	10	
		Plaintiff	.	.	.	.	.	.	8	0	3	0	4	0
		Other	.	.	.	.	.	.	0	0	8	0	0	0
	Lamoureux, Yvonne	Defendant	7	0	2	0	1	0	21	7	9	
		Plaintiff	.	.	.	.	.	.	2	0	1	0	2	0
		Other	.	.	.	.	.	.	0	0	6	0	0	0
	Miller, Gregory A	Defendant	7	0	3	0	8	1	4	1	11	0	13	0	106	17.7	18	
		Plaintiff	4	0	0	0	10	1	9	0	10	0	7	7				
		Other	3	0	3	0	2	0	0	0	2	0	0	0				
	Reigh, Christina L	Defendant	1	1	0	1	2	0	9	3	2	
		Plaintiff	.	.	.	.	.	.	1	0	0	0	0	0
		Other	.	.	.	.	.	.	3	0	0	0	0	0
	Wells, Jennifer K	Defendant	8	1	3	0	5	3	38	12.7	11	
		Plaintiff	.	.	.	.	.	.	2	0	3	1	2	0
		Other	.	.	.	.	.	.	6	0	4	0	0	0
Woodman, Jonathan A	Defendant	1	0	1	1	2	3	6	6	37	9.2	8		
	Plaintiff	.	.	.	.	0	0	1	0	3	0	8	0	
	Other	.	.	.	.	0	0	2	0	3	0	0	0	
Summary															424	12.8	10	
Fourth	Peters, Nathaniel	Defendant	0	22	1	5	3	6	37	12.3	9	
		Plaintiff	.	.	.	.	.	.	0	0	0	0	0	0
		Other	.	.	.	.	.	.	0	0	0	0	0	0
All	Summary															514	11.4	9

. = No value

Defendant = defendant in both criminal and civil cases

* Mean and median unit of analysis is judge/year

Plaintiff = plaintiff in civil cases and prosecutor in criminal cases

Other = Judge Disqualified for Cause; Peremptory Disqualification by Father/Mother/GAL/State

Overall: The average number of peremptory challenges for the superior court judges on the ballot for 2020 was 11.4 per year. The number of peremptory challenges averaged over the last five election cycles was 27.8 (2010-2018). Since 2006, average numbers of peremptory

challenges for judges eligible for retention have ranged from a low of 11.4 (2020) to a high of 36 (2006 and 2008). The peremptory challenge average was 14.4 in 2018.

First Judicial District: No judges are eligible for retention in the First Judicial District in 2020.

Second Judicial District: None of the superior court judges in the Second Judicial District received unusually high numbers of peremptory challenges. Judge DiBenedetto and Judge Roetman received low averages of 7 and 5.3, respectively.

Third Judicial District: None of the superior court judges in the Third Judicial District received unusually high numbers of peremptory challenges. Although the number of challenges Judge Guidi received was higher than that received by other judges in this particular group, the number was not unusual when compared to judges' averages over the last ten years.

Fourth Judicial District: None of the superior court judges in the Fourth Judicial District received unusually high numbers of peremptory challenges.

IV. Peremptory Challenge Records - District Court Judges

Peremptory Challenges of Judges - District Court													
Judicial District	Judge	Party	2016		2017		2018		2019		Summary		
			Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Total	Mean*	Median*
Third	Dickson, Leslie N	Defendant	0	0	0	0	0	0	0	0	9	2.2	1.5
		Plaintiff	1	0	3	3	1	1	0	0			
	Franciosi, Michael J	Defendant	.	.	0	0	0	1	1	0	6	2	2
		Plaintiff	.	.	0	0	1	2	0	1			
	Hanley, J Patrick	Defendant	0	0	0	0	0	0	0	0	7	1.8	1
		Plaintiff	0	5	0	1	0	1	0	0			
	Logue, Michael B	Defendant	.	.	.	.	0	0	0	0	9	4.5	4.5
		Plaintiff	.	.	.	.	0	2	1	6			
	McCrea, Kari L	Defendant	.	.	0	0	1	0	0	0	18	6	7
		Plaintiff	.	.	0	0	0	10	0	7			
Wallace, David R	Defendant	0	0	0	0	0	1	0	0	4	1	1	
	Plaintiff	1	0	1	0	1	0	0	0				
Washington, Pamela S	Defendant	.	.	.	.	.	.	0	2	6	6	6	
	Plaintiff	.	.	.	.	.	.	3	1				
Summary											59	2.8	2
Fourth	Christian, Matthew C	Defendant	1	0	0	1	0	0	0	0	19	4.8	3
		Plaintiff	0	12	0	5	0	0	0	0			
	Montgomery, William T	Defendant	.	.	.	.	0	4	0	3	7	3.5	3.5
		Plaintiff	.	.	.	.	0	0	0	0			
Summary											26	4.3	3.5
All	Summary										85	3.1	2

. = No value

Defendant = defendant in both criminal and civil cases

* Mean and median unit of analysis is judge/year

Plaintiff = plaintiff in civil cases and prosecutor in criminal cases

Overall: The mean number of peremptory challenges for a district court judge appearing on the ballot in 2020 was 3.1. This mean was much lower than in 2018 when the average was skewed upward largely due to one judge's numbers to 34.9.

First Judicial District: No district court judges in the First Judicial District are eligible for retention in 2020.

Second Judicial District: The Second Judicial District has no district court judges.

Third Judicial District: District court judges in the Third Judicial District received an average of 2.8 peremptory challenges per year. Judge Washington has no data from 2016 to 2018 because she served temporarily on the Anchorage Superior Court during that time. She received only six challenges during the year she served on the Anchorage District Court, the court to which she was appointed.

Fourth Judicial District: The two district court judges from the Fourth Judicial District eligible for retention received very few challenges. Judge Christian received an average of 4.8 challenges per year and Judge Montgomery received an average of 3.5 challenges per year.



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MEMORANDUM

TO: Judicial Council
FROM: Staff
DATE: July 15, 2020
RE: Recusal Records of Judges Eligible for Retention in 2020

I. Introduction

One tool that the Judicial Council uses for evaluating judges is a judge's record of self-disqualification from cases, or "recusals." Judges are required to disclose potential reasons for disqualification and then step down from cases when there is a conflict. If a judge's activities prevent him or her from sitting on an inordinate number of cases, however, that judge may not be as effective as other judges in handling his or her caseload. This memo examines recusal records of those judges who are eligible for retention in 2020.

II. Context for interpreting recusal data

Alaska Statute 22.20.020 sets forth the matters in which a judge may not participate. Judges may not act in matters: when the judge is a party; when the judge is related to a party or an attorney; when the judge is a material witness; when the judge or a member of the judge's family has a direct financial interest; when one of the parties has recently been represented by the judge or the judge's former law firm; or when the judge for any reason feels that a fair and impartial decision cannot be given. Judicial officers must disclose any reason for possible disqualification at the beginning of a matter.

Alaska Code of Judicial Conduct Canon 3E presents even broader bases for recusal. The canon states that a judge is disqualified whenever the judge's impartiality might reasonably be questioned. The rule also requires a judge to disclose on the record any information that the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification. The canon provides examples, including instances when the judge has a personal bias or prejudice concerning a party or an attorney, the judge has personal knowledge of the disputed facts, the judge or the judge's former law partner served as a lawyer in the matter in controversy, or when the judge knows that he or she, or the judge's spouse, parent, or child has an economic or other interest in the matter, or is likely to be a material witness in the proceeding.

Canon 4 requires judges to conduct their extra-judicial activities so as to comply with the requirements of the Code and so that the activities do not cast reasonable doubt on the judge's capacity to act impartially as a judge, demean the judicial office, or interfere with the proper performance of judicial duties. Canon 4 restricts a judge's activities so as to minimize the instances that would require disqualification.

Conflicts and resulting disqualifications are unavoidable. Judges must recuse themselves when conflicts arise. Recusals do not necessarily indicate that a judge has failed to sufficiently regulate his or her extra-judicial activities. Only very high disqualification rates should trigger an inquiry about whether a judge is comporting him or herself so as to perform his or her judicial duties effectively.

The following tables list the number of instances each judge recused him or herself in the preceding six (for superior court judges) and four (for district court judges) years. Blank cells indicate that the judge had not yet been appointed to his or her current position.

III. Recusal Records - Superior Court Judges

Judge Recusals - Superior Court																
Judicial District	Judge	2014		2015		2016		2017		2018		2019		Summary		
		Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Total	Mean*	Median*
Second	DiBenedetto, Romano D	.	.	.	.	.	.	0	0	0	0	0	0	0	0	0
	Roetman, Paul A	2	0	1	1	7	1	12	0	5	0	11	0	40	6.7	6.5
	Summary													40	4.4	2
Third	Crosby, Dani R	.	.	1	0	18	0	26	0	11	0	8	0	64	12.8	11
	Guidi, Andrew	6	0	3	0	11	0	6	0	6	0	3	0	35	5.8	6
	Henderson, Jennifer S	.	.	.	.	.	.	6	0	4	0	8	0	18	6	6
	Lamoureux, Yvonne	.	.	.	.	.	.	1	0	1	0	2	0	4	1.3	1
	Miller, Gregory A	6	0	8	0	6	0	5	3	3	0	2	0	33	5.5	6
	Reigh, Christina L	.	.	.	.	.	.	1	1	1	0	0	2	5	1.7	2
	Wells, Jennifer K	.	.	.	.	.	.	5	0	3	0	5	0	13	4.3	5
	Woodman, Jonathan A	.	.	.	.	3	1	1	1	5	0	6	3	20	5	4.5
Summary													192	5.8	5	
Fourth	Peters, Nathaniel	.	.	.	.	.	.	0	0	2	2	0	2	6	2	2
All	Summary													238	5.3	4

. = No value

* Mean and median unit of analysis is judge/year

The recusal rates for superior court judges eligible for retention election in 2020 are unremarkable. The judge with the highest number of recusals (though still low) was Judge Crosby, who averaged 12.8 recusals per year. Most of these came in her first two years on the bench, with declining numbers afterwards. Judge Crosby had previously been in private practice in Anchorage, and her numbers likely reflect her previous activity as a practicing lawyer.

IV. Recusal Records - District Court Judges

Judge Recusals - District Court												
Judicial District	Judge	2016		2017		2018		2019		Summary		
		Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Total	Mean*	Median*
Third	Dickson, Leslie N	4	0	2	0	2	0	2	0	10	2.5	2
	Franciosi, Michael J	.	.	0	0	0	0	0	0	0	0	0
	Hanley, J Patrick	1	0	1	0	0	0	0	0	2	0.5	0.5
	Logue, Michael B	.	.	.	.	0	0	0	0	0	0	0
	McCrea, Kari L	.	.	0	0	1	0	0	0	1	0.3	0
	Wallace, David R	1	0	0	0	0	0	0	0	1	0.2	0
	Washington, Pamela S	3	0	5	0	3	0	0	0	11	2.8	3
	Summary									25	1	0
Fourth	Christian, Matthew C	3	0	1	4	1	0	4	0	13	3.2	3.5
	Montgomery, William T	.	.	.	.	1	25	0	9	35	17.5	17.5
		Summary								48	8	4.5
All	Summary									73	2.4	1

. = No value

* Mean and median unit of analysis is judge/year

District court judges typically recuse themselves infrequently. The recusal data for all district court judges standing for retention in 2020 was unremarkable.