

**ALASKA STATE LEGISLATURE
JOINT MEETING
HOUSE JUDICIARY STANDING COMMITTEE
SENATE JUDICIARY STANDING COMMITTEE**

February 18, 2008

1:07 p.m.

MEMBERS PRESENT

HOUSE JUDICIARY

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Max Gruenberg
Representative Lindsey Holmes

SENATE JUDICIARY

Senator Hollis French, Chair
Senator Charlie Huggins, Vice Chair
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Gene Therriault

MEMBERS ABSENT

HOUSE JUDICIARY

Representative Bob Lynn
Representative Ralph Samuels

SENATE JUDICIARY

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Board of Governors of the Alaska Bar

Carl Ekstrom - Anchorage

- CONFIRMATION(S) ADVANCED

Commission on Judicial Conduct

Peter Aschenbrenner - Fairbanks
Thomas G. Nave - Juneau
Robert Sheldon - Anchorage

- CONFIRMATION(S) ADVANCED

Violent Crimes Compensation Board

LeRoy J. Barker - Anchorage

- CONFIRMATION(S) ADVANCED

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

CARL EKSTROM, Appointee
to the Board of Governors of the Alaska Bar
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Board of
Governors of the Alaska Bar.

PETER ASCHENBRENNER, Appointee
to the Commission on Judicial Conduct (CJC)
Fairbanks, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on
Judicial Conduct (CJC).

THOMAS G. NAVE, Esq., Appointee
to the Commission on Judicial Conduct (CJC)
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on
Judicial Conduct (CJC).

ROBERT SHELDON, Appointee
to the Commission on Judicial Conduct (CJC)
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on
Judicial Conduct (CJC).

LEROY J. BARKER, Appointee
to the Violent Crimes Compensation Board (VCCB)
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Violent Crimes Compensation Board (VCCB).

ACTION NARRATIVE

CHAIR JAY RAMRAS called the joint meeting of the House and Senate Judiciary Standing Committees to order at [1:07:56 PM](#). Representative Holmes, Gruenberg, Dahlstrom, Coghill, and Ramras, and Senators Therriault, Wielechowski, McGuire, Huggins, and French were present at the call to order.

CONFIRMATION HEARING(S)

Board of Governors of the Alaska Bar

[1:08:57 PM](#)

CHAIR RAMRAS announced that the committees would first consider the appointment of Carl Ekstrom to the Board of Governors of the Alaska Bar.

[1:10:38 PM](#)

CARL EKSTROM, Appointee to the Board of Governors of the Alaska Bar, conveyed that it is essential to have a public voice, a layman's view of the process. He offered that his background is in public affairs, marketing, and with small businesses. In response to Chair French, Mr. Ekstrom stated that he is interested in serving on the Board of Governors of the Alaska Bar primarily due to his interest in the ethics of attorneys. He reiterated that it is important to have a layman's viewpoint of the process and procedure. He stated that he would bring a rural, small business perspective to any discussions held by the body. He surmised that this would be a learning experience for him.

CHAIR FRENCH asked Mr. Ekstrom whether he has had any life experiences that would influence him on the topic of attorney's ethics and if he has had any positive or negative experiences with attorneys.

MR. EKSTROM answered that he has had both positive and negative experiences with lawyers, and characterized his experiences with attorneys as generally better ones rather than worse ones. He stressed his value to the Board of Governors of the Alaska Bar would be to provide a rural, small-business perspective on issues.

SENATOR THERRIAULT referred to Mr. Ekstrom's resume, and asked Mr. Ekstrom whether he is currently associated with the Whitestone Community Association.

MR. EKSTROM answered that he is not; although he founded the association, he left the position in 2005.

SENATOR THERRIAULT asked Mr. Ekstrom to describe his past interactions with the Alaska Travel Industry Association (ATIA).

MR. EKSTROM answered that he previously served on the ATIA board, on its marketing and public relations committees. He pointed out that he still serves on its government relations committee. He stated that he is currently very involved with the ATIA charity walk held in Anchorage. He characterized his relationship with some ATIA members as being close relationships.

SENATOR THERRIAULT offered his understanding that most people who serve on the ATIA are involved in the tourism business. He asked Mr. Ekstrom whether his ATIA service was due to his involvement with the Whitestone Community Association and Rika's Roadhouse & Landing in Delta Junction, Alaska.

MR. EKSTROM said it was.

[1:15:09 PM](#)

REPRESENTATIVE HOLMES referred to Mr. Ekstrom's application, and noted that he expressed interest in serving on the Public Offices Commission (APOC), the Alaska Bar Association, and the Alaska Health Care Strategies Planning Council. She asked Mr. Ekstrom to describe what piqued his interest in serving on any boards and commissions, and whether someone had encouraged him to apply or if he decided to apply based on his own interest.

MR. EKSTROM responded that both had happened. He stressed his interest in citizen involvement, and noted that several times people have encouraged him to become more engaged in community work.

SENATOR WIELECHOWSKI asked Mr. Ekstrom whether he feels strongly about something in particular that he would like to change, with respect to the Board of Governors of the Alaska Bar.

MR. EKSTROM indicated that he did not. He stated that he appreciates that a public member can provide the Board of Governors of the Alaska Bar with a public perspective on matters.

REPRESENTATIVE COGHILL asked Mr. Ekstrom whether he has observed any of the board's proceedings.

MR. EKSTROM answered that he has not, adding that thus far his only involvement with the Bar Association has been to assist Delta Junction high school students conduct mini-mock trials about five years ago.

CHAIR FRENCH opined that Mr. Ekstrom seems qualified to serve in the position. He said he would like to lobby for lower association dues for attorneys because Alaska has the highest bar association dues in the country. He stated that he has long been an advocate for tiered dues, based on experience, such that younger attorneys would pay lower dues and older attorneys would pay higher dues. He opined that the vast majority of states have some type of model to allow for tiered dues. He relayed that he previously took to the Bar Association a proposal suggesting tiered dues, which was immediately rejected.

REPRESENTATIVE COGHILL reminded members that the member's signature on the committee report does not reflect approval or disapproval of the appointees and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

[1:19:57 PM](#)

CHAIR RAMRAS made a motion to advance from the committees the nomination of Carl Ekstrom to the Board of Governors of the Alaska Bar. There being no objection, the confirmation was advanced from the joint meeting of the House and Senate Judiciary Standing Committees.

Commission on Judicial Conduct

[1:20:23 PM](#)

CHAIR RAMRAS announced that the committees would next consider the appointment of Peter Aschenbrenner to the Commission on Judicial Conduct (CJC).

PETER ASCHENBRENNER, Appointee to the Commission on Judicial Conduct (CJC), stated that he has offices in Anchorage and Fairbanks. He said that he has been practicing law for over 36

years. The area of judicial ethics is of particular interest to him, he noted, and relayed that he has written over 10 articles in the state bar journal on this topic, that he has appeared before the CJC as an advocate, that he has attended national conferences, and that he has researched issues that have come before the CJC. He surmised that the attorney members of the CJC have some very heavy lifting to do because they are the ones, as attorneys, that see the vast majority of problem behaviors as judges are getting into trouble. He posited that two areas of particular interest to the legislature that the CJC is currently facing pertain to ethical conduct in settlement conferences and to delays in making decisions.

1:22:04 PM

CHAIR FRENCH asked Mr. Aschenbrenner whether he's previously served on the CJC.

MR. ASCHENBRENNER answered that he was previously appointed by Governor Murkowski in 2004, and that his four-year term will end in March 2008; thus his current application is for reappointment to the CJC. In response to a question, he pointed out that the state constitution provides for three different and divergent points of view, and offered that judges and public members bring general and specific experiences to the CJC. Attorney members, though, provide proactive comments on problems judges encounter. He pointed out that the vast majority of the [CJC's] proceedings are confidential, and that as the beginnings of problem behaviors emerge, the CJC acts as a "misconduct commission." The CJC also lays out guidelines to guide all judges in ethical behavior in guiding parties into settlement conferences.

SENATOR HUGGINS asked Mr. Aschenbrenner to speak to his forthcoming article for the "The Bar Rag," titled "Hey Dude, Where's My Wig?".

MR. ASCHENBRENNER noted that the judges in the United Kingdom wear a wig down to the waist. This gives the British a sharp and clear vision of its judges. He noted that since the United States does not use such accoutrements, it struggles to clearly define its judges. He also noted that the public wants its judges to decide cases in a timely manner. In fact, current law states that a judge cannot collect his/her payroll check if one of his/her decisions is six months overdue. He asked members whether they feel that law is appropriate. This is one issue about which the CJC can provide guidance and encourage judges to

issue their decisions prior to the aforementioned deadline, rather than to go without being paid.

SENATOR THERRIAULT asked Mr. Aschenbrenner whether he has previously applied for judgeship.

MR. ASCHENBRENNER said he has not, though for about 16 years he served as a part-time U.S. Magistrate in Fairbanks.

[1:26:44 PM](#)

CHAIR FRENCH made a motion to advance from the committees the nomination of Peter Aschenbrenner to the Commission on Judicial Conduct. There being no objection, the confirmation was advanced from the joint meeting of the House and Senate Judiciary Standing Committees.

[1:27:10 PM](#)

CHAIR RAMRAS announced that the committees would next consider the appointment of Thomas G. Nave, Esq., to the Commission on Judicial Conduct (CJC).

THOMAS G. NAVE, Esq., Appointee to the Commission on Judicial Conduct (CJC), stated that he has practiced law for over 31 years; that until 1985, he was deputy director of the Public Defender Agency (PDA); and that since that time he has been engaged in private practice, which encompasses criminal defense, general civil, and litigation. He offered that he has regularly represented attorneys who have been sued for malpractice, and noted that he too has served on the CJC for four years. He noted that the three attorneys that serve on the CJC do not hold a common view of everything, but that each one brings his/her own perspective, and stated that he has enjoyed serving on the CJC the past four years. And although initially he did not intend to reapply, he remarked, he changed his mind when he realized that the learning curve seems to be so steep. He pointed out that he has been to national training, held in Chicago, Illinois, twice in the past four years. It takes time to come up to speed on what the judicial canons state, what they mean, and how they are applied in practice. He stated that he felt obligated to put the training he has received thus far to effective use.

REPRESENTATIVE GRUENBERG offered that he has a conflict of interest in that Mr. Nave has represented other members of his family.

REPRESENTATIVE DAHLSTROM asked Mr. Nave whether he has a potential conflict of interest since his wife works for the Department of Law (DOL).

MR. NAVE answered that he did not believe that a conflict of interest exists since the DOL's work falls outside the purview of the CJC, the sole purpose of which, he opined, is to determine, based on complaints that are filed, whether a particular judge has crossed an ethical line. The DOL plays no part in that matter, he offered.

SENATOR THERRIAULT referred to Mr. Nave's resume and asked him to provide more information on the statement included in it that read, "I have also been retained by B.P. Exploration (Alaska) on two occasions as a trial consultant and retained by law firms as an expert witness in legal malpractice cases."

MR. NAVE explained that that statement was part of his initial application submitted four years ago. He noted that BP hired him twice as part of its trial litigation team because it wanted a local perspective. He stated that he did not participate in trials, but instead assisted BP in setting up a mock trial situation and focus groups. In response to another question, he said he thought that BP was preparing for a trial that would decide if it was paying its fair share of taxes to the state. Mr. Nave added, "It settled, basically, on the courthouse steps."

[1:33:10 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to advance from the committees the nomination of Thomas G. Nave, Esq., to the Commission on Judicial Conduct. There being no objection, the confirmation was advanced from the joint meeting of the House and Senate Judiciary Standing Committees.

[1:33:52 PM](#)

CHAIR RAMRAS announced that the committees would next consider the appointment of Robert Sheldon to the Commission on Judicial Conduct (CJC).

[1:33:59 PM](#)

ROBERT SHELDON, Appointee to the Commission on Judicial Conduct (CJC), relayed that in the past two decades he has been involved in serving in a public policy venue. He mentioned that he

learned that a position on the CJC would become vacant in March 2008 during a casual conversation with a friend.

REPRESENTATIVE HOLMES asked Mr. Sheldon whether this is his first time to apply to serve on a board or commission.

MR. SHELDON said he was previously involved with a Taiwan-Alaska Trade & Investment Cooperation Council (TATICC) group under the Murkowski administration, an investment council that explored, arranged, and facilitated bilateral trade between Alaska and Taiwan.

CHAIR RAMRAS referred to Mr. Sheldon's resume, and noted that at present Mr. Sheldon assists in managing a private equity fund which invests in latter-stage, power-related companies. Chair Ramras asked Mr. Sheldon whether any of those companies have an interest in the State of Alaska.

MR. SHELDON said they do not. He further elaborated that only two holdings remain in the fund since its investments have been sold off to public markets.

REPRESENTATIVE HOLMES asked Mr. Sheldon whether he has had any particular experiences with the judicial branch that have led to either positive or negative opinions.

MR. SHELDON indicated that he has not, though he is intrigued with the CJC's ethics advice and prevention component. He said that the process of reviewing the CJC's prior opinions and actions attracted him to the CJC.

REPRESENTATIVE HOLMES asked Mr. Sheldon whether there is anything he would like to specifically accomplish if he were to serve on the CJC.

MR. SHELDON said he does not have anything specific he wishes to accomplish other than to just perform his public duty.

[1:39:15 PM](#)

REPRESENTATIVE GRUENBERG made a motion to advance from the committees the nomination of Robert D. Sheldon to the Commission on Judicial Conduct. There being no objection, the confirmation was advanced from the joint meeting of the House and Senate Judiciary Standing Committees.

Violent Crimes Compensation Board

1:39:41 PM

CHAIR RAMRAS announced that the committees would last consider the reappointment of Leroy J. Barker to the Violent Crimes Compensation Board (VCCB).

1:39:57 PM

LEROY J. BARKER, Appointee to the Violent Crimes Compensation Board (VCCB), relayed that he retired from practicing law three years ago and has served for the last five years on the Violent Crimes Compensation Board (VCCB). He said that he is requesting to be reappointed to serve on the VCCB, characterized it as a worthwhile activity, and remarked that it is important to have someone with experience continuing to serve. Currently the VCCB consists of one physician, one lay person, and himself, as its attorney, he added. He again expressed interest in continuing to serve on the VCCB.

CHAIR RAMRAS asked Mr. Barker to explain the types of projects the VCCB undertakes.

MR. BARKER explained that the VCCB is a statewide board, and that victims of violent crimes apply for compensation based on crimes that are subject to the VCCB, as set out by statute. He offered that statutes also establish restraints with respect to what compensation can be awarded to victims. He characterized the work of the VCCB as one in which the board members review files and rarely hear from the claimants. Victims seek assistance, lost income, and medical costs, and the most important thing the VCCB does, he surmised, is to offer emergency awards up to \$1,500, primarily to help relocate victims of domestic violence. All first responders are required to notify victims that the VCCB exists, he noted.

CHAIR RAMRAS asked Mr. Barker whether the VCCB receives matching federal funds.

MR. BARKER answered that the VCCB receives \$.40 on the dollar in matching funds, and that a portion of the permanent fund is retained for the criminal justice system and that the VCCB receives a portion of that money - this represents the VCCB's primary funding source.

CHAIR RAMRAS asked Mr. Barker to outline any suggested improvements for the VCCB.

MR. BARKER answered that the VCCB would like to have funding appropriated to the VCCB, and not lapse, in order to benefit from the matching federal funds and thereby assist more victims. Currently any surplus funding, from court-ordered restitution, subrogation claims, and donations revert to the general fund (GF). In the past, the VCCB has depleted its funds and therefore had to reduce compensation to victims. He offered his understanding that bills have been introduced that would assist the VCCB. He further noted that most victims are impoverished or destitute.

CHAIR RAMRAS asked how many victims are compensated annually through the VCCB.

MR. BARKER offered his understanding that 730 victims were compensated "this year."

CHAIR RAMRAS surmised that enhancing the VCCB funding via the aforementioned legislation would assist the victims of violent crimes.

MR. BARKER concurred.

[1:49:14 PM](#)

REPRESENTATIVE GRUENBERG relayed that he has known Mr. Barker for over 30 years, and recommends his continuation on the VCCB. Representative Gruenberg recalled that a number of years ago the VCCB's jurisdiction was expanded to include arson, and asked Mr. Barker whether other crimes should be added.

MR. BARKER said that he did not think so. He opined that the VCCB has not turned down anyone who has suffered from a violent crime. He discouraged expanding the VCCB's jurisdiction to property crimes due to the tremendous cost involved in doing so. It's not that the victims of property crimes don't deserve help, but there is a lack of resources for providing assistance to the large numbers of victims of that type of activity.

SENATOR MCGUIRE thanked Mr. Barker for continuing to serve. The VCCB is an uncompensated board, she noted, and said its members embody the highest level of service.

REPRESENTATIVE HOLMES relayed that someone she holds in high regard has referred to Mr. Barker as "the ethical gold standard."

1:51:59 PM

REPRESENTATIVE DAHLSTROM made a motion to advance from the committees the nomination of LeRoy J. Barker to the Violent Crimes Compensation Board. There being no objection, the confirmation was advanced from the joint meeting of the House and Senate Judiciary Standing Committees.

ADJOURNMENT

There being no further business before the committees, the joint meeting of the House and Senate Judiciary Standing Committees was adjourned at 1:52 p.m.