

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 7, 2006

8:47 a.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Charlie Huggins, Vice Chair
Senator Gene Therriault
Senator Hollis French
Senator Gretchen Guess

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

Confirmation Hearings:

Public Defender
Quinlan Steiner
CONFIRMATION ADVANCED

Select Committee on Legislative Ethics
Dennis "Skip" Cook
Lindsey Holmes
Herman G. Walker, Jr.
CONFIRMATIONS ADVANCED

PREVIOUS COMMITTEE ACTION

None to report

WITNESS REGISTER

Mr. Quinlan Steiner
No address provided
POSITION STATEMENT: Confirmation Candidate

Mr. Dennis "Skip" Cook
No address provided
POSITION STATEMENT: Confirmation Candidate

Ms. Lindsey Holmes
No address provided

POSITION STATEMENT: Confirmation Candidate

Mr. Herman G. Walker, Jr.

No address provided

POSITION STATEMENT: Confirmation Candidate

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:47:45 AM](#). Present were Senators Hollis French, Gene Therriault, Gretchen Guess, Charlie Huggins, and Chair Ralph Seekins.

Confirmation Hearing: Public Defender - Quinlan Steiner

[8:48:13 AM](#)

Chair Ralph Seekins welcomed Mr. Quinlan Steiner and asked him to introduce himself and to describe his background and qualifications for the position that he is seeking.

MR. QUINLAN STEINER, governor's appointee for public defender, noted he was raised in Alaska, graduated college at Seattle University, and graduated from law school at Lewis and Clark College in 1998. Prior to law school he volunteered at the public defender agency. During law school he worked as an intern at the public defender agency and after law school moved to fulltime. He said he moved quickly into appeals where he has been working ever since. During that time, he has conducted trials, misdemeanor felony, and handled a traveling calendar for St. Paul Island. As an appellate attorney, he has handled everything from misdemeanors to complicated, unclassified felony cases.

[8:50:34 AM](#)

The public defender agency has 13 offices statewide and approximately 80 attorneys. They handle appointed cases for indigent clients in criminal matters, child in need of aide matters, as well as juvenile delinquent proceedings and mental health commitment proceedings. One challenge that the agency faces is meeting constitutional obligations due to lack of resources in the budget. He offered to answer questions.

[8:50:59 AM](#)

SENATOR GRETCHEN GUESS asked Mr. Steiner to speak about the management challenges in the agency.

MR. STEINER noted the biggest challenge is management of information, particularly with ensuring that they are providing the level of service they are constitutionally obligated to provide. He changed the management structure to ensure he has a close view of what is actually going on in the agency. He put supervisors in charge of the entire caseload under them, including the caseload of the attorneys who work for them. He increased the training and currently is attempting to implement an information database management system.

8:52:15 AM

CHAIR SEEKINS asked Mr. Steiner the challenges the agency has experienced retaining attorneys.

MR. STEINER said the agency loses a lot of lawyers in the first five years. After five years, attorneys tend to stay for the long run. A big driver is salaries and workload. The salaries are below what the public sector pays and the workload tends to be significantly higher.

CHAIR SEEKINS asked for a comparison of salaries.

MR. STEINER said the starting salary for an attorney is generally \$45,000. In comparison, starting salary for the private sector attorney is between \$55-75,000.

CHAIR SEEKINS asked Mr. Steiner to describe a typical applicant.

8:54:12 AM

MR. STEINER noted that person would be fresh out of law school. The agency does have more training to offer than in the private sector, as well as experience. He is currently trying to expand the training program to increase the quality level of applicants. An entry-level lawyer could try as many as a dozen misdemeanor cases the first year.

SENATOR CHARLIE HUGGINS asked Mr. Steiner whether he felt he would be at a disadvantage in his position due to lack of recent trial experience.

MR. STEINER responded he worked primarily in appeals where he spent all of his time reviewing what trial attorneys do and making judgments about the issues and the judicial decisions at the trial level. He has appointed a deputy public defender that has a tremendous amount of trial experience to manage the supervisors of each office to compensate for his lack of trial experience.

8:56:08 AM

SENATOR HUGGINS said he has heard prosecutors proclaim that they work harder than public defenders. He asked for a response.

MR. STEINER opined that prosecutors have a tough job and defenders have a different job. Public defenders spend a lot of time with their clients, which is a time-consuming process as the system is not easy for the average client to understand.

SENATOR HOLLIS FRENCH asked Mr. Steiner to describe his relationship with prosecutors in Alaska and to describe his role in management conflict between the two agencies.

8:58:22 AM

MR. STEINER said he met with [Deputy Attorney General] Susan Parkes and [District Attorney] Bob Linton to facilitate a relationship. Both agencies work hard to do a good job for the State of Alaska and the mission for both is important. He said he tries to facilitate that idea on a management level.

CHAIR SEEKINS asked what it would take to handle the workload of the public defender agency.

MR. STEINER said more resources in the form of attorneys, support staff, investigators and paralegals.

CHAIR SEEKINS asked the amount of employees, other than attorneys, that the agency employs.

MR. STEINER said 60.

9:01:56 AM

CHAIR SEEKINS asked the process he went through to be appointed to the position.

MR. STEINER informed the committee that he sent an application to the Alaska Judicial Council (AJC), which was followed by a bar poll. The results were forwarded to the AJC, where he had an interview. His name was passed to Governor Frank Murkowski and he interviewed with the head of the Department of Administration. He was appointed following the interview.

SENATOR GENE THERRIAULT asked him to clarify the teaching he listed on his resume.

MR. STEINER said he taught specifically on criminal procedure, which encompassed the Fourth, Fifth, and Sixth Amendment of the Constitution of the United States.

[9:03:04 AM](#)

CHAIR SEEKINS announced that the committee has concluded the interview. He voiced support for getting public defender case-management under control.

CHAIR SEEKINS announced a brief recess at [9:03:52 AM](#).

Confirmation Hearing: Select Committee on Legislative Ethics - Dennis "Skip" Cook

[9:08:44 AM](#)

CHAIR RALPH SEEKINS asked Mr. Skip Cook to describe his background and the reason he desires to hold the position on the Select Committee on Legislative Ethics.

MR. DENNIS "SKIP" COOK said he was born and raised in Fairbanks, Alaska and has lived there all his life except for time spent away at school. He attended MIT and Northwestern University. He came back to Alaska in 1963 and managed the mandatory borough election. He moved to Juneau and worked as director of the local affairs agency, assisting boroughs and municipalities. He then went back to Fairbanks to manage the Centennial Expedition in 1967 and then went to law school. He moved back to Fairbanks in 1970 and has practiced law since then.

[9:11:22 AM](#)

He was appointed to the Select Committee on Legislative Ethics in 1997 or 1998 and has served since then. There has been much turnover on the Committee and so the main reason he aspires to continue serving is to establish continuity. He enjoys the work, the statutes are complex, and the questions that come before the Committee are interesting.

The primary purpose of the Committee is one of education. Much of the work is offering informal advise to legislators and legislative employees as to how the code has been interpreted to apply. The advisory opinions are more formal where they offer advise in advance of a situation and then there are the cases where the Committee is called upon to adjudicate a complaint.

He said the Legislature was wise to establish the Committee and to establish it with such a diversity of people.

9:13:40 AM

Mr. Cook offered to continue serving on the Select Committee on Legislative Ethics.

SENATOR CHARLIE HUGGINS asked Mr. Cook to give an overview of how he came to be on the Committee.

MR. COOK said he got a call from Chief Justice Matthews who described the Committee. He expressed an interest and that was it.

SENATOR HUGGINS asked whether he knew the Chief Justice prior to the phone call.

MR. COOK said yes, but not well.

SENATOR HUGGINS asked his feelings about diversity of the Committee.

MR. COOK said during his experience they have always had a diverse group.

9:15:35 AM

SENATOR HUGGINS asked the number one challenge of the Committee.

MR. COOK said it was trying to deal with a law that has complex language and ambiguity. Over the years, the statute has been difficult.

SENATOR GENE THERRIALT asked Mr. Cook whether his involvement with the Rotary Club was coming to a close.

MR. COOK admitted he has been on the road a lot lately but is back and does not plan to travel much for a while.

9:17:18 AM

CHAIR SEEKINS asked Mr. Cook to explain what makes the statute so complex.

MR. COOK said conceptual and definitional questions that were undefined in statute have been difficult to work with. Some have since been defined by amendments in legislation and that has helped. At times the Committee has had to define things and take a position, which sets a precedent.

CHAIR SEEKINS asked whether a definition by the Committee has a force of law.

MR. COOK said it would have a force of precedent.

CHAIR SEEKINS asked whether the statute is as easy to follow as a flowchart.

Mr. Cook responded that they have developed some good flowchart illustrations, such as how a hearing process works.

[9:20:05 AM](#)

CHAIR SEEKINS asked Mr. Cook to describe the training a member would receive.

MR. COOK said the staff generally trains Committee members.

CHAIR SEEKINS asked him to describe the normal complaint process.

MR. COOK explained first committee members are notified of the complaint and that they need to meet. They first decide whether there is probable cause and a violation of the Ethics Code. If so, they proceed to the investigative phase and give notice to the person whom the complaint was lodged against. Next would be the discovery phase and then the hearing.

CHAIR SEEKINS asked whether there would be a finding of probable cause prior to the investigation.

MR. COOK said there could be a limited investigation if facts determine whether there is probable cause.

CHAIR SEEKINS asked whether the Committee is required to maintain confidentiality.

MR. COOK said yes, mandated by statute.

CHAIR SEEKINS asked Mr. Cook to identify all of the persons required to maintain confidentiality.

MR. COOK admitted that has been unclear. The complaint starts a file in the Legislative Ethics Office and is confidential. The statute is not clear on whether the complainant must keep the complaint confidential.

CHAIR SEEKINS asked whether an informal opinion would have a binding effect on the person that asked for one.

MR. COOK said no. Normally when a person asks for an informal opinion they receive informal advise and it provides protection since they did ask.

[9:27:17 AM](#)

CHAIR SEEKINS noted AS 24.60.170(1) says "...except to the extent that the confidentiality provisions are waived by the subject of the complaint, the person filing a complaint shall keep confidential the fact that the person has filed a complaint under this section as well as the contents of the complaint filed."

MR. COOK said that was recently changed.

CHAIR SEEKINS asserted current law says the person filing the complaint must retain confidentiality.

SENATOR THERRIAULT asked Mr. Cook to describe the discussions the Committee has had in regards to the issue of confidentiality by the complainant. He further asked whether the Committee has discussed how to prevent themselves from being used as a political tool.

[9:29:30 AM](#)

MR. COOK admitted that is a problem in the sense that the Committee can't sustain being bombarded with complaints of a strictly political nature. It is a fairly complex process to go through the complaint-to-decision procedure but the Committee must recognize a person's right of free speech.

CHAIR SEEKINS asked the percentage of complaints filed with no merit to proceed forward.

MR. COOK responded twenty five percent.

[9:32:09 AM](#)

CHAIR SEEKINS asked whether there should be a penalty when a complainant violates the ethics law.

MR. COOK said the penalty would be up to the Legislature.

[9:34:38 AM](#)

SENATOR GRETCHEN GUESS asked Mr. Cook to clarify the difference between the percentage of claims with no merit and those that are politically motivated.

MR. COOK said many times people bring a complaint where they believe a violation occurred but it actually hasn't.

SENATOR GUESS asked whether a legislator could ask the Committee to investigate an accusation for the purpose of clearing their name.

MR. COOK said they could request an advisory committee.

[9:36:36 AM](#)

SENATOR HUGGINS asked the point where the information becomes non-confidential.

MR. COOK said the subject could waive confidentiality and dismissals are also public. Other than that, the point is at "probable cause."

SENATOR HUGGINS asked the length of time it takes for a complaint to reach the public process.

MR. COOK responded many things affect that, including whether or not the committee has a quorum. Campaign periods affect when the Committee can accept complaints. It is sometimes difficult to get members together and it is a complex matter to get the process started.

[9:40:05 AM](#)

SENATOR HUGGINS asked whether he thought a period of confidentiality was unreasonable.

MR. COOK said no, but if the statute were read that a person couldn't say a word to anyone without having the complaint thrown out, it would be hard to imagine that any person wouldn't mention the issue to another. He speculated that confidentiality could be carried too far.

CHAIR SEEKINS asked whether he would be more comfortable if the statute said, "...knowingly and intentionally publicly disclosed or caused to be publicly disclosed..."

MR. COOK said it would be hard to imagine a person not mentioning the issue to anyone.

[9:43:45 AM](#)

CHAIR SEEKINS said his intent was that public disclosure should not be allowed.

MR. COOK said the Committee was very troubled by the case that was cited on television because it was very public and very political.

[9:45:41 AM](#)

SENATOR HOLLIS FRENCH reminded the members of the First Amendment and its powerful history with unanimous US Supreme Court rulings with respect to the degree of protection that public officials can expect once they take office. He also voiced support for Mr. Cook.

CHAIR SEEKINS noted the administrative ethics code is easier to follow than the legislative ethics code.

MR. COOK agreed.

[9:48:25 AM](#)

CHAIR SEEKINS asked the basis and reason the Committee would spend additional money to hire an attorney to provide a legal opinion.

MR. COOK advised members the Committee has previously sought advice from legislative affairs and then determined there was a conflict for adjudicated proceedings. The primary duty of legislative staff attorneys is to advise the legislators, which would create a conflict with the Committee's duties (if they were advised by the same attorney) and so outside counsel would be sought.

SENATOR GUESS asked Mr. Cook how Committee members have dealt with conflicts of interest and asked whether there were guidelines to follow.

MR. COOK reported he could not remember a time while on the Committee that he had to recuse himself because he knew the subject of complaint. There have been times when Committee members have had to recuse themselves of a case due to the subject matter.

[9:53:29 AM](#)

CHAIR SEEKINS asked him whether he has ever been on the opposite legal side from people that he knew.

MR. COOK said yes.

SENATOR HUGGINS asked the two things that would make the process more effective and heighten the confidence level of the people of Alaska.

MR. COOK suggested a major re-write of the statute so that it is more understandable. Another thing would be to find a way to let people know that the Committee is there for public educational use.

[9:56:44 AM](#)

CHAIR SEEKINS asked Mr. Cook whether there was a penalty for making a Bar complaint public.

MR. COOK said he did not know.

CHAIR SEEKINS asked whether the Alaska Supreme Court gets involved in the Bar rules.

MR. COOK said he thinks so.

CHAIR SEEKINS announced a brief recess at [10:02:04 AM](#).

Confirmation Hearing: Select Committee on Legislative Ethics - Lindsey Holmes

[10:05:21 AM](#)

CHAIR RALPH SEEKINS announced the next candidate for confirmation. He asked Ms. Lindsay Holmes to give a brief description of her background and the reason she desires to serve on the Select Committee on Legislative Ethics.

MS. LINDSEY HOLMES introduced herself and testified that she was born and raised in Anchorage and is a lifelong Alaskan. She went to law school at the University of Chicago and then accepted a clerkship at the Alaska Supreme Court. Following that she worked in private law practice for a few years in real estate and energy law. She is currently working in a project management firm and is not practicing law.

MS. HOLMES said her interest in the Committee goes back to parental influence. Her mother was one of the original members of the Public Office Commission. She was raised with a strong sense of belonging in the community and being involved in the community and government. She further noted her belief that it

is for the good of the public to have a clear set of rules and a solid committee to help people interpret those rules.

10:07:58 AM

SENATOR CHARLIE HUGGINS asked her to describe the process for getting appointed to the Select Committee on Legislative Ethics.

MS. HOLMES said she received a call at home from Chief Justice Bryner a month ago. He told her about the Committee and asked whether she would serve. She agreed to be appointed and then submitted a resume and disclosure forms.

SENATOR HUGGINS asked Ms. Holmes how she knew the Chief Justice.

MS. HOLMES said she knew him professionally and also went to school with his children.

SENATOR HUGGINS asked her opinion of how an average person would be appointed to the Committee.

MS. HOLMES explained that the Committee offers a link on their website with detailed instructions on how to apply. The Committee also solicits applications and letters of interest.

10:10:45 AM

SENATOR HUGGINS expressed an interest in the Committee having diversity and equal opportunity.

SENATOR GRETCHEN GUESS noted she gives links and information to her constituents via her website. She asserted it was one of the many roles as a legislator to inform constituents of a wide variety of boards and community involvement opportunities. She also noted for the record that Ms. Holmes' mother and her own mother were friends.

SENATOR GENE THERRIAULT asked Ms. Holmes to speak about her involvement with the Nature Conservancy.

MS. HOLMES said she has been a member of the board of trustees for two years with the local Alaska chapter. She said it is an interesting group with diverse interests. They look at biodiversity and the best way to balance development and conservation.

SENATOR THERRIAULT asked Ms. Holmes to elaborate on the stocks and bonds she listed in her disclosure statement.

MS. HOLMES advised the committee that her great-grandmother left her several stocks and bonds.

SENATOR THERRIAULT noted both British Petroleum and Exxon were in the portfolio. He asked her how the Select Committee on Legislative Ethics would evaluate a legislator with the same portfolio voting for a bill that was related to oil production.

MS. HOLMES said she could not say at this point. It would depend on the rules and the amount owned.

[10:16:16 AM](#)

CHAIR SEEKINS asked whether she thought there should be a penalty for anyone who knowingly and intentionally violates the ethics code.

MS. HOLMES reported yes.

CHAIR SEEKINS asked whether she thought there should be a penalty for anyone who knowingly and intentionally violates the ethics code even if that person is the one who filed the complaint.

MS. HOLMES admitted she was new to the issue and was hesitant to make a judgment without having heard the entire complaint.

CHAIR SEEKINS asked whether dismissing the complaint would be a meaningful penalty.

MS. HOLMES said she thinks so given the way the law is written currently and the points brought up by Mr. Dennis Cook. At this point it is unclear as to what the term "breaking confidentiality" means.

CHAIR SEEKINS asked whether she would feel more comfortably with the law if it were written, "...knowingly and intentionally publicly disclosing or causing to be publicly disclosed..."

MS. HOLMES said yes.

[10:19:53 AM](#)

SENATOR THERRIAULT asked whether she was currently practicing law.

MS. HOLMES said no. However, she is still a licensed member of the Alaska Bar.

SENATOR THERRIAULT asked the reason she was no longer practicing law.

MS. HOLMES said she was offered an opportunity with Rise Alaska, which is a project management and consulting company that runs contracts.

[10:21:39 AM](#)

CHAIR SEEKINS announced the conclusion of the interview.

Confirmation Hearing: Select Committee on Legislative Ethics - Herman G. Walker, Jr.

[10:22:17 AM](#)

CHAIR RALPH SEEKINS announced the next candidate for confirmation. He asked Mr. Herman Walker, Jr. to give a brief description of his background and the reason he desires to serve on the Select Committee on Legislative Ethics.

MR. HERMAN WALKER, JR. testified he graduated from the University of Wyoming and had heard wonderful stories about Alaska from his roommate. He moved here with his wife in 1992 and started working as an intern for the Office of Public Advocacy. Following that job he went into private practice working as an associate with Rex Butler doing criminal defense trial work. Following that job he went to work for the Public Defender Agency. He currently owns The Body Shop located at the 5th Avenue mall. He is also working with his wife in their own firm.

[10:24:09 AM](#)

SENATOR GRETCHEN GUESS asked Mr. Walker to describe the type of law he currently practices.

MR. WALKER explained he is a trial attorney and is currently doing personal injury work, tort litigation, criminal defense, and business litigation.

SENATOR HOLLIS FRENCH advised for the record that he was a prosecuting attorney during the same time that Mr. Walker was a public defender. They have settled many cases out of court and they also see each other socially on occasion.

CHAIR SEEKINS asked the amount of time he has been on the Committee.

MR. WALKER said since 2001.

CHAIR SEEKINS asked Mr. Walker whether the statute was easy to follow.

MR. WALKER said no. It is quite complex.

[10:26:14 AM](#)

CHAIR SEEKINS asked him whether he was comfortable with the way the statute reads in regards to confidentiality.

MR. WALKER related the statute was written with a lot of ambiguity as far as disclosing. He would be more comfortable if the definition of "public disclosure" were more clearly defined.

CHAIR SEEKINS asked whether he would feel more comfortable if the statute read "...knowingly and intentionally publicly disclosed or caused to be publicly disclosed..."

MR. WALKER responded the definition of "public disclosure" should be put in the statutes.

[10:28:49 AM](#)

CHAIR SEEKINS referred to an interview in the Anchorage Daily News in January 2005, which had to do with the Legislature reappointing members of the Select Committee on Legislative Ethics. In the article the columnist speculated that Mr. Walker could be voted down in retribution for a certain opinion. The columnist quoted Mr. Walker responded to the speculation by saying, "It does not surprise me." He asked Mr. Walker to explain his comment.

MR. WALKER said the comment was based on his experience with a Committee member who came out against the Legislature and was then removed.

CHAIR SEEKINS asked Mr. Walker whether his comment might be disruptive to his work on the Committee.

MR. WALKER said no. His follow-up to the comment was that he would encourage anybody to accept a job with the Committee.

[10:32:50 AM](#)

CHAIR SEEKINS speculated that Mr. Walker was biased.

MR. WALKER maintained he is not biased.

CHAIR SEEKINS said there was concern that Mr. Walker believed that the Legislature would remove someone through retribution for voting one way or another on an issue.

MR. WALKER disagreed. He said his quote in the newspaper was in response to observing what happened to another long-standing Committee member. The action of the Legislature (removing the one member) took every member of the Committee by surprise.

[10:35:30 AM](#)

CHAIR SEEKINS said he personally called Chief Justice Fabe and explained the reason the Legislature voted not to reconfirm Shirley McCoy.

MR. WALKER said his work on the Committee proves that he has no bias or agenda.

CHAIR SEEKINS stated for the record he believes Mr. Walker to be very fair.

SENATOR FRENCH echoed that sentiment and said it is his observation that Mr. Walker, who has recently chaired the Committee, is strictly unbiased.

[10:37:17 AM](#)

SENATOR CHARLIE HUGGINS asked Mr. Walker to explain what he meant by the newspaper quote, "It does not surprise me."

MR. WALKER reiterated his earlier testimony. Further, he stated that he is neither republican nor democratic.

[10:40:01 AM](#)

CHAIR SEEKINS advised Mr. Walker that part of the reason the Legislature voted not to reconfirm Ms. McCoy was due to public comments she made about members of the Legislature to the press.

MR. WALKER said his personal history proves that he becomes more tactful with age.

CHAIR SEEKINS asked Mr. Walker his interpretation of the mission of the Select Committee on Legislative Ethics.

MR. WALKER said the statute details everything they do, including advisory opinions and investigations into ethics complaints.

[10:43:16 AM](#)

SENATOR FRENCH moved to forward the names of Dennis "Skip" Cook, Lindsey Holmes, and Herman G. Walker, Jr. to the Senate President for consideration during a joint session for confirmations. Hearing no objections, the motion carried.

CHAIR SEEKINS advised the candidates that the motion of forwarding their names to the Senate President does not reflect how each member would vote on the confirmation.

[10:44:02 AM](#)

SENATOR THERRIAULT noted his wife is involved in the same law firm as Dennis "Skip" Cook.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [10:45:52 AM](#).