

C3-90-2360

**PILOT PROGRAM TO IMPROVE INDIVIDUAL JUDICIAL
PERFORMANCE**

A Report Prepared by Supreme Court Committee on Judicial Evaluation

February 1, 1993

Hon. Esther Tomljanovich, Chair
Hon. Marianne Short, Vice Chair

Hon. Timothy Baland
Joan Bettenburg
Hon. Kathleen Gearin
Janie Mayeron
Hon. Ann Montgomery
Hon. James Morrow
Kathleen Ridder
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Thomas Swain
DePaul Willette

Staff:
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OFFICE OF
APPELLATE COURTS

FEB 1 - 1993

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INTRODUCTION

In 1988, several committees of the Minnesota State Bar Association (MSBA) discussed ways to evaluate individual judicial performance. The Judicial Administration Committee proposed a pilot program for a confidential evaluation; the Civil Litigation Section proposed a program which would disclose evaluation data. Neither proposal received unanimous support. In February of 1990 the plan proposed by the Judicial Administration Committee was approved by the MSBA.

Pursuant to MSBA's motion and receipt of adequate funding, the Minnesota Supreme Court issued an order approving a pilot program for confidential evaluation of judges. A copy of that Order is attached. See Exhibit A. Funding for this project was provided by the following organizations:

Minnesota State Bar Association	\$ 6,666
Minnesota State Bar Association Foundation	6,666
Academy of Certified Trial Lawyers	4,000
Minnesota District Judges' Association	1,500
Minnesota Trial Lawyers Association	1,000
Minnesota Defense Lawyers Association	<u>1,000</u>
	\$20,832

The program was administered by a committee of thirteen persons appointed by the Supreme Court. The committee consisted of two appellate judges, four district court judges, four attorneys recommended by MSBA, and three members of the public with expertise in personnel management, business administration,

communication and related fields. Three highly respected retired judges (Douglas Amdahl, Robert Bowen and Harold Schultz) agreed to serve as resource judges. Two communications experts helped the committee identify verbal and nonverbal behaviors that could be listed on a data collection form and assisted the resource judges in preparing for the on-site visits.

DESCRIPTION OF PROGRAM

Fourteen judges (two appellate judges and twelve district court judges) were selected at random for participation in the program. Judges new to the bench and those within three years of retirement were excluded from the pool. An effort was made to ensure geographic and gender diversity. The committee received a general abstract of the selections; names, counties and other significant details that would aid identification were not provided.

Two separate evaluation methodologies were used in the pilot program. Under the first method, which was utilized for all pilot program judges, judicial performance was evaluated by means of a written, confidential questionnaire. Jurors and attorneys were asked to complete questionnaires on trial judges; only attorneys completed questionnaires on appellate judges. Under the second method of evaluation, which was used for six of the twelve trial judges, judicial performance was also evaluated by having a resource judge personally observe a judge "in action," during a normal work day. All pilot program judges discussed the evaluation results with a resource judge. All questionnaires were submitted anonymously.

The data generated in this pilot program are confidential. All returned questionnaires and data compilation have been destroyed.

EVALUATION INSTRUMENTS

The attorney questionnaire (Exhibit B) combined scaled categories (ranking the judge on a five-point scale) and open-ended, written responses. The survey instrument was broken into five parts: (a) background information on the responding attorney; (b) assessment of the judge's legal abilities; (c) evaluation of the judge's case management skills; (d) impression of the judge's demeanor; and (e) narrative comments on the judge's main strengths, weaknesses, and suggestions for judicial improvement. The attorney questionnaires were mailed to over 2,000 attorneys who had appeared before the subject judges in the past twelve months. There were approximately 175 attorneys surveyed per subject judge. The response rate was high (84 percent). Scaled data were compiled by raw totals and percentages; written comments were typed by administrative staff. Attorneys were assured that no identifying data would be presented to the subject judges.

The jury questionnaire (Exhibit C) also combined scaled categories and open-ended responses. That instrument inquired about: (a) the judge's demeanor; and (b) the judge's strengths and weaknesses. The jury questionnaire was complete by 292 jurors.

During on-site visits, the resource judges were asked to complete an evaluation instrument (Exhibit D) on the verbal and nonverbal competencies of the

subject judge. Prior to the on-site visit, communication consultants met with the resource judges to discuss the instrument. Following the on-site visits, the resource judges submitted written reports to and met with the committee.

All three evaluation instruments were pre-tested, and revised by the committee. At the conclusion of the pilot program, all subject judges were given the opportunity in person or by telephone to comment upon the evaluation process and the merits of the pilot program.

FINDINGS

1. Confidential attorney questionnaires are a valuable resource to judges in evaluating judicial performance. Attorney responses affirm strengths and identify weaknesses.

2. The mix of scaled-category and open-ended questions used in the attorney questionnaires proved to be an effective survey format. A high percentage of questionnaires were completed, and the responses were helpful to the subject judges.

3. The person-to-person review of questionnaire results by a resource judge with the subject judge is an important component of the evaluation process because the resource judge is able to: (a) assist the subject judge in defining areas where conduct or practices can be improved; and (b) provide support and encourage a positive reaction to constructive criticism.

4. Responses to attorney questionnaires provide a valuable source of

information from which decisions regarding education and training programs can be made to enhance judicial performance.

5. The juror questionnaire proved to be minimally useful because juror responses proved uniformly positive.

6. The on-site visits were of limited value because: (a) there were unavoidable changes in trial schedule; (b) the evaluation instrument was cumbersome; and (c) the resource judge was easily recognized by the subject judge. This produced a less than ideal evaluation setting.

7. Confidentiality was maintained by staff and committee members.

8. It was the sense of the committee that most of the subject judges were concerned about their participation in the pilot program. This concern was alleviated by the assured confidentiality of the results.

9. Ten of the twelve pilot program trial judges and both of the appellate judges had a positive reaction to the evaluation process and found the results helpful.

RECOMMENDATIONS

1. A judge should be evaluated periodically. We recommend at least once every three or four years.

2. The Supreme Court should establish a permanent program of judicial evaluation to enhance judicial performance at the trial and appellate levels. Such a program should follow the pilot program model, but eliminate the use of juror

surveys and on-site visits. Discussions with resource judges were useful and should be included in a permanent program, if adequate funding exists.

3. The Supreme Court should promulgate rules governing the evaluation program that insure confidentiality and prohibit disclosure of results by anyone.

[The committee wishes to note that five members (Mayeron, Montgomery, Short, Sipkins and Swain) voted against this recommendation and supported the following recommendation:

While the initial success of this individual judicial performance evaluation program hinged on confidentiality, we recommend the Supreme Court monitor the issue in view of the public's need for information on judicial performance.

Kathleen Ridder was unable to attend the last meeting, when the vote was taken. With the committee divided 5-5, Justice Tomljanovich cast the deciding vote for recommendation 3.]

4. Educational programs and appropriate training seminars should be undertaken to help improve judicial performance in areas where a need for improvement has been demonstrated.

CONCLUSION

Judges are committed to improving their performance. Attorneys are willing to provide confidential information that is valuable to the evaluation process. Review of evaluation data by a resource judge is helpful and supportive to the subject judge. The evaluation methodologies used in this pilot program maintained

confidentiality, while encouraging frank discussion of individual judicial performance. Twelve of the fourteen evaluated judges were generally positive about the process and their experiences. Periodic evaluation of individual judges will enhance judicial performance.

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.

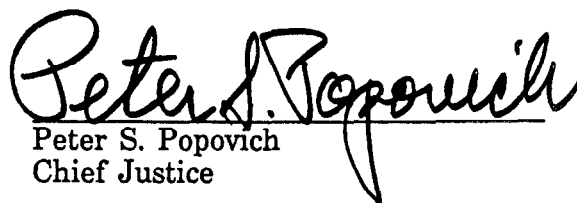
DATED: November 5, 1990

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.

Attorney Questionnaire

Judicial Performance Evaluation

Minnesota State
Trial Courts

This survey is being done to evaluate the judge and assist in improving judicial performance. Please answer all questions. Your written comments, particularly, will be helpful in helping the judge assess and improve his/her performance. If you wish to comment on the clarity of any questions or qualify any of your answers, please feel free to use the space in the margins. Please **do not** mention the judge by name in your comments or give any other information which would specifically identify the judge. The name of the judge you are asked to evaluate is contained in the accompanying cover letter.

Your responses will be held in strict confidence. Your name does not and will never appear on the questionnaire; the questionnaire contains an ID number which will enable the research staff to follow-up on unreturned questionnaires, and to identify the judge being evaluated.

When completed, please return the questionnaire as soon as possible in the enclosed envelope or to:

Research & Planning
State Court Administration
25 Constitution Ave., Suite 120
St. Paul, MN 55155

If you have any questions or comments regarding the questionnaire or the pilot project, please contact Wayne Kobbervig at the above address or at (612) 297-7580.

Part A - Length and Type of Your Experience

(NOTE: This information will be used for statistical analysis purposes only. Individual characteristics will not be associated with particular responses.)

1. In what year were you first admitted to practice law (in any state): _____

2. In what year were you born: _____

3. What is your gender?

- 1 MALE
- 2 FEMALE

4. In what area(s) do you regularly practice? (Circle all that apply.)

- 1 GENERAL PRACTICE
- 2 CIVIL PLAINTIFF
- 3 CIVIL DEFENDANT
- 4 CRIMINAL PROSECUTION
- 5 CRIMINAL DEFENSE
- 6 FAMILY
- 7 PROBATE
- 8 JUVENILE
- 9 OTHER (please specify) _____

5. What percentage of your practice is litigation? _____ %

6. During the past year, approximately how often have you appeared in *any district court courtroom* in Minnesota?

- 1 NEVER
- 2 LESS THAN ONCE A MONTH
- 3 ONCE OR TWICE A MONTH
- 4 WEEKLY
- 5 DAILY

If NEVER, it is not necessary to complete the remainder of the questionnaire. Please return it in the enclosed envelope. Thank you for your help.

7. During the past year, approximately how often have you appeared before this judge in any judicial proceeding in district court? (Note: the name of the judge is on the accompanying cover letter.)

- 1 NEVER
- 2 LESS THAN ONCE A MONTH
- 3 ONCE OR TWICE A MONTH
- 4 WEEKLY
- 5 DAILY

If NEVER, it is not necessary to complete the remainder of the questionnaire. Please return it in the enclosed envelope. Thank you for your help.

8. During the past year, how extensive is your courtroom experience before this judge?

a. Number of hearings on motions

- 1 NONE
- 2 1
- 3 2 - 5
- 4 MORE THAN 5

b. Number of cases tried before the court

- 1 NONE
- 2 1
- 3 2 - 5
- 4 MORE THAN 5

c. Number of cases tried by jury

- 1 NONE
- 2 1
- 3 2 - 5
- 4 MORE THAN 5

9. Based on your own experience, what is your overall impression of this judge?

Part B - Judicial Legal Ability

This section deals with legal competence, learning and understanding, and the application of such knowledge in the conduct of court proceedings. Please assess the judge's performance in each of the listed areas. Please circle only one response for each question.

	More Than		Less Than		Poor	Don't Know/ No Opinion/ Not Applicable
	Excellent	Adequate	Adequate	Adequate		
10. Knowledge and application of relevant substantive law.	1	2	3	4	5	9
11. Knowledge and application of rules of procedure.	1	2	3	4	5	9
12. Knowledge and application of rules of evidence.	1	2	3	4	5	9
13. Giving reasons for evidentiary rulings when needed.	1	2	3	4	5	9
14. Ability to identify and analyze relevant issues.	1	2	3	4	5	9
15. Clarity of explanation of evidentiary rulings.	1	2	3	4	5	9
16. Clarity of judge's decisions (oral and written).	1	2	3	4	5	9
17. Completeness of judge's decisions (oral and written).	1	2	3	4	5	9
18. Procedure used in developing jury instructions.	1	2	3	4	5	9

Comments

19. Please use this space to elaborate on your previous responses regarding aspects of this judge's legal abilities, particularly if you have marked "Less than Adequate" or "Poor" on any of the items above.

Part C - Judicial Management Skills

This section deals with judicial ability and skill in the organization, management and handling of court proceedings. Please assess the judge's performance in each of the listed areas. Please circle only one response for each question.

Evaluation of Case Management Skills

	Always	Often	Sometimes	Rarely	Never	Don't Know/ No Opinion/ Not Applicable
20. Moves proceedings in an appropriately expeditious manner.	1	2	3	4	5	9
21. Is <u>not</u> punctual.	1	2	3	4	5	9
22. Does the necessary "homework" on cases.	1	2	3	4	5	9
23. Renders evidentiary rulings during trial without unnecessary delay.	1	2	3	4	5	9
24. Fails to issue timely decisions.	1	2	3	4	5	9
25. Complies with the 90-day rule on decisions.	1	2	3	4	5	9
26. Follows a time schedule.	1	2	3	4	5	9
27. Fails to give reasons for delays.	1	2	3	4	5	9
28. Schedules cases appropriately to minimize wasting time of participants.	1	2	3	4	5	9
29. Makes inappropriate scheduling demands on counsel.	1	2	3	4	5	9

Comments

30. If you have indicated areas in which the judge needs to improve, please use this space to elaborate on your thoughts.

Evaluation of Judicial Skills

	More Than		Less Than		Poor	Don't Know/ No Opinion/ Not Applicable
	Excellent	Adequate	Adequate	Adequate		
31. Effectiveness in narrowing the issues in dispute.	1	2	3	4	5	9
32. Maintaining appropriate control over proceedings.	1	2	3	4	5	9
33. Creativity in resolving problems arising during proceedings.	1	2	3	4	5	9
34. Appropriateness of <i>ex parte</i> contacts.	1	2	3	4	5	9
35. Fairness in sentencing practices.	1	2	3	4	5	9
36. Appropriateness of the judge's decisions to initiate settlement discussions.	1	2	3	4	5	9
37. Skill and effectiveness in handling settlement conferences.	1	2	3	4	5	9

Comments

38. Please use this space to elaborate on your previous responses regarding aspects of this judge's judicial management skills, particularly if you have marked "Less than Adequate" or "Poor" on any of the items above.

Part D - Judicial Demeanor

This section deals with various aspects of the judge's attitudes and behavior toward all of the people in the courtroom - including counsel, parties, witnesses, jurors and courtroom staff - in the conduct of court and chambers proceedings. Please assess the judge's performance in each of the listed areas. Please circle only one response for each question.

	Always	Often	Sometimes	Rarely	Never	Don't Know/ No Opinion/ Not Applicable
39. Is attentive during proceedings.	1	2	3	4	5	9
40. Is courteous.	1	2	3	4	5	9
41. Is closed minded.	1	2	3	4	5	9
42. Is patient.	1	2	3	4	5	9
43. Is arrogant.	1	2	3	4	5	9
44. Is decisive.	1	2	3	4	5	9
45. Is hard working.	1	2	3	4	5	9
46. Shows bias or prejudice toward participants based on race, sex, ethnicity, religion, social class, or other factor.	1	2	3	4	5	9

(If you have observed any instances of bias or prejudice, please describe below in #47).

Comments

47. If you have indicated areas in which the judge needs to improve, please use this space to elaborate on your thoughts.

		More Than		Less Than			Don't Know/ No Opinion/ Not Applicable
	Excellent	Adequate	Adequate	Adequate	Poor		
48. Even-handed treatment of parties, jurors, witnesses, and lawyers.	1	2	3	4	5		9
49. Fostering a general sense of fairness.	1	2	3	4	5		9
50. Maintaining a professional manner on the bench.	1	2	3	4	5		9
51. Communications with jurors so they understand trial procedures and events.	1	2	3	4	5		9
52. Consideration of, and responsiveness to, needs of jurors (e.g., adequate breaks, daily trial schedule).	1	2	3	4	5		9

Comments

53. Please use this space to elaborate on your previous responses regarding aspects of this judge's judicial demeanor, particularly if you have marked "Less than Adequate" or "Poor" on any of the items above.

Part E - Summary

54. In your opinion, what are this judge's major strengths?

55. In your opinion, what are this judge's major weaknesses?

56. In your opinion, how could this judge improve?

57. Other comments.

Your contribution to this effort is very greatly appreciated. Please return the survey in the envelope provided. Thank you.

Attorney Questionnaire

Judicial Performance Evaluation

Minnesota Court of Appeals

This survey is being done to evaluate the judge and assist in improving judicial performance. Please answer all questions. Your written comments, particularly, will be helpful in helping the judge assess and improve his/her performance. If you wish to comment on the clarity of any questions or qualify any of your answers, please feel free to use the space in the margins. Please **do not** mention the judge by name in your comments or give any other information which would specifically identify the judge. The name of the judge you are asked to evaluate is contained in the accompanying cover letter.

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When completed, please return the questionnaire as soon as possible in the enclosed envelope or to:

**Research & Planning
State Court Administration
25 Constitution Ave., Suite 120
St. Paul, MN 55155**

If you have any questions or comments regarding the questionnaire or the pilot project, please contact Wayne Kobbervig at the above address or at (612) 297-7580.

Part A - Length and Type of Your Experience

(NOTE: This information will be used for statistical analysis purposes only.)

1. In what year were you first admitted to practice law (in any state): _____

2. In what year were you born: _____

3. What is your gender?


- 1 MALE
- 2 FEMALE

4. In what area(s) do you regularly practice? (Circle all that apply.)

- 1 GENERAL PRACTICE
- 2 CIVIL PLAINTIFF
- 3 CIVIL DEFENDANT
- 4 CRIMINAL PROSECUTION
- 5 CRIMINAL DEFENSE
- 6 FAMILY
- 7 PROBATE
- 8 JUVENILE
- 9 OTHER (please specify) _____

5. What percentage of your practice is litigation? _____ %

6. During the past year, approximately how many cases have you filed (or responded to) with the court of appeals in Minnesota?

_____ 

If NONE, it is not necessary to complete the remainder of the questionnaire. Please return it in the enclosed envelope. Thank you for your help.

7. During the past year, approximately how many times have you argued orally before this judge or submitted a non-oral case to a panel including this judge? (Note: the name of the judge is on the accompanying cover letter.)

_____ 

If NONE, it is not necessary to complete the remainder of the questionnaire. Please return it in the enclosed envelope. Thank you for your help.

In regard to these cases:

a. In how many cases did the judge author the majority opinion? _____

b. In how many cases did the judge author a dissenting opinion? _____

c. In how many cases did the judge author a concurring opinion? _____

d. In how many cases was the judge on the panel, but did not author any part of the opinion?

Part B - Evaluation

Please assess the judge's performance and abilities in each of the listed areas. Please circle only one response for each question.

		More Than		Less Than			Don't Know/ No Opinion/ Not Applicable
	Excellent	Adequate	Adequate	Adequate	Poor		
8. Knowledge of substantive law, rules of procedure, and rules of evidence.	1	2	3	4	5	9	
9. Awareness of recent legal developments.	1	2	3	4	5	9	
10. Comprehension of significance and implication of judicial precedents.	1	2	3	4	5	9	
11. Ability to identify and analyze factual and legal issues.	1	2	3	4	5	9	
12. Quality and clarity of written opinions.	1	2	3	4	5	9	
13. Demeanor, as evidenced by behavior from bench or in written opinions, towards:							
a. Litigants.	1	2	3	4	5	9	
b. Trial court judges.	1	2	3	4	5	9	
c. Fellow appellate judges.	1	2	3	4	5	9	
d. Lawyers.	1	2	3	4	5	9	
14. Absence of bias and prejudice based on race, sex, ethnicity, religion, social class, or other factor. (If you answer "Less than adequate" or "Poor", please explain below in #15).	1	2	3	4	5	9	
15. Please use this space to elaborate on your previous responses regarding aspects of this judge's performance, particularly if you have marked "Less than Adequate" or "Poor" on any of the items above.							

Please answer the following questions based on your impressions of the judge's legal ability, case management ability and demeanor.

16. What, in your opinion, are this judge's strengths?

17. What, in your opinion, are this judge's weaknesses?

18. In your opinion, how could this judge improve?

19. Other comments (procedure, timeliness of decision, etc.).

Your contribution to this effort is very greatly appreciated. Please return the survey in the envelope provided. Thank you.

Attorney Questionnaire

Judicial Performance Evaluation

**Minnesota
Supreme Court**

This survey is being done to evaluate the justice and assist in improving judicial performance. Please answer all questions. Your written comments, particularly, will be helpful in helping the justice assess and improve his/her performance. If you wish to comment on the clarity of any questions or qualify any of your answers, please feel free to use the space in the margins. Please **do not** mention the justice by name in your comments or give any other information which would specifically identify the justice. The name of the justice you are asked to evaluate is contained in the accompanying cover letter.

Your responses will be held in strict confidence. Your name does not and will never appear on the questionnaire; the questionnaire contains an ID number which will enable the research staff to follow-up on unreturned questionnaires, and to identify the justice being evaluated.

When completed, please return the questionnaire as soon as possible in the enclosed envelope or to:

**Research & Planning
State Court Administration
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St. Paul, MN 55155**

If you have any questions or comments regarding the questionnaire or the pilot project, please contact Wayne Kobbervig at the above address or at (612) 297-7580.

Part A - Length and Type of Your Experience

(NOTE: This information will be used for statistical analysis purposes only.)

1. In what year were you first admitted to practice law (in any state): _____

2. In what year were you born: _____

3. What is your gender?

- 1 MALE
- 2 FEMALE

4. In what area(s) do you regularly practice? (Circle all that apply.)

- 1 GENERAL PRACTICE
- 2 CIVIL PLAINTIFF
- 3 CIVIL DEFENDANT
- 4 CRIMINAL PROSECUTION
- 5 CRIMINAL DEFENSE
- 6 FAMILY
- 7 PROBATE
- 8 JUVENILE
- 9 OTHER (please specify) _____

5. What percentage of your practice is litigation? _____ %

6. During the past year, approximately how many cases have you filed (or responded to) with the supreme court in Minnesota?

_____ 

If NONE, it is not necessary to complete the remainder of the questionnaire. Please return it in the enclosed envelope. Thank you for your help.

7. During the past year, approximately how many times have you argued orally before this justice? (Note: the name of the justice is on the accompanying cover letter.)

_____ 

If NONE, it is not necessary to complete the remainder of the questionnaire. Please return it in the enclosed envelope. Thank you for your help.

In regard to these cases:

a. In how many cases did the justice author the majority opinion? _____

b. In how many cases did the justice author a dissenting opinion? _____

c. In how many cases did the justice author a concurring opinion? _____

Part B - Evaluation

Please assess the justice's performance and abilities in each of the listed areas. Please circle only one response for each question.

	More Than		Less Than		Poor	Don't Know/ No Opinion/ Not Applicable
	Excellent	Adequate	Adequate	Adequate		
8. Knowledge of substantive law, rules of procedure and rules of evidence.	1	2	3	4	5	9
9. Awareness of recent legal developments.	1	2	3	4	5	9
10. Comprehension of significance and implication of judicial precedents.	1	2	3	4	5	9
11. Ability to identify and analyze factual and legal issues.	1	2	3	4	5	9
12. Quality and clarity of written opinions.	1	2	3	4	5	9
13. Demeanor, as evidenced by behavior from bench or in written opinions, towards:						
a. Litigants.	1	2	3	4	5	9
b. Trial court judges.	1	2	3	4	5	9
c. Court of appeals judges.	1	2	3	4	5	9
d. Fellow justices.	1	2	3	4	5	9
e. Lawyers.	1	2	3	4	5	9
14. Absence of bias and prejudice based on race, sex, ethnicity, religion, social class, or other factor. (If you answer "Less than adequate" or "Poor", please explain below in #15).	1	2	3	4	5	9
15. Please use this space to elaborate on your previous responses regarding aspects of this justice's performance, particularly if you have marked "Less than Adequate" or "Poor" on any of the items above.						

Please answer the following questions based on your impressions of the justice's legal ability, case management ability and demeanor.

16. What, in your opinion, are this justice's strengths?

17. What, in your opinion, are this justice's weaknesses?

18. In your opinion, how could this justice improve?

19. Other comments (procedure, timeliness of decision, etc.).



Your contribution to this effort is very greatly appreciated. Please return the survey in the envelope provided. Thank you.

Juror Questionnaire

Judicial Performance Evaluation

**Minnesota State
Trial Courts**

This survey is being done to evaluate the judge and assist in improving judicial performance. Please answer all questions. Your written comments, particularly, will be helpful in helping the judge assess and improve his/her performance. If you wish to comment on the clarity of any questions or qualify any of your answers, please feel free to use the space in the margins. Please **do not** mention the judge by name in your comments or give any other information which would specifically identify the judge.

Your responses will be held in strict confidence. Your name does not and will never appear on the questionnaire; the questionnaire contains an ID number which will enable the research staff to identify the judge being evaluated.

When completed, please return the questionnaire as directed for forwarding to the research office.

If you have any questions or comments regarding the questionnaire or the pilot project, please contact Wayne Kobbervig at the address below.

**Research & Planning
State Court Administration
25 Constitution Ave., Suite 120
St. Paul, MN 55155**

Instructions for Administering
Juror Questionnaires

1. The questionnaires should be administered by the jury foreperson.
2. Following the completion of all deliberations, assemble the jury in the jury room. Neither the judge nor any administrative staff should be present.
3. Read the following instructions to the jury members:

"You are being asked to participate in a project which seeks to evaluate the judge's behavior and performance as a judge. As a juror, your opinions are important in helping the judge assess and improve his or her own performance. Your participation is entirely voluntary, however. You may choose not to participate in the study, without fear of any penalty whatsoever.

If you do choose to participate in the study, your responses will be strictly confidential. Neither the judge, nor anyone else, will be able to match the responses with your name or with this case.

In addition to your opinions about the judge, the research staff is also interested in what you think about the questionnaire itself. Were any questions unclear? Were there other questions which should be asked? Please write down any comments you have about any errors or omissions you find in the questions.

When you are finished, return the questionnaires to me. I will place them in an envelope, seal the envelope and put it in the mail to the research office. No one at the courthouse here will review the questionnaires."

4. Hand out the questionnaires, and have extra pencils or pens available for jurors who need them.
5. After the questionnaires are completed, collect them, place them in the return envelope and mail to the research office at the following address.

Research & Planning
State Court Administration
25 Constitution Ave., Suite 120
St. Paul, MN 55155

If any problems are encountered, please write a note to include with the package or call Wayne Kobbervig at (612) 297-7580.

Evaluation of Judicial Performance

Please evaluate the judge's performance on each of the criteria listed below. Please circle the appropriate response.

	Consistentl y	Occasionall y	Never	No Opinion
1. Followed a time schedule.	1	2	3	9
2. Gave reasons for delays.	1	2	3	9
3. Was fair.	1	2	3	9
4. Paid attention.	1	2	3	9
5. Was patient.	1	2	3	9
6. Was arrogant.	1	2	3	9
7. Was courteous.	1	2	3	9
8. Showed respect.	1	2	3	9
9. Showed bias against participants because of race, sex, ethnicity, religion, social class, or other factor.	1	2	3	9
(If you observed any instances of bias, please describe below in #12).				
10. Communicated clearly with the jury about trial procedures and events.	1	2	3	9
11. Were the judge's instructions to the jury, given at the conclusion of testimony, clear enough so that the jury knew how to proceed in deciding the case?				
	1			
	YES			
	2			
	NO (If NO, please explain.)			
12. Please use this space to elaborate on your responses to the above questions, particularly if you think there are areas in which the judge needs to improve.				

Please answer the following questions based on your impressions of the judge's behavior in the courtroom.

13. What, in your opinion, are this judge's strengths?

14. What, in your opinion, are this judge's weaknesses?

15. How could this judge improve, in your opinion?

16. Other comments. (Use back side of this page if necessary).

Your contribution to this effort is very greatly appreciated. Please return the survey in the envelope provided. Thank you.

COMMUNICATION CODING FORM

Judge _____ Date _____ Coder _____	High Volume <input type="checkbox"/> Jury Trial <input type="checkbox"/> Describe _____
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SECTION I. VERBAL AND NONVERBAL COMPETENCIES

VERBAL COMPETENCIES

- A. Effective**
1. Clear, concise messages
 2. Language suitable to audience
 3. Bias-free language
 4. Organized, logical reasoning
 5. Familiarity with content or material
- B. Ineffective**
1. Unclear, convoluted messages
 2. Language inappropriate to audience
 3. Biased language or opinions
 4. Non-sequential, random reasoning
 5. Uninformed or unprepared

NONVERBAL COMPETENCIES

- C. Effective**
1. Distinct speech at right speed and volume
 2. Interrupts appropriately
 3. Appropriate listening behaviors
 4. Expresses appropriate emotions
 5. Adherence to time parameters
 6. Attentive posture and facial expressions
- D. Ineffective**
1. Speech too loud/soft, fast/slow; not distinct
 2. Inappropriate interruptions
 3. Non-listening behaviors
 4. Inappropriate emotions
 5. Poor use of time
 6. Inattentiveness or disinterest

EXHIBIT D

SECTION II. BEHAVIOR EXAMPLES

Subject under discussion	Receiver of Communication	Code	Duration	Comments

Judge _____ Date _____ Coder _____

SECTION III. SUMMARY

COURTROOM CONTROL AND MANAGEMENT

	<i>Disagree</i>	<i>Strongly Disagree</i>	<i>Don't Know</i>	<i>Agree</i>	<i>Strongly Agree</i>
1. Keeps people quiet who are not the speaker	1	2	3	4	5
2. Demands that all people in courtroom are treated with respect	1	2	3	4	5
3. Communicates game plan or schedule initially	1	2	3	4	5
4. Asks jury regularly if they are able to hear/understand	1	2	3	4	5
5. Ensures that people in courtroom can see	1	2	3	4	5
6. Ensures that courtroom equipment is present and working	1	2	3	4	5
7. Doesn't let events happen without permission	1	2	3	4	5
8. Doesn't let lawyers argue objections	1	2	3	4	5
9. Applies rules of decorum	1	2	3	4	5
10. Explains delays as they occur to appropriate people					

SUMMARY COMMENTS: (Refer to specific recorded examples to support overall strengths and areas for improvement.)

Overall Strengths:

Areas for Improvement: