



JUDICIAL PLANNING COUNCIL
COMMITTEE ON JUDICIAL PERFORMANCE

COLORADO JUDICIAL DEPARTMENT
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MINUTES OF THE NINTH COMMITTEE MEETING

Friday, December 21, 1979

The ninth meeting of the Committee on Judicial Performance was held on December 21, 1979, from 3:30 p.m. to 6:00 p.m. in the Supreme Court Conference Room, at the address indicated above.

Committee members in attendance were:

Daniel S. Hoffman, Chairman
Baxter Arnold
Lewis Babcock
Emily Bocko
Alex Keller
Ken Kindelsberger
Harry Lawson
George Manerbino
Charles Pierce
Edith Sherman
Tony Vollack

Staff support for the committee was provided by Keith Stott, Deputy State Court Administrator.

Welcome and Call to Order

Dan Hoffman, chairman, called the meeting to order and welcomed committee members to this pre-Christmas meeting. He then introduced Bernard Steinberg, legal officer for the Colorado Judicial Department.

Remarks of Bernard Steinberg

Mr. Steinberg had monitored the activities of the Interim Judiciary Committee of the General Assembly which had been meeting since last summer to consider changes that needed to be made in the structure and procedures of Judicial Nominating Commissions. He gave a short history and overview

of the progress of the committee, which met for the last time on December 19-20. The committee has recommended that the Constitution be changed to require senate confirmation of the governor's judicial appointments. If the legislature were not in session, the Senate Judiciary Committee would have approval power. The committee also suggested that the nominating commissions be less secret in their deliberations and that commission members be given training.

Mr. Steinberg reported that the committee had recommended that the authority to make uniform rules for the nominating commissions be placed in the Supreme Court. He also pointed out the potential problem with senate confirmation following the disclosure of the names of the three nominees for a judgeship. Several members of the interim committee will file minority reports as part of the final committee report to the leadership of the legislature (see attached news article).

In the discussion that followed, several committee members opined that the legislature will reject the constitutional amendment as proposed by the interim committee because it goes too far. This was considered unfortunate because there are some changes that would improve the operations and procedures of the nominating commissions.

Committee Discussion of Issues Related to Judicial Performance Evaluation

Following the last meeting, Dan Hoffman and Keith Stott had prepared an outline and "issue papers" for the committee's use in preparing an interim progress report. These materials were discussed in detail during the meeting. A number of changes were suggested in the issue papers and the following outline was approved as a guide for drafting the interim report:

A. Introduction

A discussion of the background and activities of the Committee on Judicial Performance; what we did and who we listened to; an explanation of how the committee sees the quality of judges in this state (on balance, based on committee contact with judges during its deliberations, the judiciary is good and the system is functioning well).

B. Conclusions

1. Evaluation process should be developed in two steps or phases: first, the immediate use of and continued improvement in lawyer surveys coupled with juror surveys; and, second, that the Supreme Court reconvene this committee two

years later to determine if the first phase was successful and to consider whether there ought to be experimentation with other techniques of performance measurement. (The concept of including other constituencies was debated at length. The consensus was that more people should be involved but the methodologies for obtaining and using evaluative data had not been sufficiently developed for other groups to make such a recommendation at this time.)

2. The surveys should be developed by a small commission of the Supreme Court working in cooperation with the Denver Bar Association and other groups that have experience with lawyer surveys.
3. The report should indicate some of the characteristics of judicial performance based on the judicial survey and other research. These characteristics or indicators of performance could be related to the two basic surveys, for example, lawyers could be queried as to the technical ability of a judge, while jurors could be asked about courtroom performance.
4. Surveys should be conducted twice during a judge's term and released once at mid-term and then just before election.
5. Ideally, performance information should be gathered and disseminated through groups functioning at the local (district) level, such as nominating commissions. The administration and distribution of a "profile" based on survey and other information would be the function of these local groups.
6. The report should consider the reasonable cost of evaluation versus the gain expected.

C. Other Considerations

1. The report should discuss the other techniques the committee considered and why they were rejected, for example, the Alaska and New Jersey models.

2. The report should underscore the need for greater public visibility of judicial selection and disciplinary procedures and the importance of helping the public gain a better understanding of how the judicial system works.

Many other concepts and ideas were discussed during the meeting. Some of the ideas were described in the minutes of the last meeting and are not repeated here. Other concepts are included in the draft issue papers that were edited during the meeting. The discussion ended with instructions to the staff to prepare a rough draft of an interim report which will be reviewed by a subcommittee headed by the chairman. The final draft of the interim report would be circulated to the committee before the next meeting.

Schedule of Meetings

No date was set for the next meeting. It will be subject to the call of the chairman; however, it was suggested that committee members hold their calendars open on Friday, January 11.

Adjournment

The meeting adjourned at 6:00 p.m.

Attachment

News article on Interim Judiciary Committee minority reports (Rocky Mountain News, December 28, 1979).