



# KANSAS COMMISSION ON JUDICIAL PERFORMANCE

GLORIA FARHA FLENTJE, Chair, Wichita  
SARA S. BEEZLEY, Girard  
A. DALE CHAFFIN, Mission  
PROF. JAMES CONCANNON, Topeka  
HON. MICHAEL CORRIGAN, Wichita  
MARTHA GARCIA, Wichita  
RICHARD F. HAYSE, Topeka  
REP. KASHA KELLEY, Arkansas City  
HON. LARRY McCLAIN, Overland Park  
DR. TERRY SANDLIN, Topeka  
MARY LOU WARREN, Great Bend  
CHARLES E. WORDEN, Norton

Kansas Judicial Center  
301 S.W. Tenth Street, Suite 140  
Topeka, Kansas 66612-1507

CHRISTY MOLZEN  
Program Director

Telephone (785) 296-8949  
Facsimile (785) 296-1035

kcjp@kcjp.ks.gov  
www.kansasjudicialperformance.org

## TESTIMONY OF RICHARD F. HAYSE BEFORE THE KANSAS HOUSE APPROPRIATIONS COMMITTEE IN OPPOSITION TO HB 2396 MARCH 29, 2011

My name is Richard F. Hayse. I am an attorney in private practice in Topeka. For the first four years of the Kansas Commission on Judicial Performance I was Chair of the Commission. The current chair of the Commission, Gloria Flentje, is out of the state today and unable to appear before you.

I appear in opposition to HB 2396 because the Kansas Commission on Judicial Performance provides valuable services to the judiciary, voters and citizens of the State of Kansas. The attached memorandum describes the program and its value to Kansas judges, voters, and citizens generally. A quick summary of the main points follows:

- The Commission evaluates all of the appellate and trial judges in Kansas by surveying both attorneys and non-attorneys about the judges' performance. The Commission attempts to specifically target survey respondents who have actually been in a judge's courtroom or have personal experience with that judge.
- For appointed judges, the Commission makes a recommendation to voters about whether those judges should be retained in office. Kansas voters have found the information valuable in making decisions about whether to retain judges in office, as evidenced by website hits and reduced voter falloff in judicial elections.
- Kansas judges have responded favorably to the program, indicating that it helps them to improve their performance. A recent survey of appointed judges showed that all of the appellate judges and more than half of the trial judges who responded believe that the evaluation process has been beneficial to their professional development and has allowed them to improve their job performance.

Appropriations Committee  
Date March 29, 2011  
Attachment 3

- The Commission is funded by docket fees, not state general fund money. The work of the Commission is paid for by those who use the courts, not Kansas taxpayers generally.
- Over half the states either have officially sanctioned judicial performance evaluation programs or are in the process of developing such programs. The national trend is definitely toward the use of such programs.

Kansas took a giant step forward when the judicial performance program was adopted by the Legislature in 2006. Since then, considerable time and effort has been expended by Commission members and staff to establish, obtain and disseminate the evaluations. I believe it is fair to say the program is a success, despite its critics. To abolish the program now would be a most regrettable step backward. I urge you not to favorably report HB 2396.

Appropriations Committee

Date March 29, 2011

Attachment 3-2



# KANSAS COMMISSION ON JUDICIAL PERFORMANCE

GLORIA FARHA FLENTJE, Chair, Wichita  
SARA S. BEEZLEY, Girard  
A. DALE CHAFFIN, Mission  
PROF. JAMES CONCANNON, Topeka  
HON. MICHAEL CORRIGAN, Wichita  
MARTHA GARCIA, Wichita  
RICHARD F. HAYSE, Topeka  
REP. KASHA KELLEY, Arkansas City  
HON. LARRY McCLAIN, Overland Park  
DR. TERRY SANDLIN, Topeka  
MARY LOU WARREN, Great Bend  
CHARLES E. WORDEN, Norton

Kansas Judicial Center  
301 S.W. Tenth Street, Suite 140  
Topeka, Kansas 66612-1507

CHRISTY MOLZEN  
Program Director

Telephone (785) 296-8949  
Facsimile (785) 296-1035

kcjp@kcjp.ks.gov  
www.kansasjudicialperformance.org

## MEMORANDUM

**TO: House Appropriations Committee**

**FROM: Kansas Commission on Judicial Performance**

**DATE: March 29, 2011**

**RE: Background Information About the Kansas Commission on Judicial Performance**

### The Kansas Judicial Performance Evaluation Program

The Kansas Commission on Judicial Performance was created by the Kansas Legislature in 2006 to establish a program of judicial performance evaluations for all Kansas appellate and trial judges. The Commission's evaluations are provided to the judges and justices for self-improvement. In addition, for appointed judges and justices who are subject to retention elections, the Commission's evaluations are disseminated to the public to help voters make informed decisions about whether to continue those judges and justices in office. Over the last four years, the Commission has completed and publicly disseminated evaluations for all of the appointed judges and justices in Kansas. The Commission has also completed either interim or full evaluations for all elected judges.

The Commission's evaluations are based almost entirely on surveys of people who have appeared in a judge or justice's courtroom or who have sufficient experience with the judge or justice to form an opinion about their performance. Survey respondents include attorneys, other judges and non-attorneys such as jurors, litigants, witnesses, law enforcement personnel and court staff. The surveys ask respondents to evaluate the judge or justice on his or her legal ability, integrity, impartiality, communication skills, professionalism, temperament and

administrative performance. In addition to the survey responses, the Commission considers the judge or justice's self-evaluation, any disciplinary actions, and may also rely on any other information that assists in the evaluation of the judge or justice, such as information from courtroom observation.

The judicial evaluation program is funded by docket fees, rather than state general fund revenue, so that evaluations are funded by the persons who are actually using the court system.

### **Standard for Retention Recommendation**

Under its current rules, the Commission must recommend retention for any appointed judge or justice who receives an overall average score of 2.0 from each category of respondent surveyed unless other information reveals a serious deficiency in meeting judicial performance standards. If a judge's scores are above 2.0, but other information reveals a serious deficiency in meeting one or more judicial performance standards or there are a number of comments regarding the judge that the Commission is concerned about, the Commission has asked the judge for a meeting to discuss the evaluation and comments with the judge with the intent of assisting the judge's efforts to self-improve his or her performance.

### **Additional Background Information**

A great deal of additional detail about the Kansas program appears on the Commission's website at [www.kansasjudicialperformance.org](http://www.kansasjudicialperformance.org), including the Commission's statutes, rules, and questionnaires along with a complete narrative description of how the Commission performs its statutory duties. Also, biographical information about the Commissioners, Commission meeting schedules, frequently asked questions, and the Commission's archived evaluation reports are on the website.

The end product of the Commission's evaluation of judges is the narrative profile, the evaluation report and the Commission's retention recommendations, which also appear on the Commission's website. I have attached a copy of a narrative profile and an excerpt from the evaluation report of Judge Jeff Jack of Labette County at pages 6-10. I chose to provide this example because some of you may have known Judge Jack when he served in the legislature prior to his appointment to the district court bench.

### **Judicial Performance Programs in Other States**

Kansas is not alone in conducting a judicial performance evaluation program. Currently, 19 states (AK, AZ, CO, CT, FL, HI, ID, IL, KS, MA, MO, NH, NJ, NM, RI, TN, UT, VT, and VA) plus the District of Columbia and Puerto Rico have officially sanctioned judicial performance evaluation programs. Seven additional states (IN, MD, NV, NY, NC, and WA) are developing programs, and 11 states (CA, GA, KY, ME, NE, OH, PA, SC, TX, WV, and WY) do not have formal judicial performance evaluation programs but have evaluations that are conducted independently by state or local bar associations.

### Value of the Program to the Judiciary

One of the Commission's statutory goals is to "improve the judicial performance of individual judges and justices and thereby improve the judiciary as a whole." K.S.A. 20-3203(a). Judicial performance evaluations permit a judge to see how he or she has performed against predetermined benchmarks, relative to his or her peers on the court and to identify areas of strength and weakness. Evaluations also improve judicial performance by providing constructive criticism that would not be available to the judge in any other way. This is especially true for interpersonal issues such as treatment of people in the courtroom. Evaluations also allow the judge to receive positive feedback about his or her performance, which a lawyer or litigant might otherwise withhold for fear it will be interpreted as an improper attempt to gain favor from the judge. Judges have commented positively on the feedback they received and have acknowledged that, without the feedback, which was only possible through formal, anonymous evaluations, they would not have received the information that led to their self-improvement. In addition, identification of weaknesses through the evaluation process allows judicial training and education programs to be tailored to focus specifically on those issues.

The Commission recently surveyed all of the appointed judges in Kansas to assess their perceptions about the evaluation process and to seek suggestions about whether there are areas of needed improvement. The results of the survey were positive, and a copy is attached at the end of this memorandum. All of the appellate judges and more than half of the trial judges who responded to the survey stated that the evaluation process has been beneficial to their professional development and has allowed them to improve their job performance.

### Value of the Program to Kansas Voters

Another statutory goal of the Commission is, "where judges and justices are subject to retention elections, to disseminate the results from the judicial performance evaluation process to enable voters to make informed decisions about continuing judges and justices in office." K.S.A. 20-3203(b).

The Commission has worked to make judicial performance evaluations for the judges and justices standing for retention election widely available by posting them on the Commission's website, and publicizing them in radio spots, advertisements in and press releases to newspapers across the state, advertisements on other organizations' websites and in local bar associations' magazines and newsletters, and informational brochures placed in courthouses and libraries statewide.

The Commission's website received a large number of hits in the run-up to the 2010 elections. During the time period from August 3, 2010, to November 3, 2010, the website received 43,639 visits; 254,361 page views; and 954,992 hits. (A visit occurs when an individual comes to the website; page views refer to the number of pages viewed during a visit; and hits refers to the number of resources, such as images and text, requested during a visit.)

A number of voters have contacted the Commission to express their appreciation for the existence of the program. Typically, these voters have said that for the first time ever they have

felt comfortable that they know enough about the judges to cast an intelligent vote in the judicial retention elections.

In addition to producing more informed voters, judicial performance evaluation programs can also increase the number of voters. Multiple studies have shown that, when voters have more information about a judicial candidate, they are more likely to vote in a judicial election. In contrast, when information about judges is lacking, voters are less likely to vote on judicial retention, and when they do vote, they are more prone to base their decisions on factors such as ethnicity, gender, name recognition, length of time on the bench, or no rationale whatsoever.

Although it is difficult to measure how much impact the Commission has made on Kansas voters, one measure of that impact is the decrease in voter falloff in judicial elections. Dr. Richard Heil, former Chair of the Political Science Department at Fort Hays State University and member of the Commission, prepared a paper titled "Report on Voter Falloff in 2008 Judicial Elections."

Dr. Heil analyzed the effect the Commission's recommendations and reports had on voter falloff in the 2008 judicial elections. Voter falloff for the purpose of Dr. Heil's report is defined as the difference in the number of voters who voted for the top office on the ballot (in 2008 this was President) and who voted in judicial retention elections. Dr. Heil's report found a definite decrease in the percentage of voter falloff in 2008. He concluded by stating:

"However, the data is analyzed, what is clear is that the election of 2008 saw more voters expressing opinions on retention of judges in Kansas than in the previous decade. While it is not possible to prove that the reason for this improvement was the existence of the Kansas Commission on Judicial Performance I know of no other factors that would explain the fact that more voters than would be expected, based upon previous electoral behavior, did vote on judicial retention questions in 2008. If forty-some thousand Kansans benefited from the information provided by the Kansas Commission on Judicial Performance and cast a more informed vote, then one of the goals of the Commission has been accomplished."

In 2011, former Executive Director of the Commission Randy M. Hearrell prepared an updated version of Dr. Heil's paper analyzing voter falloff in the 2010 judicial elections. Just as in 2008, there was again a decrease in the percentage of voter falloff in 2010. Although a number of factors could have contributed to the decrease in voter falloff, Mr. Hearrell concluded that the Commission's efforts to publicize judicial performance evaluations in both 2008 and 2010 may have had some cumulative effect.

### Value of the Program to the Citizens of Kansas

The Commission's last statutory goal is "to protect judicial independence while promoting public accountability of the judiciary." K.S.A. 20-3203(c). Judicial performance evaluation programs promote accountability and independence by measuring process rather than

outcome. In other words, judicial performance evaluation programs focus on a judge's competence and impartiality rather than specific decisions a judge has made. By setting objective measurable standards for judges, it makes it easier for the public to identify the qualities that make a good judge and makes it easier to distinguish between judges whose performance is outstanding and those whose performance needs improvement. The characteristics measured by judicial performance evaluations are usually impartiality, temperament, knowledge of law, fair application of the law and efficiency. Widely disseminated information about the performance of judges from a non-partisan, objective source can enhance judicial independence by educating the public about the qualities that make a good judge and help protect a judge from the effects of an unfair attack.

### Conclusion

The Kansas judicial performance evaluation program plays an essential role in providing judges with useful feedback and informing voters about judges' performance. It promotes judicial accountability and provides transparency into the judicial process. The Commission on Judicial Performance respectfully requests that the Legislature continue to provide funding via docket fees so that the Commission may carry on this important work.

## Kansas Commission on Judicial Performance



Honorable Jeffrey L. Jack

2008 Review

District: 11

County: Labette

The Kansas Commission on Judicial Performance recommends that Judge Jeffrey L. Jack BE RETAINED.

Judge Jack took the bench as District Judge in the 11th Judicial District in 2005. He handles a mixed docket of civil, criminal, juvenile and other cases in Labette County. A graduate of Harvard University and the University of Kansas School of Law, Judge Jack spent 16 years in the private practice of law before his appointment to the bench. He was also a Kansas State Representative from 2003 to 2005 and is a retired Major with the US Army Reserve/Kansas Army National Guard serving from 1984 to 2004.

Judge Jack was named State of Kansas Big Brother of the Year in 2008. He serves on a number of boards including the Labette County Big Brothers/Big Sisters Board of Directors, the Labette Correctional Conservation Camps Advisory Board, the Labette Community College Criminal Justice Advisory Board, the Juvenile Corrections Advisory Board, and the Labette County Law Library Board of Trustees.

Judge Jack lists compassion, integrity, intellectual ability, empathy and common sense as his greatest strengths. He recognizes that he could improve docket management and timeliness of written opinions. His professional goals are to improve his time management and his written opinions.

The Commission received survey responses from 21 attorneys and 138 non-attorneys. Survey results showed that 95% of the attorneys and 81% of the non-attorneys recommended that Judge Jack be retained in office. Judge Jack received an overall average score from attorneys of 3.47 on a 4.0 scale and an overall average score from non-attorneys of 3.20. Judge Jack's scores exceed the required minimum average grade of 2.0 from each category of respondents. The Commission recommends that he BE RETAINED.

View the complete Judicial Performance Report for the Honorable Jeffrey L. Jack in PDF format.

Appropriations Committee

Date March 29, 2011

Attachment 3-8



## Survey of Attorneys Regarding Trial Judges

<b>Judge Jeffrey L. Jack</b> Sample Size = 21							Average	
	A	B	C	D	Fail	DK/NA	Jeffrey L. Jack	All Trial Judges

<b>1. Performance Grade:</b>								
1a. Overall performance as a judge.	57%	24%	5%	5%	0%	10%	3.5	3.3

<b>2. Legal Ability:</b>								
2a. Bases decisions on the relevant evidence.	43%	29%	5%	5%	0%	19%	3.4	3.4
2b. Has knowledge of rules of procedure.	48%	29%	5%	5%	0%	14%	3.4	3.5
2c. Follows legal precedent in decisions.	48%	24%	5%	5%	0%	19%	3.4	3.4
2d. Uses judicial discretion to reach a fair decision.	43%	24%	10%	0%	0%	24%	3.4	3.4
<b>Overall Legal Ability</b>							3.4	3.4

<b>3. Integrity:</b>								
3a. Conducts court free from impropriety or appearance of impropriety.	71%	14%	5%	0%	0%	10%	3.7	3.6
3b. Does not engage in inappropriate ex parte communications.	67%	10%	10%	0%	0%	14%	3.7	3.7
<b>Overall Integrity</b>							3.7	3.6

<b>4. Impartiality:</b>								
4a. Does not prejudge the outcome of cases.	62%	24%	5%	0%	0%	10%	3.6	3.3
4b. Treats pro se parties fairly.	24%	14%	5%	0%	0%	57%	3.4	3.6
4c. Makes decisions and rulings without regard to the identity of the parties.	57%	14%	14%	0%	0%	14%	3.5	3.4
4d. Makes decisions and rulings without regard to the identity of counsel.	57%	24%	5%	0%	0%	14%	3.6	3.4
4e. Treats attorneys equally regardless of sex or race.	67%	14%	5%	0%	0%	14%	3.7	3.7
<b>Overall Impartiality</b>							3.6	3.5

<b>5. Communication Skills:</b>								
5a. Makes sure participants understand the proceedings.	57%	19%	10%	0%	0%	14%	3.6	3.5
5b. Issues clear and logical oral communication while in court.	67%	14%	10%	0%	0%	10%	3.6	3.4
5c. Provides rulings that are clear, thorough and well reasoned.	57%	19%	14%	0%	0%	10%	3.5	3.3
<b>Overall Communication Skills</b>							3.6	3.4

<b>6. Professionalism:</b>								
6a. Does the necessary homework and is prepared for cases.	52%	14%	5%	5%	0%	24%	3.5	3.4
6b. Maintains proper order, decorum and civility in the courtroom.	62%	19%	5%	0%	0%	14%	3.7	3.6
6c. Appropriately enforces court rules, orders and deadlines.	62%	14%	10%	5%	0%	10%	3.5	3.5
6d. Uses common sense and is resourceful in resolving problems that arise during proceedings.	62%	14%	14%	0%	0%	10%	3.5	3.5
6e. Promptly makes decisions and rulings.	35%	45%	5%	0%	5%	10%	3.2	3.5
<b>Overall Professionalism</b>							3.5	3.5

Appropriations Committee

Kansas Judicial Performance Survey 2008 Date March 29, 2011

Attachment 3-9

Judge Jeffrey L. Jack							Average	
	A	B	C	D	Fail	DK/NA	Jeffrey L. Jack	All Trial Judges

**7. Temperament:**

7a. Gives proceedings a sense of dignity.	71%	14%	5%	0%	0%	10%	3.7	3.6
7b. Treats everyone in the courtroom with respect.	67%	14%	10%	0%	0%	10%	3.6	3.5
7c. Is attentive during the proceedings.	71%	14%	5%	0%	0%	10%	3.7	3.7
7d. Acts with patience and self-control.	71%	10%	10%	0%	0%	10%	3.7	3.4
<b>Overall Temperament</b>							<b>3.7</b>	<b>3.5</b>

**8. Administrative:**

8a. Begins court on time.	48%	33%	5%	0%	5%	10%	3.3	3.5
8b. Allots an adequate amount of time for presentation of cases.	57%	10%	14%	0%	5%	14%	3.3	3.5
8c. Manages court proceedings to reduce wasted time.	48%	10%	5%	14%	5%	19%	3.0	3.4
8d. Provides prompt access to the court in emergency matters.	29%	14%	5%	5%	5%	43%	3.0	3.5
8e. Appropriately uses settlement conferences and alternative dispute resolution mechanisms.	14%	14%	5%	5%	0%	62%	3.0	3.4
8f. Complies with time limits for rulings in Supreme Court Rule 166 relating to all civil matters taken under advisement.	19%	14%	10%	0%	0%	57%	3.2	3.5
<b>Overall Administrative</b>							<b>3.1</b>	<b>3.5</b>

**Overall Average Grade: 3.5 3.5**

Questions 9 & 10						Jeffrey L. Jack	All Trial Judges
------------------	--	--	--	--	--	-----------------	------------------

9. Biased in favor of prosecution/defense.

Very biased in favor of the prosecution	0%	5%
Somewhat biased in favor of the prosecution	20%	22%
Completely Neutral	60%	67%
Somewhat biased in favor of the defense	20%	5%
Very biased in favor of the defense	0%	1%

10. How strongly do you recommend that Judge be retained or not retained in office?

Strongly recommend retain in office	79%	79%
Somewhat recommend retain in office	16%	12%
Somewhat recommend not retain in office	0%	4%
Strongly recommend not retain in office	5%	5%

# Survey of Non-Attorneys Regarding Trial Judges

**Judge Jeffrey L. Jack**

Sample Size = 138

Average

	A	B	C	D	Fail	DK/NA	Average	
	Jeffrey L. Jack	All Trial Judges						
<b>1. Performance Grade:</b>								
1a. Overall performance as a judge.	48%	28%	12%	8%	4%	1%	3.1	3.1
<b>2. Integrity:</b>								
2a. Conducts court free from impropriety or appearance of impropriety.	53%	24%	11%	7%	3%	2%	3.2	3.3
2b. Willing to make decisions even if they are politically unpopular.	37%	22%	10%	10%	3%	18%	3.0	3.1
<b>Overall Integrity</b>							3.1	3.2
<b>3. Impartiality:</b>								
3a. Gives all participants a fair opportunity to be heard.	64%	16%	9%	4%	5%	1%	3.3	3.3
3b. Treats people fairly who represent themselves.	42%	19%	4%	4%	5%	25%	3.2	3.2
3c. Does not prejudice the outcome of cases.	45%	21%	12%	4%	4%	14%	3.1	3.1
3d. Presents a neutral presence on the bench.	58%	19%	12%	6%	3%	2%	3.3	3.2
3e. Treats everyone fairly regardless of who they are.	56%	18%	9%	4%	5%	7%	3.2	3.2
<b>Overall Impartiality</b>							3.2	3.2
<b>4. Professionalism:</b>								
4a. Maintains appropriate control over proceedings.	60%	23%	11%	3%	1%	3%	3.4	3.4
4b. Is prepared for cases.	52%	23%	13%	3%	2%	7%	3.3	3.3
4c. Gives court proceedings a sense of dignity.	56%	20%	13%	2%	4%	4%	3.3	3.3
<b>Overall Professionalism</b>							3.3	3.4
<b>5. Communication Skills:</b>								
5a. Makes sure participants understand what's going on in the courtroom.	61%	20%	8%	6%	4%	2%	3.3	3.4
5b. Uses language that everyone can understand.	60%	24%	8%	4%	3%	1%	3.4	3.4
5c. Speaks so everyone in the courtroom can hear what's being said.	61%	20%	11%	4%	2%	1%	3.4	3.4
5d. Gives reasons for rulings.	51%	22%	8%	7%	4%	7%	3.2	3.2
<b>Overall Communication Skills</b>							3.3	3.3
<b>6. Temperament:</b>								
6a. Demonstrates a sense of compassion and human understanding for those who appear before the court.	52%	24%	8%	7%	7%	2%	3.1	3.1
6b. Is attentive during the proceedings.	57%	25%	11%	2%	2%	3%	3.4	3.4
6c. Acts with patience and self control.	61%	15%	16%	8%	0%	0%	3.3	3.4
<b>Overall Temperament</b>							3.3	3.3
<b>7. Administrative:</b>								
7a. Begins court on time.	40%	36%	12%	6%	4%	3%	3.1	3.2
7b. Sets reasonable schedules for cases.	39%	25%	16%	3%	5%	12%	3.0	3.2
7c. Manages court proceedings to reduce wasted time.	41%	29%	13%	5%	4%	8%	3.1	3.2
7d. Provides prompt access to the court in emergency matters.	23%	17%	7%	2%	6%	45%	2.9	3.2
<b>Overall Administrative</b>							3.0	3.2
<b>Overall Average Grade:</b>							3.2	3.3

8. Biased in favor of prosecution/defense.

Very biased in favor of the prosecution	10%	10%
Somewhat biased in favor of the prosecution	6%	10%
Completely Neutral	71%	71%
Somewhat biased in favor of the defense	6%	6%
Very biased in favor of the defense	6%	3%

9. How strongly do you recommend that Judge be retained or not retained in office?

Strongly recommend retain in office	66%	70%
Somewhat recommend retain in office	15%	13%
Somewhat recommend not retain in office	8%	5%
Strongly recommend not retain in office	12%	11%

**Summary Report on Survey of Kansas Retention Judges  
About the KCJP Judicial Performance Evaluation Program**

**January 2011**

Appropriations Committee  
Date March 29, 2011  
Attachment 3-13

Table of Contents

Introduction and Methodology .....1

Survey Results by Question

Appellate Judge Results:

1) Overall, how satisfied are you with the KCJP program? .....2

2) To what extent do you believe going through the KCJP evaluation process has been beneficial or detrimental to your professional development? .....2

3) Did the KCJP evaluation process provide information that allowed you to improve your job performance? .....2

4) How useful is the report format that KCJP uses to provide the evaluation information to you? .....2

5) In your view, how fair is the Commission’s recommendation process for the retention elections? .....3

6) In your estimation are there any problems with any of the following aspects of the current evaluation process?

6(a) Criteria used in the evaluation to measure job performance. ....3

6(b) How job performance criteria is measured (scale of A-F). ....3

6(c) Targeted survey respondent groups. ....3

6(d) Number of survey responses .....4

6(e) Validity of survey responses. ....4

6(f) Required self-evaluations by judges. ....4

6(g) Bias in the evaluation program based on race, gender or other factors. ....4

7) Do you think that courtroom observations should be used as part of the evaluation process? .....4

8) Do you think that the Commission should read and evaluate appellate opinions as part of the evaluation process? .....5

9) How effective has the Commission been in informing the electorate of the Commission’s retention recommendations? .....5

Appropriations Committee  
Date March 29, 2011  
Attachment 3-14

- 10) How much impact do you feel the Commission's recommendations have had on voters' decisions in retention elections? .....5
- 11) Do you feel the amount of information provided to the general public is sufficient or do you feel other information should be shared with the public? .....5
- 12) In your opinion, are the comments from survey respondents truly anonymous? .....6
- 13) To what extent do you believe the KCJP evaluation process is beneficial or detrimental to judicial independence? .....6

Trial Judge Results:

- 1) Overall, how satisfied are you with the KCJP program? .....7
- 2) To what extent do you believe going through the KCJP evaluation process has been beneficial or detrimental to your professional development? .....7
- 3) Did the KCJP evaluation process provide information that allowed you to improve your job performance? .....7
- 4) How useful is the report format that KCJP uses to provide the evaluation information to you? .....7
- 5) In your view, how fair is the Commission's recommendation process for the retention elections? .....8
- 6) In your estimation are there any problems with any of the following aspects of the current evaluation process?
  - 6(a) Criteria used in the evaluation to measure job performance. ....8
  - 6(b) How job performance criteria is measured (scale of A-F). ....8
  - 6(c) Targeted survey respondent groups. ....8
  - 6(d) Number of survey responses. ....9
  - 6(e) Validity of survey responses. ....9
  - 6(f) Required self-evaluations by judges. ....9
  - 6(g) Bias in the evaluation program based on race, gender or other factors. ....9

Appropriations Committee  
 Date March 29, 2011  
 Attachment 3-15

- 7) Do you think that courtroom observations should be used as part of the evaluation process? .....9
- 8) Do you think that the Commission should read and evaluate appellate opinions as part of the evaluation process? .....10
- 9) How effective has the Commission been in informing the electorate of the Commission's retention recommendations? .....10
- 10) How much impact do you feel the Commission's recommendations have had on voters' decisions in retention elections? .....10
- 11) Do you feel the amount of information provided to the general public is sufficient or do you feel other information should be shared with the public? .....10
- 12) In your opinion, are the comments from survey respondents truly anonymous? .....11
- 13) To what extent do you believe the KCJP evaluation process is beneficial or detrimental to judicial independence? .....11

Appropriations Committee  
Date March 29, 2011  
Attachment 3-16



## Introduction and Methodology

The Kansas Commission on Judicial Performance (KCJP) was created in 2006 by the Kansas Legislature to improve the performance of individual judges and the judiciary as a whole. The Commission's evaluations of all of the state court trial and appellate judges are provided to the judges for self-improvement. In addition, for appointed judges who are subject to retention elections, the Commission's evaluations are disseminated to the public to help voters make informed decisions about whether to continue those judges in office.

Four years later, the Commission has now completed one full cycle of evaluations for all retention judges, both trial and appellate. In order to solicit feedback from those judges about the judicial performance evaluation process, the Commission designed an online survey to assess judges' perceptions about the process and seek their suggestions about whether there are areas of needed improvement. Eighteen appellate judges and 124 retention trial judges were sent a postcard informing them about the survey, followed by an email invitation containing a link to the site where the survey was hosted. One week after the first email invitation, a reminder email was sent to those judges who had not yet responded.

As an alternative to completing the online survey confidentially, the Commission also offered judges the option of completing the survey in hard copy rather than online, and several judges chose that option. When hard copies of the surveys were returned, Commission staff manually entered the results into the online survey form so that complete, combined results could be downloaded from the survey site without compromising anonymity.

Judges were also encouraged to provide detailed comments in response to each survey question. The Commission has reviewed these comments but chose not to include them in this summary report because of their length. The Commission has also omitted questions relating to demographic information; however, all questions directly relating to the judges' perceptions about the program have been included.

Appellate and trial judges completed the same survey, but their responses have been separated for purposes of this report. In all, 11 of 18 appellate judges (61%) and 86 of 124 trial judges (69%) responded to the survey.

Appropriations Committee

Date March 29, 2011

Attachment 3-17

KCJP Judge Survey

1. Overall, how satisfied are you with the KCJP program using the following scale?

Answer Options	Response Percent	Response Count
Very satisfied	30.0%	3
Somewhat satisfied	70.0%	7
Neither satisfied or dissatisfied	0.0%	0
Somewhat dissatisfied	0.0%	0
Very dissatisfied	0.0%	0

2. To what extent do you believe going through the KCJP evaluation process has been beneficial or detrimental to your professional development?

Answer Options	Response Percent	Response Count
Significantly beneficial	20.0%	2
Somewhat beneficial	80.0%	8
No effect	0.0%	0
Somewhat detrimental	0.0%	0
Significantly detrimental	0.0%	0

3. Did the KCJP evaluation process provide information that allowed you to improve your job performance?

Answer Options	Response Percent	Response Count
Yes	100.0%	10
No	0.0%	0

4. How useful is the report format that KCJP uses to provide the evaluation information to you?

Answer Options	Response Percent	Response Count
Very useful	50.0%	5
Somewhat useful	50.0%	5
Neutral	0.0%	0
Not very useful	0.0%	0
Not at all useful	0.0%	0

Appropriations Committee  
 Date March 21, 2011  
 Attachment 3-18

5. In your view, how fair is the Commission's recommendation process for the retention elections?

Answer Options	Response Percent	Response Count
Very fair	60.0%	6
Somewhat fair	40.0%	4
Neutral	0.0%	0
Somewhat unfair	0.0%	0
Very unfair	0.0%	0

6. In your estimation are there any problems with any of the following aspects of the current evaluation process?

6(a). Criteria used in the evaluation to measure job performance (e.g. legal ability, integrity, impartiality, communication skills, professionalism, temperament and administrative ability ?

Answer Options	Response Percent	Response Count
No Problem	70.0%	7
Minor Problem	30.0%	3
Major Problem	0.0%	0

6(b). How job performance criteria is measured (scale of A-F).

Answer Options	Response Percent	Response Count
No Problem	80.0%	8
Minor Problem	20.0%	2
Major Problem	0.0%	0

6(c). Targeted survey respondent groups (e.g. attorneys, judges, and non-attorneys such as parties, witnesses, jurors and resource staff including law enforcement officers).

Answer Options	Response Percent	Response Count
No Problem	40.0%	4
Minor Problem	40.0%	4
Major Problem	20.0%	2

Appropriations Committee

Date March 29, 2011

Attachment 3-19

6(d). Number of survey responses.

Answer Options	Response Percent	Response Count
No Problem	0.0%	0
Minor Problem	70.0%	7
Major Problem	30.0%	3

6(e). Validity of survey responses.

Answer Options	Response Percent	Response Count
No Problem	50.0%	5
Minor Problem	40.0%	4
Major Problem	10.0%	1

6(f). Required self-evaluations by judges.

Answer Options	Response Percent	Response Count
No Problem	90.0%	9
Minor Problem	10.0%	1
Major Problem	0.0%	0

6(g). Bias in the evaluation program based on race, gender or other factors.

Answer Options	Response Percent	Response Count
No Problem	80.0%	8
Minor Problem	20.0%	2
Major Problem	0.0%	0

7. Do you think that courtroom observations should be used as part of the evaluation process?

Answer Options	Response Percent	Response Count
Yes	80.0%	8
No	0.0%	0
Depends	20.0%	2

Appropriations Committee

Date March 29, 2011

Attachment 3-20

8. Do you think that the Commission should read and evaluate appellate opinions as part of the evaluation process?

Answer Options	Response Percent	Response Count
Yes	50.0%	5
No	10.0%	1
Depends	40.0%	4

9. How effective has the Commission been in informing the electorate of the Commission's retention recommendation?

Answer Options	Response Percent	Response Count
Very effective	20.0%	2
Somewhat effective	70.0%	7
Somewhat ineffective	0.0%	0
Very ineffective	0.0%	0
No opinion	10.0%	1

10. How much impact do you feel the Commission's recommendations have had on voters' decisions in retention elections?

Answer Options	Response Percent	Response Count
A lot of influence	0.0%	0
Some influence	70.0%	7
Just a little influence	0.0%	0
No influence	0.0%	0
Don't know	30.0%	3

11. Currently the general public is provided a four or five paragraph narrative profile that gives background on the judge and summarizes the Commission's findings for each judge. Detailed survey information is also available on the Commission's web site for each judge as well as a summary of the performance of all judges. Do you feel the amount of information provided is sufficient or do you feel other information should be shared with the public?

Answer Options	Response Percent	Response Count
Too much information is provided	0.0%	0
Information is sufficient	100.0%	9
Other information should be provided	0.0%	0

Appropriations Committee  
 Date March 29, 2011  
 Attachment 3-21

12. In your opinion, are the comments from survey respondents truly anonymous?

Answer Options	Response Percent	Response Count
Yes	100.0%	10
No	0.0%	0

13. To what extent do you believe the KCJP evaluation process is beneficial or detrimental to judicial independence?

Answer Options	Response Percent	Response Count
Significantly beneficial	70.0%	7
Somewhat beneficial	20.0%	2
No effect	0.0%	0
Somewhat detrimental	10.0%	1
Significantly detrimental	0.0%	0

Appropriations Committee  
 Date March 29, 2011  
 Attachment 3-22

KCJP Judge Survey

1. Overall, how satisfied are you with the KCJP program using the following scale?

Answer Options	Response Percent	Response Count
Very satisfied	15.5%	13
Somewhat satisfied	33.3%	28
Neither satisfied or dissatisfied	28.6%	24
Somewhat dissatisfied	13.1%	11
Very dissatisfied	9.5%	8

2. To what extent do you believe going through the KCJP evaluation process has been beneficial or detrimental to your professional development?

Answer Options	Response Percent	Response Count
Significantly beneficial	12.0%	10
Somewhat beneficial	55.4%	46
No effect	25.3%	21
Somewhat detrimental	2.4%	2
Significantly detrimental	4.8%	4

3. Did the KCJP evaluation process provide information that allowed you to improve your job performance?

Answer Options	Response Percent	Response Count
Yes	56.1%	46
No	43.9%	36

4. How useful is the report format that KCJP uses to provide the evaluation information to you?

Answer Options	Response Percent	Response Count
Very useful	23.2%	19
Somewhat useful	37.8%	31
Neutral	28.0%	23
Not very useful	3.7%	3
Not at all useful	7.3%	6

Appropriations Committee  
 Date March 29, 2011  
 Attachment 3-23

5. In your view, how fair is the Commission's recommendation process for the retention elections?

Answer Options	Response Percent	Response Count
Very fair	31.7%	26
Somewhat fair	25.6%	21
Neutral	25.6%	21
Somewhat unfair	8.5%	7
Very unfair	8.5%	7

6. In your estimation are there any problems with any of the following aspects of the current evaluation process?

6(a). Criteria used in the evaluation to measure job performance (e.g. legal ability, integrity, impartiality, communication skills, professionalism, temperament and administrative ability ?

Answer Options	Response Percent	Response Count
No Problem	73.8%	59
Minor Problem	17.5%	14
Major Problem	8.8%	7

6(b). How job performance criteria is measured (scale of A-F).

Answer Options	Response Percent	Response Count
No Problem	61.3%	49
Minor Problem	27.5%	22
Major Problem	11.3%	9

6(c). Targeted survey respondent groups (e.g. attorneys, judges, and non-attorneys such as parties, witnesses, jurors and resource staff including law enforcement officers).

Answer Options	Response Percent	Response Count
No Problem	37.5%	30
Minor Problem	36.3%	29
Major Problem	26.3%	21

Appropriations Committee  
 Date March 29, 2011  
 Attachment 3-24



6(d). Number of survey responses.

Answer Options	Response Percent	Response Count
No Problem	35.0%	28
Minor Problem	33.8%	27
Major Problem	31.3%	25

6(e). Validity of survey responses.

Answer Options	Response Percent	Response Count
No Problem	30.4%	24
Minor Problem	43.0%	34
Major Problem	26.6%	21

6(f). Required self-evaluations by judges.

Answer Options	Response Percent	Response Count
No Problem	76.5%	62
Minor Problem	16.0%	13
Major Problem	7.4%	6

6(g). Bias in the evaluation program based on race, gender or other factors.

Answer Options	Response Percent	Response Count
No Problem	76.5%	62
Minor Problem	11.1%	9
Major Problem	12.3%	10

7. Do you think that courtroom observations should be used as part of the evaluation process?

Answer Options	Response Percent	Response Count
Yes	47.0%	39
No	22.9%	19
Depends	30.1%	25

Appropriations Committee  
 Date March 29, 2011  
 Attachment 3-25

8. Do you think that the Commission should read and evaluate appellate opinions as part of the evaluation process?

Answer Options	Response Percent	Response Count
Yes	26.8%	22
No	46.3%	38
Depends	26.8%	22

9. How effective has the Commission been in informing the electorate of the Commission's retention recommendation?

Answer Options	Response Percent	Response Count
Very effective	19.8%	16
Somewhat effective	35.8%	29
Somewhat ineffective	8.6%	7
Very ineffective	22.2%	18
No opinion	13.6%	11

10. How much impact do you feel the Commission's recommendations have had on voters' decisions in retention elections?

Answer Options	Response Percent	Response Count
A lot of influence	0.0%	0
Some influence	21.7%	18
Just a little influence	33.7%	28
No influence	27.7%	23
Don't know	16.9%	14

11. Currently the general public is provided a four or five paragraph narrative profile that gives background on the judge and summarizes the Commission's findings for each judge. Detailed survey information is also available on the Commission's web site for each judge as well as a summary of the performance of all judges. Do you feel the amount of information provided is sufficient or do you feel other information should be shared with the public?

Answer Options	Response Percent	Response Count
Too much information is provided	12.3%	10
Information is sufficient	84.0%	68
Other information should be provided	3.7%	3

Appropriations Committee

Date March 29, 2011

Attachment 3-26

12. In your opinion, are the comments from survey respondents truly anonymous?

Answer Options	Response Percent	Response Count
Yes	58.4%	45
No	41.6%	32

13. To what extent do you believe the KCJP evaluation process is beneficial or detrimental to judicial independence?

Answer Options	Response Percent	Response Count
Significantly beneficial	13.8%	11
Somewhat beneficial	38.8%	31
No effect	30.0%	24
Somewhat detrimental	10.0%	8
Significantly detrimental	7.5%	6

Appropriations Committee  
 Date March 29, 2011  
 Attachment 3-27