

CANDIDATE COVER SHEET FOR KCBA JUDICIAL SCREENING
Information Taken from Washington State Governor's Office
Uniform Judicial Evaluation Questionnaire

NAME: Barbara Mack

Business Address: King County Courthouse

Business Email: _____

Position Sought:

- King County Superior Court
- Washington State Court of Appeals, Div.I
- Washington State Supreme Court

KCBA considers the responses to the following questions on the Washington State Governor's Office's Uniform Judicial Evaluation Questionnaire to be public information, which may be disclosed to persons other than the Judicial Screening Committee and, in the case of judicial elections, will be publicly available:

Position Sought, Name, Business Address, Business email

Professional History: #8, 9, 10, 11, 12, 13, 14, 15,

Educational Background: #16, 17

Professional Experience: #18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32

Community and Civic Activities: #33

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Professional History

8. Year admitted to practice law in Washington: 1986

9. Employment History (in reverse chronological order):

a. Start Date: October, 1986 End Date: currently employed

Organization: King County Prosecutor's Office

Address: 516 Third Ave. W 554 Seattle, WA 98104

Phone No.: 206-296-8987

Position/Title: Senior Deputy Prosecuting Attorney

Supervisor: Mark Larson

Nature of Practice (including frequency of court appearances):

Practice has included prosecution of all kinds of crimes in the Criminal and Fraud divisions. Criminal division work included filing and trying crimes ranging from misdemeanors to aggravated murder. Fraud division work included prosecution of complex civil asset forfeiture cases under the Criminal Profiteering, Money Laundering, and Drug Forfeiture Acts, and working on complex criminal cases. Work included directing case development with detectives and a financial analyst, litigating civil and criminal cases, and writing appeals. While in the Fraud Division I wrote an amicus brief to the U.S. Supreme Court on behalf of all Washington counties on the issue of double jeopardy in asset forfeitures. In both divisions, worked with victims, police, defense counsel, court personnel, psychologists, and medical and other expert witnesses. Since late 2004, have been the prosecutor in King County Drug Diversion Court, which offers defendants a rigorous program of treatment as an alternative to incarceration. All of my work with the prosecutor's office has included frequent court appearances for motions, hearings, and/or trials. I am currently in court 4 days a week. I have also supervised many interns and externs over the years.

Reason for leaving: I am still employed there.

b. Start Date: 1985 End Date: 1986

Organization: King County Prosecutor's Office, Fraud Division

Address: 516 Third Ave. W 554

Phone No.: 206-296-9010

Position/Title: Intern

Supervisor: Patrick Sainsbury (retired)

Nature of Practice (including frequency of court appearances):

Summer and third year law school rule 9 intern. Investigated, filed, and tried misdemeanor cases of unlicensed contracting, computer and telephone fraud, consumer fraud involving mislabeled meat in grocery stores. Appeared in court frequently and completed several jury trials.

Reason for leaving: Graduation from law school, and it was a 1-year position.

c. Start Date: 1986 End Date: _____

Organization: Smith, Brucker, Winn, and Ehlert

Address: firm no longer exists

Phone No.: _____

Position/Title: _____

Supervisor: Palmer Smith (deceased)

Nature of Practice (including frequency of court appearances):

Part-time law clerk while in law school, primarily doing research for a small general practice law firm on family law and other issues.

Reason for leaving: It was a summer position

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d. Start Date: 1980 End Date: 1983

Organization: self-employed

Address: Crowheart, Wyoming and Washington, D.C.

Phone No.: _____

Position/Title: Natural resources policy and planning consultant

Supervisor: Not applicable.

Nature of Practice (including frequency of court appearances):

Freelance consulting for a variety of organizations and institutions, including: U.S. Dept of Interior (water rights litigation), Environmental Policy Center (public lands management policy, strategic minerals, oil and gas development policy); Congressional Office of Technology Assessment (impacts of a submarine-based MX missile system). In 1981 I also co-taught a course at the Institute for Policy Studies in Washington, D.C. on Natural Resources and Social Justice. There were no court appearances since I was not yet a lawyer.

Reason for leaving: Moved to Seattle to attend law school.

e. Start Date: February, 1977 End Date: October, 1979

Organization: U.S. Department of the Interior

Address: Washington, D.C.

Phone No.: _____

Position/Title: Deputy Under Secretary

Supervisor: Secretary of the Interior, Cecil Andrus, 208-336-1986

Nature of Practice (including frequency of court appearances):

Advised the Secretary and Under Secretary on management and policy, and worked on a broad spectrum of issues including energy policy, offshore oil development, water rights conflicts, policies toward the U.S. territories, and Indian resource management. Initiated the first negotiations in the (then) 50 year old history of litigation concerning Pyramid Lake and the Truckee Rive. Coordinated a Presidential Task Force on Policy Toward the U.S. Territories, the first comprehensive interagency examination of U.S. territorial programs and responsibilities. Represented the Department at congressional hearings and as a speaker before diverse organizations, including the Natural Resources Section of the ABA, International Association of Drilling Contractors, the International Association of Petroleum Investment Analysts, and the Urban league of Denver.

Reason for leaving: I had had enough of Washington, D.C., and anticipated a change in administrations. As a political appointee, I would have lost my job in a few months. I chose to move to Wyoming to try new things.

f. Start Date: 1976 End Date: 1977

Organization: California Assembly Committee on Resources, Land Use, and energy

Address: Sacramento, California

Phone No.: _____

Position/Title: Special consultant on coastal and energy issues to Assemblyman Charles Warren, Chairman of the Committee

Supervisor: Assemblyman Charles Warren

Nature of Practice (including frequency of court appearances):

Did research and advised Assemblyman Warren on issues related to coastal zone management and energy issues important to California at that time.

Reason for leaving: Accepted position as Deputy Under Secretary of Interior

Please continue, if necessary, on a separate piece of paper in the above format as needed.

g. Start Date: 1972 End Date: 1977

Organization: Environmental Policy Center

Address: _____

Phone No.: _____

Position/Title: Co-founder, member of board of directors, member of staff

Supervisor: none (executive director was Joe Browder, currently a natural resources consultant in Washington, D.C. (202)546-3720 (o), (202)246-0846(cell).

Nature of Practice (including frequency of court appearances):

EPC was a national environmental organization located in Washington, D.C. that participated in writing legislation, lobbied Congress and the Executive on environmental issues, and organized national grassroots coalitions on specific issues. I was a registered lobbyist in Washington, D.C. and worked there while living in other parts of the country and working also at the state level. I directed EPC's work and research on coastal zone management, offshore oil and gas development, deep water ports, tanker safety, oil spill liability, energy facility siting, and consumer related petroleum issues, including energy pricing and allocation. I was not a lawyer at the time, although I worked closely with members of Congress and the Senate and their staffs on legislation, and testified at many congressional hearings.

Reason for leaving: Was appointed to be Deputy Under Secretary of the U.S. Department of Interior.

h. Start Date: 1972 End Date: 1973

Organization: Harvard University

Address: _____

Phone No.: _____

Position/Title: teaching positions

Supervisor: _____

Nature of Practice (including frequency of court appearances):

1972: teaching assistant with complete responsibility for section on energy issues in a Natural Sciences course on Biology and Social Issues.

1972-1973: J.F.K. Institute of Politics, seminar leader, courses on Energy Policy and Environmental Politics

Reason for leaving: These positions were limited to a semester at a time.

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10. Please list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.
Federal District Court for Western Washington, 2-28-92
United States Supreme Court Bar, winter, 1995
11. Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.
Member of Criminal Law Section of the WSBA, and member of the Executive Board since 2002.
12. Are you in good standing in every bar association of which you are a member? Yes / No. If you answered "no", please explain.
Yes
13. If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. Please state the dates of service for each.
Not applicable.
14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported (and copy of the opinion).
1. Initiating water rights negotiations on the Pyramid Lake water rights dispute, which involved multiple lawsuits and people from the Pyramid Lake Paiute Tribe, water districts, state water rights agencies, and businesses; and making significant progress in the negotiations before I left government.
2. Writing an amicus brief for the U.S. Supreme Court, which involved a significant amount of original research into constitutional issues. *U.S. v. Ursery*, 518 U.S. 267, 116 S.Ct. 2135, 135 L.Ed.2d 549 (1996).
3. Settling a civil forfeiture case that returned nearly \$120,000 to elderly victims of a paving scam (*State v. Casey*).
4. Negotiating a deal (in a difficult political situation) between an Indian tribe and a coal mining company, ending years of the company's economic abuse of the tribe.
5. Litigating issues of first impression in Washington, including *State v. Israel and King*, 113 Wn.App. 243, 54 P.3rd 1218 (2002), review denied by 149 Wn.2d 1013 and 1015, and habeas corpus denied by 2006 WL 384 (W.D. Wash., 2006) (slip opinion); *State v. Vincent Bryant*, 97 Wn.App. 479, 983 P.2d 1181 (1999), review denied by 140 Wn. 2d 1026, 10 P.3d 406 (2000), cert. denied by 531 U.S. 1016, 121 S.Ct. 576, 148 L.Ed.2d 493 (2000).
15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.
1. *State v. Israel and King*, 113 Wn.App. 243, 54 P.3rd 1218 (2002), review denied by 149 Wn.2d 1013 and 1015, and habeas corpus denied at 2006 WL 384 (W.D. Wash., 2006) (slip opinion). This case involved a series of brutal home invasion robberies that occurred along the I-5 corridor from Lewis County to Snohomish County, and money laundering of the proceeds. It was significant because of its legal complexity and issues of first impression, dynamic and thorough advocacy by the defense, and its sheer length. I filed the case in December, 1996, filed an interlocutory appeal of pre-trial rulings in July, 1997 (*State v. Israel*, 91 Wn.App. 486, 963 P.2d 897, review denied by 136 Wn.2d 1029, 972 P.2d 465 (1998)), tried the case in February-March, 1999, went through extensive post-trial motions, and the appeals lasted until 2006.
2. I wrote an amicus brief to the U.S. Supreme Court for *United States v. Ursery*, 518 U.S. 267,

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116 S.Ct. 2135, 135 L.Ed.2d 549 (1996), and, although I did not personally handle the case (which was not a Washington case), I did personally handle the amicus brief on behalf of Washington's 39 counties. The issue was whether civil forfeiture of ill-gotten gains constitutes double jeopardy if the person has been criminally punished. I was able to research Fifth Amendment issues in depth, including going back to original sources from the first congress (for the brief and a law review article at about the same time). In *United States v. Hudson*, 522 U.S. 93, 118 S.Ct. 488, 139 L.Ed.2d 450 (1997) (the next major case on the same issues), the Supreme Court adopted the position suggested in Washington's amicus brief.

3. *State v. Casey* was a civil forfeiture case involving a group of traveling pavers who approached people in rural areas, told them they had a little asphalt left over from a state road job, and asked if they would like their driveways paved. They were paid in advance, and sometimes drove the victims, usually elderly, to the bank for exorbitant payments. The paving was thin, and grass would grow through or it would break down in a week or two. The pavers were from Oklahoma, traveled with their families, and had a lot of money. The effect of this scam on the self-esteem of the victims was remarkable. They were rural people from an era where they still believe they could trust someone's word and a handshake. This case was rewarding because we were able to recover nearly \$120,000 in restitution for the victims. One man, a diabetic nearly 80 years old, came to court from Moses Lake, and testified from his wheel chair. The money he got back allowed him to remain out of institutional care for the rest of his life.

4. King County Drug Diversion Court is not a case, but a multitude of them. Drug court offers an alternative to incarceration for offenders who commit drug or property crimes motivated by addiction. It is significant because drug courts not only reduce crime and save money; they reunite families, teach people who never had a chance how to become productive members of society, lead to the births of clean babies, and save lives. Those in our drug court cross economic, racial, ethnic, and social boundaries. They range in age from 18-65. Some are facing their first felony, and some have been institutionalized most of their adult lives, and face up to 10 years in prison. It is striking to see these people, formerly society's castoffs, re-engage in life and give back. A different model for criminal justice, this is not a traditional advocacy court. The judge, prosecutor, defense attorney, and treatment staff work as a team. This requires different skills than traditional prosecution.

5. *State v. Fountain* was an aggravated murder case with horrendous facts. I was extremely concerned about the effects of this case on jurors. This murder was committed in front of the victim's 3 year old daughter, and reinforced the horrendous effects violence has on children. It was also significant for me because I learned a lot about dealing with expert witnesses.

6. *State v. Bryant*, 65 Wn.App. 428, 828 P.2d 1121 (1992) was also a homicide that occurred in front of a 3 year old child, in this case the granddaughter of the victim, who was murdered by her husband. This case signified all the worst things about domestic violence and family cycles that are hard to break. The 3 year old's mother (daughter of the victim) was 15. The 3 year old had seen a lot of violence, on TV and elsewhere. During a long afternoon she watched her grandfather beat her grandmother to death. This child will be scarred for life by what she saw that day.

7. Although I cannot cite one case more than others, the child sexual abuse cases I prosecuted were significant for many reasons. The legal issues are different from other cases, and dealing with children is a unique and wildly varying experience. It was disheartening to see the extent of dysfunction in families, and the ways adults use children, both as victims of abuse and as pawns (e.g. in custody battles). It was also clear that these cases provoke deep feelings on both sides, including between attorneys.

8. *State v. Chapman* was a district court case I tried when I was an intern. It involved an unscrupulous contractor who bilked an 80 year old man of his entire life's savings (\$48,000). It was the first case I had with a vulnerable elderly victim, and showed me that the judicial system cannot solve every problem. Although the contractor was convicted, because the state contractor licensing program only required, at that time, a \$4,000 bond, restitution was limited to that amount.

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Educational Background

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

<u>Connecticut College</u>	<u>September, 1966–January, 1967</u>	
College/University	Dates of Attendance	Degree
Left to return home because my mother had cancer		
<u>University of Cincinnati</u>	<u>March, 1967–June, 1968</u>	
College/University	Dates of Attendance	Degree
Went back to school in New England a year and a half after the death of my mother.		
<u>Boston University</u>	<u>September, 1968–June, 1970</u>	<u>B.A. in History</u>

17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

<u>University of Washington</u>	<u>September, 1983–June, 1986</u>	<u>J.D.</u>
Law School	Dates of Attendance	Degree
_____	_____	_____
Law School	Dates of Attendance	Degree

Professional Experience

18. Please summarize, briefly, the general nature of your current law practice.

I am currently a prosecutor in King County Drug Diversion Court, a treatment court for defendants charged with felony drug and property crimes that are motivated by addiction. I appear in court for hearings almost every day, downtown or in Kent, and participate in daily and more intense once-a-week staffings on the progress of drug court clients. I also review all requests for transfer to drug court and make a determination as to eligibility, file cases, transfer cases to and from other counties, write motions to terminate from drug court for those who are not compliant, do stipulated trials for those who are terminated, work on policy issues with the judge, defense counsel and administrative staff, and work with the police and case managers.

19. If you are in practice, please describe your typical clients and any areas of special emphasis within your practice.

See 18 above.

20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.

As discussed in 9(a) above, I have done a wide variety of work in the Criminal and Fraud divisions of the prosecutor's office, ranging from misdemeanors to aggravated murders, civil asset forfeitures, and prosecution of complex criminal cases. My practice has included working with and directing investigators, filing and trying cases, trials, and writing and arguing appeals.

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21. Within the last 5 years, did you appear in trial court:

- Regularly Occasionally Infrequently

22. Within the last 5 years, did you prepare appellate briefs and appear before appellate courts:

- Regularly Occasionally Infrequently

23. Within the last five years, how often did you appear in the court for which you are applying:

- Regularly Occasionally Infrequently

24. Career Experience

(a) What percentage of your appearances in the last five years was in:

(1)	Federal appellate courts	<u>0</u> %
(2)	Federal trial courts	<u>0</u> %
(3)	State appellate courts	<u>2</u> %
(4)	State trial courts	<u>98</u> %
(5)	Municipal courts	<u>0</u> %
(6)	District courts	<u>0</u> %
(7)	Administrative tribunals	<u>0</u> %
(8)	Tribal courts	<u>0</u> %
(9)	Other	<u>0</u> %
	TOTAL	100%

(b) What percentage of your practice in the last five years was:

(1)	Civil litigation (excl. family law)	<u>0</u> %
(2)	Criminal litigation	<u>100</u> %
(3)	Family law litigation	<u>0</u> %
(4)	Non-litigation	<u>0</u> %
	TOTAL	100%

(c) What percentage of your trials in the last five years were:

(1)	Jury trials	<u>0</u> %
(2)	Non-jury trials	<u>100</u> %
	TOTAL	100%

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25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

My involvement in water rights negotiations before I became a lawyer was an invaluable experience. I worked with people with immense institutional (State of Nevada), historical (Pyramid Lake Paiute Tribe), personal (water users, including fishermen, farmers, businesses), and financial interests (all of the above) in the outcome. I was able to work with all those interests, as well as scientists and economists in moving forward a process that had been stalemated in litigation for decades. A slightly different situation existed with respect to negotiations over coal leases on a large Indian reservation, where the coal companies and tribe were both hostile to the Department's position that the tribe should get a better deal. The Department of Interior was in a difficult and interesting position because of its legal fiduciary duty to the tribe. Both of these negotiations were difficult, fascinating, and educational. Although I was not a lawyer when I directed these efforts, I worked closely with the Interior Department's solicitor, and with lawyers on all sides. I also believe my extensive non-profit volunteer work gives me a greater understanding of the challenges so many of our citizens face. These challenges include hunger among the homeless and the working poor, and the terrible cycles of abuse and neglect that many children and adults, men and women, face on a daily basis.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

Not applicable.

27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

I have served on the steering committee of the criminal law section of the Washington State Bar Association since 2002. In that capacity I co-chaired the Criminal Justice Institute for 2 years (2003, 2004), and briefly served, in 2006, as one of the section liaisons to the criminal rules subcommittee of the WSBA rules committee.

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed/elected and are seeking a judicial position.

I deeply believe in our system of justice. I believe I have the dedication, demeanor, and legal ability to be an effective judge. As a result of my varied career I have worked with people from all walks of life. That experience has enabled me to understand and work well with people. I have seen prejudice in my own life, and I have seen injustices that sometimes occur in the court system. I understand the law, and I think I am fair. As a judge I would be able more effectively to promote justice and improve the judicial system.

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29. In 50 words or less, please describe your judicial philosophy.
A trial court's judicial philosophy must be to apply the law, be fair and promote justice. This includes treating all parties and attorneys with respect, ensuring that parties understand the court's rulings and know they have had an opportunity to be heard, being sensitive to the important role and difficulties of being a juror, having a thorough understanding of the issues before the court, and having an appropriate judicial demeanor.

30. Have you ever held a judicial office or have you ever been a candidate for such office?
Yes / No. If you answered "yes", please provide details, including the courts involved, whether elected or appointed, and the periods of your service.

No.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? Yes / No. If you answered "yes", please provide details, including the offices involved, whether elected or appointed, and the length of your service.
I was appointed Deputy Under Secretary of Interior as described in 9(e) above, and held the office for approximately 3 years.

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

None.

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Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.

1. Children's Trust Foundation, member of the board 2001 to present; chair of the board from September, 2006 to present. Children's Trust is an organization dedicated to preventing child abuse and neglect by providing at-risk families with the knowledge, skills, and encouragement they need to bond with, nurture, and raise healthy children. We accomplish this by funding programs at neighborhood-based family support centers.

2. Lawyers Helping Hungry Children, member of the board, 1994 - 2000; chair of the board, July, 1997 - October, 1999. I began the yearly annual fund-raising breakfast, and organized and directed it for several years.
