

## JUDICIAL PERFORMANCE EVALUATION PROGRAM ADVISORY PANEL

### Minutes of December 13, 2011 Meeting

*(Approved by JPEP Advisory Panel at December 6, 2012 meeting)*

On Tuesday, December 13, 2011, the Judicial Performance Evaluation Program Advisory Panel held its fifth meeting at the Superior Court Operations Administrative Office Building, 225 Spring Street, Room 4B, Wethersfield, Connecticut.

In attendance were: Hon. Barbara M. Quinn, Chairperson, Attorney Francis J. Brady, Hon. Patrick L. Carroll III, Hon. Patrick J. Clifford, Attorney Proloy K. Das, Hon. Robert J. Devlin, Jr., Hon. Alexandra D. DiPentima, Mr. William R. Dyson, Attorney John R. Gulash, Attorney Kevin T. Kane, Hon. Leslie I. Olear, Attorney Louis R. Pepe, Hon. Patty Jenkins Pittman, Hon. Kevin A. Randolph, Attorney Jay H. Sandak, Dean Brad Saxton, Attorney James T. Shearin, Attorney Susan O. Storey, and Hon. Hillary B. Strackbein.

Absent: Hon. James W. Abrams, Attorney Sarah D. Eldrich, Hon. Frank A. Iannotti, Hon. Aaron Ment, Hon. John W. Pickard, and Hon. Joseph M. Shortall.

Others in attendance: Attorney Joseph D. D'Alesio, Attorney Faith P. Arkin, and Attorney Lee J. Helwig.

#### I. Opening

Judge Quinn called the meeting to order at 2:08 p.m.

#### II. Approval of Minutes of November 30, 2010 Meeting

The minutes of the November 30, 2010 meeting were unanimously approved.

#### III. Fairness and Equality (Bias) Subcommittee

- Report of the Subcommittee

Judge Devlin provided a report on the work of the subcommittee which was to address the use of "attitude toward" questions in the evaluation process. It was noted that the last revision of the Attorney Questionnaire was in 2007 and the last revision of the Juror Questionnaire was in 1995. The subcommittee met on two occasions and exchanged information. The subcommittee referred to outside resources in performing its task, including questionnaires from other states and the American Bar Association's (ABA) *Black Letter Guidelines for the Evaluation of Judicial Performance*.

The subcommittee preferred the use of the words “fairness” and “equality” over the use of the word “bias” and decided to emphasize positive characteristics and wording in performing its task. The subcommittee agreed that it was important to pose short and succinct questions written in plain English, that response choices should be arranged vertically to achieve more accurate results and that dense forms should be avoided. The subcommittee discussed the value of comments in the context of questions pertaining to fairness and equality and determined that while potentially valuable, a single negative comment could outweigh a large number of positive numerical responses.

Judge Devlin presented the two questions that resulted from the subcommittee’s work (see attachment) and remarked that there was not unanimity among the members of the subcommittee with regard to the second question, which includes a subpart regarding protected class status.

- Discussion and Recommendations

There was discussion regarding the ABA Model Survey Guidelines for the Evaluation of Judges, which do not provide for the specific collection of detailed information regarding protected class status in the context of a question pertaining to fairness and equality. Some members expressed their preference for the adoption of a question which follows the ABA Model and some members expressed their preference for the adoption of a question that elicits information on protected class status.

Judge Quinn stated that it was envisioned that any changes that are made to the questions regarding fairness and equality would be incorporated into both the attorney and juror questionnaires. Judge Quinn advised that all changes to the attorney questionnaire should occur at once, including the addition of questions regarding settlement which were tested in the High Volume Pilot Project.

#### IV. High Volume Pilot Project

- Results

Judge Quinn presented the results of the High Volume Pilot Project using PowerPoint slides. The High Volume Pilot Project was conducted in 2011 for the purpose of further program development. Attorneys participated in all twenty Geographical Area (G.A.) Court locations statewide. Twenty-seven percent of eligible attorneys participated in the pilot project and they completed six hundred twenty-seven test evaluations. This compares with an average participation rate of fifty to sixty percent in the existing Judicial Performance Evaluation Program. The High Volume Pilot Project

successfully captured information important to the development and implementation of an electronic High Volume Judicial Performance Evaluation Program in the G.A. Courts.

- Implementation

Judge Quinn indicated that the next step for the High Volume Judicial Performance Evaluation Program will be implementation. The Advisory Panel discussed the need for developing and applying a marketing strategy to ensure the success of the High Volume Program. Judge Quinn noted that once implemented, evaluations will need to occur at regular intervals to ensure that an adequate number of questionnaires are completed for each judge to be evaluated. The eligibility criteria for the High Volume Program Judicial Performance Evaluation Program was reviewed and discussed.

V. Updates

- Expert Review

The National Center for State Courts (NCSC) recently completed an update of the Judicial Performance Evaluation Program for the courts in Illinois. Illinois paid for this update. The NCSC has agreed to provide Connecticut with information regarding this project that may be helpful in determining the scope of the expert review required.

- Peer Development Program

Judge Quinn stated that the Peer Development Program has been operating successfully. This program is not part of the Judicial Performance Evaluation Program. Judge Pittman provided further information on the program, including how a judge would participate in the program and the training provided to judges who act as peer counselors. Dean Saxton suggested the possibility of considering automatic participation and this was further discussed by the panel. Judge Quinn indicated that all new judges are assigned a mentor and that this area is becoming part of the branch culture. Further changes to the program are not contemplated at this time.

## VI. Next Steps

- Informational Website

Judge Quinn stated that a website with information on both the existing program and the High Volume Program, to be implemented, will be developed. This will assist in the marketing of the High Volume Program.

- Inclusion of Judge Trial Referees in Program

Judge Quinn stated that legislation must be enacted to ensure the confidentiality of the performance evaluations of Judge Trial Referees before they can be included in the program. The current statute only ensures the confidentiality of judges' performance evaluations. The Branch drafted proposed legislation to address this matter that was introduced during the last legislative session as part of a larger bill that did not pass. Accordingly, proposed legislation on confidentiality will be reintroduced in the upcoming session.

## VII. Adjourn

The meeting adjourned at 3:22 p.m.

Attachment

**DRAFT – (Post September 7, 2011 Meeting )**  
**(Edited 09/19/2011)**

**Judicial Performance Evaluation Program Advisory Panel**  
**Subcommittee on Bias**

**Draft Questions on Equal Treatment and Fairness to be Integrated into JPEP**  
**Questionnaires**

Please rate this judge's performance in each of the following areas.

**Fairness, Equality and Impartiality**

During the proceeding,

1. The judge treated people fairly.

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

2. The judge treated people equally and impartially.

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree

If your answer to Question 2, above, is "Disagree" or "Strongly Disagree," please indicate the basis upon which you feel that the judge did not demonstrate equal and impartial treatment. (Check any that apply.)

- Race
- Religion
- Sexual Orientation
- Socioeconomic Status
- Gender
- National Origin
- Disability
- Alienage

- Judge Favored Prosecutor, Plaintiff or Plaintiff's Attorney
- Judge Favored Defendant or Defendant's Attorney