

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1710 SJ SJR 5

COMMITTEE PROPOSAL NO. 2

Introduced by Committee on Judiciary Branch

ARTICLE ON THE JUDICIARY

RESOLVED, that the following be agreed upon as part of the Alaska State Constitution.

Judicial Power

1 Section 1. The judicial power of the State is vested in
2 a Supreme Court, a Superior Court, and such other courts
3 as the legislature may establish. The jurisdiction of
4 the respective courts shall be prescribed by law and the
5 courts shall constitute a unified judicial system for
6 purposes of operation and administration.

Supreme Court

7 Section 2. The Supreme Court is the highest court of the
8 State with appellate jurisdiction and consists of three
9 justices, one of whom is Chief Justice. The number of
10 justices may be increased by law upon request of the
11 Supreme Court.

Superior Court

12 Section 3. The Superior Court is the trial court of gen-
13 eral jurisdiction and consists of five judges. The num-
14 ber of judges may be changed by law.

Nomina-
tion and
Appoint-
ment

15 Section 4. Justices of the Supreme Court and Judges of
16 the Superior Court are appointed by the Governor on nomi-
17 nation by the Judicial Council as provided in this
18 article.

Approval or 1 Section 5. Each justice of the Supreme Court and
 Rejection 2 each judge of the Superior Court shall, at the
 by Voters 3 next general election following a period of three
 4 years after his appointment, be subject to approval or
 5 rejection by the voters of the State on a non-parti-
 6 san ballot in the manner provided by law. Every
 7 ten years after approval each justice of the Su-
 8 preme Court, and every six years after approval
 9 each judge of the Superior Court, shall again be
 10 subject to approval or rejection by the voters in
 11 the same manner.
 12

Vacancy
 in Judi-
 cial
 Office

13 Section 6. If, at any election, a majority of the
 14 voters declare that any justice or judge shall not
 15 be retained in office, the office shall become
 16 vacant ninety days after the election and shall be
 17 filled by the method of selection provided in this
 18 article. If a justice or judge fails to file, in
 19 advance of the election as prescribed by law, a
 20 declaration of his candidacy for election to suc-
 21 ceed himself, his office shall become vacant ninety
 22 days after the election, and shall be filled by the
 23 method of selection provided in this article.

Qualifica-
 tion of
 Judges

24 Section 7. To be eligible for appointment, Justices
 25 of the Supreme Court and Judges of the Superior
 26 Court shall be citizens of the United States and of

1 the State, who have been admitted to practice law in
 2 the State for at least five years and have been resi-
 3 dents of the State for at least five years next preced-
 4 ing their respective nominations.

Other
 Courts

5 Section 8. Judges of other courts shall be selected in
 6 the manner and for the terms and subject to eligibility
 7 qualifications to be prescribed by the Legislature.

Selection
 of Judges

8 Section 9. Whenever there is a vacancy in an office of
 9 Justice of the Supreme Court or Judge of the Superior
 10 Court, the Governor shall fill the vacancy by appointing
 11 one of not less than two qualified persons who shall
 12 have been nominated by a non-partisan judicial council
 13 established and organized as provided in this article.

Judicial
 Council;
 How
 Selected

14 Section 10. The Judicial Council consists of six mem-
 15 bers chosen in the following manner: On the basis of
 16 appropriate area representation the governing body of
 17 the organized State bar shall appoint three members of
 18 the bar to serve as members of the Judicial Council for
 19 terms as specified in this article. Three non-attorney
 20 members representing different major areas shall be ap-
 21 pointed by the Governor for terms as specified in this
 22 article, subject to confirmation by the Senate. The
 23 six members so appointed shall be compensated as pro-
 24 vided by law.

Judicial

25 Section 11. After the members first appointed to the

Council;
Chairman-
ship and
Quorum

1 Judicial Council have submitted to the Governor the
2 names of nominees for appointments to fill the initial
3 vacancies in the Supreme Court, including the office of
4 chief justice, and the justices have been appointed and
5 qualified, the chief justice shall thereafter be ex-
6 officio a seventh member and the chairman of the Judi-
7 cial Council which shall continue to act by the affirma-
8 tive vote of at least four of its members in accord-
9 ance with rules which it shall promulgate governing its
10 own procedure. No member of the Judicial Council, other
11 than the chief justice, may hold any office of the state
12 or of the United States while a member of the Council.

Judicial
Council;
Terms of
Office

13 Section 12. The terms of members of the Judicial Coun-
14 cil shall be six years, except that the attorney mem-
15 bers first selected shall be appointed to terms of one
16 year, three years and five years respectively, and the
17 non-attorney members first selected shall be appointed
18 to terms of two years, four years and six years respec-
19 tively. In the event of vacancy, a successor shall be
20 appointed to fill the unexpired term in the manner pro-
21 vided for initial appointment.

Judicial
Council;
Addition-
al duties

22 Section 13. In addition to nominating qualified persons
23 for appointment to fill court vacancies, the Judicial
24 Council shall be responsible for conducting studies
25 from time to time for improvement of the administration

1 of justice, including such matters as court structure,
 2 rules of procedure and administration of the courts, and
 3 for making reports and recommendations to the Supreme
 4 Court and the Legislature at intervals of not more than
 5 two years. The Judicial Council shall also perform such
 6 other specific duties as are assigned to it by law.

Retirement
 for In-
 capacity

7 Section 14. Whenever the Judicial Council certifies to
 8 the Governor that any justice of the Supreme Court ap-
 9 pears to be so incapacitated as substantially to prevent
 10 him from performing his judicial duties, the Governor
 11 shall appoint a board of three persons to inquire into
 12 the circumstances and, on the board's recommendation, the
 13 Governor may retire the justice. For judges of other
 14 courts, if a judge appears to be so incapacitated as sub-
 15 stantially to prevent him from performing his judicial
 16 duties, the Judicial Council shall recommend to the
 17 Supreme Court that the judge be put under early retire-
 18 ment. After notice and hearing, the Supreme Court by
 19 vote of a majority of its members may retire the judge.

Retire-
 ment for
 Age

20 Section 15. Except in cases of early retirement because
 21 of physical or mental infirmity each justice and judge
 22 shall be retired at the age of 70, on such retirement pay
 23 as may be prescribed by law, and shall render no further
 24 service on the bench, except for special assignments as
 25 are provided by court rule. The basis and amount of re-

- 1 tirement pay for justices and judges who retire or are
 2 retired at an earlier age shall be prescribed by law.
- Impeachment of Judges 3 Section 16. Impeachment of any justice or judge for mal-
 4 feasance or misfeasance in the performance of his offi-
 5 cial duties shall be effected as generally prescribed
 6 by law for State officials.
- Compensation of Judges 7 Section 17. The justices and judges shall receive for
 8 their services such compensation as is prescribed by law,
 9 which shall not be diminished during their respective
 10 terms of office, unless by general law applying to all
 11 salaried officers of the State.
- Ineligibility to Other Offices 12 Section 18. No Justice of the Supreme Court or Judge of
 13 the Superior Court, while serving as a Justice or Judge,
 14 may practice law, hold office in any political party, or
 15 hold any office or position of profit under the United
 16 States, or the State or a political subdivision of the
 17 State, and shall, if he files for elective public office,
 18 thereby forfeit his judicial position. Compensation for
 19 service in the State Militia or the armed forces of the
 20 United States is not "profit" as that term is here used.
- Rule-Making Power 21 Section 19. The Supreme Court shall make and promulgate
 22 rules governing the administration of all courts of the
 23 State. It shall also make and promulgate rules govern-
 24 ing practice and procedure in all civil and criminal
 25 cases in all courts, which rules may be changed by the

1 Legislature only upon a two-thirds vote of the members
2 elected to each house.

Court Ad-
ministra-
tion

3 Section 20. The Chief Justice of the Supreme Court shall
4 be the administrative head of all the Courts in the State.
5 He may assign judges from one court or division thereof
6 to another for temporary service. For other phases of
7 court administration the Chief Justice shall, with the
8 approval of the Supreme Court, appoint an administrative
9 director to serve at his pleasure and to supervise the
10 administrative operations of the judicial system.

Commentary on the Judiciary Article(Sec. 1 Judicial Power)

This section establishes the basic court structure and also provides needed flexibility for future enlargement by the addition of such local or other courts as the Legislature may deem necessary. The concept of a unified court system is in accord with the fundamental and minimum standards of judicial administration approved and supported by the American Bar Association.

(Sec. 2 Supreme Court)

The initial membership of the Supreme Court is fixed at three justices, one of whom is the chief justice. The provision for future enlargement by the Legislature is qualified by the provision that such enlargement be requested by the Court. A similar provision is found in the new constitution of Puerto Rico and is designed to prevent the number of justices from being increased for any purpose other than to meet the needs of judicial business.

(Sec. 3 Superior Court)

The placing of general trial jurisdiction in a single court, with as many judges thereof as may be necessary to handle the volume of cases, is in line with modern development, and is reversing the former trend toward a complex structure of specialized courts that has so greatly impeded efficient judicial administration in many states. The Legislature will be free, however, to create lower or other courts as may be necessary, and to determine the jurisdiction of courts and the geographical extent of their authority.

(Sec. 4 Nomination and Appointment)

The main features of the plan for judicial selection sponsored by the American Bar Association and embodied in the Missouri Plan, are summarized in the Association's handbook on judicial administration as: "(1) appointment by governor from list submitted by a nominating committee, the nominating and appointing authority being divided between two agencies; (2) periodic submission to the electorate with no opposing candidate, or 'running against the record.'" Both of these features are incorporated in the selection plan here presented.

(Sec. 5 Approval or Rejection)

The American Bar Association's handbook states: "The ideal solution is to provide that, after a specified period of service, and periodically thereafter, the appointee shall either come up for reappointment or should go before the people at a general

election on the basis of his record and with no opposing candidate. The latter alternative is probably preferable, especially since it retains for the voters an opportunity to participate in the process of judicial selection in about the only way in which they can effectively do so. The able judge has little to fear from such a system, while it does permit removal of a judge whom experience has shown to be plainly unqualified or who has become unfit to continue on the bench." It can be added that the type of plan here provided has functioned effectively in Missouri and also in California, where a comparable requirement has applied to appellate judges for more than twenty years.

(Sec. 6 Vacancy in Judicial Office)

In order to allow time for selecting a successor as well as for completing the judicial business remaining before a judge's service terminates, a period of 90 days is allowed after the election at which he is rejected or for which he fails to file. The provision for having a justice or judge file a declaration of his intention to be a candidate to succeed himself is a feature of both the Missouri and the California Constitutions. The details of such declaration such as its form and the time limits for its filing are properly, however, left to the Legislature as herein contemplated.

(Sec. 7 Qualification of Judges)

The requirements of citizenship and of minimum periods of membership in the bar and residence are comparable to those in a majority of states. It should be noted that the section refers to admission and residence "in the State", which will, by general provision elsewhere in the Constitution, presumably and necessarily be defined to include the predecessor Territory.

(Sec. 8 Other Courts)

This section confirms and implements the Legislature's authority to create such additional courts as may be needed, with appropriate methods of selection and qualifications for appointment.

(Sec. 9 Selection of Judges)

The appointment of justices and judges by the Governor from a list of several qualified persons selected by a non-partisan nominating agency is an essential feature of both the American Bar Association and the Missouri plans. The Association's handbook suggests that the nominating body should include laymen as well as lawyers, and that "if the state has a judicial council meeting these qualifications it may well serve as the nominating agency". The present article embodies this approach.

(Sec. 10 Judicial Council; How Selected)

Selection of lawyer members by the state bar association and of non-lawyers by the Governor, both groups of members on a geographical

representation basis, is a recommended feature of the Missouri Plan and has been adopted herein. The American Bar Association's handbook comments: "Nomination by a body of this sort, composed of high caliber men, should not only produce better judges but also remove any likelihood of improper motivation in their selection."

(Sec. 11 Judicial Council; Chairmanship and Quorum)

Since the establishment of the Judicial Council must precede the nomination of any judges, including the chief justice, the latter cannot become an ex officio chairman (as he did automatically in Missouri) until after his appointment has been effected. Thereafter, he will serve as a seventh member of the Council. In the event of his incapacity to serve, it is contemplated that rules of the Council will provide for an acting chief justice as his interim successor.

(Sec. 12 Judicial Council; Terms of Office)

This section provides for staggering the initial terms of the Judicial Council so that non-attorney and lawyer members are appointed in alternate years, respectively, and thereafter each successor member will serve for six years. Judge Laurance M. Hyde of the Missouri Supreme Court points out the reason for a similar six-year term in that state as being that, since a governor serves only a four-year term, no one governor will be able to appoint all of the non-lawyer members during any such term, and thereby control to that extent the personnel of the nominating body.

(Sec. 13 Judicial Council; Additional Duties)

This section empowers and directs the Judicial Council, with its experience and vantage-point in the field of judicial administration, to recommend needed improvements in the structure and operation of the court system.

(Sec. 14 Retirement for Incapacity)

It is becoming increasingly recognized that provision should be made, as this section does, for relieving a judge from his judicial duties when, as very occasionally happens, his retirement for reasons other than age or misconduct, becomes necessary to protect the administration of justice. Such retirement of a Supreme Court justice should be done only on recommendation of an outside board, rather than by the Supreme Court itself. This procedure is similar to that adopted in the Constitution for Hawaii. For other judges, removal by Supreme Court proceedings will be effective and adequate, as has been provided in the Constitution of Puerto Rico.

(Sec. 15 Retirement for Age)

The retirement laws for state judges have tended increasingly to adopt 70 as the maximum or mandatory retirement age. However, a retired justice or judge may still be called upon, in many states, for temporary service or special assignment, and this section permits

such service to be made possible by court rule.

(Sec. 16 Impeachment of Judges)

Procedure for impeachment of justices and judges should, as here provided, be in accord with that for other State officers.

(Sec. 17 Compensation of Judges)

While compensation for justices and judges should be prescribed by law, it should not be susceptible of arbitrary diminution during office. It should be subject to increase as future needs dictate, and should be subject to decrease only when a general reduction applying to all State officers becomes imperative.

(Sec. 18 Ineligibility to Other Offices)

The prohibition against the practice of law or holding other office by full-time justices and judges is a necessary and desirable one, and has been widely advocated. A similar provision was contained in the proposed new Judicial Article for the State of Illinois.

(Sec. 19 Rule-Making Power)

One of the major factors in New Jersey's remarkable achievement in bringing its trial calendars and court business up-to-date, and in simplifying and expediting the administration of justice, has been the vesting of the rule-making power in the Supreme Court, and the exercise of such power by the Court in adapting the Federal Rules of Civil Procedure to state court practice. The American Bar Association has strongly advocated, as its first and keystone recommendation in its program for reform of judicial procedure: "That practice and procedure in the courts should be regulated by rules of court; and that to this end the courts should be given full rule-making powers." This section places primary responsibility for such rule-making in the Supreme Court, reserving to the Legislature a power to change rules of procedure by a two-thirds vote.

(Sec. 20 Court Administration)

A coequal factor in New Jersey's historic modernization of its judicial system has been the vesting of administrative authority and responsibility in its chief justice, with power to assign judges to courts or areas for temporary service as needed. To assist the chief justice by supervising the management and housekeeping functions of the courts, both statewide and local, and by furnishing him with accurate and current statistics on court business, an administrative director is essential. This has been demonstrated not only by the economies effected by the Administrative Office of the United States Courts since its establishment in 1939, but also by the fact that nearly a third of the states have since followed the example thus set. Its inclusion in this section will, together with the other provisions contained in this article, place Alaska in the vanguard of jurisdictions whose judicial systems typify the best

and most modern principles of efficient judicial administration and will provide the guarantee of a strong, fearless and independent judiciary.



NORTHRIM ASSOCIATES



AN ANALYSIS OF THE RESULTS OF A SURVEY
FOR THE ALASKA JUDICIAL COUNCIL

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AUGUST, 1979

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INTRODUCTION

As part of a continuing effort at self-evaluation, the Alaska Judicial Council commissioned this study concerning judge retention voting behavior and attitudes in early 1979. This report summarizes the results of this study, a survey of voters who voted in the 1978 Fall election. The survey questioned respondents about their voting behavior, particularly regarding their selection of judges for retention or non-retention, asked for their knowledge of or familiarity with the present system of judge evaluation used by the Alaska Judicial Council, their knowledge of or familiarity with the Alaska Judicial Council itself, requested suggestions for improvements in the rating and evaluation system now used and for preferences as to methods which the Alaska Judicial Council could use to communicate its evaluations and recommendations.

The study was conducted during the months of April - May 1979, by mail. A random sample of 1001 voters in the Third Judicial District was selected by computer to proportionally represent voters throughout the district. Each was mailed at least one of three mailings which included the survey questionnaire itself, a letter explaining briefly the reason for the study, and a return envelope. Second and third mailings were sent to those who did not respond to previous mailings or whose survey did not return due to a change of address. To protect the confidentiality of all respondents, mailing labels were used and stripped off returned

surveys on arrival. The questionnaire was designed in consultation with the Judicial Council Executive Director and was refined in consultation with him. Letters to respondents were written and mailed on Judicial Council letterhead.

Sample Design:

Table a shows the random sampling design and sample characteristics of the Alaska Judicial Council survey respondents by community of residence. Of the original 1001 voters selected, 75 questionnaires were returned as undeliverable, leaving 926 questionnaires presumably delivered to respondents. The first mailing resulted in 216 returned questionnaires, or 37.8 percent of the total.¹ The second mailing resulted in 187 returns, or 32.7 percent. Between the second and third mailings, telephone calls were made to 45 percent of the remaining sample over three evenings. With this additional encouragement, 158 returns or 29.4 percent of the 586 questionnaires were returned in time for computer processing. A total of 236 telephone calls were completed between May 29 and May 31, 1979.

Of the 926 delivered questionnaires, 586 were returned before computer processing. Another 9 were returned after computer processing and an additional 51 were eliminated either because they obviously had been completed by someone other than the respondent chosen, the respondent said they did not vote in the 1978 election or failed to complete any of the information requested in the questionnaire. A total of 571 valid questionnaires remain

1. Total of 571 analyzed

as the basis for the analysis which follows. This represents a
62 percent response rate based on the 926 delivered questionnaires.

Table a. Sample Design and Alaska Judicial Council Sample Characteristics by District

DISTRICT	No. Votes Cast 1978 Election	Percent of Total Votes	Sample N	AJC Survey Returns Percent	N =
5 - Valdez Cordova- Seward	4,071	5.3	53	5.0	28
6 - Matanuska Valley	6,515	8.5	85	9.3	52
7 - 12 Anchorage	53,180	69.2	692	69.3	388
13 - Western Kenai	8,109	10.6	106	10.5	59
14 - Kodiak	2,133	2.8	28	3.6	20
15 - Aleutian Chain	1,211	1.6	16	0.7	4
16 - Bristol ¹ Bay	1,354	1.8	18	1.4	8
19 - Copper ¹ Center Glenallen	224	0.3	3	0.2	1
	<hr/> 76,797	<hr/> 100.1	<hr/> 1001	<hr/> 100.0	<hr/> 560 ²

1. Only certain precincts within these election districts are also included in the Third Judicial District. The sample size and mailings are, therefore, limited to only those certain precincts.
2. Percentages were calculated from a base of 560 cases, since 11 respondents did not indicate community of residence.

Demographic Characteristics:

In keeping with the intent of this study and in order to maintain the strict confidentiality of respondents, little demographic information was obtained from those who returned the survey questionnaire. Only community of residence, sex, age and educational attainment were asked. While the results of the comparison of sample size by community of residence shown in Table a indicates that our sample is quite representative of the Third Judicial District as a whole on this factor, there is no direct comparison of our sample with a comparable population on other demographic characteristics. At this time, official election statistics are not maintained on a precinct level by age and sex although the State Elections Office did provide age and sex tabulations of Fall, 1978 voters for the State as a whole. Table b shows a comparison of the Alaska Judicial Council sex and age distributions as of 1978. While the sex distributions are quite similar, median age for our sample reflects a sample of voters as opposed to a total population reflected in the Anchorage Municipal age statistics.

Our sample of voters appears to be somewhat skewed in favor of better educated voters, since 67.6 percent of the sample have attained at least some college. The Anchorage Urban Observatory's statistics for 1978 indicate a total population median educational attainment of 13.2 years, with 54.9 percent having some college or more education. Table c compares these Anchorage municipal education levels with sample educational attainment levels.

Table b: Comparison of 1978 Official Election Statistics and 1978 Statistics for the Municipality of Anchorage and Alaska Judicial Council Survey sample age and sex characteristics, 1979

SEX	1979 AJC SURVEY SAMPLE	1978 MUNICIPALITY OF ANCHORAGE	1978 ALASKA VOTERS
PERCENT MALE	52.2	52.4	54.1
PERCENT FEMALE	47.8	47.6	45.9

PERCENTAGE IN SELECTED AGE CATEGORIES

AJC SURVEY SAMPLE		1978 MUNICIPALITY OF ANCHORAGE		1978 ALASKA VOTERS	
18 & 19	1.9	15 - 19	10.5	18 & 19	2.4
20	0.8			20	2.0
21	0.6			21	2.4
22 - 24	5.6	20 - 24	11.4	22 - 24	9.4
25 - 34	34.5	25 - 34	21.1	25 - 34	33.9
35 - 44	23.7	35 - 44	14.1	35 - 44	21.4
45 - 54	16.9	45 - 54	9.6	45 - 54	14.9
55 - 59	6.2	55 - 59	2.4	55 - 59	5.6
60 - 61	2.5			60 - 61	1.6
62 - 64	2.2	60 - 64	2.1	62 - 64	2.0
65 - 74	5.1	65 - 74	1.9	65 - 74	3.2
74 +	-			74 +	1.1
TOTAL	100.0		73.1		100.0

SOURCE: Alaska Judicial Council Survey, 1979, by NORTHTRIM ASSOCIATES, INC.; Anchorage Urban Observatory, 1978 Population Profile, Municipality of Anchorage, reprinted as Table II-3 in Anchorage Annual Planning Information FY 1980, Alaska Department of Labor, 1979; State Division of Elections, Statistical Summary of 1978-2 Elections, February 18, 1979 computer tabulation.

TABLE c: Comparison of Anchorage Municipal and Alaska Judicial Council Survey Educational Attainment Levels

	ALASKA JUDICIAL COUNCIL SURVEY - 1979 - VOTERS		ANCHORAGE MUNICIPALITY Total Population - 1978	
EDUCATIONAL ATTAINMENT	1 - 8 years	2.8	1 - 11 years	12.9
LEVEL	9 - 12 years	29.6	12 years	32.2
	13 - 16	48.7	13 - 15 years	25.6
	17 +	18.9	16 years	14.1
	TOTAL	100.0	17 +	15.0
			TOTAL	100.0

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC. and ANCHORAGE URBAN OBSERVATORY, 1978 POPULATION PROFILE, MUNICIPALITY OF ANCHORAGE, 1979.

Organization of the Report:

The report is organized into three sections. The first section reports the results of the analysis of all 571 cases by question. The second section reviews significant trends obtained from analysis of three groups of voters - those who voted a straight no ticket in judicial elections, those who voted a straight yes ticket and those who discriminated in their vote - i.e. those who voted both to retain and to not retain judges in the 1978 election. Finally, the third section reviews selected cross-tabulations which were found to be significantly related to three questions: 1) What influenced Third Judicial District voter's voting behavior, 2) What is the voter's evaluation of the current judicial evaluation system and 3) What methods of communication are favored in communicating Alaska Judicial Council evaluations to the public before elections. The report concludes with policy recommendations based on these three analyses.

An Appendix presents the questionnaire, letters to respondents, a complete set of tables used in the analyses, and a sampling of responses for each of the code categories used in the interpretation of open-ended responses. Selected answers to question 18 which encouraged respondents to freely express additional thoughts on the survey are also included in the appendix.

ANALYSIS OF THE TOTAL SAMPLE

Voting Behavior:

The first questions in the survey concerned respondents' actual voting behavior in the Fall, 1978 election. Questions 1,2,8 and 9 below show the percentage and total number of respondents who voted in the Fall 1978 election, who voted for or against judges in that election, and who specifically voted for or against the retention of the judges on the 1978 ballot.

1. First of all, many people who are registered voters don't actually get to vote on election day. Did you vote in the Fall 1978 general election?

YES	NO
100.0% n = 571	-

2. Did you vote for or against any judges in the Fall 1978 general election?

YES	NO
91.9% n = 519	8.1% n = 46

8. Did you vote to retain any of the judges on the ballot?

YES	NO
89.7% n = 481	10.3% n = 55

9. Did you vote not to retain any judges on the ballot?

YES	NO
76.1% n = 386	23.9% n = 121

Since the survey was conducted to assess the impact of the present system of judicial evaluation on voter decision-making, the few cases of respondents who did not vote in the Fall, 1978 election were eliminated from the analysis. Of the 571 valid cases, 519 or 92 percent also stated that they voted either for or against the judges on the ballot.² Slightly fewer (90 percent) stated that they voted to retain at least some of the judges on the ballot, while 76 percent stated that they voted to not retain "any of the judges on the ballot."

Pre-voting behavior: How prepared are voters in judicial elections? How informed are they about the judges they vote to retain or not retain? In an attempt to understand these pre-voting decisions and behaviors, the survey asked a number of questions including questions 3, 4, 5, 6 and 10 which are described below.

2. This and subsequent percentage comparisons are based on a total number which excludes these cases which had missing information or in which the question was unanswered. In this case, 519 is 92% of 563 cases, since 8 respondents did not answer this question.

3. Before you voted, had you read each judge's own summary about his/her background contained in the Election Pamphlet?

YES		NO	
70.5%	n = 397	29.5%	n = 166

4. Had you seen any advertisements in the media on behalf of or against any judge running in the election?

YES		NO	
45.9%	n = 257	54.1%	n = 303

5. Before you voted, had you read the Judicial Council's ratings of judges published in the Election Pamphlet?

YES		NO	
71.1%	n = 401	38.9%	n = 163

6. If you read those ratings, what was your opinion of them?

Helpful	55.4%	n = 230
Good Idea	38.1%	n = 158
Of No Use	4.3%	n = 18
Should be Eliminated	2.2%	n = 9

10. In deciding whether to retain or not retain a judge, which source of information was most important to you?

<u>Percent</u>	<u>n =</u>	
7.5	39	1. Judge's summary
23.4	121	2. Alaska Judicial Council Rating
7.9	41	3. AJC Recommendation
51.9	269	4. Knowledge of judge based on such things as media coverage of his/her decisions and actions
0.6	3	5. Paid ads
8.7	45	6. Other: (Please specify) _____

The first question concerned whether the voter had read the judge's own personal summary presented in the Election Pamphlet. Seventy percent of the respondents stated that they had read the Judge's summary. Slightly more stated that they had read the Alaska Judicial Council ratings prior to voting. (71 percent). A total of 46 percent stated that they had seen or heard advertisements in the media on behalf of or against judges before the Fall 1978 election.

When asked to evaluate how helpful the Judicial Council ratings were in providing pre-voting information on which to base voting decisions, 93 percent of the respondents responded favorably to the rating system, 55 percent of the sample stated that they found the ratings helpful and another 38 percent stated the ratings are a good idea. Only 6 percent felt the ratings were either "of no use" or "should be eliminated."

Question 10 asked "In deciding whether to retain or not retain a judge, which source of information was most important to you?" Rather surprisingly, 52 percent of the respondents mentioned "knowledge of the judge based on such things as media coverage of his/her decisions and actions" as their most important source of information. The Alaska Judicial Council rating was second in importance but drew significantly fewer respondents - 23 percent. The council's recommendation of the judge received another 7.9 percent of the responses.

Two additional open-ended questions shed some light on the pre-voting decision-making process.

QUESTION 8A: "Can you tell us why you voted to retain these judges? _____"

QUESTION 9A: "Can you tell us why you voted not to retain these judges? _____"

Responses to question 8A suggest that the most important reason for retaining a judge is satisfaction with the judge's performance. Voter satisfaction is based on either positive reports of the judge's performance or no negative reports. For example, respondents stated "They have done adequate jobs" but they also said "I knew nothing against them."

Additional factors mentioned as important under question 8A were the judge's performance record, the Alaska Judicial Council's ratings of the judge and personal knowledge of the judge. Fifth in importance was "information contained in the voter pamphlet", which could be interpreted either as the judge's summary or Alaska Judicial Council ratings or both.

Table 5 gives the percentage responses to this question. If we combine "doing adequate job", "judge's record" and "personal attributes of the judge" we find that 56.2 percent of the responses refer to one of these personal assessments of judicial performance. Combining "Alaska Judicial Council ratings" and "information in the voter pamphlet" yields an additional 20.4 percent of responses.

A second open-ended question asked why voters voted to not retain a judge, if they had done so. (Question 9A.) Twenty-eight percent of those respondents who voted against retention of judges in the Fall, 1978 election mentioned that the judge's performance was their primary reason for voting not to retain him/her. In contrast to responses to question 8A, respondents who voted not to retain a judge indicate some direct knowledge of the judge's performance in their answers. Examples of this choice are the following:

"Incompetent to serve"
"Unfair judge"
"Questioned integrity"
"Thought someone else could do
a better job"

The second most frequent response to this question was that the judge in question "was too lenient with criminals." The Alaska Judicial Council ratings of the judge and personal experience or knowledge of the judge were further criteria used in the decision to vote against retention, receiving 13.5 and 10.8 percent of the total responses to question 9A.

Combining the "doing an inadequate job", "judicial performance record" and "too lenient with criminals" categories, we find that 50.7 percent of the responses to question 9A are directly related to personal assessment of judicial performance. "Information in the voter pamphlet" and "Alaska Judicial Council ratings" received another 20.4 percent of the responses to question 9A. Another 13.2 percent cited either "personal opinion or experience" or "discussions with others" as their most important reason for voting not to retain

a judge. (See Table 6)

Knowledge of the Alaska Judicial Council: A central concern of the survey was a better understanding of voter awareness of the Alaska Judicial Council, its rating system and other components of the judicial evaluation system. Questions 13, 13a, and 13b addressed these issues.

13. Had you heard about the Alaska Judicial Council before the Fall, 1978 election?

YES		NO	
19.7%	n = 104	80.3%	n = 423

13a. If YES: what had you heard about the Council?

	<u>PERCENT</u>	<u>N =</u>
"That it existed"	43.5	37
"That it recommended/ evaluated judges"	35.3	30
"Doing a good job"	8.2	7
"Miscellaneous/other"	8.2	7

13b. How, or in what connection had you heard about the Council?

	<u>PERCENT</u>	<u>N =</u>
Media	46.1	47
Voter pamphlet	22.5	23
Friends in profession	13.7	14

There is still considerable lack of awareness about the Judicial Council on the part of many voters. When asked if they had heard about the Council prior to voting, 20 percent of the respondents stated that they had. Of those who had heard of the Council, 44 percent mentioned that they had heard it existed while another

35 percent mentioned that they knew that the Judicial Council rated and evaluated judges. When asked how they had heard about the Alaska Judicial Council, most respondents mentioned a media source (46 percent). The voter pamphlet was the second most important source of voter information. Unfortunately, with so few having information about the Judicial Council only 102 responded to this question. The extreme lack of information about the Alaska Judicial Council has important effects on utilization of the Judicial Council's rating system in voting as will be discussed in greater detail later in the report.

The Alaska Judicial Council System of Evaluation and Suggestions
for Improvement:

Several questions in the survey were related to a list of characteristics of judges used by the Alaska Judicial Council in its present system of judicial evaluation. Question 11a below lists the first, second and third preferences of respondents on this list of characteristics. The top three characteristics are 1) the judge's sense of basic fairness and justice, 2) his/her legal knowledge and reasoning ability and 3) integrity.

A second question (question 11b) asked respondents to eliminate those factors from the same list which were considered unimportant in rating judges. The bottom three choices were: 1) willingness to work diligently, 2) human understanding and compassion and 3) consideration of relevant sentencing factors.

A third question (question 11c) asked for additional factors that might be added to the judicial rating system. The "judge's performance history" received 31.0 percent of the responses to this question. Other responses - a miscellaneous category - and "Personal attributes of the judge" each received about 20 percent of the responses to this question.

11. In the Alaska Judicial Council's survey of lawyers, peace officers and citizens who have served on juries, the Council asked them to rate the following characteristics of the judges:

1. LEGAL KNOWLEDGE AND REASONING ABILITY.
2. CONSIDERATION OF RELEVANT SENTENCING FACTORS.
3. EQUAL TREATMENT REGARDLESS OF RACE, SEX, SOCIAL OR ECONOMIC STATUS AND THE LIKE.
4. RESTRAINT FROM FAVORITISM TOWARD EITHER THE PROSECUTION OR DEFENSE IN CRIMINAL CASES.
5. SENSE OF BASIC FAIRNESS AND JUSTICE.
6. HUMAN UNDERSTANDING AND COMPASSION.
7. WILLINGNESS TO WORK DILIGENTLY.
8. INTEGRITY.

11a. In making your decision to retain or not to retain a judge, which of the factors listed above is most important to you? Which is second most important and third most important? (Please use the number next to the factor as listed above.)

Most Important - 5 - SENSE OF BASIC FAIRNESS AND JUSTICE

Second Most Important - 1 - LEGAL KNOWLEDGE AND REASONING ABILITY

Third Most Important - 8 - INTEGRITY

11b. If you think the Judicial Council included too many factors, which ones should be left out? (Please use the number next to the factor as listed above.)

7 - WILLINGNESS TO WORK DILIGENTLY

6 - HUMAN UNDERSTANDING AND COMPASSION

2 - CONSIDERATION OF RELEVANT SENTENCING FACTORS

11c. If you think the Judicial Council left something out, tell us what you'd like to see added.

	<u>PERCENT</u>	<u>N =</u>
Judge's performance history	31.0	31
Other	20.0	20
Personal attributes of judge	19.0	19

Another question (12) asked for other suggestions for improving the judicial evaluation system, other than surveying lawyers, peace officers and jurors. Respondents were evenly split concerning whether or not other ways of evaluating should be tried. Another virtually equal group did not respond to this question at all. Of those who answered yes to this question, the most frequent addition to the evaluation system they suggested was information about the judges' performance history. Two other choices to question 12a receiving at least 10 percent of the remaining responses were "more questionnaires" and various media approaches. A miscellaneous "other" category also received 14 percent of the responses to this open-ended question.

12. Aside from surveying lawyers, peace officers, and jurors, are there other ways that judicial performance could be evaluated that would make it easier for voters to decide whether or not to retain a judge?

YES		NO	
50.1%	n = 188	49.9%	n = 187

12a. If YES: what are these ways?

	<u>WAYS</u>	<u>n =</u>
Judge's performance record	37.7%	69
Other	14.2%	26
More questionnaires	13.1%	24
Media approaches	12.0%	22

	YES	NO
Survey people who appeared before the judge	8.7%	16
Survey people who work with judges	7.1%	13
Evaluate recidivism	3.8%	7
Make judges campaign	3.3%	6
	<u>99.9%</u>	<u>183</u>

Another question asked earlier in the survey (question 7) also addresses the needs of an expanded information base on which to evaluate judges prior to voting. It asks: "If you believe that more information should be provided, what would you like to know?" A typical response to this open-ended question is the following:

"I think we should know their views on drugs, alcohol and murder. How he or she feels about different races. What their reason for becoming a judge was - to help society or for personal profit."

Another response states:

"Laws can often be bent in favor or against a person. The "best" lawyers may protect a rich man. A judge shouldn't let this happen. If loop-holes are found they are responsible to change or help change the laws to penalize criminals and protect the public. If we could know which judges were which!"

These wide-ranging responses are difficult to categorize. The percentage distribution on this question is presented below. The reader may also wish to check the appendix to see how specific responses to this question were categorized.

7. If you believe that more information should be provided, what would you like to know?

	<u>PERCENT</u>	<u>N =</u>
1. Judges performance record	44.1	89
2. Personal attributes of the judge	13.4	27
3. Position on key laws, issues	11.4	23
4. Courtroom opinion	3.0	6
5. Need more information	10.4	21
6. Prejudice for/against special interests	4.5	9
7. Alaska - specific knowledge	1.5	3
8. Miscellaneous	11.9	24
	-----	-----
	100.0	202

While there was a fairly wide range of responses to this question, only the judge's performance record received close to a majority of responses (44 percent). The judge's personal attributes, his/her position on key laws or legal issues and a general request for "more information" were the next most frequently mentioned.

Methods of Communication:

One of the goals of this survey was to obtain information concerning voters views about the communication of information about judges prior to or during an election in which judge retention is on the ballot. Question 14 asked respondents whether the Alaska Judicial Council should publish information about judges in the Election Pamphlet - i.e. as in the present system. Not surprisingly, 94 percent of the respondents agreed that the

the Judicial Council should do so.

Question 15 asked whether the Alaska Judicial Council should make recommendations for or against retention of judges it evaluates. Here, only 60 percent of the respondents favored a recommendation by the Alaska Judicial Council.

Question 16 asked respondents to circle methods of communication which the Alaska Judicial Council might use to communicate its evaluation to voters.

14. Do you think it's a good idea to require the Alaska Judicial Council to evaluate judges and to publish information about them in the Alaska Official Election Pamphlet?

YES		NO	
93.6%	n = 500	6.4%	n = 34

15. Do you think it's a good idea for the Judicial Council to make a recommendation in favor of or against the retention of any judge it evaluates?

YES		NO	
60.5%	n = 319	39.5%	n = 208

16. Alaska State law requires the Alaska Judicial Council to provide information to the voters concerning its evaluation of judges. How do you think this information ought to be communicated to the voters? PLEASE CIRCLE EACH AND EVERY MEANS WHICH YOU THINK IS PROPER.

	<u>PERCENT CIRCLED</u>
1. The Official Alaska Election Pamphlet.	74.4
2. By direct mail to all registered voters.	58.3

	<u>PERCENT CIRCLED</u>
3. Speeches and other public appearances by Council members and staff explaining the results of the evaluation.	26.4
4. Newspaper advertising.	42.2
5. Radio and television advertising.	31.9
6. Other: (please specify)	5.6
	<hr/> 100.0
N =:	571

Responses to question 16 indicate a rather strong trend in favor of official, direct mail or newspaper advertising as acceptable means of communicating judicial evaluations. A full 74.4 percent of the responses were in favor of the Official Alaska Election Pamphlet. Second in support was direct mail appeals to registered voters (58.3 percent) Third with 42.2 percent support was newspaper advertising. Radio and television advertising received 31.9 percent support, while "speeches and other public appearances by Council members and staff explaining the results of the Evaluation" received only 26.4 percent support.

Finally, a serious concern of the Alaska Judicial Council is addressed in question 17 - how to inform voters when, after a judicial rating and evaluation is completed, it is determined that a judge is unqualified.

17. If the Alaska Judicial Council, as a result of its evaluation, concludes that a judge is unqualified to remain in office, what should the Council do?"

Express no opinion	10.7
<u>Only express opinion in</u> Official Election Pamphlet	40.1
Strongly advertise	<u>49.1</u>
Total	100.0
N =	521

Responses to this question show that 49.1 percent of the voters are in favor of strong advertising in important non-retention cases, another 40.1 percent were in favor of strictly expressing opinion in the Official Election Pamphlet. Only 10.7 percent of survey respondents favored no expression of opinion by the Alaska Judicial Council. Later analysis indicates that these responses vary somewhat with three types of voters - voters who voted a straight yes ticket in judicial elections, those who voted straight no and those who voted both yes and no in judicial elections. The analysis of these three groups of voters follows in the next section of this report.

THREE GROUPS OF VOTERS

Is there a difference between voters who vote only for judges, those who vote only against judges, and voters who vary their voting behavior to fit the judge, based on the judge's ratings and other information provided or known about this judge. In an attempt to determine whether these differences could be discerned, we divided the total sample into three groups of voters. The first group, "no voters", stated that they voted not to retain at least one of the judges on the ballot (question 9), but they also did not report having voted to retain any judges (question 8). There were 32 respondents who fit this category of voters voting only against retention.

The second group we called the "yes voters" because they said they voted to retain judges (question 8) but they answered no to question 9--i.e., they did not vote against any of the judges on the Fall, 1978 ballot. There were 124 "yes voters" among our respondents.

The third group, the "Discriminators", voted both to retain judges (question 8) and to not retain judges (question 9). The majority of respondents fit into this group (355). An additional 60 cases could not be categorized in any of the above groups and are excluded from the present analysis.

The analysis which follows selects the most important questions in the survey and compares these three groups of voters in their response to these question. It also addresses the issue of the extent to which these three groupings are the most important ones that could be made in assessing the variation in voter opinion and behavior concerning judicial retention. In other words, are there other influences that are more important than voting behavior itself which might be said to distinguish voters in judicial elections and about which we have information? Perhaps educational attainment is itself as important as whether one votes no, yes, or discriminates? Perhaps age or community of residence are as important in determining what one reads or attends to in the judicial voting process? Perhaps these characteristics of voters are more important than how one votes in determining how one would receive different types of communication about judicial performance.

Pre-voting Behavior:

3. Before you voted, had you read each judge's own summary about his/her background contained in the Election Pamphlet?

	YES		NO	
No voters	62.5%	n = 20	37.5%	n = 12
Yes voters	59.3%	n = 73	40.7%	n = 50
Discriminators	80.1%	n = 282	19.9%	n = 70

4. Had you seen any advertisements in the media on behalf of or against any judge running in the election?

	YES		NO	
No voters	35.5%	n = 11	54.5%	n = 20
Yes voters	37.1%	n = 46	62.9%	n = 78
Discriminators	53.0%	n = 184	47.0%	n = 163

5. Before you voted, had you read the Judicial Council's rating of judges published in the Election Pamphlet?

	YES		NO	
No voters	65.6%	n = 21	34.4%	n = 11
Yes voters	53.3%	n = 65	46.7%	n = 57
Discriminators	84.1%	n = 296	15.9%	n = 56

6. If you read those ratings, what was your opinion of them?

	1. Helpful		2. Good idea, but want more information	
No voters	27.3%	n = 6	63.6%	n = 14
Yes voters	69.7%	n = 46	27.3%	n = 18
Discriminators	55.1%	n = 167	37.6%	n = 114

	3. Of no use	4. Should be eliminated
No voters	9.1% n = 2	- -
Yes voters	1.5% n = 1	1.5% n = 1
Discriminators	4.6% n = 14	2.6% n = 8

10. In deciding whether to retain or not retain a judge, which source of information was most important to you? (Please circle only one - the most important)

RANKING BY MENTION

<u>No Voters</u>	<u>Yes Voters</u>	<u>Discriminators</u>	
2	3	4	1. The judge's own summary of his/her background.
4	2	2	2. The Alaska Judicial Council's rating of the judge.
3	5	3	3. The Judicial Council's recommendation of the judge.
1	1	1	4. A knowledge of the judge based on such things as media coverage of his/her decisions and actions.
-	6	5	5. Paid advertisements for or against the judge published or broadcast in the media.
2	4	4	6. Other: (Please specify) _____

While no voters and yes voters are about the same in their responses to all three pre-voting questions dealing with voter preparation in Judicial elections, the discriminator group is considerably better informed. They not only were more likely to have read the judges summary (question 3), they also were considerably more likely to have read the Judicial Council's ratings of judges--i.e., to have used the voter election pamphlet prior to voting (question 5). These voters were also more likely to have seen advertisements for or against a judge prior to voting--i.e., to have attended to ads

prior to voting (question 4). In keeping with this more informed stance, the discriminator group also was more balanced between wanting more information and feeling that the Judicial Council rating system is helpful as it is (question 10). Few of the respondents in any of the groups felt the rating system was "of no use" or "should be eliminated."

On Question 10, there are both similarities and differences between the three groups of voters. A knowledge of the judge based on media coverage of his/her decisions and actions ranked first for all three groups. For both the yes voters and discriminators, Judicial Council ratings or recommendations ranked second. No voters were more idiosyncratic in their choice of information, and appeared more swayed in their vote by personal characteristics of the judge. Yes voters and discriminators relied more heavily on information contained in the voter election pamphlet.

Knowledge of the Alaska Judicial Council:

As in the case of questions pertaining to pre-voting behavior, answers to question 13, 13a and 13b also reflect more knowledge of the Alaska Judicial Council on the part of the discriminator group. Almost twice the percentage of discriminators had heard of the Alaska Judicial Council, for example. Their source of information was primarily the Alaska Election Pamphlet or "word of mouth."

"Now we would like to ask you about the Alaska Judicial Council."

13. Had you heard about the Alaska Judicial Council before the Fall, 1978 election?

	YES		NO	
No voters	13.3%	n = 4	86.7%	n = 26
Yes voters	12.7%	n = 15	87.3%	n = 103
Discriminators	25.1%	n = 83	74.9%	n = 248

13a. If YES: what had you heard about the Council?

Heard that it existed:

No voters	-	-
Yes voters	25.0%	n = 3
Discriminators	48.5%	n = 33

Heard it rated judges:

No voters	66.7%	n = 2
Yes voters	50.0%	n = 6
Discriminators	30.9%	n = 21

Council too biased:

No voters	-	-
Yes voters	-	-
Discriminators	2.9%	n = 2

Other/miscellaneous:

No voters	-	-
Yes voters	16.7%	n = 2
Discriminators	7.4%	n = 5

13b. How, or in what connection had you heard about the Council?

Voter pamphlet:

No voters	25.0%	n = 1
Yes voters	22.2%	n = 4
Discriminators	22.1%	n = 17

Word of mouth:

No voters	-	-
Yes voters	16.7%	n = 3
Discriminators	5.2%	n = 4

Personal experience:

No voters	-	-
Yes voters	-	-
Discriminators	11.7%	n = 9

Friends in profession:

No voters	25.0%	n = 1
Yes voters	11.1%	n = 2
Discriminators	14.3%	n = 11

Media:

No voters	50.0%	n = 2
Yes voters	50.0%	n = 9
Discriminators	44.2%	n = 14

Other:

No voters	-	-
Yes voters	-	-
Discriminators	2.6%	n = 2

The Alaska Judicial Council System of Evaluation and Suggestions for Improvement:

Question 11 asked the respondents to consider a list of factors used in the Alaska Judicial Council's current rating system, and to select the most important and least important factors from this list. In comparing the three groups of voters, virtually no difference appears in either the positive or the negative ranking of these factors, as compared with rankings for the sample as a whole. In all three groups, willingness to work diligently, human understanding and compassion and consideration of relevant sentencing factors ranked as least important, while sense of basic fairness and justice, legal knowledge and reasoning ability and integrity were ranked as top three. Equal treatment regardless of race, sex, social or economic status and restraint from favoritism toward either the prosecution or defense in criminal cases fell in the middle of both scales.

11. In the Alaska Judicial Council's survey of lawyers, peace officers and citizens who have served on juries, the Council asked them to rate the following characteristics of the judges:

1. LEGAL KNOWLEDGE AND REASONING ABILITY
2. CONSIDERATION OF RELEVANT SENTENCING FACTORS
3. EQUAL TREATMENT REGARDLESS OF RACE, SEX, SOCIAL OR ECONOMIC STATUS AND THE LIKE
4. RESTRAINT FROM FAVORITISM TOWARD EITHER THE PROSECUTION OR DEFENSE IN CRIMINAL CASES
5. SENSE OF BASIC FAIRNESS AND JUSTICE
6. HUMAN UNDERSTANDING AND COMPASSION
7. WILLINGNESS TO WORK DILIGENTLY
8. INTEGRITY

11a. In making your decision to retain or not retain a judge, which of the factors listed above is most important to you? Which is second most important and third most important? (Please use the number next to the factor as listed above.)

Most Important - 5 - SENSE OF BASIC FAIRNESS AND JUSTICE

Second Most Important - 1 - LEGAL KNOWLEDGE AND REASONING ABILITY

Third Most Important - 8 - INTEGRITY

11b. If you think the Judicial Council included too many factors, which ones should be left out? (Please use the number next to the factor as listed above.)

Least Important - 7 - WILLINGNESS TO WORK DILIGENTLY

Second Least Important - 6 - HUMAN UNDERSTANDING AND COMPASSION

Third Least Important - 2 - CONSIDERATION OF RELEVANT SENTENCING FACTORS

While slight differences between the three groups and the sample as a whole did occur, the overall order in each group is virtually the same as that found for the total sample. It appears that evaluation of these basic characteristics of judges is unaffected by one's voting behavior. (See tables 8 and 9).

12. Aside from surveying lawyers, peace officers, and jurors, are there other ways that judicial performance could be evaluated that would make it easier for voters to decide whether or not to retain a judge?

	YES		NO	
No voters	45.0%	n = 9	55.0%	n = 11
Yes voters	34.6%	n = 28	65.4%	n = 53
Discriminators	56.9%	n = 144	43.1%	n = 109

Question 12 asked whether respondents felt that additions to the system of judicial evaluation could be made that would "make it easier for voters to decide whether or not to retain a judge."

Again, discriminators favored additions to the system more than did the other two groups. No voters showed more interest in additional

information than did yes voters. The type of information that could be added does not appear to differ greatly between the three groups. As in the case of the total sample, more information about the judge's performance record ranked first and personal information about the judge ranked second in responses to the open-ended question 12a "What are these ways?" More use of questionnaires and surveys of people who have appeared before the judge were also suggested by the yes voters and discriminators especially. Since the number of no voters is small, there are fewer responses for this group. Yet for all three groups, only the judge's performance record appears as a significant choice - chosen by at least one-third of each group. Other choices show little consensus about other additions to the system and considerable variety of choice. (See table 10)

Questions 14 and 15 indicate little difference between the three groups of voters concerning Alaska Judicial Council evaluation and recommendation per se, but answers to question 16 indicate some difference in approach suggested by the three groups of voters.

14. Do you think it's a good idea to require the Alaska Judicial Council to evaluate judges and to publish information about them in the Alaska Official Election Pamphlet?

		YES		NO	
No voters	93.3%	n =	28	6.7%	n = 2
Yes voters	94.9%	n =	112	5.1%	n = 6
Discriminators	94.1%	n =	321	5.9%	n = 20

15. Do you think it's a good idea for the Judicial Council to make a recommendation in favor of or against the retention of any judge it evaluates?

		YES		NO
No voters	58.1%	n = 18	41.9%	n = 13
Yes voters	57.0%	n = 65	43.0%	n = 49
Discriminators	63.2%	n = 213	36.8%	n = 124

16. Alaska State law requires the Alaska Judicial Council to provide information to the voters concerning its evaluation of judges. How do you think this information ought to be communicated to the voters? PLEASE CIRCLE EACH AND EVERY MEANS YOU THINK IS PROPER.

<u>No</u>	<u>Yes</u>	<u>Discriminators</u>	
75.0	70.2	79.4	1. The Official Alaska Election Pamphlet
56.3	57.3	61.1	2. By direct mail to all registered voters
28.1	30.6	27.0	3. Speeches and other public appearances by Council members and staff explaining the results of the evaluation
46.9	44.4	43.1	4. Newspaper advertising
46.9	33.1	30.7	5. Radio and television advertising
9.4	3.2	6.5	6. Other: (Please specify) _____

It appears that different voting behavior is associated with different preferences regarding methods of communication in cases of judicial non-retention. Not surprisingly, no voters are more likely to favor strong advertising methods in cases of non-retention. Discriminators are more likely to favor the official election pamphlet or direct mail approaches. Yes voters fall in the middle of the other two groups on all approaches.

FURTHER ANALYSIS

We know that the three groups of voters each respond differently to questions asked in the survey. In an attempt to validate the distinctiveness of these three groups of voters, and their associated behavior and opinions, an additional analysis was undertaken. This analysis introduced additional demographic variables into a cross-tabulation of different questions in the survey for each of the three groups of voters. For example, we looked at pre-voting behavior for each of the three groups holding constant each group's educational attainment level, or age, or community of residence. Sex of respondent was also introduced but produced no significant differences. Table d shows the distribution of each of the three groups of voters on three important demographic characteristics.

Table d : Distribution of respondents by education, age, and residence inside or outside Anchorage by Judicial voting behavior

JUDICIAL VOTING BEHAVIOR						
<u>EDUCATION</u>	<u>NO VOTER</u>	<u>YES VOTER</u>	<u>DISCRIMINATOR</u>	<u>TOTAL</u>		
High School Graduate or less	(14) 46.7	(47) 39.2	(94) 27.4	(155) 100.0	31.4	
Some college or more	(16) 54.3	(73) 60.8	(249) 72.6	(338)	68.6	
<u>AGE</u>						
Up to 36	(15) 55.5	(56) 49.5	(166) 50.3	(237)	50.4	
37 or over	(12) 44.5	(57) 50.5	(164) 49.7	(233)	49.6	
<u>RESIDENCE</u>						
Inside Anchorage	(19) 63.3	(78) 63.9	(249) 71.1	(346)	68.9	
Outside Anchorage	(11) 36.7	(44) 36.1	(101) 29.9	(156)	31.1	

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

It is clear that the discriminator group is both the largest group in the total sample and is also the most highly educated and the most likely to live inside Anchorage. Perhaps these two characteristics are themselves more important than voting behavior per se in explaining certain behaviors and opinions. Without benefit of regression analysis, we cannot establish the priority of importance of the variables compared, but our analysis does indicate that votive behavior is the most important explanatory variable for at least one of the questions analyzed.

The presentation which follows is organized to provide a comparison for each of the groups of voters and the sample as a whole on the demographic characteristics mentioned. For ease of presentation, only the percentage comparisons are listed. "Less Education" refers to respondents with high school education or less (Total n=155). "More Education" refers to those with a college education or more (Total n=338). "Younger" refers to respondents 36 years of age or younger (Total n=237). "Older" refers to those who are 37 years or older (Total n=233). "Inside Anchorage" refers to respondents inside districts 7-12 (Total n=346); "Outside Anchorage" includes all others (Total n=156).

The number of cases in the no-voter, yes-voter, and discriminator categories for each of these comparisons is, in some cases, quite

small. Where this is the case, interpretations in the text take this into account.

5. Before you voted, had you read the Judicial Council's ratings of judges published in the Election Pamphlet?

PERCENT YES:	<u>TOTAL</u>	<u>NO VOTERS</u>	<u>YES VOTERS</u>	<u>DISCRIMINATORS</u>
ORIGINAL PER- CENTAGE:	71.1	65.6	53.3	84.1
LESS EDUCATION	75.2	78.6	50.0	87.1
MORE EDUCATION	76.4	56.3	55.6	83.8
YOUNGER	74.9	60.0	47.3	85.5
OLDER	77.4	83.3	58.9	83.3
IN ANCHORAGE	78.4	73.7	55.3	85.8
OUT OF ANCHORAGE	71.6	54.5	52.3	82.0

In the original percentage comparison between the three groups, the discriminators (84.1 percent) are almost one-third more likely to have utilized the Judicial Council ratings before voting than the yes voters, and close to 20 percent more likely to have done so than the no voters. This difference increases among the less educated voters but declines among the more educated--i.e., the difference between discriminators and yes voters is 28.2 percent and between discriminators and no voters is 27.5 percent. While the discriminators are still better informed, better educated no and yes voters approach each other in their preparation. Similarly, residents outside Anchorage who are no voters or yes voters are virtually alike in their preparation, while in Anchorage, no voters are closer to discriminators in preparation (73.7 percent vs. 85.8

percent). Among younger voters, discriminators are far and above either of the other two groups in preparation but among older voters, these differences decline. For older no voters, there is no difference in preparation for voting from that found for the discriminator group (83.3 in both cases).

10. In deciding whether to retain or not retain a judge, which source of information was most important to you?

<u>PERCENT PREFERRING AJC RATING AND/OR RECOMMENDATION</u>	<u>TOTAL</u>	<u>NO VOTERS</u>	<u>YES VOTERS</u>	<u>DISCRIMINATORS</u>
ORIGINAL PERCENTAGE	31.3	10.0	24.6	36.2
LESS EDUCATION	31.1	25.0	31.7	41.0
MORE EDUCATION	30.5	-	21.6	34.8
YOUNGER	34.2	7.1	23.5	39.8
OLDER	30.6	16.6	27.1	32.7
INSIDE ANCHORAGE	29.8	5.6	15.7	35.6
OUT OF ANCHORAGE	37.6	20.0	40.0	38.4

For question 10, the percent preferring either the Alaska Judicial Council rating or the Alaska Judicial Council recommendation gradually increases from a low among no voters to a high among discriminators with yes voters virtually equidistant between the two other groups of voters. This relationship between the three groups of voters is unchanged in each of the comparisons by education, age, and residence. In contrast to question 5, where preparation for voting was affected by age and residence in Anchorage in particular, preference for the Judicial Council ratings is unchanged by these factors.

17. If the Alaska Judicial Council, as a result of its evaluation, concludes that a judge is unqualified to remain in office, what should the Council do?

	<u>TOTAL</u>	<u>NO VOTERS</u>	<u>YES VOTERS</u>	<u>DISCRIMINATORS</u>
ORIGINAL PERCENTAGE				
Express no opinion	10.7	13.8	6.8	11.1
Only Election Pamphlet	40.1	20.7	48.3	40.0
Strongly advertise	49.1	65.5	44.9	48.9
LESS EDUCATION				
Express no opinion	7.5	7.7	4.3	9.2
Only Election Pamphlet	34.0	7.7	51.1	28.7
Strongly advertise	58.5	84.6	44.7	62.1
MORE EDUCATION				
Express no opinion	10.4	13.3	7.2	11.2
Only Election Pamphlet	44.5	33.3	46.4	44.6
Strongly advertise	45.1	53.3	46.4	44.2
YOUNGER				
Express no opinion	12.2	-	7.1	15.0
Only Election Pamphlet	43.7	38.5	48.2	42.5
Strongly advertise	44.1	61.5	44.6	42.5
OLDER				
Express no opinion	8.1	16.7	5.7	8.2
Only Election Pamphlet	38.1	8.3	49.1	36.7
Strongly advertise	53.8	75.0	45.3	55.1

17. (Cont'd.)	<u>TOTAL</u>	<u>NO VOTERS</u>	<u>YES VOTERS</u>	<u>DISCRIMINATORS</u>
IN ANCHORAGE				
Express no opinion	10.4	12.5	8.1	11.0
Only Election Pamphlet	39.7	12.5	45.9	39.6
Strongly advertise	49.8	75.0	45.9	49.3
OUT OF ANCHORAGE				
Express no opinion	8.8	9.1	2.4	11.6
Only Election Pamphlet	44.6	36.4	52.4	42.1
Strongly advertise	46.6	54.5	45.2	46.3

In the original percentage comparison, no voters are most likely to favor strong advertising in cases where a judge is evaluated as unqualified. Yes voters are almost equally likely to favor publication of information only in the election pamphlet or strong advertising. Discriminators, like no voters, are more likely to favor strong advertising, but their position is less extreme than the no voters. In comparing no voters in each of the demographic comparisons, one finds that no voters who are better educated closely resemble yes voters and discriminators in their choices on question 10, while less educated no voters are even more extreme in their preference for strong advertising. Less educated discriminators, too, are more extreme than other groups of discriminators. Throughout all comparisons, yes voters have a distinct preference for presentation in the Election Pamphlet only, except among better educated

voters, where they are equally likely to favor the Election Pamphlet choice or the strong advertising choice.

Summary:

We have seen that in two of the comparisons, age, education, and residence do alter the relationships between the three groups. In preparation for voting and attitudes toward various approaches to voter information in non-retention cases, education and age both increase the differences between groups. Less educated and younger voters are less prepared (question 5) and less educated and older voters are more likely to favor strong advertising (question 17) than other voters. Better educated voters tend to approach each other in their preferences on methods of communication--they are almost equally divided between favoring strong advertising and publication only in the election pamphlet.

This analysis indicates that utilization of the Judicial rating and evaluation system is more influenced by voting behavior per se, while preparation for voting and attitudes toward methods of communication vary somewhat with age, residence and education.

THREE QUESTIONS

From the preceding analyses, what do we know about the central concerns of this survey--i.e., 1) what most influenced people's voting behavior in judicial elections? 2) what do the voters believe are the strengths and weaknesses of the current judicial evaluation system; and 3) how should Alaska Judicial Council evaluations and recommendations be communicated before elections?

Question 1: What most influenced people's voting behavior in judicial elections? We know that over 70 percent of the survey respondents read the judge's summary, 46 percent read or saw advertisements about judges and 71 percent read Alaska Judicial Council ratings prior to voting in the last election. In each of these cases, discriminators were more likely to have used, read or attended to information concerning judicial retention or non-retention and to have utilized this information in voting. Only in the cases of older no-voters and Anchorage no-voters, do the percentage utilizing Alaska Judicial Council ratings approach the percentage for the discriminator group. Yes voters are uniformly less prepared, regardless of age, education, or residence inside or outside Anchorage.

Among voters who considered the Alaska Judicial Council ratings "helpful" (question 6), 53 percent also stated that they found the Alaska Judicial Council rating and/or the Alaska Judicial Council recommendation to be their most important source of information (question 10). On the other hand, if they mentioned that the

Alaska Judicial Council rating system was "a good idea", fewer of these voters mentioned Alaska Judicial Council ratings or recommendations in question 10, and more stated they relied on "knowledge of the judge, based on media coverage of his/her decisions and actions".

Table e : Relationship between Question 6 and Question 10: Opinion of ratings by most important source of information in judicial elections: selected percentages

6. If you read those ratings, what was your opinion of them?

HELPFUL		GOOD IDEA	
<u>Percent: on Question 10</u>		<u>Percent on Question 10</u>	
38.8	AJC Rating	55.3	Knowledge of the judge based on media reports of decisions/actions
14.2	AJC Recommendation	21.7	AJC Ratings
32.9	Knowledge of the judge based on media reports of decisions/actions	5.3	AJC Recommendations
5.5	Judge's summary	7.2	Judge's Summary

10. In deciding whether to retain or not retain a judge, which source of information was most important to you?

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

This can be seen in Table e above.

It appears that the voters who are satisfied with the Alaska Judicial Council rating system are most likely to use it in voting, while those who are more skeptical rely more heavily on media reports of judge's decisions or actions.

Is there a difference between voter's needs in retention elections and their needs in cases where they vote to not retain a judge? To answer this question, we cross-tabulated question 8a (why the voter voted to retain judges) by question 10--their most important source of information. We also cross-tabulated question 9a (why the voter voted to not retain judges) by question 10. The results of these cross-tabulations are presented in tables e and g . Of those voters who chose "knowledge of the judge, based on media reports of his/her decisions/actions" on question 10, 40 percent stated that the judge "is doing an adequate job" and another 23 percent stated that they based their choice on the "judge's performance record". Those voters who selected either the Alaska Judicial Council rating or recommendation as their most important source of information, were also more likely to select Alaska Judicial Council ratings on question 8a, and less likely to rely on the judge's performance record or their assessment of his/her performance (doing adequate job).

Among voters who voted to not retain judges, a similar pattern emerges when this question is cross-tabulated with question 10. For those voters who state that "knowledge of the judge based on media reports of his/her decisions/actions" is their most important source of information, 30.5 percent state that the judges they voted against were "doing an adequate job" and another 26.9 percent stated that he/she is "too lenient with criminals". Of those relying on either Alaska Judicial Council ratings or recommendations, the rating system (26.1 percent and 48.4 percent respectively) and "information in the voter pamphlet" (15.9 and 16.1 percent, respectively) are more important than the voter's own assessment of the judge's performance ("doing an adequate job").

Table f : Relationship between Question 8a and Question 10

8a. Can you tell us why you voted to retain these judges?

MOST IMPORTANT SOURCE OF INFORMATION

<u>WHY RETAIN</u>	<u>KNOWLEDGE OF JUDGE</u>	<u>AJC RATING</u>	<u>AJC RECOMMENDATION</u>	<u>TOTAL</u>
Doing adequate job	(72) 39.6	(26) 26.8	(11) 32.4	(126) 34.6
Judge's Recommendation	(41) 22.5	(13) 13.4	(2) 5.2	(64) 17.6
AJC Rating	(4) 2.2	(24) 24.7	(14) 41.2	(45) 12.4
Read Everything	(18) 9.9	(7) 7.2	(1) 2.4	(27) 7.4
Voter's Pamphlet	(3) 1.6	(16) 16.5	(5) 14.7	(31) 8.5
Personal Attributes	(7) 3.8	(5) 5.2	(0)	(14) 3.8
Personal Knowledge	(24) 13.2	(3) 3.1	(1) 2.9	(36) 9.9
TOTALS	(182) 50.0	(97) 26.6	(34) 9.3	(364) 100.0

10. In deciding whether to retain or not retain a judge, which source of information was most important to you?

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

The consistency between these two voting decisions can be seen in Table h below, where questions 8a and 9a are cross-tabulated. In this table two percentages are presented in each table. The top percentage is the row percentage (read across), and the bottom percentage is the column percentage (read down) in each case. In considering either column or row percentages, it is clear that voters

tend to use the same standards in both retention and non-retention voting. Those who rely heavily on their own judgements (doing adequate job, doing inadequate job) tend to vote that way in both retention and non-retention cases. Those who rely on the judge's performance record do so in both cases. Those who rely on Alaska Judicial Council ratings do so in both cases.

Table g : Relationship between Question 9a and Question 10

9a. Can you tell us why you voted not to retain these judges?

MOST IMPORTANT SOURCE OF INFORMATION

<u>WHY NOT RETAIN</u>	<u>KNOWLEDGE OF JUDGE</u>	<u>AJC RATING</u>	<u>AJC RECOMMENDATION</u>	<u>TOTAL</u>
Inadequate Job	(51) 30.5	(23) 26.1	(3) 9.7	(91) 27.6
Sentencing Record	(14) 8.4	(3) 3.4	(1) 3.2	(19) 5.8
Too Lenient	(45) 26.9	(6) 6.8	(1) 3.2	(57) 17.3
AJC Rating	(4) 2.4	(23) 26.1	(15) 15.4	(45) 13.6
Information in Pamphlet	(2) 1.1	(14) 15.9	(5) 16.1	(23) 7.0
Media Reports	(14) 8.4	(5) 5.7	(1) 3.2	(21) 6.4
Personal Opinion	(15) 9.0	(11) 12.5	(2) 6.5	(36) 10.9
Discussion with Others	(7) 4.2			
TOTAL	(167) 50.6	(88) 26.7	(31) 9.4	(330) 100.0

10. In deciding whether to retain or not retain a judge, which source of information was most important to you?

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHTRIM ASSOCIATES, INC.

Summary of Question 1:

Several themes are evident in a review of analyses already completed as well as present cross-tabulations aimed at answering this question. First, over 70 percent of voters and even more of the discriminators, who are themselves the majority of the sample, use Alaska Judicial Council ratings and the judge's summary provided in the Alaska Election Pamphlet. Fewer voters (46 percent) rely on advertisements preceeding elections.

The extent to which voters rely on Alaska Judicial Council ratings and recommendations is closely associated with their satisfaction with the present system of evaluation. The more satisfied they are, the more likely they are to use the ratings and recommendations in voting. This applies in both retention and non-retention cases.

Of all the characteristics used in voting, some measure or assessment of the judge's performance record is the most important factor in voting decisions--both for retention and non-retention. Voters who are most in favor of the present Judicial rating system rely heavily on judicial ratings of performance. Voters less satisfied with the present rating system rely more heavily on their own assessments of judicial performance or on attitudes about the judge's performance. It is clear that judicial performance is the dominant factor considered in voting, but the question still remains, to what extent does the present system of evaluation give adequate information about judicial performance to satisfy most voters? This question will be the focus of question 2 below.

Table h: Relationship between Question 8a and Question 9a

8a. Can you tell us why you voted to retain these judges?

WHY NOT TO RETAIN

WHY RETAIN	Inadequate Job		Performance Record/ Too Lenient with Criminals		AJC Ratings			
	(n)	%	(n)	%	(n)	%		
Doing adequate job	(52)	54.2 62.7	(17)	17.7 18.7	(7)	7.3 16.3	(96)	34.4
Based on Judge's Record	(11)	23.9 13.3	(24)	52.2 44.4	(3)	6.5 7.0	(46)	16.5
AJC Ratings	(4)	9.8 4.8	(2)	4.8 3.7	(31)	75.6 72.1	(41)	14.7
	(83)	29.7	(54)	19.4	(43)	15.4	(279)	100.0

9a. Can you tell us why you voted not to retain these judges?

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

Question 2: What do voters believe are the strengths and weaknesses of the current judicial evaluation system? The relationship between satisfaction with the present system of evaluation and needs for additional information is addressed in a cross-tabulation of question 7 ("If you believe that more information should be provided, what would you like to know?") with question 6 (opinion of the ratings). Table i shows this cross-tabulation. Among those stating that the judicial rating system is "helpful", 58 percent favor more information about the judge's performance history. In other words, they responded either "judges performance record" (50.9 percent) or they

referred to the judge's "prejudice for or against special interests" (7.5 percent). While "position on key laws or issues" would appear also to be a performance-related response, the statements coded under this heading indicate that this category reflects more of a respondent's attitudes toward judges than a perception of his/her performance.

Table i : Relationship between Question 6 and Question 7: Opinion of ratings by composite of three suggested additions to the judicial evaluation system

6. If you read those ratings, what was your opinion of them?

<u>SUGGESTED ADDITIONS</u>	<u>OPINION OF RATINGS</u>			
	<u>HELPFUL</u>		<u>GOOD IDEA</u>	
Judge's Performance History	(27)	50.9	(58)	36.0
Personal Attributes of Judge	(11)	20.7	(26)	16.1
Courtroom Opinion	(5)	9.4	(4)	2.5
Miscellaneous Comments	(5)	9.4	(18)	11.2
Prejudice for/ against Special Interests	(4)	7.5	(13)	8.1
Position on Key Laws, Issues	(3)	5.7	(23)	14.3
More Information Needed	(2)	3.8	(16)	9.9
Alaska Knowledge	(1)	1.9	(3)	1.9

n = 53

n = 161

7. If you believe that more information should be provided, what would you like to know?

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

Of those voters who ranked the judicial rating system as "a good idea", fewer stressed judicial performance history. Again combining "judge's performance history" and "prejudice for or against special interests" yields a total of 44 percent emphasizing performance.

No other choice is as important among voters who rate the system as "helpful" or among those who rate it as "a good idea". Personal attributes of judges ranked second in both cases with 20.7 percent (among the "helpful" group) and 16.1 percent (among the "good idea" group).

Another cross-tabulation also points to this relationship between satisfaction with the present system and utilization of the judicial rating system. Table j shows the important percentage comparisons between question 6 (opinion of the Alaska Judicial Council ratings) and question 11c, which asked respondents to suggest additions to the list of qualities of judges, if they felt the present list is incomplete.

The voters who stated that the present system of evaluation is "helpful"--i.e., those voters most satisfied with the present system, were less likely to state that "judge's performance record" should be added to the rating system, while those less satisfied--those who stated the system is a "good idea"--were more likely to stress addition of the judge's performance record. On the other hand, both voters selecting "helpful" and those selecting "good idea" among the choices on question 6 were more in favor of adding "judge's performance record" than any other choice on question 11c. In other words,

while the less satisfied stressed the judge's performance record more than did the more satisfied, it was the significant choice in both cases.

Table j : Relationship between Question 6 and Question 11c: Opinion of ratings by what should be added to the present list of judicial characteristics--selected percentages

6. If you read those ratings, what was your opinion of them?

	HELPFUL		GOOD IDEA
	<u>Percent on Question 11c</u>		<u>Percent on Question 11c</u>
32.4	Judge's performance record	38.2	Judge's Performance Record
13.5	Personal attributes of the judge	20.6	Personal attributes of the judge
47.4	Total in Helpful Column	43.6	Total in Good Idea Column
	n = 37		n = 34

11c. If you think the Judicial Council left something out, tell us what you'd like to see added.

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

This theme runs throughout all of the analysis conducted so far. The less convinced voters are about the completeness of the Judicial evaluation system, the more likely they are to rely more heavily on reports of judicial decisions and actions. For example, in earlier analyses, older and better educated discriminators were the ones least likely to rely on Alaska Judicial Council ratings and recommendations--compared with other discriminators. These voters are more skeptical of the present system of evaluation without a component relating to judicial performance history. In each of the three groups,

the top choice on question 10 was "knowledge of the judge based on media coverage of his/her decisions and actions." This percentage increases for better educated discriminators and for older discriminators.

On the other hand, a second theme is also evident: regardless of satisfaction with the present system of evaluation, judicial performance history is the first and most important additional factor suggested.

Question 12 asked respondents, "Aside from surveying lawyers, peace officers, and jurors, are there other ways that judicial performance could be evaluated that would make it easier for voters to decide whether or not to retain a judge?" And 12a asked "IF YES: What are these ways?" Table k shows the cross tabulation of question 12a responses with question 6 (opinion of the Judicial ratings). Again judicial performance history is the single most important choice both for respondents who rate the present system as "helpful" and for those who consider it a "good idea". Forty-five percent of the respondents who rate the system as helpful also responded "judicial performance history" while 31.2 percent of the "good idea" respondents also chose "judicial performance history".

Summary of Question 2:

Clearly, the major improvement in the present system of evaluation suggested by our sample of 1973 voters is addition of judicial per-

formance history to the system of evaluation. Without a measure of judicial performance over time, voters evaluate judicial performance themselves. There is considerable consensus about the factors which are important in judicial performance. This does not fluctuate with no voters, yes voters, or discriminators. It is consistent across education, age, and residence groupings. While there is consensus about the qualities of judges that are most important--a sense of fairness and justice, legal knowledge, and reasoning ability and integrity--without a measure of a judge's performance history built into the present rating system, voters must fall back on other sources of information in their choice of which judges to retain or not retain at election. In retention cases, voters tend to assume that the judge is doing an adequate job, unless they are confronted with information that is sufficiently convincing to establish that the judge is not "doing an adequate job". In non-retention cases, only those voters who are sufficiently informed or aware of specific cases that suggest judicial incompetence vote no. This is clear from the responses to "doing an inadequate job" which are quite specific. Unless the evidence is quite convincing, the tendency to give judges the benefit of the doubt and to respect their high prestige and their general isolation from the more personal aspects of political campaigning appear to outweigh other considerations.

Table k : Relationship between Question 6 and Question 12a: Opinion of ratings by suggestions for improving the Alaska Judicial Council evaluation system

6. If you read those ratings, what was your opinion of them?

OPINION OF RATINGS	SUGGESTIONS FOR ADDITIONS				Those Who Work W/Them	TOTAL
	Judge's Performance History	Evaluate Recidivism	More Questionnaires	Survey People Who Appeared		
HELPFUL	(25) 45.5 45.5	(1) 1.8 14.3	(6) 10.4 33.3	(4) 7.3 33.3	(4) 7.3 40.0	(55) 37.1
GOOD IDEA	(24) 31.2 43.6	(5) 6.5 71.4	(11) 14.3 61.1	(8) 10.4 66.7	(5) 6.5 50.0	
TOTAL	(55) 37.7	(7) 4.8	(18) 12.3	(12) 8.2	(10) 6.8	(146) 100.0

12a. If YES: What are these ways?

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

Question 3: How should Alaska Judicial Council evaluations and recommendations be communicated before elections? To answer this question, we related responses to three questions concerning the extent to which the Alaska Judicial Council should publish and recommend in cases where an evaluation determines that a judge is unqualified with one relating to methods of communication. Table 1 shows the relationship between question 14 (should the Alaska Judicial Council publish information . . .) and question 16 (method of communication referred). Clearly most respondents favor both publishing information about judicial evaluations and utilizing the

Official Election Pamphlet (75.3 percent). This level of consensus drops sharply when other methods of communication are suggested. Still a majority (58.8 percent) favor both publishing the information and using direct mail approaches to voters prior to the election. Only 26.4 percent of those favoring the publishing of information favor speeches by the Judicial Council members and staff. Forty-two percent of those favoring publishing of information also approve of newspaper advertising and 31.1 percent of these respondents favor radio and TV advertising.

Table 1 : Relationship between Question 14 and Question 16

14. Do you think it's a good idea to require the Alaska Judicial Council to evaluate judges and to publish information about them in the Alaska Official Election Pamphlet?

	METHOD OF COMMUNICATION		<u>Total</u>
	<u>Circled</u>	<u>Not Circled</u>	
ELECTION PAMPHLET			
YES	(402) 75.3	(98) 18.4	(500) 93.6
DIRECT MAIL			
YES	(314) 58.8	(186) 34.8	(500) 93.6
SPEECHES			
YES	(141) 26.4	(359) 67.2	(500) 93.6
NEWSPAPER ADS			
YES	(224) 41.9	(276) 51.7	(500) 93.6
RADIO/TV ADS			
YES	(166) 31.1	(334) 62.5	(500) 93.6

16. Alaska State law requires the Alaska Judicial Council to provide information to the voters concerning its evaluation of judges. How do you think this information ought to be communicated to the voters?

We know from our earlier analysis that while 93.6 percent of the sample favored publishing of information about judicial evaluations in the official election pamphlet, only 60.5 percent favored Judicial Council recommendations in favor of or against any judge it evaluates. Table m shows the relationship between responses to question 14 and responses to question 15. We see that over half of all respondents answered yes to both questions. Yet a significant third of those respondents in favor of the Alaska Judicial Council's publication of evaluations in the Official Election Pamphlet did not favor recommendations by the Council.

Table m : Relationship between responses to question 14 and question 15

14. Do you think it's a good idea to require the Alaska Judicial Council to evaluate judges and to publish information about them in the Alaska Official Election Pamphlet?

QUESTION 14	QUESTION 15		Row Total
	<u>Yes</u>	<u>No</u>	
YES	(313) 60.2	(174) 33.5	(487) 93.7
NC	(4) 0.8	(29) 5.6	(33) 6.3
COLUMN TOTAL	(317) 61.0	(203) 39.0	(520) 100.0

15. Do you think it's a good idea for the Judicial Council to make a recommendation in favor of or against the retention of any judge it evaluates?

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

Table n relates responses to question 15 (should the Alaska Judicial Council recommend) to question 16 (methods of communication). Again we see that publication in the Official Election Pamphlet receives high acceptance, direct mail approaches are less acceptable, followed by newspaper ads, radio and TV advertising and, finally, speeches by Council members or staff.

Table n : Relationship between question 15 and question 16

15. Do you think it's a good idea for the Judicial Council to make a recommendation in favor of or against the retention of any judge it evaluates?

	<u>Circled</u>	<u>Not Circled</u>	<u>Total</u>
ELECTION PAMPHLET			
YES	81.2	18.8	(527) 60.5
DIRECT MAIL			
YES	63.3	36.7	(527) 60.5
SPEECHES			
YES	31.7	68.3	(527) 60.5
NEWSPAPER ADS			
YES	48.9	51.1	(527) 60.5
RADIO/TV ADS			
YES	36.7	63.3	(527) 60.5

16. Alaska State law requires the Alaska Judicial Council to provide information to the voters concerning its evaluation of judges. How do you think this information ought to be communicated to the voters.

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

In fact, the percentage of respondents who favor both Alaska Judicial Council recommendations and publication in the Official Election Pamphlet is higher than for the earlier question 14 by 16 cross-tabulation. In other words, once one agrees that recommendation is a proper role for the Alaska Judicial Council, then there is even greater support for those recommendations within the context of the Official Election Pamphlet.

Similarly, the percentage in favor of each of the alternatives to communication is slightly higher among those favoring Judicial Council recommendations than for those responding to the earlier question on publishing of judicial evaluations. While those favoring Judicial Council recommendations appear more willing to support official, direct mail and newspaper approaches, there is still less support for either radio or television advertising or for speeches by Judicial Council members or staff. Even though the percentages for these two approaches are slightly higher than among respondents to question 14 (Table 1) there are still only 32 percent who favor speeches and 37 percent who favor radio or TV advertising here.

There is one more cross-tabulation that directly relates to the extent to which the Alaska Judicial Council should become directly involved in advertising against judges it determines, after evaluation, are unqualified. Table 0 shows the relationship between question 16 (method of communication) with question 17, which asked "If the Alaska Judicial Council, as a result of its evaluation, concludes that a judge is unqualified to remain in office, what should the

Council do?" Percentage comparisons are proportions of the sample as a whole, except for column and row percents.

First of all, few of the survey respondents favor the first alternative--express no opinion. Virtually all responses fall in the other two categories--i.e., either "Publish only in the Official Election Pamphlet" or "strongly advertise". For those who circled the election pamphlet, there is almost equal preference for communication only in the election pamphlet and strong advertising. For those who circled direct mail, slightly more are in favor of strong advertising. For those who circled speeches and newspaper ads, twice as many favored strong advertising as favored publication only in the Official Election Pamphlet. For those in favor of radio/TV advertising, three times as many favor strong advertising in cases of non-retention.

As in the case with Judicial Council recommendations, (question 15) the smaller proportion of respondents who favor newspaper advertising speeches and radio/TV advertising are also more likely to favor strong advertising in cases of judicial non-retention. In the cases of speeches and radio/TV ads, those not circling these choices are almost equally divided between favoring publication in the election pamphlet and strong advertising. In other words, the few who favor strong advertising are consistent in their choice of methods of communication, while the majority of respondents are almost equally divided between supporting publication only in the Official Election Pamphlet and strong advertising. This ambivalence is apparent throughout the

survey in responses to questions dealing with non-retention. Only a distinct minority of survey respondents have conquered this ambivalence sufficiently to whole-heartedly support full-scale campaigns in cases of judicial non-retention. The majority of responses indicate that only official, direct mail or newspaper advertising will receive substantial support.

Summary of Question 3: Our sample of 1978 Judicial election voters appear somewhat ambivalent concerning methods of communication in cases of non-retention. The largest support is for the evaluation system itself and for the publication of results in the official election pamphlet. Direct mail appeals to voters are also supported by a majority of respondents. Newspaper advertising is supported by close to half the respondents to the survey. These three approaches appear to be supported consistently throughout the present analysis. Speeches, and radio and TV advertising, like the option "strong advertising" attract fewer supporters and those who support one tend to support the other. The majority of the survey respondents are equally divided between favoring strong advertising and favoring publication only in the election pamphlet in cases of judicial non-retention.

Table o : Relationship between Question 16 and Question 17 responses

17. If the Alaska Judicial Council, as a result of its evaluation, concludes that a judge is unqualified to remain in office, what should the Council do? (Please choose only one)

QUESTION 17	QUESTION 16								
	ELECTION PAMPHLET			DIRECT MAIL			SPEECHES		
	<u>Circled</u>	<u>Not Circled</u>	<u>Total</u>	<u>Circled</u>	<u>Not Circled</u>	<u>Total</u>	<u>Circled</u>	<u>Not Circled</u>	<u>Total</u>
Express No Opinion	7.9	2.9	10.7	6.7	4.0	10.7	2.3	8.4	10.7
Only in Election Pamphlet	33.8	6.3	40.1	22.3	17.9	40.1	8.1	32.1	40.1
Strongly advertise	35.9	13.2	49.1	32.6	16.5	49.1	16.7	32.4	49.1
TOTAL	77.5	22.5	100.0	38.4	61.6	100.0	27.1	72.9	100.0
N =			(521)			(521)			(521)

QUESTION 17	NEWSPAPER ADS			RADIO/TV ADS		
	<u>Circled</u>	<u>Not Circled</u>	<u>Total</u>	<u>Circled</u>	<u>Not Circled</u>	<u>Total</u>
	Express No Opinion	3.8	6.9	10.7	3.1	7.7
Only in Election Pamphlet	10.6	29.6	40.1	7.7	32.4	40.1
Strongly advertise	29.4	19.8	49.1	22.1	27.1	49.1
TOTAL	43.8	56.2	100.1	32.8	67.2	100.0
N =			(521)			(521)

16. Alaska State law requires the Alaska Judicial Council to provide information to the voters concerning its evaluation of judges. How do you think this information ought to be communicated to the voters?

SOURCE: ALASKA JUDICIAL COUNCIL SURVEY, 1979, by NORTHRIM ASSOCIATES, INC.

SUMMARY AND CONCLUSIONS

This study was conducted to aid the Alaska Judicial Council in its efforts at self-evaluation of the present judicial rating system used in judicial elections. It surveyed voters in the Fall, 1978 judicial election, asked them about their voting behavior, their attitudes, opinions, and knowledge about the present judicial rating system, their preparation for voting, asked for suggestions for improving the present system of judicial evaluation as well as for preferences for methods of communication to be used in informing voters of judicial evaluations.

Our sample of 571 voters in the Fall, 1978 judicial election provided a great deal of information about these issues as well as insight into the judicial voting process as it is experienced by voters in judicial elections. It is on the basis of these answers and insights that this summary is constructed.

Preparation for Voting:

Of our sample of 571 voters, 92 percent said they voted for or against judges in the Fall, 1978 election. Ninety percent said they voted for judges on the ballot and 76 percent said they voted against judges on the ballot. Most of these voters stated that they read the judge's summary before voting (71 percent). Most said they read the Judicial Council ratings of judges before

voting (71 percent). Slightly less than half (46 percent) had read advertisements about judges prior to voting.

Of those who read the ratings prior to voting, over half felt the ratings were helpful and another 38 percent felt they were "a good idea". The more satisfied they were, the more likely they were to use the rating system in voting.

Of all the sources of information provided, respondents mentioned "knowledge of the judge, based on such things as media coverage of his/her decisions and actions" as their primary source of information, in spite of the fact that less than half said they saw advertisements concerning judicial retention prior to voting. Emphasis on knowledge of judicial performance is the first and dominant theme running throughout the survey. Dissatisfaction with the present system of evaluation centers on the need for additional information about judicial performance over time. Discussion of additions to the system and preference for types of information center consistently on some form of quantitative measure of judicial performance. In the absence of this information, it is clear that voters make their own judgements based on media reports, personal knowledge or associations, or "word of mouth".

Responding to questions asking for why they voted to retain or not retain judges, voters continually stated that it was because the judge was "doing an adequate job" or "doing an inadequate job".

But the knowledge base used to make the assessment that a judge is "doing an adequate job" is far smaller than that needed to make an assessment that he/she is "doing an inadequate job". Responses to the latter show a high degree of specific information. In contrast, "doing an adequate job" is both an assessment based on no negative information and/or an assessment based on positive reports or ratings. If we combine similar response categories on these two questions, we find that over half of the responses to each one have to do with judicial performance history. Either they state "doing an adequate job" or they refer to "judge's record" or to "personal attributes of the judge". Either they state "doing an inadequate job" or they state "too lenient with criminals."

Answers to these two "why" questions are consistent with each other as well. If a voter votes to retain judges based on his/her personal assessment of their performance, then he or she uses the same standards in voting against judges. If the voter stresses the judge's performance record or a specific stance taken by a judge ("too lenient with criminals") then these decisions, based on the judge's record are consistent in both retention and non-retention voting. If the voter utilizes the Alaska Judicial Council rating system in voting to retain a judge he/she is likely to use it in non-retention voting decisions as well.

Knowledge of the Judicial Council:

very few of the respondents to this survey had heard of the Alaska Judicial Council or remembered that they had. While they were familiar with the rating system used in the Official Election Pamphlet, it appears few associated this rating system with the Alaska Judicial Council per se. Fewer still had a clear idea of the functions served by the Council or its relationship to the Judicial System.

Without a clear sense of identity, the Alaska Judicial Council's recommendations are attended to within the context of the Official Election Pamphlet, but outside this official source, it appears voters become confused. They prefer the dignity and demeanor associated with the Judicial system itself above and beyond the necessity to advertise in cases of non-retention. Their tendency to give judges the benefit of the doubt, coupled with very low identification with the Alaska Judicial Council appear to converge in non-retention cases in particular. Without benefit of a clearly negative rating on the few cases of non-retention in the last election, and without a highly visible Council or other source of prestige to pin their choice, most voters either voted for these judges or they used their own personal decision-making process in voting against retention.

Assessments of the Current Alaska Judicial Council Rating System:

Surveyed voters appear satisfied with the list of characteristics

used in the present judicial rating system. Top ranked characteristics were "sense of basic fairness and justice", "legal knowledge and reasoning ability" and "integrity". Those characteristics considered least important by the survey respondents were "willingness to work diligently", "human understanding and compassion", and "consideration of relevant sentencing factors". When asked what should be added to the present list, only one choice appeared frequently enough to be considered significant--judicial performance history. Another question also yields the same result--when asked what should be added to the present evaluation system, 38 percent of the respondents mentioned "judge's performance record". A third question, which asked "If you believe that more information should be provided, what would you like to know?" yielded the same result--"judge's performance record".

Methods of Communication:

Almost all of the surveyed voters felt the Alaska Judicial Council should publish information and ratings about judges in the Official Election Pamphlet, but fewer (60 percent) agreed the Alaska Judicial Council should recommend for or against judicial retention. Similarly, when asked how information about judges should be communicated, the highest support was for the Official Election Pamphlet (74 percent) followed by "direct mail" approaches (58 percent) and newspaper advertising (42 percent). Other methods drew lower support. Only 32 percent favored radio or television advertising and 26 percent favored speeches and other public appearances by Council members or staff.

Yes-Voters, No-Voters, and Discriminators:

The largest group of voters in this survey voted both for some judges and against some judges in the Fall, 1978 election--close to two-thirds of the sample. A few respondents voted only against one or more judges on the ballot and slightly more than 20 percent voted only in favor of judges on the ballot. We found that the discriminator group is more likely to live in Anchorage and to be better educated. While these two characteristics in themselves influence voting behavior and attitudes, we found that discriminators are also more likely to be prepared in the voting process--to have read the information available and to have attended to advertisements about judges prior to voting.

Discriminators are more likely to both use the judicial rating system prior to voting, to have heard of the Alaska Judicial Council, and to feel that there are improvements in the present system of evaluation which should be considered to improve its effectiveness. They do not appear to differ from the other two groups on their choice of judicial characteristics which are part of the current rating system. They also do not differ in their choice of additions to the system--favoring judicial performance history and personal information about the judge above other additions.

Discriminators are slightly more likely to favor use of the Official Alaska Election Pamphlet or direct mail above other

methods of communication. They are less in favor of speeches and radio and television advertising than the other two groups. What they appear to reflect is the majority opinion in the survey which favors slight improvements in the judicial evaluation system, particularly in the area of judicial performance history, but a continuation of the dignified and non-obtrusive style of the present judicial evaluation system and its official, written, or printed methods of communication.

RECOMMENDATIONS

There are several related recommendations that derive from analysis of this voter survey. First, the current system of evaluation needs to include some quantitative measurement of judicial performance over time.

Second, the qualitative aspects of judicial evaluation need to be clearly explained and justified to provide the additional context within which voters can determine the strengths and weaknesses of individual candidates and make their choices in voting to retain or not retain.

Third, the respect for the high prestige of judges and a general reluctance to force them into the political arena appears to discourage non-retention voting. Faced with a general reluctance to vote against judges, and without benefit of a rating system which shows a wide disparity between judges who are recommended and those who are recommended against, the voter either votes to retain or uses his/her own basis for deciding to retain or not retain.

Fourth, the Alaska Judicial Council should consider weighting procedures within the rating system that would allow for more dispersion in the scores of individual judges. Weighting could be based on the ranking of judicial characteristics by this sample of voters, or on other methods.