

MINUTES
Judicial Performance Evaluation Program
Improvement of the Existing System for Evaluating Trial Judges Subcommittee
Meeting of April 9, 2009

The third meeting of the Subcommittee was held at the Middlesex Judicial District on April 9, 2009 at 2:00 p.m.

Members in attendance:

Hon. Robert B. Shapiro (Co-Chair), Attorney Louis R. Pepe (Co-chair), Hon. Thomas J. Corradino, Attorney Ronald S. Gold, Attorney David R. Jimenez, Attorney Kevin T. Kane, Hon. Christine E. Keller, Attorney Marc J. Kurzman, Hon. Antonio C. Robaina and Attorney Richard Silver

Also Attending: Hon. Patrick Carroll, Attorney Joseph D'Alesio, Attorney Martin Libbin, Hon. Aaron Ment, Hon. Lynda Munro,

Members absent: Attorney Faith Arkin, Attorney James O. Craven, Sen. Andrew W. Roraback

Judge Shapiro called the meeting to order at 2:02 P.M. and noted the hand-outs for the meeting – Memo re Factors Contributing to the Statistical Reliability of Survey Instruments, 1988 Judicial Evaluation Project Report, Minutes of 2-26-09 Meeting of Subcommittee on Evaluating Judges Assigned to High Volume Courts and as Presiding Judges. Judge Shapiro noted that the full committee must meet again and report by early June; if this subcommittee does not complete all agenda items today, will be able to meet one more time.

Agenda Item I. Approval of Minutes of March 3, 2009 Meeting

Minutes of March 3, 2009 were approved.

Agenda Item II. Comments/Observations of Hon. Lynda B. Munro, CAJ, Family

Judge Munro outlined for the subcommittee the responsibilities of judges in the family division and how parties are involved in the proceedings and form opinions about the court. Judge Munro reported that more than half of the family cases have a pro se party, some have an attorney on both sides and many have a custodial person involved in the action. There is also a considerable post-judgment practice and many dynamics for the short calendar judge to follow. There is an emotional piece attached to family cases; not sure of the effect on the judicial evaluation process. Family Relations Officers help negotiate issues and are a valuable resource, however, they have a particular focus. Also, there is a dedicated Bar in family who volunteer an enormous amount of time to pre-try cases. They are a valuable resource; want this to remain intact. Recently, there are

many new lawyers coming to the family court for the first time. In family practice there are unhappy people who don't come out of the process any happier. The judges are on the bench for long amounts of time.

Mention was made of the mentoring program for judges, however, members were of the opinion that inclusion of the mentors in the evaluation process would not encourage the mentoring process. Judge Munro stated that the evaluation process is problematic because we need to know why someone is evaluating the judge – is it for the judge's improvement – if so, would like more information.

Agenda Item III. Further Attempt to Reach Consensus

Item C: Revisions (if any) To Present Juror Questionnaire (Rev. 3/95)

The subcommittee began with discussion of the juror questionnaire. It was noted that there is a better rate of return for the juror questionnaires. Discussion then ensued as to whether there should be a comments section and whether the case should be identified. It was noted that any request for comments would have to be structured carefully so as not to create evidence regarding a case. Members questioned why the questionnaire was revised and whether the current questionnaire was validated. Some members believe comments could generate good information from the public even if there could be some obscure comments. The comments could go to the Presiding Judges to decide how to use them. There should be an objective opinion, however, as to whether the questionnaire is statistically valid. If the comments are used in the reappointment process, the Judicial Branch may have to address this in a different way. There needs to be a review that is meaningful and consistent on a more frequent basis. If the focus is on improvement, then can inform the Judiciary Committee what has been done to resolve the issue. The comments section would have to be drafted to direct the evaluator to provide comments on judicial conduct, not the evidence or the case.

A motion was made and seconded: Have juror questionnaire which contains the case caption and with a comments section re judge's performance or demeanor at trial to include directive that deliberations with jurors not be discussed.

Those in favor: Judge Robaina, Judge Corradino, Atty Kurzman, Atty Gold, Atty Jimenez, Atty Kane, Atty Silver

Those opposed: Judge Shapiro, Judge Keller Abstained: Atty Pepe

A further motion was made and seconded: That the juror questionnaire be evaluated to be sure the questionnaire comports with best practices, including statistical validity, and evaluates the judge's performance and also to assist the judge in improving the judge's performance.

All members present were unanimously in favor of the motion.

It was agreed that Agenda items C 1, 2 and 3 have been addressed.

Subcommittee decided to skip over Agenda Item B 2 at this meeting.

Item D: Distribution of Questionnaires

Members expressed concern with whether the distribution of the questionnaires is the same in all judicial districts. The number of evaluations should not depend on where a judge is sitting. Members also noted that judges should be evaluated on "off-bench" areas, for example, mediations. It was suggested that the internet should be used for distribution and completion of the questionnaires. Keeping in mind best practices, the distribution of the questionnaires should move in the direction of expanding technology,

recognizing that some people will still want the paper version. It was suggested that the clerk could send an email to the attorneys with a link to the questionnaire to be completed. The technology division would assure that anonymity remain and that multiple questionnaires could not be submitted.

Agenda Item V. Next Meeting

Next Meeting is Wednesday, April 29, 2009 at 2:15 PM in Room 607L, Superior Court, One Court Street, Middletown, CT.

Meeting adjourned at 4:00 PM.