



JUDICIAL PLANNING COUNCIL  
COMMITTEE ON JUDICIAL PERFORMANCE

COLORADO JUDICIAL DEPARTMENT  
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MINUTES OF THE SEVENTH COMMITTEE MEETING

Friday, December 7, 1979

The seventh meeting of the Committee on Judicial Performance was held on December 7, 1979, from 3:30 p.m. to 7:00 p.m. in Conference Room 210, at the address indicated above.

Committee members in attendance were:

Daniel S. Hoffman, Chairman  
Robert Allshouse  
Lewis Babcock  
Emily Bocko  
Julian Garza, Jr.  
Peter Holme  
Alex Keller  
Ken Kindelsberger  
Harry Lawson  
Ed Lehman  
George Manerbino  
Charles Pierce  
Roland Rautenstrauss  
Edith Sherman  
Anthony Vollack

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

Welcome and Call to Order

Dan Hoffman, chairman of the committee, opened the meeting by outlining what the committee should accomplish. Discussion will focus on survey results and major issues to be resolved by the committee. The goal is to establish some assumptions or general principles about performance evaluation and then decide the specifics of "who, how, what, why and when" of evaluation.

### Summary of Public Meetings

Bob Cassidy presented a report on the public meetings. He had reviewed all the tapes of the meetings and compiled a summary of seven common subjects representing a consensus of the meetings. (These were distributed to all committee members in attendance.) The committee read the summary and asked questions. Several committee members suggested that the people at the public meetings were not truly representative of the "public."

The question of who really represents the public interest in judicial performance evaluation provoked an interesting discussion about the criteria for evaluation. The committee has been considering objective or more traditional methods of performance evaluations. It may be, however, that people want to know more about the philosophical approach of judges to the administration of justice. Using philosophy as the criteria for performance would require a completely different approach from what the committee has followed thus far. Further discussion on this issue was deferred by the chairman to later in the meeting. He also reminded the committee that its direct charge was to develop a model or models which would fairly evaluate the performance of judges and to recommend methods for effectively disseminating evaluation information to the public.

### Discussion of Final Survey Results

Keith Stott presented the final survey results of the survey of judges. The survey information provided another perspective on the evaluation of judges. The public meetings were held to get in touch with the feelings and attitudes of the community. The survey was aimed at tapping the opinions of judges and learning about their ideas and concepts about evaluation. Thus, there is limited value to the survey and it should be used by the committee as only one of several sources of information.

The response to the survey was excellent. There was a ninety per cent return rate: 208 judges completed questionnaires. Mr. Stott reviewed tables that had been prepared from the computer printouts of survey data, discussed a few factors related to statistics, and indicated that more detailed research may be done at a later time. He also explained that some of the judicial survey questions were used in the court user survey to be conducted after the first of the year by the Yankelovich, Skelly and White research firm.

The committee discussed various aspects of the survey data. The point was made that there is very little incentive to being evaluated. Perhaps there should be some incentive related to salary. Other comments were made relative to the type of information produced during the survey, requests for more specific information in certain areas will be taken into account in subsequent analyses.

#### Committee Discussion

The chairman suggested that the best way to approach the decision-making aspects of the committee work in today's meeting would be to list a series of assumptions or conclusions about performance evaluation that the committee could agree upon as a result of its experience during the last few months. This approach was agreeable to the committee.

Dean Hoffman then explained that he had met with Judge Smith to discuss the work of the committee. The best approach at this time is to prepare a letter summarizing the work of the committee and present it to the Judicial Planning Council at its meeting on December 12. The letter would outline a plan for concluding the work of the committee. The plan would center around the preparation of an interim progress report which would be circulated to all judges in the state. The interim report would include the tentative conclusions of the committee, but final recommendations would be reserved until comments on the report could be analyzed and all research activities completed by the staff. This approach was accepted by the committee.

The ensuing discussion first centered on the issue of evaluating judges on the basis of legal or political philosophy versus performance evaluation related more objective criteria. The outcome of the lively debate that followed was that personal social or political philosophy should not be the basis of performance evaluation. Some of the points raised during this discussion included:

- The committee has been frustrated in its attempts to learn just what it is that the public wants to know about the performance of judges.
- We may have to use different techniques to evaluate what the public would like to know. Yankelovich study may help in this regard.
- The committee does not have to respond directly to "public" need. As a learned group, it has the responsibility of developing some sound ideas that can be given to the legislature about performance evaluation. We should not be intimidated by the fact

that we do not know exactly what the public wants. We have listened and heard and we should take a strong stand about where we think we should go in this state.

--The committee should not get into the area of judicial philosophy. We should stick to performance and do what is practical and appropriate. After deliberations about methods, we should then consider the best and simplest way to get information to the public.

--Philosophy is too closely related to judicial independence to include it as an item in performance evaluation.

The committee then discussed other aspects of performance evaluation. In order for evaluations to be useful, it may be necessary for the judiciary or a designated group to educate the public and to repeat evaluating findings many times in order to get the message across to the public. The committee was particularly attracted to the idea of keeping the evaluation of judges on the local level, perhaps through the use of local nominating commissions. (This point was reinforced by research findings which suggest that selection and evaluation should be closely linked.) Many other concepts were discussed which led to the following tentative conclusions:

1. Judges being evaluated for retention should not be evaluated on the basis of personal, social or political philosophy.

2. The individuals or groups who have direct and recurring contact with a judge should have a role in evaluation. (This includes police, lawyers, social workers, and others.)

3. Uniform standards should be used but they should be locally administered. (Appellate courts may require a state-level as distinguished from local approach.)

4. There should be an officially designated state-level group to coordinate evaluation methods, summarize findings, and provide guidance to local groups.

5. The evaluation effort should not exceed the use and value of the results. In other words, complex evaluations that produce more information than can be used by the public or judges should be discouraged. And from another point of view, evaluations should be aimed at a more gross or overall evaluation rather than a determination of relative degrees of quality among judges.

6. A two-phase evaluation approach might be useful.' The first phase would be an initial screening to determine basic qualifications, followed by a more detailed examination of judges failing the first phase.

7. The voting public should have relevant information about all the judges, which is regularly and widely disseminated.

8. The evaluation should provide a composite picture of performance: a meaningful profile rather than an ultimate recommendation.

9. Methods of dissemination may vary from place-to-place, e.g. rural and urban areas, depending on local familiarity with judges.

10. Judges should have opportunities to discuss evaluations prior to public dissemination.

The committee discussion continued during and after an informal buffet dinner. The final observation was that the conclusions reached during the meeting were a start on the final list of conclusions, and the discussion and debate would be continued at the meeting scheduled for next week.

#### Meeting Schedule

The next meeting of the committee will be held on Friday, December 14 in the Supreme Court Conference Room.

#### Adjournment

The meeting was adjournment at 6:50 p.m.