

ALASKA STATE LEGISLATURE
SENATE JUDICIARY COMMITTEE

March 14, 2001
1:40 p.m.

MEMBERS PRESENT

Senator Robin Taylor, Chair
Senator Dave Donley, Vice Chair
Senator John Cowdery
Senator Gene Therriault
Senator Johnny Ellis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS - Commission on Judicial Conduct, Alaska
Judicial Council, and Violent Crimes Compensation Board.

WITNESS REGISTER

Dr. Colleen Murphy
2811 Illiamna
Anchorage, Alaska 99517

POSITION STATEMENT: Appointment to the Violent Crimes
Compensation Board

Ms. Eleanor Andrews
PO Box 241845
Anchorage, Alaska 99524

POSITION STATEMENT: Appointment to Alaska Judicial Council

Ms. Leslie Wheeler
PO Box 878885
Wasilla, Alaska 99687

POSITION STATEMENT: Testified in favor of Dr. Murphy

Ms. Ethel Station
PO Box 529
Sitka, Alaska 99835

POSITION STATEMENT: Appointment to the Commission on Judicial
Conduct

ACTION NARRATIVE

TAPE 01-8, SIDE A

Number 001

CHAIRMAN ROBIN TAYLOR called the Senate Judiciary Committee meeting to order at 1:40 p.m. Senator Donley, Senator Cowdery and Chairman Taylor were present. Senator Therriault arrived at 1:44 p.m. and Senator Ellis arrived at 1:45 p.m. The first order of business was the appointment of Dr. Colleen Murphy.

DR. COLLEEN MURPHY, Violent Crimes Compensation Board, said she has served on the Violent Crimes Compensation Board since 1998 and serving on the board has been a wonderful experience for her. She said the board members have been working together in trying to make sure that the damage to victims of violent crime are minimized.

CHAIRMAN TAYLOR asked Dr. Murphy to comment on some of her experiences on the Violent Crimes Compensation Board.

DR. MURPHY said the administrative staff of the board is superb and should be recognized for the work they do. She said that a bill last year on sexual assault became an unfunded mandate for victims of sexual assault. In the future, funding of forensic examinations should be considered because victims have not been able to access the board. Victims may not be able to access the board because they cannot appeal to the board for their medical expenses. In the last several years, though, a comprehensive consistent policy around mental health needs for victims have been developed in helping with posttraumatic stress disorder.

CHAIRMAN TAYLOR thanked Dr. Murphy for her service to the state and for her willingness to serve.

SENATOR COWDERY forwarded Dr. Colleen Murphy's name for consideration to the Violent Crimes Compensation Board. There being no objection, Dr. Murphy's name was forwarded.

Number 387

MS. ELEANOR ANDREWS, Alaska Judicial Council, said she is filling a five month unexpired term of Ms. Vickie Otte, and as a prelegislative appointee she was involved in making recommendations to the governor for a vacant seat on the Anchorage district and superior court. She has also participated in the review of candidates, orientation, and judicial ethics.

SENATOR DONLEY asked if she would support putting a judge's

"decision making timeliness" record into the voter's guide, enabling voters to make an informed decision before an election.

MS. ANDREWS said she had talked with Chief Justice Fabe and Mr. Bill Cotton, Executive Director of the Alaska Judicial Council, as to how this information is purveyed. The information is on the council's web site and is information the voters should have access to. She asked Senator Donley if his concern was whether the information was readily accessible.

SENATOR DONLEY said the only way the information is truly available to the voters is by putting it in the voter's guide. The web site is very complicated and a person has to know exactly what they are looking for before the information can be accessed. He asked her if she would support including the information in the required judicial council's report, which is part of the voter's guide.

MS. ANDREWS said, philosophically, she would say yes but she had no idea of the mechanics for doing this.

SENATOR DONLEY asked her how she would deal with the conflict of interest questions that have arisen over the past several years concerning members of the commission who have been awarded "extraordinary cash amounts and attorney fees" by certain justices that the commission has voted on for retention.

MS. ANDREWS said she did not know if there had been a conflict of interest. She said an attorney who wins a case is entitled to a fee and the amount of the fee depends on the size of the case. In and of itself, she did not see this as a conflict of interest and she had not yet had an opportunity to discuss this with other council members.

SENATOR DONLEY asked if she had read the ethic provisions for the commission.

MS. ANDREWS replied no.

SENATOR DONLEY noted that the ethic provisions call for the avoidance of the appearance of impropriety. Last year one of the council members voted on retention for three supreme court justices who the year before had awarded him extraordinarily high attorney fees in a case. Senator Donley said this raises the question as to whether there was an appearance of impropriety and whether the commission followed its own ethical requirements in deciding that it did not see a problem with that.

MS. ANDREWS said she could not comment because she did not have all

of the facts. She would ask the commission to address that question at a future board meeting.

SENATOR DONLEY said the commission's response to him was that this was not important because the commission had decided to recommend retention of the judges anyway. Senator Donley said he thought this clearly violated the commission's own ethic guidelines - allowing someone to vote, even though it was known it would not make a difference, does not satisfy the ethical requirement.

MS. ANDREWS commented that she would also request that question to be put on the agenda of a future board meeting.

SENATOR DONLEY said he would appreciate that.

SENATOR DONLEY asked Ms. Andrews if she had seen the Internet display of the warrant information.

MS. ANDREWS said she had not seen it but she had requested that it be discussed at a future board meeting.

SENATOR DONLEY noted that he had corresponded with the board requesting that the Internet site be modified so the information would be more accessible to the public.

SENATOR COWDERY forwarded Ms. Eleanor Andrews' name for consideration to the Alaska Judicial Council. There being no objection, Ms. Andrews' name was forwarded.

Number 899

MS. LESLIE WHEELER, Wasilla, said she was supportive of the nomination of Dr. Colleen Murphy to the Violent Crimes Compensation Board.

MS. ETHEL L. STATON, Commission on Judicial Conduct, said she had been serving on the commission for four years and she felt it had been a great opportunity for her. She said Senator Donley had previously asked her what the commission does about punishment for judges - why some punishment is public and some is private. By statute, all commission complaint records are confidential until formal charges have been brought forward. At the time of a formal charge, all documents relating to the charges and the subsequent formal hearing are made public. No information is made public before a formal charge. The presiding judge may waive the right to confidentiality but this rarely happens. Before formal charges, the commission has the power to issue informal adjustments or counseling, which are a significant part of the commission's work,

as they allow the commission to privately address minor conduct before it escalates to serious conduct. Private adjustments and counseling are used in isolated instances for such things as court delays, rudeness, or temperament problems. If records for an infraction were required to be made public, the judge would likely feel the need to challenge the allegation formally, adding cost and delay in addressing a minor infraction. These factors might also cause the commission to not act on minor matters. Informal private adjustments allow the commission to act quickly and responsibly without the burden of a whole hearing for the process. In 2000 there were three private sensors of judges.

MS. STANTON also answered Senator Donley's question about adding more public members to the commission. She felt that three public members, three attorneys, and three judges were fair. The board gets its packets ten days in advance, allowing them to read the information before a meeting and, as a public member, she has been treated very well with all board members speaking their peace on issues.

CHAIRMAN TAYLOR thanked Ms. Stanton for her service over the years to both the community and Alaska.

Number 1225

SENATOR DONLEY wondered if the public is not made aware of an informal resolution, how this can be balanced with the right of the public to know the information before an election. He asked if the commission felt this was information the public should have.

MS. STANTON replied that if formal charges were made, a judge would be disciplined publicly. A private hearing is for a very minor infraction that does not harm the public. Public discipline is for an infraction that causes harm to the public.

SENATOR DONLEY asked if there was a policy for putting information about formal discipline into the voters guide so the public can make an informed decision.

MS. STANTON said she did not know the answer but she would research the question and furnish the committee with her answer.

SENATOR COWDERY forwarded Ms. Ethel L. Staton's name for consideration to the Commission on Judicial Conduct. There being no objection, Ms. Staton's name was forwarded.

Number 1447

CHAIRMAN TAYLOR noted that there was one other item he wanted to bring before the committee - the confirmation of Commissioner Glen Godfrey, Department of Public Safety. Mr. Godfrey's confirmation had not been scheduled because Chairman Taylor had received information that had been somewhat surprising in nature. He felt the committee should have some advice before the confirmation hearing. Chairman Taylor's thought was to consult with people who had retired from service with the Alaska State Troopers. These people would review the information and then give the committee a recommendation. He said this was somewhat unusual but the comments were also unusual and he did not feel qualified to make these inquiries.

SENATOR ELLIS asked if Chairman Taylor was considering a contract with a former trooper for this inquiry.

CHAIRMAN TAYLOR replied no. He was suggesting retired Commissioner Burton and maybe one or two senior retired officers that were still in Alaska. Some of the information may be specious but would be serious in nature if confirmed. Some of the matters are of a personal nature and Chairman Taylor felt the committee needed advice.

SENATOR ELLIS asked what type of arrangement was contemplated.

CHAIRMAN TAYLOR said he had not considered anything that had a financial aspect. He had considered submitting the information to a group of three or four retired troopers, asking them to check on it. He did not want to put anyone in an embarrassing position and during an open public committee hearing the response could be mean. All information made available to the Chairman would be turned over to all committee members.

SENATOR ELLIS stated that he had reservations about going down this path. He had only seen one critical letter of the commissioner and it seemed to be a personality conflict. Senator Ellis said he would not be comfortable that this type of criticism could trigger this type of activity by the committee. He said he was reassured that no money would be spent on this matter.

CHAIRMAN TAYLOR said he too had reservations about this type of approach but some of the information he had received was so sensitive in nature that if it was brought up at a public hearing it could turn out to be a "circus." He said he did not want anything of this nature to happen and he did not want anyone to be embarrassed in the process. He said he would be happy to accept any names the committee felt would do a comprehensive review.

SENATOR ELLIS asked for confirmation that there would be a public hearing.

CHAIRMAN TAYLOR guaranteed him a hearing would be scheduled. He said he would try to find people who were retired and no longer in the system to check into the matter.

With no further business to come before the committee, CHAIRMAN TAYLOR adjourned the meeting at 2:12 p.m.