

**Alaska Judicial Council  
Performance Evaluation for:**

**Judge Kari L. McCrea  
Anchorage District Court**

<p>The Alaska Judicial Council finds Judge McCrea met or exceeded performance standards, and recommends a <b>“YES”</b> vote for another term in office</p>
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Judge McCrea was appointed to the Anchorage District Court in September of 2017. This is her first retention election. Judge McCrea handles both civil and criminal cases.

**Performance Summary:**

After conducting its performance review, the Judicial Council determined that Judge McCrea 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 McCrea met or exceeded educational requirements set by the Alaska Supreme Court.

Because Judge McCrea 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 McCrea include:

- **Ratings by justice system professionals:** Attorneys and law enforcement officers who appeared before Judge McCrea gave her good reviews, as did court employees.
- **Ratings by jurors:** Jurors who served in trials before Judge McCrea during 2018 and 2019 rated her 4.8 overall on a five-point scale. One juror commented, “Overall experience was great. Thank you.”
- **Professional activities:** The Council’s review of Judge McCrea’s professional activities showed exceptional contributions to her community and to the administration of justice. Judge McCrea served as a Co-chair of the Alaska Supreme Court Fairness, Diversity, and Equality Committee (a group that works to promote fairness, diversity and equality in the court system), and on a subcommittee to promote cultural competence. She was a member of the court system’s Judicial Conduct Rules Committee, and she worked on the “Success Inside and Out” conference at Hiland Mountain Correctional Center. She served as a

Training Judge for magistrates. She participated annually in the Color of Justice program (an initiative to encourage diverse youth from throughout the state to consider legal and judicial careers), and she taught court education classes for new citizens. She volunteered to fill in as a judge when the communities of Bethel and Kenai were shorthanded.

- **Other performance indicators:** The Council's review of other performance indicators, including Judge McCrea'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 McCrea was paid on schedule, and she certified that she had no untimely decisions.
- **Ethics:** There were no public disciplinary proceedings against Judge McCrea, and the Council's review found no ethical concerns.

### **Documents:**

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



Print Questionnaire

Received  
DEC 02 2019

Alaska Judicial Council

# alaska judicial council

510 L Street, Suite 450, Anchorage, Alaska 99501  
http://www.ajc.state.ak.us

(907) 279-2526

FAX (907) 276-5046  
E-mail: postmaster@ajc.state.ak.us

## Alaska Judicial Council Trial Judge Questionnaire

### 2020 Candidates for Judicial Retention

November 2019

Kari Lyn McCrea

Name

Anchorage District Court

Court

1. Please estimate your workload during your present term.

a) 25 % civil cases

b) 10 # of jury trials/year

70 % criminal cases

12 # of non-jury trials/year

5 % court administrative work

     # of administrative appeals/year

100 % Total

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

I am co-chair of the Fair Diversity and Equality (FDE) Committee, and co-chair of Cultural Competence Committee (a standing sub-committee of the FDE). I am a member of the Judicial Conduct Rules Committee and the Success Inside and Out Judicial Steering Committee. I am also a training judge.

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

In April 2019, I attended the National Judicial College (two-week) General Jurisdiction Course in Reno, NV. I also attend and presented at the Alaska Court System (ACS) 2019 Magistrate Judges Conference. Since my appointment, I have attended the annual ACS Judicial Conference and the semi-annual newer judges trainings.

With the goal of continuing my education, I have also attended the following conferences:

- Adv. Judicial Leadership Skills in Domestic Violence Cases - Feb. 4-6, 2019
- Judicial Education Network: Judicial Leadership Summit - Nov. 9-12, 2019
- National Consortium on Racial and Ethnic Fairness in the Courts - 2017 & 2018 Annual Conf.

4. Please describe any public outreach activities.

I frequently speak at the Supreme Court induction ceremony for new bar admittees and I have participated in panel discussions for the Anchorage Association of Women Lawyers and the Fairness Diversity and Equality Committee.

I participate annually in the Color of Justice - Mentor Jet Program as well as the annual Success Inside and Out Program at Hiland Mountain Correctional Center. As part of my participation on the Cultural Competence Committee, I teach court education/information classes for new Americans at Catholic Charities Refugee Asylum and Assistance Program. I also participate annually in MLK Law Day hosted by the Alaska Bar Association.

Whenever possible, I speak to students who are touring the courthouse or who are participating in moot court or mock trial programs. I am a board Member of the YWCA of Alaska and I volunteer with an organization called "Let Every Woman Know" to raise awareness of gynecological cancers.

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.

My position affords the opportunity to engage with various aspects of civil and criminal law, which I find both interesting and challenging. Experienced attorneys stimulate my understanding of the law with their knowledge and skilled arguments, while newer attorneys present the beneficial opportunity to revisit the fundamental rules and policies that govern our system of laws.

My knowledge and skills have been further enhanced by accepting opportunities to preside over cases in different judicial districts. To assist with a judicial vacancy in the Fourth District, I re-located to Bethel (from October 2018 through March 2019) to serve pro tem on the Bethel Superior Court. During that period of time, I presided over several felony trials as well as Bethel Therapeutic Court. I remain a back-up judge for the Bethel Superior court, handling cases that present conflicts for the local bench. My experience was extremely rewarding, therefore in December 2019, I will relocate to Kenai to assist with a vacancy on the Kenai District Court.

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.

Due to my pro tem service in the Fourth Judicial District, I have spent a significant period of time working with court staff in Bethel. Additional information regarding my judicial performance can be obtained from: Natalie Alexie - Clerk of Court in Bethel (543-1105) and Regina Johnson - Deputy Clerk of Court in Bethel (543-1112) at PO Box 130, Bethel, AK 99559.

*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-18-2972CR  
v. Joshua Yates

**Attorneys Involved:**

Name: <u>Angela Garay (373-4250)</u>	Name: <u>Michael Graper (276-1942)</u>
Address: <u>Municipal Attorney's Office - 632 W. 6th Ave, #210</u>	Address: <u>Denali Law Group -750 W 2nd Ave, #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: _____

**Case Number 2**

**Case Name:** Municipality of Anchorage **Case Number:** 4AK-17-10155CR  
v. Christian Polacek

**Attorneys Involved:**

Name: <u>Michael Branson - former Asst. City Atty, now in private practice</u>	Name: <u>Hank Graper (276-1942)</u>
Address: <u>mjbransonlawlaw@gmail.com; (313-9220)</u>	Address: <u>Denali Law Group -750 W 2nd Ave, #104,</u>
City, State, Zip: _____	City, State, Zip: <u>Anchorage, AK 99501</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

**Case Number 3**

**Case Name:** State of Alaska **Case Number:** 4SM-15-00089CR  
v. Aaron Abruska

**Attorneys Involved:**

Name: <u>Randolph Knowles (543-1173)</u>	Name: <u>Jane Imholte (543-7609)</u>
Address: <u>Bethel District Attorney's Office</u>	Address: <u>Bethel Public Defender Agency</u>
City, State, Zip: <u>PO Box 170, Bethel, AK 99559</u>	City, State, Zip: <u>PO Box 10, Bethel, AK 99559</u>
Name: <u>Monroe Tyler (543-1135)</u>	Name: <u>Nate Hainjel Bethel PDA (543-7608)</u>
Address: <u>Bethel District Attorney's Office</u>	Address: <u>Bethel Public Defender Agency</u>
City, State, Zip: <u>PO Box 170, Bethel, AK 99559</u>	City, State, Zip: <u>PO Box 10, Bethel, AK 99559</u>

10. Please list your three most recent non-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:* Kristine Boyle *Case Number:* 3AN-19-00077 SC  
v. Reggie Chambers

***Attorneys Involved:***

Name: n/a	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

**Case Number 2**

*Case Name:* Brett Hull *Case Number:* 3AN-17-4479CI  
v. Greg Mick, et al

***Attorneys Involved:***

Name: n/a	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

**Case Number 3**

*Case Name:* Jeremiah Clark *Case Number:* 3AN-18-00430CI  
v. Reed Pomraning

***Attorneys Involved:***

Name: n/a	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
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:** 4BE-19-723CR; 4BE-19-523CR  
v. Daniel Nick

**Attorneys Involved:**

Name: <u>Randolph Knowles (543-1173)</u>	Name: <u>David Case (283-9730)</u>
Address: <u>Bethel District Attorney's Office</u>	Address: <u>Kenai Public Defender Agency</u>
City, State, Zip: <u>PO Box 170, Bethel AK, 99559</u>	City, State, Zip: <u>130 Trading Bay Dr, # 390 Kenai, AK 99611</u>

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

**Case Number 2**

**Case Name:** Calvin Miller **Case Number:** 3AN-18-4931CI  
v. June Fuller

**Attorneys Involved:**

Name: <u>Charles Coe (276-6173)</u>	Name: <u>Gregory Dudek (276-1711)</u>
Address: <u>810 West 2nd Ave</u>	Address: <u>601 W. 5th Avenue</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:** Stephen Ferris **Case Number:** 3AN-17-11283CI  
v. Amy Cuaresma

**Attorneys Involved:**

Name: <u>Ember Tilton (830-4954)</u>	Name: <u>Daniel Coons (222-4505)</u>
Address: <u>2324 Campbell Place</u>	Address: <u>Alaska Legal Services Corporation</u>
City, State, Zip: <u>Anchorage, AK 99507</u>	City, State, Zip: <u>1016 W 6th Ave, #200, Anchorage, AK 99501</u>

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

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:* \_\_\_\_\_ *Case Number:* \_\_\_\_\_  
v. \_\_\_\_\_

***Attorneys Involved:***

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

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

**Case Number 2**

*Case Name:* \_\_\_\_\_ *Case Number:* \_\_\_\_\_  
v. \_\_\_\_\_

***Attorneys Involved:***

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

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

**Case Number 3**

*Case Name:* \_\_\_\_\_ *Case Number:* \_\_\_\_\_  
v. \_\_\_\_\_

***Attorneys Involved:***

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

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

**Table 43**  
**Judge Kari L. McCrea**  
**Demographic Description of Respondents - Bar Association Members**

	<i>n</i>	<i>%</i>
<b>All respondents</b>	<b>126</b>	<b>100</b>
<b>Experience with Judge</b>		
Direct professional experience	104	82.5
Professional reputation	16	12.7
Other personal contacts	6	4.8
<b>Detailed Experience*</b>		
Recent experience (within last 5 years)	97	99.0
Substantial amount of experience	39	37.5
Moderate amount of experience	30	28.8
Limited amount of experience	35	33.7
<b>Type of Practice</b>		
No response	-	-
Private, solo	23	18.3
Private, 2-5 attorneys	10	7.9
Private, 6+ attorneys	8	6.3
Private, corporate employee	1	0.8
Judge or judicial officer	33	26.2
Government	41	32.5
Public service agency or organization	3	2.4
Retired	5	4.0
Other	2	1.6
<b>Length of Alaska Practice</b>		
No response	1	0.8
5 years or fewer	16	12.7
6 to 10 years	16	12.7
11 to 15 years	11	8.7
16 to 20 years	21	16.7
More than 20 years	61	48.4
<b>Cases Handled</b>		
No response	-	-
Prosecution	11	8.7
Criminal	22	17.5
Mixed criminal & civil	49	38.9
Civil	36	28.6
Other	8	6.3
<b>Location of Practice</b>		
No response	-	-
First District	1	0.8
Second District	-	-
Third District	113	89.7
Fourth District	11	8.7
Outside Alaska	1	0.8
<b>Gender</b>		
No response	1	0.8
Male	75	59.5
Female	50	39.7

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

**Table 44**  
**Judge Kari L. McCrea**  
**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	126	4.4	4.4	4.6	4.7	4.6	4.5
<b>Basis for Evaluation</b>							
<b>Direct professional experience</b>	<b>104</b>	<b>4.4</b>	<b>4.4</b>	<b>4.6</b>	<b>4.7</b>	<b>4.6</b>	<b>4.5</b>
Experience within last 5 years	97	4.4	4.4	4.6	4.7	4.6	4.5
Experience not within last 5 years	1	2.0	1.0	2.0	5.0	3.0	2.0
Substantial amount of experience	39	4.5	4.5	4.6	4.8	4.6	4.6
Moderate amount of experience	30	4.4	4.3	4.7	4.7	4.6	4.4
Limited amount of experience	35	4.2	4.3	4.5	4.5	4.5	4.3
Professional reputation	16	4.8	4.7	4.8	4.8	4.8	4.8
Other personal contacts	6	4.5	4.3	4.7	4.8	4.3	4.7
<b>Type of Practice*</b>							
Private, solo	20	4.3	4.6	4.7	4.8	4.6	4.6
Private, 2-5 attorneys	9	4.4	4.6	4.6	4.6	4.6	4.4
Private, 6+ attorneys	6	4.8	4.7	4.8	4.8	4.8	4.8
Private, corporate employee	1	5.0	5.0	5.0	5.0	5.0	5.0
Judge or judicial officer	29	4.7	4.8	4.8	4.8	4.7	4.8
Government	32	4.0	3.7	4.2	4.5	4.4	3.9
Public service agency or organization	2	4.5	5.0	5.0	5.0	5.0	5.0
Retired	4	4.5	4.8	4.8	4.5	4.5	4.8
Other	1	5.0	5.0	5.0	5.0	5.0	5.0
<b>Length of Alaska Practice*</b>							
5 years or fewer	12	4.4	4.5	4.6	4.8	4.4	4.4
6 to 10 years	11	3.7	3.3	4.1	4.4	4.5	3.5
11 to 15 years	9	4.6	4.4	4.6	4.6	4.9	4.6
16 to 20 years	16	4.5	4.5	4.6	4.9	4.7	4.6
More than 20 years	55	4.5	4.6	4.7	4.7	4.6	4.6
<b>Cases Handled*</b>							
Prosecution	10	2.8	2.1	3.1	3.9	3.8	2.5
Criminal	16	4.5	4.6	4.7	4.8	4.7	4.6
Mixed criminal & civil	42	4.7	4.7	4.7	4.7	4.7	4.7
Civil	31	4.4	4.5	4.7	4.7	4.6	4.6
Other	5	4.8	4.8	4.8	4.8	4.8	4.8
<b>Location of Practice*</b>							
First District	1	4.0	4.0	4.0	5.0	5.0	4.0
Second District	-	-	-	-	-	-	-
Third District	95	4.4	4.4	4.6	4.7	4.6	4.5
Fourth District	8	4.5	4.3	4.3	4.3	4.6	4.3
Outside Alaska	-	-	-	-	-	-	-
<b>Gender*</b>							
Male	70	4.3	4.4	4.5	4.7	4.5	4.4
Female	33	4.5	4.4	4.7	4.7	4.7	4.5

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

**Table 28:**  
**Judge Kari L. McCrea**  
**Description of Respondents' Experiences - Peace and Probation Officers**

	<i>n</i>	<i>%</i>
<b>All respondents</b>	<b>12</b>	<b>100.0</b>
<b>Experience with Judge</b>		
Direct professional experience	10	83.3
Professional reputation	2	16.7
Other personal contacts	-	-
<b>Detailed Experience*</b>		
Recent experience (within last 5 years)	10	100.0
Substantial amount of experience	-	-
Moderate amount of experience	4	40.0
Limited amount of experience	6	60.0

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

**Table 29:**  
**Judge Kari L. McCrea**  
**Detailed Responses - Peace and Probation Officers**

	<i>n</i>	<b>Impartiality/ Fairness</b> <i>M</i>	<b>Integrity</b> <i>M</i>	<b>Judicial Temperament</b> <i>M</i>	<b>Diligence</b> <i>M</i>	<b>Overall</b> <i>M</i>
All respondents	12	3.6	3.6	3.8	3.9	3.7
<b>Basis for Evaluation</b>						
<b>Direct professional experience</b>	<b>10</b>	<b>3.7</b>	<b>3.7</b>	<b>4.0</b>	<b>4.1</b>	<b>3.8</b>
Experience within last 5 years	10	3.7	3.7	4.0	4.1	3.8
Experience not within last 5 years	-	-	-	-	-	-
Substantial amount of experience	-	-	-	-	-	-
Moderate amount of experience	4	3.5	3.5	3.8	4.3	3.8
Limited amount of experience	6	3.8	3.8	4.2	4.0	3.8
Professional reputation	2	3.0	3.0	3.0	3.0	3.0
Other personal contacts	-	-	-	-	-	-

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

**Table 37**  
**Judge Kari L. McCrea**  
**Description of Respondents' Experience - Court Employees**

	<i>n</i>	<i>%</i>
<b>All respondents</b>	<b>25</b>	<b>100</b>
<b>Experience with Judge</b>		
Direct professional experience	20	80.0
Professional reputation	2	8.0
Other personal contacts	3	12.0
<b>Detailed Experience*</b>		
Recent experience (within last 5 years)	20	100
Substantial amount of experience	8	40.0
Moderate amount of experience	8	40.0
Limited amount of experience	4	20.0

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

**Table 38**  
**Judge Kari L. McCrea**  
**Detailed Responses - Court Employees**

	<i>n</i>	<b>Impartiality/ Fairness</b> <i>M</i>	<b>Integrity</b> <i>M</i>	<b>Judicial Temperament</b> <i>M</i>	<b>Diligence</b> <i>M</i>	<b>Overall</b> <i>M</i>
All respondents	25	4.8	4.8	4.8	4.8	4.8
<b>Basis for Evaluation</b>						
<b>Direct professional experience</b>	<b>20</b>	<b>4.9</b>	<b>4.9</b>	<b>4.9</b>	<b>4.9</b>	<b>4.9</b>
Experience within last 5 years	20	4.9	4.9	4.9	4.9	4.9
Experience not within last 5 years	-	-	-	-	-	-
Substantial amount of experience	8	4.9	4.9	4.9	5.0	4.9
Moderate amount of experience	8	4.9	4.9	4.9	4.9	4.9
Limited amount of experience	4	4.8	4.8	4.8	4.8	4.8
Professional reputation	2	5.0	5.0	5.0	5.0	5.0
Other personal contacts	3	4.3	4.3	4.3	4.3	4.3



# alaska judicial council

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510 L Street, Suite 450, Anchorage, Alaska 99501  
<http://www.ajc.state.ak.us>

(907) 279-2526 FAX (907) 276-5046  
E-mail: [postmaster@ajc.state.ak.us](mailto:postmaster@ajc.state.ak.us)

## MEMORANDUM

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

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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.

<b>Table 1: Distribution of Jurors by Type of Trial, by Judge</b> Alaska Judicial Council 2020 Retention Juror Survey				
<b>Judge</b>	<b>Civil</b>	<b>Criminal</b>	<b>No Answer</b>	<b>Total</b>
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.

<b>Table 2: Distribution of Days Served</b> Alaska Judicial Council 2020 Retention Juror Survey		
<b>Number of Days Served</b>	<b>%</b>	<b>N</b>
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  
**McCrea, Kari**

<b>Survey Category</b>	<b>Mean</b>	<b>Poor (1)</b>	<b>Deficient (2)</b>	<b>Acceptable (3)</b>	<b>Good (4)</b>	<b>Excellent (5)</b>	<b>Total Responses</b>
Impartiality / Fairness	4.8	0	0	0	6	25	31
Respectful / Courteous	4.9	0	0	0	4	27	31
Attentive During Proceedings	4.9	0	0	0	3	28	31
Control Over Proceedings	4.7	0	0	1	7	23	31
Intelligence / Skill as a Judge	4.8	0	0	0	7	24	31
Overall Evaluation	4.8	0	0	0	7	24	31



# alaska judicial council

510 L Street, Suite 450, Anchorage, Alaska 99501-1295 (907) 279-2526 FAX (907) 276-5046  
http://www.ajc.state.ak.us E-Mail: postmaster@ajc.state.ak.us

## 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.<sup>1</sup> Two different authorities govern the challenge right. The legislature created the substantive right and defines its scope by statute.<sup>2</sup> The court regulates peremptory challenge procedures by court rules.<sup>3</sup> In general, each side in a case gets one peremptory challenge.<sup>4</sup>

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.

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

<sup>2</sup>See *id.*; AS 22.20.020.

<sup>3</sup>See Alaska R. Crim. P. 25(d); Alaska R. Civ. P. 42(c).

<sup>4</sup>See *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			
<b>Summary</b>															<b>53</b>	<b>5.9</b>	<b>5</b>
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				
<b>Summary</b>															<b>424</b>	<b>12.8</b>	<b>10</b>
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			
<b>All</b>	<b>Summary</b>														<b>514</b>	<b>11.4</b>	<b>9</b>

. = 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				
<b>Summary</b>											<b>59</b>	<b>2.8</b>	<b>2</b>
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			
<b>Summary</b>											<b>26</b>	<b>4.3</b>	<b>3.5</b>
<b>All</b>	<b>Summary</b>										<b>85</b>	<b>3.1</b>	<b>2</b>

. = 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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510 L Street, Suite 450, Anchorage, Alaska 99501-1295 (907) 279-2526 FAX (907) 276-5046  
http://www.ajc.state.ak.us E-Mail: postmaster@ajc.state.ak.us

## 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	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
	<b>Summary</b>													<b>40</b>	<b>4.4</b>	<b>2</b>
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
<b>Summary</b>													<b>192</b>	<b>5.8</b>	<b>5</b>	
Fourth	Peters, Nathaniel	.	.	.	.	.	.	0	0	2	2	0	2	6	2	2
<b>All</b>	<b>Summary</b>													<b>238</b>	<b>5.3</b>	<b>4</b>

. = 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
	<b>Summary</b>									<b>25</b>	<b>1</b>	<b>0</b>
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
		<b>Summary</b>								<b>48</b>	<b>8</b>	<b>4.5</b>
All	<b>Summary</b>									<b>73</b>	<b>2.4</b>	<b>1</b>

. = 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.