



JUDICIAL PLANNING COUNCIL  
COMMITTEE ON JUDICIAL PERFORMANCE

COLORADO JUDICIAL DEPARTMENT  
TWO EAST FOURTEENTH AVENUE, ROOM 215  
DENVER, COLORADO 80203  
(303) 861-1111

MINUTES OF THE FIFTH COMMITTEE MEETING

Friday, October 26, 1979

The fifth meeting of the Committee on Judicial Performance was held on October 26, 1979, from 3:30 to 5:15 P.M. in Room 210, Colorado State Judicial Building, at the address indicated above.

Committee members in attendance were:

Daniel S. Hoffman, Chairman  
J. Robert Allshouse  
Baxter Arnold  
Emily Bocko  
Julian S. Garza, Jr.  
Alex Keller  
Ken Kindelsberger  
Harry O. Lawson  
George Manerbino  
Charles D. Pierce  
Roland Rautenstrauss  
Edith Sherman

The following guest attended at the invitation of the Chairman.

Jeanne Faatz  
State Representative

Staff support for the committee was provided by Keith Stott, Deputy State Court Administrator, Bob Cassidy, Director of Field Services, and Cindi Ackerman, Secretary in the office of the State Court Administrator.

Dan Hoffman, chairman of the committee, called the meeting to order and outlined the program. Some of the legislators who sponsored House Bill 1033 pertaining to a plan for evaluating judicial performance had been invited to appear before the committee to express their concerns and share any evaluative models they had in mind. State Representatives Anne Gorsuch, Steve Durham, and Jeanne Faatz were invited, but Representatives Gorsuch and Durham were unable to attend.

### Preliminary Results of the Survey of Judges

Keith Stott reported on the preliminary results of the judicial survey. Information from the first computer run is very sketchy and should be used by committee members only to prepare for the public meetings. Because of the incompleteness of the information, the material distributed during today's meeting should be destroyed after the public meetings. It will be replaced later with a more definitive report.

About ninety percent of the judges surveyed responded, and all courts were well represented. The open-ended responses produced about fifty to sixty pages of typed material. A content analysis of these written comments will be done and presented at the next meeting, and the complete survey analysis should be done in two to three weeks. The final report will describe total responses and percentages.

### Comments of Representative Faatz

Jeanne Faatz was one of the sponsors of HB 1033 and was invited to the committee meeting to express her thoughts and views on public dissemination of a judicial performance evaluation information.

She mentioned that she had walked her district twice and that she encountered an extreme amount of frustration from her constituents about their perceptions of the performance of judges. There was strong sentiment among some of the people to return the judges to the election process, which is not what she would like to see. But there has to be something better in order to justify keeping it the way it is.

She went on to explain that there just is not enough information when it comes to the retention vote process to make it worthwhile. People don't trust lawyers any more than then trust judges. They want specific information or facts, especially in criminal sentencing area. The general feeling seems to prevail that judges are too lenient. True or not, this is what the people are feeling. They want to know a judge's sentencing record and they want to compare it with those of other judges. Not necessarily so the information can be used to remove a judge, but simply to see what is happening and why. People are also interested in learning about judges' work days - do they get to work on time, take long lunch hours, work five days a week, etc. The key word is the people want accountability and feel they should have it.

In her contacts she asked the people what information they wanted and what they thought was the way to get it. Some stated they would like to see a watchdog committee. Others wanted a lot of different perspectives: police perceptions, League of Women voters thoughts, bar association comments, and views of other judges. They are definitely wanting to see a tabulation

of statistical type information, e.g., conviction, probation, and sentences.

The people are unaware of who to contact, of if there is someone to contact when they are experiencing a problem with a judge. Representative Faatz asked if there is a particular procedure, and will problems really be looked into? Dan Hoffman explained about the Commission on Judicial Tenure Qualifications. Representative Faatz stated that the general public is unaware of this commission, and an explanation of its work should be included in the education process for the public.

One of the questions asked Ms. Faatz was if there was a belief by the people in an independent third branch of government entitled the judiciary and the adversary process. She felt that people do believe in the adversary concept. But in Colorado they have been given the retention vote and no information--the right to express choice but with nothing to make an informed opinion with. The public needs a committee to relate to and put faith in. A small group will not be credible--people want to know about all the different angles of judicial performance. The public is basically looking for the extreme types of judges in order to replace the bad ones, if necessary. Also, there is a definite need for educating the public to the court system, how they work, and why.

One committee member asked what percentage of the people will actually look at evaluative reports. Ms. Faatz responded that there is no way to gauge for certain, but that was not the important issue. Rather, the information should be available when and if its wanted.

The type of committee the public would like also was discussed. Representative Faatz felt that it definitely did not want another bureaucracy. The public is asking for unbiased information from multiple constituencies. She suggested that a possible solution to dissemination of information might be to use a Legislative Council type of report: a non-partisan report giving complete, detailed evaluation information about the full scope of judges performance.

#### Arrangements for Public Meetings

Bob Cassidy distributed handouts to all members showing the type of material used at public meetings. Travel arrangements were discussed. It was decided that the chairman for each committee would handle the introductions and make opening remarks. All panel members should arrive at the meeting locations in time to go over meeting plans before the public arrives.

### Reports on Other Committee Meetings

Keith Stott explained an "issues" outline given to members which listed questions that might be asked of or by the public. It covered five areas related to judicial performance: purpose, criteria, methods, dissemination, and implementation. Another issue likely to come up is the guideline sentencing act.

Committee members might also want to ask people attending the meetings how they feel about dissemination of evaluation results. Do they prefer the Alaska model where a pamphlet is sent to voters, or do they want a New Jersey type model which is more of an in-house approach with the judicial branch reaching out through surveys for additional information about judges. Discussion continued on questions about what happens when uniqueness wears off, the cost involved-- does the ends justify the means, and who should pay for initial cost?

Mr. Stott then gave the committee a summary review of several recent meetings. First, he had met with Richard Hennessey, Chairman of the CBA Subcommittee on Judicial Nominations, who is working on a report that will cover many things involved with judicial selection. This information should be helpful as the pieces begin to fit together in terms of selection process, performance, removal, etc.

Second, Mr. Stott met with Suzanne Lynch, Chief Hearing Officer of the Department of Administration, who is looking to find some method of evaluating hearing officers (the equivalent on the federal level to administrative judges).

He also participated in a meeting with Jim Thomas, State Court Administrator and Blanche Coperthwaite, executive secretary and vice-chairman, respectively, of the Judicial Qualifications Commission. Mrs. Coperthwaite suggested that a joint meeting be set up to give everyone a chance to exchange views in work that might directly affect the Commission.

Finally, Mr. Stott made a presentation to the Denver Bar Association committee looking at nominating and removal procedures. Its approach will be to work closely with the CBA, and, if the Denver Bar Associations' position is not contrary, will follow the Colorado Bar Association's lead.

### Other Business

Dan Hoffman asked if the committee could get Bernard Steinberg, the Judicial Department legal officer, to help study constitutional or legislative impacts when models are proposed. Mr. Stott will work with Mr. Steinberg and Alex Keller on legal issues.

Emily Bocko distributed a personal statement on judicial evaluation and copies of materials the League of Women Voters publish for voters.

Alex Keller suggested that the members meeting the public should be aware of why some judges may appear lenient, which is a result, in part, of the alternatives in Colorado for sentencing. Judges don't like to send young people to Canon City because of the lack of personal safety and the criminal education they receive. Where would we put the 30,000 people on probation if we had to institutionalize them, and who could bear that cost?

### Schedule of Meetings

The chairman pointed out that the work of the committee would now have to accelerate to meet commitments. After discussion the committee agreed to the following schedule of meetings:

November 9

November 23

December 7

December 14

December 21

Dan Hoffman offered to speak to Judge Smith or the Chief Justice if more time is needed in order to produce a quality piece of work.

### Adjournment

The meeting was adjourned at 5:15 P.M.