



TENNESSEE
APPELLATE
JUDGES
EVALUATION
REPORT

prepared by the

JUDICIAL
EVALUATION
COMMISSION

INTRODUCTION

In 1994, the Tennessee General Assembly changed the method of electing state appellate judges by adopting the *Tennessee Plan*. Under the Plan, every appellate judge who seeks election to fill either an unexpired or full eight (8) year term of office must be evaluated by the Judicial Evaluation Commission prior to a scheduled August election. The purpose of the evaluation process is two-fold: (1) to assist the public in evaluating the performance of incumbent appellate court judges, and (2) to promote self-improvement among all judges.

The Judicial Evaluation Commission is made up of twelve (12) members and includes lawyers, non-lawyers and state court judges. The commission, by law, must represent gender, racial, and geographic balance. Current members include D'Army Bailey, Quincy Barlow, Sharon Bell, Cynthia Bond, J.S. (Steve) Daniel, Jeff DeVasher, Barbara Haskew, Irvin Kilcrease, Jr., Robert Radford, J. Stanley Rogers, Sarah Y. Sheppard, chair, and Barbara Walls.

The commission's report contains the evaluation results and retention recommendations for five (5) of Tennessee's newest appellate judges who will be seeking election in August 2000 – Patricia J. Cottrell, Court of Appeals; Alan E. Glenn, Court of Criminal Appeals; Norma McGee Ogle, Court of Criminal Appeals; D. Michael Swiney, Court of Appeals; and John Everett Williams, Court of Criminal Appeals.

Under the guidelines outlined in Supreme Court Rule 27, as required by the Plan, evaluations are based upon the following criteria:

1. Integrity
2. Knowledge and Understanding of the Law
3. Ability to Communicate
4. Preparation and Attentiveness
5. Service to the Profession
6. Effectiveness in Working with Other Judges and Court Personnel

In developing individual evaluations, the commission reviewed each judge's application previously submitted to the Judicial Selection Commission; considered personal information self-reported by each judge; considered public input, if available; reviewed caseload and workload statistics; reviewed survey questionnaire results, if available; and conducted a formal interview with each judge to discuss judicial performance issues.

Because two of the judges had been in office less than one year at the time of this evaluation, survey questionnaire results were not available. Additionally, survey questionnaire results were very limited for the remaining three judges because they also had been in office for a relatively short period of time.

Survey questionnaire results contained in this report are evaluation category averages based upon a ten-point rating scale. Judges were rated on a broad range of judicial skills and behaviors, including performance during oral argument, the quality of written opinions, administrative performance, general performance, and overall performance. Evaluations include the survey results, if any, and express the commission's impressions of each judge's experience and performance, a retention recommendation, the commission's vote as to retention, and the judge's written response, if any.

COURT OF APPEALS

JUDGE PATRICIA J. COTTRELL

Recommendation: FOR RETENTION

Commission Vote: 12 - Yes 0 - No

Legal Education and Experience: Judge Patricia J. Cottrell received a law degree from the University of Tennessee College of Law in 1976. She was Assistant Attorney General from 1976 to 1978; Director of the Public Law Institute from 1978 to 1979; Assistant Director of the Tennessee Alcoholic Beverage Commission from 1979 to 1981; in private practice from 1981 to 1982; Assistant Attorney General and Managing Attorney from 1982 to 1984; Deputy Attorney General from 1984 to 1991; Director of Law for Nashville and Davidson County from 1991 to 1993; Chief Deputy Attorney General from 1993 to 1997; and engaged in the private practice of law in Nashville from 1997 until appointed to the Court of Appeals in November 1998.

Service to the Profession: Judge Cottrell is a member of the Harry Phillips Chapter of the American Inns of Court, a member of the Tennessee and Nashville Bar Foundations, the Nashville Bar Association, and a founding member of the Lawyers Association for Women. She is an adjunct faculty member at the Vanderbilt School of Law and was appointed to the Tennessee Court of the Judiciary in July 1999.

Performance Evaluation: A total of 82 surveys were received for Judge Cottrell. Survey results include the following:

Rating Scale: (10-9) Excellent; (8-7) Good; (6-5) Adequate; (4-3) Fair; and (2-1) Poor

Rating Category	Appellate Judges	Trial Judges	Attorneys	Court Employees
Oral Argument	9.3	9.3**	9.4	9.4
Written Opinions	8.9	8.4	8.6	*NA
Administrative Performance	9.1	9.1	9.5	9.8
General Performance	9.3	9.0	9.4	9.3
Overall Performance	8.6	8.7	8.5	9.2

* Not applicable.

** Only two responses received.

Interview 11/8/99: The interview confirmed the evaluation responses, which indicate that Judge Cottrell is performing well as an appellate judge. Judge Cottrell has a broad range of experience as an attorney and appears to possess the knowledge, writing ability and commitment to serve in this position. The commission found Judge Cottrell to be current in writing opinions assigned to her.

RECOMMENDATION: The Judicial Evaluation Commission recommends the retention of Patricia J. Cottrell on the Court of Appeals.

COURT OF APPEALS

JUDGE D. MICHAEL SWINEY

Recommendation: FOR RETENTION

Commission Vote: 12 - Yes 0 - No

Legal Education and Experience: Judge D. Michael Swiney received a law degree from the University of Tennessee College of Law in 1978 and engaged in the private practice of law in Knoxville from 1979 to 1999. Beginning in 1994, he served as a Certified Mediator with the U.S. District Court for the Eastern District of Tennessee until appointed to the Court of Appeals in July 1999.

Service to the Profession: Judge Swiney is a member of the Hamilton Burnett Chapter of the American Inns of Court and has served as a lecturer on various legal topics. He is a member of the Knoxville, Tennessee and American Bar Associations. Judge Swiney has served as an Adjunct Professor at the University of Tennessee College of Law since 1997.

Performance Evaluation: Because of the short duration of Judge Swiney's service, no survey results were available for consideration by the commission.

Interview 11/8/99: The commission used the information in Judge Swiney's application to the Judicial Selection Commission in conducting the interview. As a result of the interview, the commission found Judge Swiney to have a wide variety of legal experience as a practicing attorney. These experiences should enhance his ability to serve as an appellate judge. He appears to possess the knowledge and writing ability to serve in this position. The commission found Judge Swiney to be current in writing opinions assigned to him.

RECOMMENDATION: The Judicial Evaluation Commission recommends the retention of Judge D. Michael Swiney on the Court of Appeals.

COURT OF CRIMINAL APPEALS

JUDGE ALAN E. GLENN

Recommendation: FOR RETENTION

Commission Vote: 12 - Yes 0 - No

Legal Education and Experience: Judge Alan E. Glenn received a law degree from Vanderbilt School of Law in 1968. He served as law clerk for U.S. District Judge Robert McRae, Jr. from 1970 to 1971; was Assistant U.S. Attorney for the Northern District of Iowa from 1970 to 1971; was Assistant District Attorney in Memphis from 1971 to 1982 and engaged in the private practice of law in Memphis from 1982 to 1999. He was appointed to the Court of Criminal Appeals in May 1999.

Service to the Profession: Judge Glenn is a member of the American, Tennessee, and Memphis Bar Associations. He has been an instructor at Harvard Law School from 1986 to the present and is a frequent lecturer on legal topics.

Performance Evaluation: Because of the short duration of Judge Glenn's service, no survey results were available for consideration by the commission.

Interview 11/8/99: The commission used the information in Judge Glenn's application to the Judicial Selection Commission in conducting the interview. As a result of the interview, the commission found Judge Glenn to have a broad range of experience in criminal and civil law. He has taught and authored numerous legal articles for practicing attorneys. He appears to possess the knowledge and writing ability to serve in this position. The commission found Judge Glenn to be current in writing opinions assigned to him.

RECOMMENDATION: The Judicial Evaluation Commission recommends the retention of Judge Alan E. Glenn on the Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE NORMA McGEE OGLE

Recommendation: FOR RETENTION

Commission Vote: 7 - Yes 5 - No

Legal Education and Experience: Judge Norma McGee Ogle received a law degree from the University of Tennessee College of Law in 1977. She was with the Memphis Area Legal Services, Inc. from 1977 to 1979 and was engaged in the private practice of law in Sevier County from 1979 to 1998. Judge Ogle was appointed to the Court of Criminal Appeals in November 1998.

Service to the Profession: Judge Ogle is a member of the Tennessee and Sevier County Bar Associations and the International and Tennessee Municipal Associations. She was a member of the Tennessee Human Rights Commission from 1995 to 1998 and chaired the Commission from 1998 until her present appointment to the Court of Criminal Appeals.

Performance Evaluation: A total of 87 surveys were received for Judge Ogle. Survey results include the following:

Rating Scale: (10-9) Excellent; (8-7) Good; (6-5) Adequate; (4-3) Fair; and (2-1) Poor

Rating Category	Appellate Judges	Trial Judges	Attorneys	Court Employees
Oral Argument	9.4	10.0 **	8.2	9.8
Written Opinions	8.3	8.1	6.9	*NA
Administrative Performance	8.9	8.8	9.1	9.8
General Performance	9.3	8.7	7.5	9.8
Overall Performance	8.5	8.3	7.3	9.5

* Not applicable.

** Only one response received.

Interview 11/8/99: The interview with Judge Ogle demonstrated that she had broad experience as a practicing attorney in civil matters, less experience in criminal matters and no experience in criminal appeals prior to her appointment. She received a high evaluation from her peers on the appellate courts for general performance and oral argument preparation but received only adequate ratings from attorneys for her written opinions. As a result of remarks made by Judge Ogle during the interview, some members of the commission expressed concerns about her treatment of attorneys and her overall judicial temperament, although attorneys responding to the survey rated her good to excellent in these areas. The commission found Judge Ogle was not current in writing opinions assigned to her. However, Judge Ogle assured the commission that this deficiency is being resolved.

RECOMMENDATION: The Judicial Evaluation Commission recommends the retention of Judge Norma McGee Ogle on the Court of Criminal Appeals.

Judge Ogle's Response:

I would like to thank the majority of the Commission for their recommendation that I be retained. I am appreciative of the overall good to excellent evaluation which I received from appellate judges, trial judges, lawyers and court personnel. Upon reflection, it is apparent that the concerns which I expressed in the interview regarding the inequities in the quality of representation afforded poor and indigent defendants offended some members of the Commission. That was not my intention. As a result of my work in the area of human rights and with underprivileged children, I am sensitive of the need to insure that all individuals have adequate representation, regardless of their economic status. During my first year with the Court I received an extraordinary number of assignments and my opinions were not issued as promptly as I would like; however, I would note that based upon the Court's guidelines, I am current in my opinion writing.

COURT OF CRIMINAL APPEALS

JUDGE ROBERT W. WEDEMEYER

Recommendation: FOR RETENTION

Commission Vote: 12 - Yes 0 - No

Legal Education and Experience: Judge Robert W. Wedemeyer received a law degree from Memphis State University School of Law in 1976. He engaged in the private practice of law in Clarksville from 1977 until 1990. Judge Wedemeyer served as Circuit Court Judge in the Nineteenth Judicial District until he was appointed to the Court of Criminal Appeals on March 24, 2000.

Service to the Profession: Judge Wedemeyer is a member of the Tennessee, Robertson and Montgomery County Bar Associations and a member of the Tennessee Judicial Conference. He served on the Pattern Criminal Jury Instructions Committee of the Tennessee Judicial Conference for seven years, and was Vice-Chair for two years.

Performance Evaluation: Judge Wedemeyer served as a Special Judge on the Court of Criminal Appeals in July of 1998. He heard oral argument on several cases and wrote nine (9) opinions. He also participated in approximately twenty (20) additional opinions. Judge Wedemeyer has an extensive criminal law background as a trial judge.

Interview 03/29/00: The commission used the information in Judge Wedemeyer's application to the Judicial Selection Commission in conducting the interview. As a result of the interview, the commission found Judge Wedemeyer to have a wide variety of legal experience as a practicing attorney and considerable criminal law experience as a trial judge. These experiences should enhance his ability to serve as an appellate judge. He appears to possess the knowledge and writing ability to serve in this position. Because Judge Wedemeyer's required evaluation took place within a week after his appointment, no survey questionnaire results were available.

RECOMMENDATION: The Judicial Evaluation Commission recommends the retention of Judge Robert W. Wedemeyer on the Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE JOHN EVERETT WILLIAMS

Recommendation: FOR RETENTION

Commission Vote: 12 - Yes 0 - No

Legal Education and Experience: Judge John Everett Williams received a law degree from the Cumberland School of Law, Samford University, in 1981. He engaged in the private practice of law in Huntingdon from 1981 until 1998. Judge Williams was appointed to the Court of Criminal Appeals in November 1998.

Service to the Profession: Judge Williams is a member of the Tennessee and Carroll County Bar Associations and is a frequent lecturer on legal topics.

Performance Evaluation: A total of 86 surveys were received for Judge Williams. Survey results include the following:

Rating Scale: (10-9) Excellent; (8-7) Good; (6-5) Adequate; (4-3) Fair; and (2-1) Poor

Rating Category	Appellate Judges	Trial Judges	Attorneys	Court Employees
Oral Argument	9.1	**	8.7	9.5
Written Opinions	7.6	7.2	7.9	*NA
Administrative Performance	8.5	8.3	9.5	9.3
General Performance	9.2	8.4	9.1	9.5
Overall Performance	7.9	7.3	7.8	9.6

*Not applicable.

** No responses received.

Interview 11/8/99: The interview with Judge Williams demonstrated he has broad experience as a practicing attorney in civil and criminal matters. He received a high evaluation from his peers on the appellate courts for general performance and his demeanor during oral argument. The commission noted some concerns from the survey results regarding the clarity and quality of his written opinions. Judge Williams assured the commission he is working to improve his writing skills. The commission found Judge Williams to be current in writing opinions assigned to him.

RECOMMENDATION: The Judicial Evaluation Commission recommends the retention of Judge John Everett Williams on the Court of Criminal Appeals.

If you have questions or need additional information about Tennessee's Judicial Performance and Evaluation Program, you may write the commission at:

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