

**Washington Summit on Judicial Selection and Judicial Independence
November 11, 2005**

Summary: Statewide Evaluation Systems

#1. Should Washington adopt a program for systematic evaluations of judicial performance?

Consensus: Nearly every participant favored such a program. Such programs would improve information to voters. The information may be seen as more objective and credible than candidates' statements in the voters' pamphlet. It could also elevate the exposure of good judges and candidates who may be less visible due to campaign financing issues. Programs must be systematic and consistent over time and across the state. They should distinguish between trial and appellate courts. Participants favored government funding of a citizens' group, including both lawyers and laypersons. It should avoid "popularity contests" and eschew recommending candidates to voters. A two-tier system was suggested; one involving lawyers who provide confidential feedback to the judge, the second asking parties, jurors and lawyers to evaluate.

There was also consensus that this type of program **should be combined with two other reforms**, 1) voter education methods to deliver the judicial evaluation results; and 2) resolving the problem of infusions of special interest money into judicial campaigns which could drown out judicial evaluation information.

Concerns: The program must be objective and offer constructive feedback, and should be disseminated broadly and appropriately. Any recommendations regarding judicial candidates should clearly identify the groups making them, so biases are obvious. Confidence in the judiciary is not the same as ideological alignment with judges' views, a point to emphasize in voter education programs.

Methods: Attributes of a successful program: high levels of participation; speedy, valid responses from those with recent experience of the judge; a good set of criteria; and public trust and confidence. Some participants identified scientific validity, reliability, and consistency. Attributes to be evaluated: courtroom management, efficiency, demeanor, impartiality (equal and consistent treatment of litigants and attorneys), and character and integrity.

Barriers: It can be difficult to measure such key attributes as humility and courage, or judicial philosophy without getting into ideology. Other challenges include assuring uniformity and objectivity; getting information to the public; overcoming voter apathy; surmounting judicial hostility; not having political baggage added by government funders; tailoring criteria to the level of court under discussion; and devising a parallel assessment system for judicial challengers; funding, especially given reduced appropriations for the courts; timing vis-à-vis the election cycle; any perception of judgment calls being made by a government-funded commission. Another challenge would be to provide apples-to-apples comparisons, given 1) More judges focusing on particular subject areas (e.g. drug and family courts); 2) Judges coming from jurisdictions of differing sizes where data about judges may vary; and 3) Variations in response rates to questionnaires about candidates.

2: Should an evaluation program be aimed at self-improvement, voter education, or both?

Consensus: The great majority of participants thought that the judicial evaluation program should be aimed at both self-improvement and voter education. Program criteria would need to differ for the two different purposes and might have to be tailored to particular courts and

jurisdictions. Voters will need guidance to know what to look for – decorum as well as substance is important.

3: How would a state-wide Judicial Evaluation Program integrate into the existing array of existing local and specialized Judicial Evaluation Programs?

Consensus: Workshop participants have experience serving on a variety of existing Judicial Evaluation Programs, be they sponsored by a local or specialty bar association, a “special interest” group, or an editorial board. Would, or should, a state-wide Judicial Evaluation Program voice be heard above this existing chorus if a statewide evaluation program did not replace them? The current array of existing evaluation programs can be a burden on candidates, especially on those running for state-wide or regional seats. General consensus for pursuing the prospect of reducing that burden, if existing evaluation programs are not replaced by a statewide program, by:(1) various evaluating entities agreeing on a common questionnaire; and (2) joint interviews involving more than one evaluating group.

Concern: Would the interests of minority groups be lost in a statewide Judicial Evaluation Program. Some participants suggested it might be valuable to find a way (perhaps through a web page containing links) to collect the results of specialty judicial evaluation programs.