



# alaska judicial council

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## Press Release

July 18, 2008

### Retention Election Evaluation of Judges by Judicial Council

The Judicial Council is a seven-member citizens commission established in the constitution at statehood. Members evaluate applicants for judicial positions using the merit selection system and nominate the best qualified to the governor for appointment. Three non-attorneys, appointed by the governor and confirmed by the legislature, and three attorneys appointed by the Alaska Bar Association Board of Governors constitute the Council, with the Chief Justice of the Alaska Supreme Court sitting as chair ex officio. Alaska law requires the Council to evaluate each judge eligible to stand for retention, and to publicize its findings, so that the public can make informed choices when voting on judges.

The Council met on July 15 and 16, 2008 to make its recommendations. The Alaska Judicial Council recommended a "yes" vote on the retention of eleven of the twelve judges eligible to be on the ballot in 2008. They recommended a "no" vote on the retention of Judge Dennis Cummings, Bethel District Court.

The Council evaluates judges' integrity, legal ability, fairness, judicial temperament, and overall performance. Members look for freedom from arrogance, equal treatment of all parties, ability to control the courtroom, and knowledge of the law. Sources of information include public hearings throughout the state, judges' conflict of interest statements, appellate records, peremptory challenges to judges, and other investigation and interviews. In addition, the Council surveys

thousands of Alaskans, including peace and probation officers, attorneys, court employees, jurors and social workers, guardians ad litem and Court Appointed Special Advocate (CASA) volunteers. An independent group, Alaska Judicial Observers, evaluates judges in Anchorage, Kenai and Palmer and shares its findings with the Council.

The Council emphasizes the need to evaluate performance comprehensively, taking into account all of the information available. To provide the best evaluation, the Council looks at the judges' entire terms in office. Superior court judges serve a three to-four year term before their first retention, and six-year terms after that. District court judges serve a two to three year term before the first retention, and then a four year term before their next election.

Judges stand for retention in nonpartisan, unopposed elections, with their own records as the focus for the voters' decisions. This means that the Council's evaluations are a critical source of objective information about judicial performance. The Council's evaluations include more information about judges than any other judicial evaluation in the country, particularly because the Council asks groups such as court employees, jurors, and peace and probation officers for their input. It also investigates specific issues that arise, using interviews, court records, and other research. In making the reasons for its retention recommendations public, the Judicial Council must be careful to balance its obligations to provide reliable information to the public, to be fair to the judge standing for retention, and not to jeopardize the confidences of people who provided information to the Council.

After receiving a number of reports and comments from those who work with and appear before Bethel District Court Judge Dennis Cummings, the Judicial Council undertook an additional investigation including a review of court records and interviews with forty people. The Council also reviewed a complaint issued by the Alaska Commission on Judicial Conduct that found probable cause to allege that Judge Cummings had violated several Canons of Judicial Conduct relating to ex parte contact with a state witness in a criminal trial. The Council also reviewed Judge Cummings' response to that complaint.

The Council also considered ratings from attorneys statewide who rated Judge Cummings "below acceptable" in the areas of Legal Ability and Temperament. Among attorneys in the Fourth Judicial District, where Judge Cummings presides, the judge received ratings that were substantially "below acceptable" on Legal Ability, Impartiality, Temperament, and Overall Performance.

Based on this investigation and a meeting with Judge Cummings in which he had an opportunity to respond, the Judicial Council had considerable concerns about Judge Cummings' lack of impartiality, inappropriate ex parte contact, inability to control the courtroom, inadequate legal knowledge, and lack of candor

The Lieutenant Governor's Official Elections Pamphlets published in October by the Division of Elections will contain the Council's information and recommendation about each judge. The Council also will publish more information about its evaluations during September and October. Before the election, copies of the Council's surveys and other information will be available on its website at [www.ajc.state.ak.us](http://www.ajc.state.ak.us).

The judges recommended for retention in 2008 are:

**Statewide:** Supreme Court Justice Robert Eastaugh  
Court of Appeals Judge Robert Coats

**First Judicial District:** Juneau Superior Court Judge Patricia Collins and Juneau District Court Judge Keith Levy.

**Third Judicial District:** Anchorage Superior Court Judge Craig Stowers; Anchorage District Court Judges Patrick Hanley and Alex Swiderski; Homer District Court Judge Margaret Murphy; and Valdez District Court Judge Daniel Schally.

**Fourth Judicial District:** Fairbanks Superior Court Judge Robert Downes and Fairbanks District Court Judge Raymond Funk.

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