

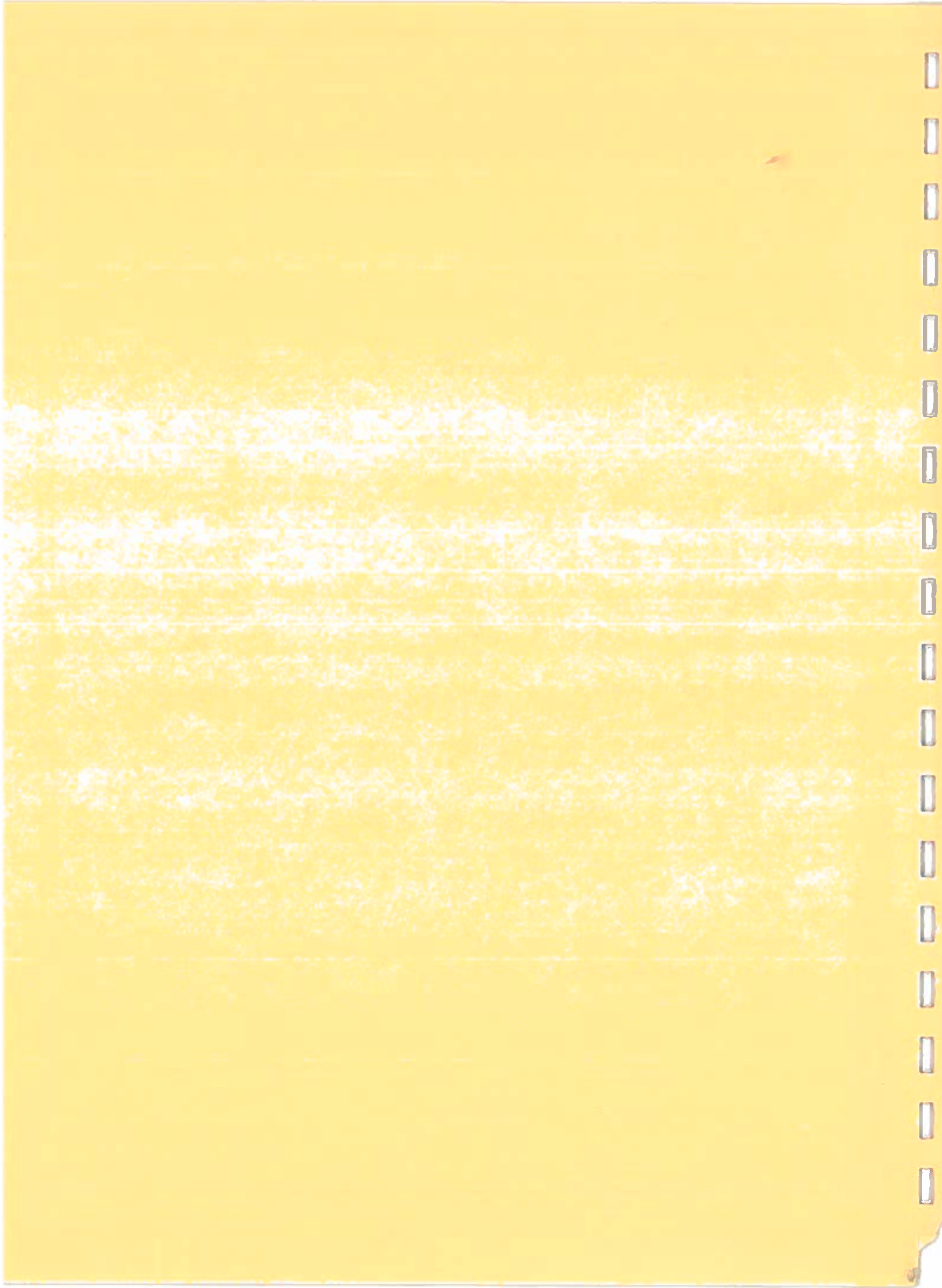
# COMMISSIONS ON JUDICIAL PERFORMANCE



## 1996 JUDICIAL PERFORMANCE EVALUATION PROGRAM REPORT

**Presented to the Colorado General  
Assembly  
January 31, 1997**

**Submitted by the State Commission on Judicial  
Performance**



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## **I. Introduction and Overview**

The following report describes the role of the State Commission on Judicial Performance during the evaluation process for the 1996 Judicial Retention election. It is submitted to the General Assembly pursuant to Section 13-5.5-109(2), 6A C.R.S. (1996 Supp.), which requires the State Commission on Judicial Performance to make recommendations for improvement to the Judicial Performance Evaluation Program. This report contains a description of the program, a discussion of issues the program is currently facing, and recommendations for improving the program.

In 1966, Colorado voters passed a constitutional amendment which abolished partisan elections for judges and established a new merit selection system for the nomination, appointment and retention of judges in the state court system. Colorado was among the first states to adopt such a system based on the non-partisan selection and retention of judges. The merit selection system removes judges from the unseemly business of raising money from lawyers and litigants. Judges are no longer perceived as linked to any interest group. The goal of the system is the promotion of a high quality judiciary with a great deal of integrity. Under this selection system, merit is considered by examining factors such as legal training and background, judicial temperament, intellectual ability, neutrality, fairness, and capability for upholding the law.

To advance the ideal of the best possible judiciary, commissions on judicial performance were created in 1988 by the Colorado General Assembly for the purpose of providing voters with fair, responsible, and constructive evaluations of trial and appellate judges and justices seeking retention in general elections. The results of the evaluations also provide judges with information that can be used to improve their professional skills as judicial officers.

Each judicial district has its own separate commission on judicial performance, which is composed of ten members. By statute, the membership of each commission is comprised of four lawyers and six non-lawyers who evaluate the performance of judges within that district. A State Commission evaluates the justices of the Colorado Supreme Court and the judges of the Colorado Court of Appeals. The State Commission promulgates rules for the review of judges and provides guidance for the twenty-two (22) local district commissions throughout the state. Members of these commissions are appointed and serve terms of four years. The Chief Justice, the Governor, the President of the Senate, and the Speaker of the House appoint state and local commission members. (See Appendix A for a complete list of commission members)

## **II. Commission Responsibilities and Powers**

The State Commission on Judicial Performance developed evaluation techniques for district and county judges, justices of the Supreme Court, and judges of the Court of Appeals. The evaluation criteria were generally modeled from the American Bar

Association's Special Committee on Judicial Performance Evaluation. According to Section 13-5.5-103(1)(a), 6A C.R.S. (1996 Supp.), those criteria include the following: integrity; knowledge and understanding of substantive, procedural and evidentiary law; communication skills; preparation; attentiveness, and control over judicial proceedings; sentencing practices; docket management and prompt case disposition; administrative skills; punctuality; effectiveness in working with participants in the judicial process; and service to the profession and the public.

The trial judges' evaluations result from survey questionnaires completed by district attorneys, public defenders and private attorneys, jurors, litigants, probation officers, social services case workers, court personnel and law enforcement officers. The evaluations also result from the following: relevant docket statistics; a personal interview with the judge; and information from other appropriate sources, such as court observations. The evaluation of the justices of the Colorado Supreme Court and the judges of the Colorado Court of Appeals is the product of an interview with the State Commission on Judicial Performance; survey results from attorneys, and survey results from Colorado trial judges.

Evaluations for all judges include a narrative profile with a recommendation stated as "Retain," "Do not retain," or "No opinion." The enabling legislation requires a detailed explanation accompany a "No opinion" recommendation.

### **III. Commission Process and Procedures**

The district commissions generally begin meeting monthly in January of the election year in order to prepare for the judicial performance process. Commission members receive yearly training on the statute, rules and procedures, the Colorado Code of Judicial Conduct, interviewing techniques and media relations.

Information used in the evaluation of Colorado's Judiciary is drawn from the following sources:

(1) **Questionnaires:** Questionnaires are used to acquire information from individuals who have had contact with trial judges inside and outside of the courtroom. The following groups are surveyed in the evaluation of trial judges: district attorneys, public defenders and private attorneys, litigants, jurors, court personnel, probation officers, law enforcement officers, and social service caseworkers. Different evaluation questionnaires were designed for the appellate judges since they have limited contact with the public. The individual questionnaires and the comments included are confidential.

Questionnaires are sent by the Office of the State Court Administrator to a random sample of respondents. The public and private attorneys are selected from automated case records. All other respondent groups are gathered by the local judicial district administrators, who serve as staff to the district commissions.



Currently, the completed questionnaires are mailed directly from the respondents to the Pueblo Data Processing Center. Once the raw data is compiled, it is forwarded to an independent professional for statistical analysis and production of a summary of the responses. The statistician employed to perform this evaluation for the State Commission is Dr. Joyce Sterling, a Professor at the University of Denver College of Law. The statistical summaries are compiled and then mailed to the chairs of each local commission.

(2) Caseload Evaluation: A caseload evaluation, which includes a statistical review of the number and nature of cases handled by each judge, is provided to the district commissions for judges who are up for retention. This information is gathered and provided to the chair of each district commission by the district administrators.

(3) Personal Interviews: Individual interviews are held with each judge or justice being evaluated. The commissions schedule and conduct oral interviews with each judge standing for retention no later than fifteen days after the commission completes its review of the information provided to it. Neither the commission nor the judge may waive the initial interview process. The judge shall be provided with the same information that is provided to the district commission members concerning that judge. This information is required to be provided to the judge no later than ten days before the scheduled interview.

Within ten (10) days following the interview with the judge, and in any event, no later than forty-five (45) days prior to the last date available for the judge to declare his or her intent to stand for retention, the chair of the district commission shall provide the judge with a complete written draft of the narrative profile. The narrative profile is required to conform to the format designed by the State Commission set forth in Rule 18 of the Rules Governing the Commissions on Judicial Performance. The draft of the narrative profile shall not be released to any person other than the judge whom it concerns.

After reviewing the draft of the profile, the judge being evaluated may respond, in writing, within ten (10) days of receipt of the draft. If the judge requests an additional interview with the commission, the judge is given an opportunity to meet with the commission to address the contents of the narrative profile. After meeting with the judge, the commission may but is not required to, redraft the narrative profile prior to publication.

Final recommendations are produced by the local district commissions and published in the form of a narrative profile no later than forty-five (45) days prior to the election. Recommendations concerning judges are to "Retain," "Do not retain," or "No opinion." A "No opinion" recommendation can only be made when the commission concludes that the evaluation results are not sufficiently clear to make a firm recommendation. Such a recommendation is required to be accompanied by a detailed explanation.

**IV. 1996 Evaluation Process**

In 1996, one Supreme Court justice, five judges of the Court of Appeals, forty-six District Court and forty-four County Court judges were evaluated. In the process of evaluating the justices and judges, 20,875 survey questionnaires were sent to obtain feedback and information about the judges' performance. The sample population for the 1996 retention cycle was drawn from cases that were terminated during the eighteen (18) month period from March 1994 to August 1995. The average response rate to the survey process was 34.8%. One of the goals for the 1996 retention cycle was to improve response rates for the surveyed attorney sample. In order to achieve this goal, the State Commission established a follow up process for surveys sent to attorneys.

The method for gathering information from lawyers utilized from 1990 to 1994 involved sending out one survey to each attorney identified at random in an automated manner, and waiting for a response. This process proved marginal at best for gathering the necessary volume of data, resulting in a response rate of 28.4 percent. In 1996, another element was added to the attorney survey process. Each attorney survey was given a numbered code so that it could be identified and tracked according to both the judge the questionnaire concerned, and the individual respondent. This allowed the commission to determine whether the respondent had completed the survey, and to remind the respondent of the value of completing the questionnaire through letters or by phone. The coding used on the attorney questionnaires was confidential and solely used for follow-up by the staff. The resulting response rate in 1996 for attorneys was 45%, an overall improvement of 36.8%<sup>1</sup>.

The following chart reflects the response rates for all of the respondent groups in 1996:

<i>Respondent Group</i>	<i>Number of Surveys Sent</i>	<i>Number of Surveys Returned</i>	<i>Rate of Response</i>	<i>Average Number of Surveys Per Judge</i>
Attorneys (Public and Private)	11,060	4,972	45.0%	104.0
Court Employees	2,702	1,020	37.7%	25.0
Law Enforcement	2,316	900	38.9%	22.0
Jurors	3,687	1,508	40.9%	35.0
Litigants	1,110	215	19.4%	10.0
<b>Total/Avg.</b>	<b>20,875</b>	<b>7,265</b>	<b>34.8%</b>	<b>196</b>

<sup>1</sup> This represents the overall ratio of growth from the 1994 rate of return as compared to 1996.



Of the ninety-six judges and justices standing for retention in the 1996 general election, the commissions recommended the retention of ninety-one of those evaluated; recommended non-retention for three; and expressed no opinion on the retention of two others. One judge, in the Denver District Court, was not retained in office by a majority of the voters. (See **Appendix B** for a complete breakdown of election results.)

The commissions distributed approximately 600,000 copies of the 1996 voter guide providing information on Colorado judges to voters throughout the state. The judicial retention elections and retention process generated over seventy articles, editorials and letters to the editor in Colorado newspapers during 1996. Furthermore, the information on judicial retention was available for the first time on the Internet, where full narrative profiles, the recommendations and photographs of judges were available to provide information to voters via the World Wide Web. This information impacted voters not only throughout Colorado, but it also proved to be an invaluable resource for voters who were temporarily residing outside the state, and voting by absentee ballot. It allowed voters, who otherwise would have been unable to participate meaningfully in the judicial retention elections due to a lack of available information, an opportunity to access data in order to cast an informed vote.

## **V. Concerns Raised During the 1996 Retention Cycle**

Several areas of concern came to the attention of the State Commission through the 1996 retention process.

1. **Data Collection:** It was discovered late in the 1996 evaluation process that an uncorrectable data processing error occurred in generating the sample of attorneys to be surveyed in the 1996 retention data. The statistician, Dr. Joyce Sterling, determined that this occurrence did not automatically invalidate the statistics.

The problem involved the accuracy of information entered into the computer system. The State Commission has taken appropriate measures to ensure the sufficiency of the data and to prevent this from recurring.

2. **Gender Bias:** There have been some concerns expressed by certain individuals regarding potential gender bias. It is alleged that female judges are perhaps held to a different and higher standard than male judges across the state in the area of demeanor.

3. **Dissemination of Information:** The State Commission is concerned about the availability of the information generated through its evaluation, and it feels that the information is not reaching the voters. Through the efforts of Chief Justice Anthony Vollack in working with President Tom Norton and the Legislative Council, the commission obtained approval to disseminate the information as an insert in the Ballot Analysis (Blue Book). However, shortly before the election, inclusion of additional ballot items caused the size and weight of the Ballot Analysis to increase; causing additional postage and assembly costs which exceeded the commission's limited resources. Therefore, the commission was forced to proceed at the last minute with alternate distribution methods, which did not prove nearly as effective as the blanket distribution achieved by the Blue Book. To assess the impact of distribution offered by the Blue Book the commission conducted a study to determine if information mailed directly to registered voters would influence the voting population. Complete details and results of this study are contained in **Appendix C**.

## **VI. Recommendations for Improvement**

The State Commission on Judicial Performance has developed a comprehensive plan for change which addresses the aforementioned deficiencies. This strategy will carry the performance evaluation process through the next retention cycle. It is broken down into four separate six month phases which will fundamentally alter the manner in which this program has operated in the past (See **Appendix D**.)

These changes center around the following areas:

1. Propose legislative modifications which to streamline the current statutory authority to provide a sound framework for the 1998 evaluation process.
2. Modify the rules and procedures for the commission to promote uniform standards in operation of the district commissions.
3. Establish a data collection and statistics committee which will review and revise the current data collection process, sample methodology, and statistical summary process.
4. Establish a training committee to develop and implement an extensive training plan for the district commissions.
5. Develop strategies to: improve dissemination of information; produce of a more effective public service announcement; overhaul the current public information liaison training to provide more information on dissemination strategies for district

commissions; and formulate alternatives for dissemination of the narrative information on judges to all registered voters in Colorado.

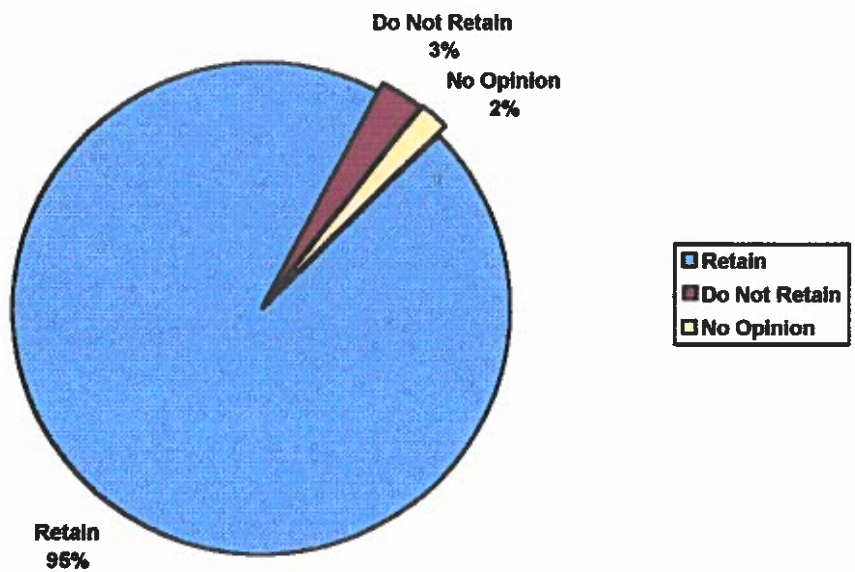
6. Work with the Supreme Court Gender & Justice Subcommittee on Judicial Selection and Retention to address potential gender bias issues.
7. Explore methods and means to provide ongoing professional development information to all judges.

## VII. Cumulative Overview

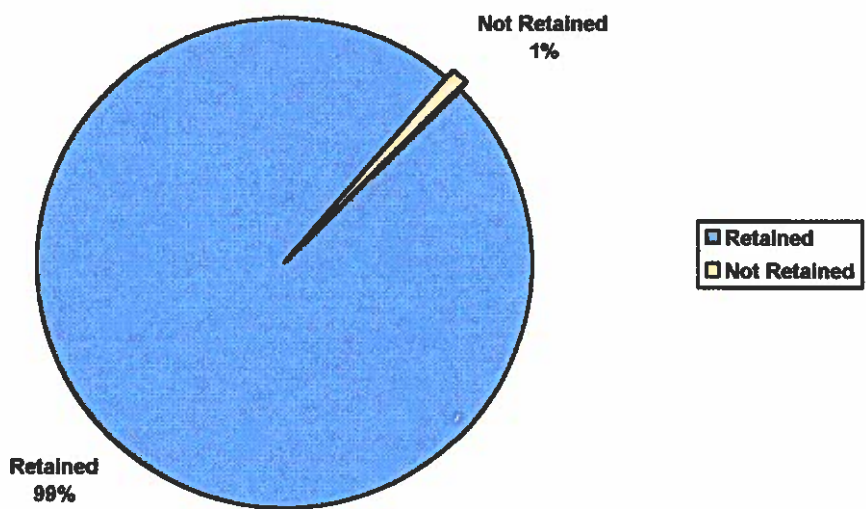
From the beginning of the merit selection process in 1966 to the creation of the commissions in 1988, 12 judges failed to win retention from the voters. Since 1988, 98.9% of the 365 judges and justices evaluated by the judicial performance process were retained by the voters.

<i>Year</i>	<i># of Judges on Ballot</i>	<i># Comm. Recom. Retain</i>	<i>% of Total</i>	<i># Comm. Do Not Retain</i>	<i>% of Total</i>	<i># Comm. Recom. No Opinion</i>	<i>% of Total</i>	<i># of Judges Not Retained</i>	<i>% of Total</i>
1990	107	103	96.3%	1	0.0%	3	2.8%	0	0.0%
1992	75	70	93.3	3	4.0%	2	2.7%	1	1.3%
1994	87	84	96.5%	3	3.5%	0	0.0%	2	2.3%
1996	96	91	95.0%	3	3.0%	2	2.0%	1	1.0%
<b>Total</b>	<b>365</b>	<b>348</b>	<b>95.3%</b>	<b>10</b>	<b>2.7%</b>	<b>7</b>	<b>2.0%</b>	<b>4</b>	<b>1.1%</b>

### Overall Recommendations Generated by Judicial Performance Commissions



### Overall Election Results in Retention Elections from 1990-1996



## **VIII. Conclusion**

Within the merit selection system established in 1966, accountability to the public for the work of judicial officers is essential. The inherent self improvement potential for judicial officers is as important to the process as the public accountability of the judiciary. By providing judges with an opportunity to reflect on their performance and improve their skills as judicial officers, the information gleaned through this evaluation and review process provides a definite advantage to the judges and the public they serve.

Establishing methods to evaluate judicial accountability has been an ongoing operation, an operation which strives for fairness both to the public and the judicial officers whom it evaluates. Perfecting a judicial performance evaluation process which provides the public and judicial officers with the essential information given the limited resources has been a tedious undertaking. As a result, the program may be viewed in some circles as being stagnant and unresponsive.

The State Commission, however, concludes that the judicial performance evaluation process is too important an asset of the non-partisan merit selection system to leave at risk. Fiscal year 1996 was the first year that this program received funding by the General Assembly. This program should not be abandoned without a full opportunity to address the concerns the commission has raised in this report. This program is at a crossroads. With the funding received this year the commission finally has the capability to overhaul the current process instead of patching together minor remedies in response to perceived problems or criticism. To evaluate the program based upon the current procedures would be ill advised and premature. The State Commission is aware that there is room for improvement in the program and it is committed to carrying these changes through to implementation.





APPENDIX - A



## **Appendix A**

### **Commissions on Judicial Performance**

Commissions on Judicial Performance were created in 1988 for the purpose of providing voters with fair, responsible and constructive evaluations of trial and appellate judges and justices seeking retention in general elections. It also provides judges with information that can be used to improve their professional skills as judicial officers.

There is one commission in each of the twenty-two judicial districts along with the state commission, which oversees the judicial performance process. Each commission consists of 10 members; 4 attorneys and 6 non-attorneys. Appointments to the commission are made by all branches of the government. The Governor and Chief Justice of the Supreme Court appoint one attorney and two non-attorneys. The Speaker of the House and President of the Senate appoint one attorney and one non-attorney.

Commissions typically begin meeting monthly in January of the election year in order to prepare for the judicial performance process. Commission members receive yearly training on the statute, rules and procedures, Colorado Code of Judicial Conduct, interviewing techniques and media relations.

The following is a list of the members of the state commission on judicial performance and members of each local commission by district.

<b>STATE COMMISSION ON JUDICIAL PERFORMANCE</b>
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<b>Last Name</b>	<b>First Name</b>	<b>Appt By</b>	<b>City</b>
Butz	M. Gordon	CJ	Denver
McClure	Charles	CJ	Littleton
Railey	Hon. Matt R.	CJ	Colorado Springs
Briscoe	Diane L.	G	Denver
Byerly	Carol R.	G	Boulder
Rico	Yrma G.	G	Denver
Gottenborg	David	PS	Englewood
Shoop	Mike	PS	Greeley
Adkins	Rep. Jeanne M.	SH	Parker
Palermo	Norman	SH	Colorado Springs

CJ = Chief Justice of the Supreme Court, G = Governor  
 PS = President of the Senate, SH = Speaker of the House of Representatives

### 1<sup>st</sup> Judicial District

Last Name	First Name	Appt By	City
Astle	Jim	CJ	Evergreen
Hayes	Ellin	CJ	Littleton
Ransome	Robert	CJ	Golden
Alperstein	Pearl	G	Golden
Jackson	Janet S.	G	Arvada
Alderfer	R. Brent	G	Littleton
Eid	Troy A.	PS	Morrison
Blackwell	Robert	PS	Morrison
Mielke	Donald	SH	Lakewood
Smith	William	SH	Evergreen

### 2<sup>nd</sup> Judicial District

Last Name	First Name	Appt By	City
Hawkins, III	Horace N. (Bud)	CJ	Denver
Franklin	Les	CJ	Denver
Fasing	Gregory	CJ	Denver
Atencio	Margaret	G	Denver
Evans	Richard	G	Denver
Dawson	Toya T.L.	G	Denver
Hopper	Nancy	PS	Denver
MacKay	Julie	PS	Denver
Ennis	Charles	SH	Denver
Houston	Linda	SH	Denver

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### 3<sup>rd</sup> Judicial District

Last Name	First Name	Appt By	City
Romero	Yolanda	CJ	Trinidad
Vallejos	Jack	CJ	Trinidad
Haskins-Trujillo	Ellen	CJ	Walsenburg
Kilpatrick	Charlotte	G	Trinidad
vacant		G	
Mazza	Lynell M	G	Trinidad
Murr	Floyd K.	PS	Walsenburg
Stroh II	John	PS	Walsenburg
Malone	Dennis	SH	Trinidad
vacant		SH	

### 4<sup>th</sup> Judicial District

Last Name	First Name	Appt By	City
Hibbard	Ralph	CJ	Colorado Springs
Burns	Janet	CJ	Colorado Springs
Johnson	Robert W.	CJ	Colorado Springs
Creighton	Stuart	G	Colorado Springs
Gaddis	Larry	G	Colorado Springs
Torres	Felix A	G	Colorado Springs
Morrison	Howard	PS	Colorado Springs
Reich, Jr.	Joe	PS	Colorado Springs
Epps-Gonzalez	Marsha	SH	Colorado Springs
Sears	Lance M.	SH	Colorado Springs

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### 5<sup>th</sup> Judicial District

Last Name	First Name	Appt By	City
Zollars	Barbara	CJ	Silverthorne
Zimmerman	Rayl	CJ	Eagle
Talbot	Doug	CJ	Vail
Heicher	Kathleen	G	Eagle
Weber	Donald J	G	Georgetown
Letofsky	Steven F.	G	Frisco
Cosgriff	Peter	PS	Leadville
Ridgway	Charles P.	PS	Eagle
Bauer	J. Albert	SH	Breckenridge
Handy	Fred	SH	Dillon

### 6<sup>th</sup> Judicial District

Last Name	First Name	Appt By	City
Crane	Bethiah Beale	CJ	Durango
Cloman	Jim	CJ	Pagosa Springs
Gonzalez	Erlinda	CJ	Pagosa Springs
Fearn	Stephen C	G	Silverton
vacant		G	
Corwin	William F.	G	Durango
Spitzer	Daniel G	PS	Durango
DeNier	Robert E	PS	Durango
vacant		SH	
Zempel	Mark	SH	Durango

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### 7<sup>th</sup> Judicial District

Last Name	First Name	Appt By	City
Palefsky	Harvey	CJ	Montrose
Richesin	Carmie	CJ	Telluride
Corder	Sandy	CJ	Montrose
Steel	John H.	G	Telluride
Hill	Paulette L.	G	Montrose
Ventura	Frank A.	G	Gunnison
Kehmeier	Norman	PS	Eckert
Sullivan	Charles	PS	Telluride
Honath	Sandra K	SH	Montrose
vacant		SH	

### 8<sup>th</sup> Judicial District

Last Name	First Name	Appt By	City
Miller	Linda	CJ	Fort Collins
Brown, Jr.	Louis	CJ	Loveland
Lopez, Jr.	William	CJ	Fort Collins
Barnes	Marilyn	G	Fort Collins
Kenny	Jean E	G	Loveland
Dean	Daniel W.	G	Fort Collins
Schaffer	Robert	PS	Fort Collins
Pharris	John	PS	Fort Collins
Ray	Steven B	SH	Fort Collins
vacant		SH	

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### 9<sup>th</sup> Judicial District

Last Name	First Name	Appt By	City
Truden	Colleen D.	CJ	Glenwood Springs
Clatterbaugh	Bruce	CJ	Meeker
Cooper	John	CJ	Glenwood Springs
Fernandez	Erin L	G	Aspen
Smith	Marian I	G	Glenwood Springs
Easterling	James F.	G	Aspen
Caliva	Robert N	PS	Rifle
Cooley	Frank	PS	Meeker
vacant		SH	
vacant		SH	

### 10<sup>th</sup> Judicial District

Last Name	First Name	Appt By	City
Enck	Dale R.	CJ	Pueblo
Illick	Cindy	CJ	Pueblo
Spinuzzi	Shirley	CJ	Pueblo
Ballas	William J	G	Pueblo
Butler	Yolanda	G	Pueblo
Roybal	Edmond I	G	Pueblo
Dingle	Dr. Robert	PS	Pueblo
Quigg	Lewis M	PS	Pueblo
Willumstad	Paul J	SH	Pueblo
vacant		SH	

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### 11th Judicial District

Last Name	First Name	Appt By	City
Jackson	Brenda	CJ	Cañon City
Blackstock	Susan	CJ	Fairplay
Geary	William	CJ	Westcliffe
Kauffman	Beatrice	G	Cañon City
Lindsey	Jeffrey	G	Cañon City
Tracy	Emily A	G	Cañon City
Packard	Don	PS	Cañon City
Lallier	Paula M	PS	Salida
Fredrickson	Bryan T	SH	Cañon City
O'Conner	Nancy	SH	Salida

### 12th Judicial District

Last Name	First Name	Appt By	City
Meyer	Bruce J	CJ	Alamosa
Uhrich	Amy S	CJ	Monte Vista
Salazar	Arnold	CJ	Alamosa
Price	Alice M	G	La Jara
Hettinger-Hunt	Christine L.	G	Alamosa
Gallegos	Aquino G.	G	San Luis
Dunn	William F	PS	Del Norte
Crowther	Edward	PS	Alamosa
Rowe	Gordon	SH	Monte Vista
Quintana	Lucy	SH	Capulin

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### 13th Judicial District

Last Name	First Name	Appt By	City
Chapin	Robert	CJ	Brush
Williams	Doris E	CJ	Sterling
Hemphill	Bill	CJ	Sterling
Olaiz	Anthony A	G	Burlington
Lechman	Dorothy	G	Merino
Margiloff	Susan Gail	G	Sterling
Whitney	Brian	PS	Fort Morgan
McClary	Andrew	PS	Fort Morgan
Dee	Robert H.	SH	Wray
Nichol	John	SH	Sterling

### 14th Judicial District

Last Name	First Name	Appt By	City
St. James	Polly	CJ	Steamboat Springs
Brosious	Dean	CJ	Craig
Bacon	Zee	CJ	Steamboat Springs
Burge	Tom	G	Winter Park
Pyle	Mary Beth	G	Craig
Mattlage	Karl P.	G	Steamboat Springs
Orr	Alta	PS	Granby
Cazier	Stanley	PS	Granby
Lawrence	Bill V.	SH	Craig
Taylor	Geneva	SH	Steamboat Springs

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### 15th Judicial District

Last Name	First Name	Appt By	City
Bullock	James	CJ	Lamar
Allen	Don	CJ	Arapahoe
Tempel	Melody	CJ	Wiley
DuPree	Clifford	G	Holly
Hefley	Kay Lynn	G	Walsh
May	Diana Kay	G	Lamar
Laird	Terry Lee	PS	Eads
vacant		PS	
Davis	Mark S.	SH	Lamar
vacant		SH	

### 16th Judicial District

Last Name	First Name	Appt By	City
Stross	Greg	CJ	La Junta
Camacho	Theresa	CJ	Ordway
Church	Jan	CJ	La Junta
Smith	Mary P	G	Rocky Ford
vacant		G	
Reese	Paula S	G	La Junta
Obermiller	Jeffery	PS	Rocky Ford
Mendenhall	Bart	PS	Rocky Ford
vacant		SH	
vacant		SH	

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### 17th Judicial District

Last Name	First Name	Appt By	City
Sather	Larry D	CJ	Denver
Savage	Youlon	CJ	Commerce City
Nichols	Larry	CJ	Commerce City
DeHerrera	Rosemary	G	Aurora
Padilla	Mary Eva	G	Denver
Rose	Dave E.	G	Brighton
Brundage	Martha	PS	Westminster
Mitchell	Shawn	PS	Broomfield
vacant		SH	
McDowall	David	SH	Denver

### 18th Judicial District

Last Name	First Name	Appt By	City
McBride	Steven E.	CJ	Littleton
Ellingboe	Sonya	CJ	Littleton
Cullen	Ruth	CJ	Littleton
Franken	Robert A.	G	Littleton
Smith	Sharon E.	G	Aurora
Larsen, Jr.	William H.	G	Castle Rock
Shaffner	Fries	PS	Aurora
Williams	Mark	PS	Castle Rock
Prager	Frank P	SH	Englewood
vacant		SH	

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### 19th Judicial District

Last Name	First Name	Appt By	City
Williams	Tambor	CJ	Greeley
Gomez	Ruth	CJ	Greeley
Stephenson	Margaret	CJ	Greeley
Mitchell	Sharon A.	G	Fort Lupton
Gutierrez	Fred L.	G	Evans
Fentiman	Karen K.	G	Greeley
White	Bruce	PS	Greeley
Anson	R Russell	PS	Greeley
Shade	William E	SH	Greeley
Meny	Carol	SH	Greeley

### 20th Judicial District

Last Name	First Name	Appt By	City
Brantz	James	CJ	Boulder
Aragon	G. Terry	CJ	Boulder
Beery	Sara	CJ	Longmont
McDonough	Michael B.	G	Longmont
Tomich-Metzroth	Theresa A.	G	Boulder
Delgado	Kathy	G	Broomfield
Johnson	Stan	PS	Boulder
Kingston	Ann	PS	Louisville
Ryan	Heather	SH	Boulder
vacant		SH	

CJ = Chief Justice of the Supreme Court, G = Governor  
 PS = President of the Senate, SH = Speaker of the House of Representatives

### 21st Judicial District

Last Name	First Name	Appt By	City
Beckner	Larry B	CJ	Grand Junction
Drogos	John	CJ	Grand Junction
Smith	Michelle	CJ	Grand Junction
Frankhouser	Penny J	G	Grand Junction
Traylor	Robert S.	G	Grand Junction
Pitman	Dolores	G	Grand Junction
Burke	Thomas M.	PS	Grand Junction
Griffin	Dan	PS	Grand Junction
Laiche	Stephen	SH	Grand Junction
vacant		SH	

### 22nd Judicial District

Last Name	First Name	Appt By	City
Olt, Jr.	Joseph W.	CJ	Cortez
Maestas	Maxine	CJ	Dolores
Dicken	Max	CJ	Dove Creek
Fernandez	Daniel	G	Dove Creek
Gore	F. LeRoy	G	Dove Creek
Luhman	Richard	G	Cortez
Tipton	Jay	PS	Cortez
Hatter	James	PS	Cortez
Morris	Stanley	SH	Cortez
vacant		SH	

CJ = Chief Justice of the Supreme Court, G = Governor

PS = President of the Senate, SH = Speaker of the House of Representatives



**APPENDIX - B**

*[The text in this section is extremely faint and illegible. It appears to be a list or a series of entries, possibly names or titles, arranged in a structured format.]*



**Appendix B**

**COMMISSIONS ON JUDICIAL PERFORMANCE SUMMARY OF 1996 ELECTION RESULTS**

		YES	PERCENT	NO	PERCENT	TOTAL	COMMISSIONS
	<u>COURT</u>	<u>VOTES</u>	<u>YES</u>	<u>VOTES</u>	<u>NO</u>	<u>VOTES</u>	ON JUDICIAL
							PERFORMANCE
							<u>RECOMMENDATIONS</u>
<b><u>SUPREME COURT</u></b>							
GREGORY KELLAM SCOTT		730,539	65%	394,662	35%	1,125,201	RETAIN
<b><u>COURT OF APPEALS</u></b>							
JAMES S. CASEBOLT		706,734	64%	391,200	36%	1,097,934	RETAIN
JOHN A. CRISWELL		700,278	64%	387,967	36%	1,088,695	RETAIN
ROBERT J. KAPELKE		697,107	64%	390,694	36%	1,087,801	RETAIN
ARTHUR P. ROY		700,593	64%	387,340	36%	1,087,933	RETAIN
DANIEL M. TAUBMAN		694,332	64%	390,395	36%	1,084,727	RETAIN
<b><u>1<sup>ST</sup> DISTRICT</u></b>							
JAMES D. ZIMMERMAN	DISTRICT	100,708	62%	61,113	38%	161,821	RETAIN
JAMES C. DEMLOW	COUNTY	98,715	62%	60,875	38%	159,590	RETAIN
FRANCIS C. JACKSON	COUNTY	99,577	62%	60,122	38%	159,699	RETAIN
ROY G. OLSON, JR.	COUNTY	100,966	63%	60,502	37%	161,468	RETAIN
LINDA T. PALMIERI	COUNTY	104,002	63%	60,221	37%	164,223	RETAIN
<b><u>2<sup>ND</sup> DISTRICT</u></b>							
H. JEFFREY BAYLESS	DISTRICT	69,525	62%	42,174	38%	111,699	RETAIN
LYNNE M. HUFNAGEL	DISTRICT	57,756	48%	61,310	52%	119,066	DO NOT RETAIN
ROBERT S. HYATT	DISTRICT	67,748	62%	39,997	38%	107,745	RETAIN
PAUL A. MARKSON, JR.	DISTRICT	67,506	62%	40,516	38%	108,022	RETAIN
LARRY J. NAVES	DISTRICT	68,951	63%	40,285	37%	109,236	RETAIN
NANCY E. RICE	DISTRICT	70,970	64%	39,018	36%	109,988	RETAIN
RICHARD T. SPRIGGS	DISTRICT	67,837	62%	40,165	38%	108,002	RETAIN
ANDREW S. ARMATAS	COUNTY	66,489	62%	40,856	38%	107,345	RETAIN
DORIS E. BURD	COUNTY	68,729	64%	39,104	36%	107,823	RETAIN
CELESTE M. C DE BACA	COUNTY	61,368	53%	55,158	47%	116,526	DO NOT RETAIN
ROBERT B. CREW	COUNTY	67,263	63%	39,402	37%	106,665	RETAIN
ALFRED C. HARRELL	COUNTY	66,583	63%	39,980	37%	106,653	RETAIN
CLAUDIA J. JORDAN	COUNTY	69,694	64%	38,842	36%	108,536	RETAIN
JOHN M. MARCUCCI	COUNTY	66,776	63%	39,960	37%	106,736	RETAIN
ALEENE ORTIZ-WHITE	COUNTY	69,935	64%	39,705	36%	109,640	RETAIN
ROBERT L. PATTERSON	COUNTY	67,898	63%	39,402	37%	107,300	RETAIN
<b><u>3<sup>RD</sup> DISTRICT</u></b>							
JESSE C. MANZANARES	DISTRICT	5,838	73%	2,079	27%	7,917	RETAIN
<b><u>4<sup>TH</sup> DISTRICT</u></b>							
DOUGLAS E. ANDERSON	DISTRICT	87,578	64%	47,579	36%	135,157	RETAIN
JAMES M. FRANKLIN	DISTRICT	81,550	60%	54,025	40%	135,575	RETAIN
THOMAS KELLY KANE	DISTRICT	87,181	65%	46,831	35%	134,012	RETAIN
REBECCA S. BROMLEY	COUNTY	93,142	68%	42,260	32%	135,402	RETAIN
<b><u>5<sup>TH</sup> DISTRICT</u></b>							
JOSEPH A. FATTOR	COUNTY	1,243	57%	906	43%	2,149	NO OPINION
<b><u>6<sup>TH</sup> DISTRICT</u></b>							
TIMOTHY ALAN PATALAN	DISTRICT	12,588	75%	3,998	25%	16,586	RETAIN
ALLEN NOSSAMAN	COUNTY	320	87%	47	13%	367	RETAIN
<b><u>7<sup>TH</sup> DISTRICT</u></b>							
J. STEVEN PATRICK	DISTRICT	17,947	68%	8,276	32%	26,223	RETAIN
DAVID C. JOHNSTON	COUNTY	6,245	65%	3,316	35%	9,561	RETAIN
KARL RANOUS	COUNTY	3,204	67%	1,552	33%	4,756	RETAIN
JOHN C. DAVIDSON	COUNTY	7,069	69%	3,076	31%	10,145	RETAIN
<b><u>8<sup>TH</sup> DISTRICT</u></b>							
JOHN-DAVID SULLIVAN	DISTRICT	51,233	69%	22,060	31%	73,283	RETAIN
REX A. SHAW	COUNTY	667	83%	132	17%	799	RETAIN
DON L. NELSON	COUNTY	48,863	69%	21,472	31%	70,335	RETAIN
RONALD L. SCHULTZ	COUNTY	42,785	59%	28,670	41%	71,455	DO NOT RETAIN

		YES	PERCENT	NO	PERCENT	TOTAL	COMMISSIONS ON JUDICIAL PERFORMANCE RECOMMENDATIONS
	<u>COURT</u>	<u>VOTES</u>	<u>YES</u>	<u>VOTES</u>	<u>NO</u>	<u>VOTES</u>	
<b>9<sup>TH</sup> DISTRICT</b>							
J.E. DEVILBISS	DISTRICT	12,592	65%	6,762	35%	19,354	NO OPINION
<b>10<sup>TH</sup> DISTRICT</b>							
DENNIS MAES	DISTRICT	36,745	78%	10,051	22%	46,786	RETAIN
ALEX J. MARTINEZ	DISTRICT	35,572	77%	10,611	23%	46,183	RETAIN
ROSALIE VIGNA	DISTRICT	27,655	60%	17,718	40%	45,373	RETAIN
ADELE K. ANDERSON	COUNTY	33,098	73%	11,856	37%	44,954	RETAIN
<b>11<sup>TH</sup> DISTRICT</b>							
JOHN EDWARD ANDERSON	DISTRICT	16,218	69%	7,016	31%	23,234	RETAIN
WILLIAM P. ALDERTON	COUNTY	4,001	69%	1,766	31%	5,767	RETAIN
WILLIAM GOBIN FOX	COUNTY	8,727	69%	3,793	31%	12,520	RETAIN
<b>12<sup>TH</sup> DISTRICT</b>							
O. JOHN KUENHOLD	DISTRICT	11,280	77%	3,313	23%	14,593	RETAIN
ROBERT W. OGBURN	DISTRICT	11,492	78%	3,192	22%	14,684	RETAIN
JEAN PAUL JONES	COUNTY	3,029	64%	1,654	36%	4,683	RETAIN
PATTIE P. SWIFT	COUNTY	961	71%	379	29%	1,340	RETAIN
ROBERT M. WARDELL	COUNTY	386	89%	47	11%	433	RETAIN
<b>13<sup>TH</sup> DISTRICT</b>							
DOUGLAS R. VANNOY	DISTRICT	15,100	63%	8,806	37%	23,906	RETAIN
J. CURT PENNY	COUNTY	2,010	68%	934	32%	2,944	RETAIN
MAX E. CARLSON	COUNTY	983	76%	299	24%	1,282	RETAIN
<b>14<sup>TH</sup> DISTRICT</b>							
RICHARD P. DOUCETTE	DISTRICT	10,326	73%	3,775	27%	14,101	RETAIN
JOEL S. THOMPSON	DISTRICT	9,456	71%	3,689	29%	13,145	RETAIN
<b>15<sup>TH</sup> DISTRICT</b>							
NORMAN L. ARENDS	DISTRICT	4,015	52%	3,580	48%	7,595	RETAIN
GARTH L. NIESCHBURG	DISTRICT	4,899	65%	2,552	35%	7,451	RETAIN
<b>16<sup>TH</sup> DISTRICT</b>							
ROBERT E. BLACKBURN	DISTRICT	7,661	77%	2,251	23%	9,912	RETAIN
MARK A. MacDONNELL	COUNTY	1,304	64%	708	36%	2,102	RETAIN
<b>17<sup>TH</sup> DISTRICT</b>							
HARLAN R. BOCKMAN	DISTRICT	49,376	63%	28,086	37%	77,462	RETAIN
JOHN E. POPOVICH, JR.	DISTRICT	47,151	63%	27,497	37%	74,648	RETAIN
OVID R. BELDOCK	COUNTY	48,682	62%	28,995	38%	77,677	RETAIN
JEFFREY L. ROMEO	COUNTY	47,033	62%	28,352	38%	75,385	RETAIN
<b>18<sup>TH</sup> DISTRICT</b>							
THOMAS J. CURRY	DISTRICT	104,682	65%	54,880	35%	159,562	RETAIN
DEANNA E. HICKMAN	DISTRICT	100,054	63%	58,397	37%	158,451	RETAIN
SCOTT W. LAWRENCE	DISTRICT	102,488	65%	54,585	35%	157,073	RETAIN
JOHN P. LEOPOLD	DISTRICT	100,748	63%	56,828	37%	157,576	RETAIN
THOMAS C. LEVI	DISTRICT	100,801	63%	56,773	37%	157,574	RETAIN
CHERYL L. POST	DISTRICT	103,949	65%	54,272	35%	158,221	RETAIN
JACK F. SMITH	DISTRICT	101,683	64%	55,787	36%	157,470	RETAIN
KENNETH K. STUART	DISTRICT	102,081	64%	56,192	36%	158,273	RETAIN
MICHAEL J. WATANABE	DISTRICT	101,505	64%	56,191	36%	157,696	RETAIN
RICHARD M. JAUCH	COUNTY	75,252	65%	40,330	35%	115,582	RETAIN
ROBERT H. RUSSELL, II	COUNTY	74,521	64%	40,313	36%	114,834	RETAIN
JAMES S. MILLER	COUNTY	25,542	70%	10,866	30%	36,408	RETAIN
<b>19<sup>TH</sup> DISTRICT</b>							
JONATHAN W. HAYS	DISTRICT	31,630	70%	13,123	30%	44,753	RETAIN
ROBERT LOWENBACH	DISTRICT	29,882	68%	13,500	32%	43,382	RETAIN
WILLIAM L. WEST	DISTRICT	30,408	69%	13,325	31%	43,733	RETAIN
WILLIAM G. ARRIES	DISTRICT	30,293	69%	13,609	31%	43,902	RETAIN



	<u>COURT</u>	<u>YES VOTES</u>	<u>PERCENT YES</u>	<u>NO VOTES</u>	<u>PERCENT NO</u>	<u>TOTAL VOTES</u>	<u>COMMISSIONS ON JUDICIAL PERFORMANCE RECOMMENDATIONS</u>
<b>20<sup>TH</sup> DISTRICT</b>							
ROXANNE BAILIN	DISTRICT	66,476	74%	21,898	26%	86,465	RETAIN
DIANE R. MacDONALD	COUNTY	61,796	75%	20,272	25%	82,068	RETAIN
THOMAS J.B. REED	COUNTY	58,883	73%	21,474	27%	80,357	RETAIN
<b>21<sup>ST</sup> DISTRICT</b>							
DAVID A. BOTTGER	DISTRICT	28,109	69%	12,417	31%	40,526	RETAIN
NICHOLAS R. MASSARO, JR.	DISTRICT	28,931	71%	11,498	29%	40,429	RETAIN
THOMAS M. DIESTER	COUNTY	29,032	71%	11,653	29%	40,685	RETAIN
<b>22<sup>ND</sup> DISTRICT</b>							
BOB G. JOHNSON	COUNTY	528	69%	231	31%	759	RETAIN



APPENDIX - C



## Appendix C

### **State Commission on Judicial Performance**

#### **Exit Poll Survey Results:**

The State Commission on Judicial Performance worked closely with the Chief Justice of the Supreme Court and the State Court Administrator's Office in order to coordinate the distribution of the narrative profiles with the Ballot Analysis (Blue Book) published by the Legislative Council. However, shortly before the election, the inclusion of additional ballot items increased the postage and assembly costs for the state commission to over \$113,000. This was a prohibitive cost for the newly funded program<sup>1</sup>. The State Commission pursued the traditional distribution method to meet the legislative deadline<sup>2</sup> but also sought to conduct an experiment to see if information mailed directly to registered voters would have an impact on voting trends for judges. Would a more informed voter cast a vote, for or against, a judge? In addition, the State Commission wanted to know where voters tend to look for voting information.

After consulting with the marketing researchers Talmey-Drake and Associates about policy strategies, four precincts were selected<sup>3</sup> for an election day exit survey. Each voter in one urban or rural area received narrative profiles by direct mail approximately two weeks prior to the election. The remaining precincts were used as control groups, in which citizens did not receive the information by direct mail for purposes of comparison.

Exit polls were conducted at each selected precinct on November 5, 1996, during the hours of 7:00am-9:00am and 4:00pm-6:00pm. The number of responses per precinct was lower than anticipated due to several factors outside the control of the pollsters.

- voters typically waited over one hour to vote and were reluctant to take the time to answer a few questions
- depending on the placement of the 100 foot campaign restriction placed by the precinct captain, pollsters could not get close enough to the exiting voters to solicit participation
- the weather was very cold, influencing the amount of time voters took to participate

Despite these limitations, the responses showed some very promising data. For example, in the counties where information was direct mailed to registered voters, the percentage of voters who indicated they received information was 21.3 percent higher

<sup>1</sup> Judicial Performance Commissions received \$90,000 in Fiscal Year 1996.

<sup>2</sup> Information required to be released to the public no later than 45 days prior to the election.

<sup>3</sup> Arapahoe County Precincts 117 and 301, Clear Creek County Precinct 4, and Elbert County Precinct 9.

than the control precincts who received no direct information. In the direct mailed precincts 40.0 % of those who received information indicated having obtained it through the 1996 Voter Guide or through the mail. This contrasts greatly with the percentage in the control precincts where 13.9 percent recalled receipt of information from these two sources.

This seems to indicate that the direct mail of information had some impact on the voters, but accurate analysis of the data is affected by the size of the sample population<sup>4</sup>. Once the abstracts of votes are received from the Office of the Secretary of State, the staff will review the statistics by precinct to determine if the percentage of voters who voted in judicial retention elections varied from the direct mail versus the control groups. This review entails comparison of the overall voting population who participated in the general election with the number who completed the judicial retention portion of the ballot. The abstract of votes which contains the requisite information is anticipated sometime in mid February.

**Key Exit Poll Results:**

1. Did you receive any information about judges standing for retention on the ballot?

Precinct Name	Yes	No
Elbert & Arapahoe 117 (Control - No Mail)	13.7%	86.3%
Clear Creek & Arapahoe 301 (Direct Mail)	35.0%	65.0%

2. Agreement or Disagreement with "The information influenced how you voted."

Precinct Name	Agree	Disagree	No Opinion
Elbert & Arapahoe 117 (Control - No Mail)	43.1%	9.1%	47.7%
Clear Creek & Arapahoe 301 (Direct Mail)	42.8%	21.4%	35.7%

<sup>4</sup> Number of Responses per precinct (Control Group: Elbert Precinct 9 - 48 responses, Arapahoe Precinct 117 - 26 responses) (Direct Mail Group: Clear Creek Precinct 4 - 20 responses, Arapahoe Precinct 301 - 47 responses)

## 3. Where did you receive the information from?

Precinct Name	Newspaper	TV/Radio	Relative, etc.	Mail	Voter Guide	Other
Elbert & Arapahoe 117 (Control - No Mail)	55.6%	22.2%	8.3%	8.3%	5.6%	0.0%
Clear Creek & Arapahoe 301 (Direct Mail)	40.0%	10.0%	0.0%	10.0%	30.0%	10.0%

## 4. Are you aware that Colorado has an evaluation process for judges?

Precinct Name	Yes	No
Elbert & Arapahoe 117 (Control - No Mail)	48.6%	51.4%
Clear Creek & Arapahoe 301 (Direct Mail)	53.0%	47.0%

**American Judicature Society Study:**

An additional exit poll was conducted by the American Judicature Society of Chicago as part of a 15 month long study which is currently examining judicial retention evaluation programs. The study is being conducted in five states<sup>5</sup> in an effort to examine the impact of retention evaluations on public trust and confidence in the courts. The study hopes to determine whether more people are voting in retention elections, whether those voters are more often voting yes as a result of retention evaluations, and whether voters' attitudes toward the judiciary are more positive as a result of performance evaluations and making the results available to the public. The instrument in the judicature society's polling covered additional areas such as demographics, general attitudes toward the Colorado judicial system, participation in judicial elections, sources and use of voter information, and attitudes toward judicial performance information which were not assessed by the State Commission.

The exit surveys in Colorado were administered at four separate polling sites in the Denver Metropolitan area. A total of 217 surveys were completed. Of those surveyed, only thirty-five percent stated that they received information based upon the commission's

<sup>5</sup> AJS Study includes Alaska, Arizona, Colorado, Tennessee and Utah.

report; sixty-five percent indicated receiving no information. Of those respondents who received information about judges standing for retention in the general election:

82% agreed that the official report on the judge's performance influenced their voting choices.

71% agreed that the official report adds to their confidence in the quality of judicial candidates.

76% stated that they appreciated receiving official reports on the evaluation of judges.

71% said that they are more likely to vote in a judicial election because of the official information made available to them.

75% believed that the availability of official evaluation reports helps make judges in their state more accountable to them.





# APPENDIX - D



recounted.

**Appendix D**  
**STATE COMMISSION ON JUDICIAL PERFORMANCE**  
***Action Plan***

**Phase I (11/96-4/97)**

- Review and submit statutory changes to the Legislature for approval in '97 session (Jan '97)
- Establish a rules and statute committee. Solicit input from district commission members, judges, and attorneys concerning improvements
- Establish a data collection and statistics committee. Review data collection, sample methodology, and statistical summary process
- Establish a training committee. Develop training plans and goals for district commissions
- Review commission member appointments. Submit lists to appointing authorities on projected vacancies for term ending June 1997.
- Complete and submit annual report to General Assembly (Jan '97)

**Phase II (4/97-9/97)**

- Continue working with Legislature for statutory changes
- Prepare and submit rule and procedure changes to Supreme Court for approval (Aug '97)
- Begin data collection, questionnaire mailing and follow-up process
- Develop training schedule and materials
- Complete appointment process
- Develop a strategy to improve dissemination of information
- Establish a budget committee. Prepare plan for FY 99 budget

**Phase III (9/97-2/98)**

- Implement statutory changes
- Implement new rule changes
- Complete data collection
- Complete compilation of questionnaires for statistical summaries
- Submit questionnaire results to commission chairs (Jan '98)
- Begin regional commission member training
- Develop public service announcement

**Phase IV (2/98-9/98)**

- Conduct public information liaison training for district commissions
- Compile statewide narratives for publication
- Disseminate narrative information
- Develop report for the General Assembly concerning the long term benefits of judicial performance commissions (Jan '99)



