

STATE OF MINNESOTA
IN SUPREME COURT

C3-90-2360

In re Pilot Program on
Judicial Evaluation

ORDER

WHEREAS, the Minnesota State Bar Association has petitioned this Court to establish a pilot program on judicial evaluation, and

WHEREAS, the Court believes it is in the best interests of the judicial system to implement the proposed pilot program (Attachment 1) to measure judicial performance,

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The following persons are appointed as members of the Evaluation Committee for the Pilot Program on Judicial Evaluation:

Hon. Lawrence R. Yetka
Minnesota Supreme Court
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Hon. Marianne Short
Minnesota Court of Appeals
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Hon. James Morrow
Tenth Judicial District
Anoka County Courthouse
Anoka, MN 55303

Hon. Ann Montgomery
Fourth Judicial District
12-C Government Center
Minneapolis, MN 55487

Hon. Kathleen Gearin
Second Judicial District
1539 Ramsey County Courthouse
St. Paul, MN 55102

Hon. Timothy Baland
Seventh Judicial District
Wadena County Courthouse
Wadena, MN 56482

Peter Sipkins
2200 First Bank Place East
Minneapolis, MN 55402

Joan Bettenburg
190 Midtown Commons
2334 University Avenue
St. Paul, MN 55114

DePaul Willette
P.O. Box 148
Olivia, MN 56277

Janie Mayeron
3300 Piper Jaffrey Tower
Minneapolis, MN 55402

Thomas H. Swain
1775 Lexington Avenue
Unit #19
Lilydale, MN 55118

Clarence Harris
Abbott Northwestern Hospital
800 E.28th St. at Chicago Avenue
Minneapolis, MN 55407

Kathleen Ridder
1744 Dodd Road
Mendota Heights, MN 55118

2. Justice Lawrence R. Yetka is appointed Chair of the Committee and Judge Marianne Short is appointed Vice-Chair.
3. The Evaluation Committee shall submit its final report to this Court on or before July 1, 1992 and such interim progress reports as it deems necessary.

DATED: November 5, 1990

BY THE COURT:

**OFFICE OF
APPELLATE COURTS**

NOV 5 - 1990

FILED


Peter S. Popovich
Chief Justice

MINNESOTA STATE BAR ASSOCIATION

Proposed Pilot Program to Improve Individual Judicial Performance

PURPOSE: A pilot program to improve individual judicial performance.

GOALS: After the completion of the pilot program, a review of the procedures, methodology and statistical summary of the data shall be conducted by the Supreme Court Committee as defined below. The Supreme Court Committee shall make findings and a recommendation to the Supreme Court regarding:

1. Whether to implement a permanent program to periodically review each of the state's trial and appellate court judges;
2. Whether to structure and support a judicial training program from information received from the above review.

**PROGRAM
RESPONSIBILITY:**

The pilot program shall be administered by a committee of thirteen persons appointed by the Supreme Court known as the Supreme Court Committee (SCC). The SCC shall consist of two Appellate Judges (one from each Appellate Court), four District Court Judges, four attorneys recommended by the Minnesota State Bar Association and three members of the public with expertise in personnel management, business administration, communication, or related fields.

The SCC shall develop, organize, and provide the questionnaires, criteria, standards, materials, and personnel necessary to carry out the project.

The pilot program shall consist of two separate methodologies, each involving seven judges ("subject judges") selected at random. (All references to the "subject judge" shall include any justice being evaluated in the pilot program.) The first, Method A, shall involve on-site review. The second, Method B, shall not involve on-site review. Both A and B shall involve a review by a Resource Judge chosen from a list of highly respected, well-qualified judges selected by the SCC.

METHOD A: Review Panel

For Method A, a Review Panel shall be selected consisting of 1) a judge or retired judge selected by the SCC and 2) a person skilled in communication appointed by the SCC.

The Review Panel shall be responsible for the dissemination of evaluation forms, collection and summary of data, on-site evaluation, and a summary conference.

Data Gathering

1. Questionnaires (for examples, see attachments) shall be completed by:
 - a. The subject judge for self-evaluation;
 - b. Lawyers appearing before the subject judge during the year immediately preceding the review;
 - c. Jurors involved in completed trials before the subject judge in the year immediately preceding the review.

All questionnaires shall be submitted anonymously to the Review Panel.

2. On-site evaluation: The individuals of the Review Panel shall observe the subject judge in the courtroom on at least two separate occasions. The appearances shall be unannounced.
3. The questionnaires and Review Panel's comment sheets involving the on-site evaluation shall be furnished to the subject judge.

METHOD B:

Data Gathering

1. Questionnaires (for examples, see attachments) shall be completed by:
 - a. The subject judge for self-evaluation;
 - b. Lawyers appearing before the subject judge during the year immediately preceding the review.
 - c. Jurors involved in completed trials before the subject judge in the year immediately preceding the review.
2. All questionnaires shall be submitted anonymously first to the Resource Judge and then to the subject judge.

SUMMARY CONFERENCE:

1. **Method A**
A summary conference shall be held to review the evaluation data and the on-site evaluation. The conference shall be limited to the subject judge and the members of the Review Panel. The conferees shall identify three areas of performance targeted for improvement.
2. **Method B**
A summary conference shall be held between the subject judge and the Resource Judge to review the evaluation data. The conferees shall identify three areas of performance targeted for improvement.

PREPARATION OF REPORT AFTER SUMMARY CONFERENCE:

1. After the summary conference is completed, each Review Panel member, each Resource Judge and each subject judge shall anonymously prepare a report to the SCC.

2. The report to be filed with the SCC shall summarize the lessons learned from participation in the pilot program. In addition, this written report shall contain recommendations to the SCC on:
 - a. Whether a permanent program of judicial performance improvement should be implemented;
 - b. What specific program features should be included or excluded from a permanent program; and
 - c. Whether areas of perceived need for judicial performance improvement can be addressed by continuing judicial education program offerings.

CONFIDENTIALITY: All of the information collected during, and all reports prepared as a part of, the pilot program **shall be confidential** and shall not be publicly disclosed or subject to discovery in any proceeding other than the summary conference as described above.

Confidentiality shall be assured by changing the Rules of the Supreme Court, the Code of Judicial Conduct, the Rules of Professional Conduct, and by using the Rules of Public Access to Records of the Judicial Branch. Changes to the Rules and Codes shall include provisions for appropriate, defined sanctions. In addition, violation of confidentiality by an SCC member shall automatically result in removal from that committee.

Reports by the subject judge, the Resource Judge or the Review Panel to the SCC shall be anonymous and shall not identify any of the involved parties. Upon submission by the SCC of its report to the Supreme Court, each of the reports received by the SCC from the various pilot program participants shall be destroyed.

After the summary conference, the report and a statistical summary of the data collected shall be prepared without identifying any of the participants, whereupon, all of the other materials shall be destroyed. No person involved in the process shall retain any of the questionnaires or other program materials, nor shall these persons discuss or reveal any information relating to individual participants in the program.

FUNDING: Foundation funding should be explored for the pilot project.

SCOPE: The pilot program will include at least six District Court and one appellate court judge or justice for each of the two methodologies proposed above. An effort will be made so that the District Court participants are divided equally - two metropolitan, two suburban, and two out-state - for participation in each pilot program.