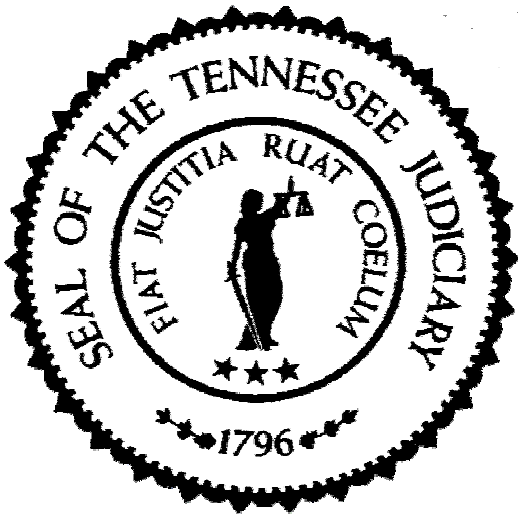


TENNESSEE
APPELLATE
JUDGES
EVALUATION
REPORT
2006



Prepared by the
JUDICIAL
EVALUATION
COMMISSION

INTRODUCTION

In 1994, the Tennessee General Assembly changed the method of electing state appellate judges by adopting the *Tennessee Plan*. Under the Plan, every appellate judge who seeks election to fill either an unexpired or full eight (8) year term of office must be evaluated by the Judicial Evaluation Commission prior to a scheduled August election. The purpose of the evaluation process is two-fold: (1) to assist the public in evaluating the performance of incumbent appellate court judges; and (2) to promote self-improvement among all judges.

The Judicial Evaluation Commission is made up of twelve (12) members and includes lawyers, non-lawyers and state court judges. The commission, by law, must represent gender, racial, and geographic balance. Members participating in the 2006 evaluation process include Quincy Barlow, John Day, Jeff DeVasher, Telford Forgety, Jr., Barbara Haskew, Carol McCoy, Roger Page, Howell Peoples, Sarah Y. Sheppard, chair, Barbara Walls, and William C. Whitesell, Jr.

The commission's report contains the evaluation results and retention recommendations for the three (3) Supreme Court justices, twelve (12) court of appeals judges, and twelve (12) court of criminal appeals judges who are standing for retention election in August 2006. Under the guidelines outlined in Supreme Court Rule 27, as required by the Plan, evaluations are based upon the following criteria:

1. Integrity
2. Knowledge and Understanding of the Law
3. Ability to Communicate
4. Preparation and Attentiveness
5. Service to the Profession
6. Effectiveness in Working with Other Judges and Court Personnel

In developing individual evaluations, the commission considered the following: results of performance evaluation survey questionnaires; opinions written by each judge; personal information self-reported by each judge; caseload and workload statistics for each judge; and any public input that may have been received. Applications previously submitted by the judges to the Judicial Selection Commission were also made available for review by the commission. The commission conducted a formal interview with each judge to discuss judicial performance issues as part of the evaluation process.

The commission used the results of the survey questionnaires to identify both performance strengths and areas for potential improvement in developing each individual evaluation. The surveys contained questions concerning oral argument, written opinions, administrative performance and general performance. For each question, respondents could rate the judge on a scale from "1 to 10," with "1"- being "poor" and "10" being "excellent". The complete ratings are as follows: "1-2" - "Poor"; "3-4" - "Fair"; "5-6" - "Adequate"; "7-8" - "Good"; and, "9-10" - "Excellent". Survey forms were distributed to four groups of respondents who have interaction with the appellate bench: attorneys, court personnel, trial court judges, and appellate court judges. Because Justice Cornelia A. Clark was in office for less than one year at the time of the evaluation, survey results were not available.

The evaluations contained herein express the commission's impressions of each judge's experience and performance and include the commission's vote and recommendation regarding retention.

SUPREME COURT

JUSTICE WILLIAM M. BARKER

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Justice William M. Barker received a law degree from the University of Cincinnati School of Law in 1967. He engaged in the private practice of law in Chattanooga from 1969 to 1983. He was appointed Circuit Judge in 1983, elected in 1984, and reelected in 1990. Justice Barker attended the National Judicial College, completing the General Jurisdiction Course in 1985. Justice Barker was appointed to the Court of Criminal Appeals in 1995 and elected in 1996. He was appointed to the Supreme Court in 1998 and was elected in 1998. He was elected Chief Justice on October 4, 2005.

Service to the Profession: Justice Barker is a Fellow of the Chattanooga and Tennessee Bar Foundations. He has served as Chair of the Tennessee Judicial Council since 2001. He has also served as Supreme Court Liaison to the Advisory Commission on Rules of Practice and Procedure from 1998 until October 2005. Justice Barker is currently serving as Chair of the Tennessee Code Commission, State Supreme Court Building Commissions, and the State Law Library Commission. He served as an adjunct professor at the University of Tennessee at Chattanooga where he was named as the 2001 Outstanding Professor and the 2006 Distinguished Alumnus. Justice Barker is a frequent lecturer on legal topics.

Performance Evaluation: Justice Barker's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. He received particularly noteworthy ratings in the areas of conduct during oral argument, administrative performance, and the quality and promptness of written opinions.

Interview: The interview with Justice Barker supported the survey results. He expressed his desire to improve the administrative functioning of the Tennessee Supreme Court, including a commitment to the court's policy regarding deadlines for timeliness of opinions. He also noted that he particularly enjoys the opinion writing responsibility of his position.

Recommendation: The Commission unanimously recommends the retention of Justice William M. Barker on the Tennessee Supreme Court.

SUPREME COURT

JUSTICE CORNELIA A. CLARK

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Justice Cornelia A. Clark received a law degree from Vanderbilt University School of Law in 1979. She practiced law from 1979 until 1989. Justice Clark served as Circuit Judge from 1989 to 1999. She was director of the Tennessee Administrative Office of the Courts from 1999 to 2005. Justice Clark was appointed to the Supreme Court in September 2005.

Service to the Profession: Justice Clark has served on the faculty for Vanderbilt University School of Law, the National Judicial College and the American Academy of Judicial Education. She was named as one of 21 members of the ABA Commission on the American Jury in 2004. She is a Fellow of the Tennessee, American and Nashville Bar Foundations. Justice Clark has served on the Board of Directors as well as serving as chair of the Education Committee for the Conference of State Court Administrators. She also serves on the National Center for State Courts Services Division Advisory Council and is an instructor for the American Academy of Judicial Education. Justice Clark has served on Judicial Council and was the first chair of the Judicial Evaluation Commission. She is a frequent lecturer on legal topics and was awarded the Liberty Bell Award by the Williamson County Bar Association in May 2005.

Performance Evaluation: Justice Clark was appointed to the Supreme Court on September 19, 2005. As a result, participants in the judicial system had not been surveyed regarding her performance. The Commission relied on Justice Clark's judicial application for the Supreme Court in conducting the evaluation. Her application reflected a breadth and depth of knowledge and experience appropriate for her position. Particularly noteworthy is her past experience as director of the Administrative Office of the Courts, trial court judge, and special judge on the appellate courts.

Interview: At the time of her interview, Justice Clark had been in her position for three weeks. Her interview reinforced the excellent background and experience that she brings to the position. Justice Clark noted that she was in the process of becoming acclimated to her new role and expressed her commitment to being both meticulous and timely in rendering written opinions.

Recommendation: The Commission unanimously recommends the retention of Justice Cornelia A. Clark on the Tennessee Supreme Court.

SUPREME COURT

JUSTICE JANICE M. HOLDER

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Justice Janice M. Holder received a law degree from Duquesne University School of Law in 1975. She served as a judicial law clerk to the United States District Court in Pennsylvania from 1975 to 1977, and engaged in the private practice of law in Pennsylvania from 1977 to 1979 and in Memphis from 1980 to 1990. Justice Holder was elected Circuit Judge in 1990. She was appointed to the Tennessee Supreme Court in December 1996 and was elected in 1998.

Service to the Profession: Justice Holder is a Fellow of the Tennessee, American and Memphis and Shelby County Bar Foundations, and is a National member of the American Inns of Court. She has served on the Executive Committees of the Tennessee Judicial Conference and the Trial Judges' Association and was a member of the Tennessee Judicial Council from 1992 to 1996. She has served as Vice Chair of the Tennessee Civil Pattern Jury Instructions Committee and was appointed by the National Conference of Chief Judges to its Mass Tort Litigation Committee. Justice Holder has previously served on the Boards of Directors of the Alliance for the Blind and Visually Impaired, Midtown Mental Health Center and the Memphis Botanic Garden. She helped develop and initiate an assistance program for impaired lawyers in the Memphis area. Justice Holder has also been a member of the State Coordinating Council of the Tennessee Task Force Against Domestic Violence. She is a frequent lecturer on legal topics and is the author of an article on Pattern Jury Instructions and Comparative Fault published in the Memphis State University Law Review.

Performance Evaluation: Justice Holder's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected a good performance, with some areas of excellence as well as potential for self-improvement. She received particularly noteworthy ratings in the areas of preparation for oral argument and knowledge of both substantive law and rules of evidence and procedure. Her survey ratings indicated potential for self improvement in exhibiting patience during oral argument and her effectiveness in working with court personnel.

Interview: The interview with Justice Holder supported the survey results. Justice Holder noted that the Supreme Court decides fewer cases today than when she joined the Court nine years ago, which she attributed in part to better decisions being rendered by the intermediate appellate courts. She noted her commitment to writing the best opinions possible while also acknowledging her desire to demonstrate the appropriate amount patience in performing her responsibilities.

Recommendation: The Commission unanimously recommends the retention of Justice Janice M. Holder on the Tennessee Supreme Court.

COURT OF APPEALS

JUDGE WILLIAM BRYAN CAIN

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge William Bryan Cain received a law degree from Cumberland University School of Law in 1958. Judge Cain served as City Attorney for Columbia, Tennessee from 1969 to 1973. He was appointed Circuit Judge in 1986, was elected in 1988 and was reelected in 1990. Judge Cain was appointed to the Court of Appeals in 1998 and was elected in 1998.

Service to the Profession: Judge Cain was a delegate to the Constitutional Convention in 1965. He is a Past President of the Maury County Bar Association and a member of the Tennessee Bar Association and Tennessee Bar Foundation. A Life Member of the American Legion, Judge Cain is a frequent lecturer relative to the law governing veterans' affairs and national defense.

Performance Evaluation: Judge Cain's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in all areas of general performance, including ethical conduct, collegiality, judicial temperament and freedom from bias were particularly noteworthy, as was his rating in knowledge of substantive law.

Interview: The interview with Judge Cain supported the survey results. Judge Cain shared the changes that he has seen during his tenure on the Court and particularly noted the growing caseload for the middle section of the court and the challenges such an increase brings. Judge Cain discussed his work ethic with the Commission and the importance of both timeliness and quality of opinions.

Recommendation: The Commission unanimously recommends the retention of Judge William Bryan Cain on the Tennessee Court of Appeals.

COURT OF APPEALS

JUDGE FRANK G. CLEMENT, JR.

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Frank G. Clement, Jr. received a Doctor of Jurisprudence degree from the Nashville School of Law in 1979. He engaged in the private practice of law in Tennessee from 1979 until 1995. He was appointed in 1995 to the position of Judge of Division VII of the Circuit Court of Davidson County. He served in that capacity until his appointment to the Court of Appeals in September 2003 and was elected in 2004.

Service to the Profession: Judge Clement is a Fellow in the Tennessee and Nashville Bar Foundations. He is a Past President of the Nashville Bar Association and a member of the Tennessee and Nashville Bar Associations. Judge Clement was selected to participate in the Institute of Judicial Administration for Appellate Judges at New York University in July of 2004. A frequent lecturer on legal topics, Judge Clement has also served as Master of Ceremonies for the Nashville Bar Association Law Day Program and Luncheon.

Performance Evaluation: Judge Clement's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in the general performance category, including, among other things, ethical conduct, demonstration of courtesy and respect, and appropriate judicial temperament were particularly noteworthy, as was his rating in using structured, logical reasoning in written opinions.

Interview: The interview with Judge Clement supported the survey ratings. Judge Clement noted the many challenges that he faced during the first six months after his appointment to the bench in 2003 as he became familiar with the responsibilities and demands of his position. He commented that as he gained experience on the bench, his comfort level in writing opinions increased.

Recommendation: The Commission unanimously recommends the retention of Judge Frank G. Clement, Jr. on the Tennessee Court of Appeals.

COURT OF APPEALS

JUDGE PATRICIA J. COTTRELL

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Patricia J. Cottrell received a law degree from the University of Tennessee College of Law in 1976. She was Assistant Attorney General from 1976 to 1978; Director of the Public Law Institute from 1978 to 1979; Assistant Director of the Tennessee Alcoholic Beverage Commission from 1979 to 1981; in private practice from 1981 to 1982; Assistant Attorney General and Managing Attorney from 1982 to 1984; Deputy Attorney General from 1984 to 1991; Director of Law for Nashville and Davidson County from 1991 to 1993; and Chief Deputy Attorney General from 1993 to 1997. Judge Cottrell engaged in the private practice of law in Nashville from 1997 until appointed to the Court of Appeals in November 1998. She was elected in 2000.

Service to the Profession: Judge Cottrell is a member of the Harry Phillips Chapter of the American Inns of Court, a member of the Tennessee and Nashville Bar Foundations, the Nashville Bar Association, and a founding member of the Lawyers Association for Women. She has served as an adjunct faculty member at the Vanderbilt School of Law and was a member of the Tennessee Court of the Judiciary from 1999 until 2003.

Performance Evaluation: Judge Cottrell's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. Her ratings in the area of demonstrating knowledge of substantive law and rules of evidence and procedure were particularly noteworthy, as were her ratings relative to oral argument. The Commission noted that Judge Cottrell has improved in her timeliness in written opinions as the judicial term progressed while maintaining excellent quality.

Interview: The interview with Judge Cottrell supported the survey results. Judge Cottrell noted that the Middle Section of the Court of Appeals has experienced an increase in the number of case filings as well as a large percentage of difficult cases. As a result, a portion of the cases filed in the Middle Section are assigned to either the Eastern or Western Section to equalize the case load. While stressing the importance of both reaching the right result and writing an opinion that adequately explains the decision, Judge Cottrell noted that balancing the need for timeliness may result in shorter opinions or less explanation in decisions.

Recommendation: The Commission unanimously recommends retention of Judge Patricia J. Cottrell on the Tennessee Court of Appeals.

RESPONSE BY JUDGE COTTRELL: I appreciate the Commission's recommendation for my retention. Serving the people of Tennessee as a judge is a privilege that carries with it serious responsibility. I will continue to devote my best efforts to meeting that responsibility by ensuring that every person before the court gets a full and fair hearing and a decision based on the law.

COURT OF APPEALS

JUDGE WILLIAM FRANK CRAWFORD

Recommendation: RETAIN

Commission Vote: 8 FOR RETENTION – 3 AGAINST RETENTION

Legal Education and Experience: Judge William Frank Crawford received a law degree from the University of Tennessee College of Law in 1950 and began the private practice of law in Memphis in 1951. He was a lawyer with TVA in 1952-53, practiced law in Henderson, Tennessee, in 1953-54, and returned to Memphis in 1955 where he engaged in an active trial and appellate practice in state and federal courts until 1982. He was appointed to the Court of Appeals in 1982, was elected in 1984, and was reelected in 1990 and 1998.

Service to the Profession: Judge Crawford is a Judicial Fellow of the American College of Trial Lawyers, a Fellow of the American Bar Foundation, and a founder of the Leo Bearman, Sr. American Inn of Court. He served on the Court of the Judiciary for an eight (8) year term and served as presiding judge of the Court of the Judiciary from 1995-1997. A 1991 recipient of the Outstanding Jurist Award given by the Young Lawyers Division of the Memphis Bar Association, Judge Crawford is also a Past President of the Junior Bar Association of Memphis and a Past Vice President of the Tennessee Bar Association. He is a frequent lecturer on legal topics.

Performance Evaluation: Judge Crawford's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected a good performance, with some areas of excellence as well as potential for self-improvement. His ratings in the areas of promptness in opinion writing, ethical conduct, and appropriate judicial temperament were particularly noteworthy. His survey ratings indicated potential for self-improvement in the use of structured, logical reasoning and properly applying law to the facts of the case.

Interview: The interview with Judge Crawford supported the survey results. He noted significant changes in the increasing complexity of cases, as well as an increase in pro se litigation, as compared to the cases assigned to him when he was first appointed to the appellate court in 1982. Judge Crawford expressed his philosophy that the Court of Appeals should decide cases, not make new law. He stated that he strives to write opinions that are easily understood by both attorneys and laypersons.

Recommendation: Some members of the Commission were concerned about the quality of Judge Crawford's written opinions. A majority of the Commission recommends the retention of Judge William Frank Crawford on the Tennessee Court of Appeals.

COURT OF APPEALS

JUDGE DAVID R. FARMER

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge David R. Farmer received a law degree from Cecil C. Humphreys School of Law, University of Memphis in 1966. He engaged in the private practice of law in Jackson from 1968 to 1986. He was appointed to the Court of Appeals in March 1986, was elected in August 1986, and was reelected in 1990 and 1998.

Service to the Profession: Judge Farmer is a Fellow of the Tennessee Bar Foundation. He is a Past President of the Jackson Madison County Bar Association and is a member of the Leo Bearman, Sr. American Inn of Court. He serves on the Executive Committee of the Tennessee Judicial Conference and was elected Secretary of the Tennessee Judicial Conference in June 2005. He is a frequent lecturer on legal topics.

Performance Evaluation: Judge Farmer's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in the general performance category, including, among other things, ethical conduct, demonstration of courtesy and respect, and appropriate judicial temperament were particularly noteworthy.

Interview: The interview with Judge Farmer supported the survey results. Judge Farmer stated that the biggest challenge during his nineteen year tenure on the Court of Appeals has been the increase in termination of parental rights cases. While acknowledging pressure to be timely with written opinions, he stated that he did not rush opinions for the sake of expediency.

Recommendation: The Commission unanimously recommends the retention of Judge David R. Farmer on the Tennessee Court of Appeals.

COURT OF APPEALS

JUDGE HERSCHEL P. FRANKS

Recommendation: RETAIN

Commission Vote: 9 FOR RETENTION – 2 AGAINST RETENTION

Legal Education and Experience: Judge Herschel P. Franks received a law degree from the University of Tennessee College of Law in 1957. He engaged in the private practice of law in Chattanooga from 1959 to 1970. Judge Franks was appointed Chancellor in Hamilton County in 1970, was elected in 1972 and was reelected in 1974. He was appointed to the Court of Appeals in May 1978, was elected in August 1978, and was reelected in 1982, 1990 and 1998. Judge Franks is a graduate of the National Judicial College and attended the Appellate Judges Seminar Series at New York University. Judge Franks serves as Presiding Judge of the Court of Appeals.

Service to the Profession: Judge Franks is a Fellow of the Chattanooga and Tennessee Bar Foundations. He is a Past President of the Chattanooga Bar Association. He has been a contributor to the Tennessee Bar Journal and the American Law Report Series. He lectures on legal topics and served on the Commission to Study the Appellate Courts.

Performance Evaluation: Judge Franks' survey ratings from appellate judges, trial judges, attorneys and court personnel reflected a good performance, with some areas of excellence as well as potential for self-improvement. His survey ratings in promptness in circulating opinions, ethical conduct, and ability to work with other court personnel were particularly noteworthy. As Presiding Judge of the Court of Appeals, Judge Franks is charged with responsibility for management of the dockets of the Court of Appeals and has received excellent ratings in that area from his colleagues. His survey ratings indicated potential areas for self-improvement in using structured, logical reasoning and properly applying the law to the facts of the case.

Interview: The interview with Judge Franks supported the survey results. He demonstrated a thorough knowledge of the operation of the Court of Appeals and an interest in improving the operation of the court. Judge Franks also noted that timeliness in issuing opinions is important so that the parties and lawyers know both the ruling in a case and the reasoning for the ruling. He noted that he tended to write succinct opinions.

Recommendation: Some members of the Commission were concerned about the quality of Judge Franks' written opinions. A majority of the Commission recommends the retention of Judge Herschel P. Franks on the Tennessee Court of Appeals.

COURT OF APPEALS

JUDGE ALAN E. HIGHERS

Recommendation: RETAIN

Commission Vote: 10 FOR RETENTION – 1 AGAINST RETENTION

Legal Education and Experience: Judge Alan E. Highers received a law degree from the Cecil C. Humphreys School of Law, University of Memphis in 1968. He engaged in the private practice of law in Memphis from 1968 to 1973 and served as Special Judge and Referee for the Juvenile Court of Memphis and Shelby County from 1973 to 1977. Judge Highers was appointed Circuit Judge in 1977 and was elected in 1978. He was appointed to the Court of Appeals in 1982, was elected in 1984, and was reelected in 1990 and 1998.

Service to the Profession: Judge Highers is a past President, Vice President, Secretary and Executive Committee member of the Tennessee Judicial Conference. He is a frequent lecturer on legal topics, serving as Keynote Speaker at the 41st Annual Volunteer Recognition Breakfast for the Juvenile Court of Memphis and Shelby County Volunteer Services Bureau in October of 2005.

Performance Evaluation: Judge Highers' survey ratings from appellate judges, trial judges, attorneys and court personnel reflected a good performance, with areas of excellence as well as the potential for self-improvement. His ratings relative to oral argument were particularly noteworthy, while his results indicate potential for self-improvement in the use of structured, logical reasoning, properly applying law to the facts of the case.

Interview: The interview with Judge Highers supported the survey results. Judge Highers noted that cases in the Court of Appeals have become increasingly complex during his twenty-three years on the Court. Judge Highers stated that the Judicial Evaluation Commission has made the Court more conscientious about both timeliness and quality of opinions, but he did not believe he had sacrificed quality for expediency.

After receiving the Commission's draft evaluation and recommendation, which reflected the Commission's concerns regarding the quality and timeliness of Judge Highers' opinions, Judge Highers submitted correspondence to the Commission to respond to the draft evaluation as permitted under Tenn. S. Ct Rule 27. Judge Highers presented specific statistical information concerning the number of pending cases and the number of months that such cases have been pending. The information he presented demonstrated that his performance in the area of timeliness of writing opinions has not only improved during the judicial term but is also within acceptable standards.

Recommendation: Some members of the Commission were concerned about the quality of Judge Highers' written opinions. A majority of the Commission recommends the retention of Judge Alan E. Highers on the Tennessee Court of Appeals.

RESPONSE BY JUDGE HIGHERS: I want to thank the commission for recommending a

“yes” vote for my retention to the Court of Appeals. After my initial interview, the chairperson wrote to me on April 2, 2004, stating: “Your scores from your peers and attorneys were especially impressive. . . it was our consensus that you are doing a good job.” I am very encouraged by the high ratings given to me in the written surveys conducted among attorneys, trial and appellate judges, and others. I also wish to express my gratitude to the members of the commission for their recommendation and for their confidence in my work and my ability as a judge.

COURT OF APPEALS

JUDGE HOLLY M. KIRBY

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Holly M. Kirby received a law degree from Cecil C. Humphreys School of Law, University of Memphis in 1982. She served as a judicial law clerk in the Sixth Circuit Court of Appeals from 1982 to 1983. She engaged in the private practice of law in Memphis from 1983 to 1995. Judge Kirby was appointed to the Tennessee Court of Appeals in December 1995, was elected in 1996 and was reelected in 1998.

Service to the Profession: Judge Kirby served on the Tennessee Appellate Court Nominating Commission from 1989 to 1994, and was chairperson in 1994. She was a member of the Leo Bearman, Sr., American Inn of Court from 1995-1998. Judge Kirby has served on the Court of the Judiciary and has been Treasurer of the Tennessee Judicial Conference. Judge Kirby received an award in 1996 for University of Memphis Outstanding Young Alumna, as well as a 2002 award for Outstanding Alumna from the University of Memphis, College of Engineering. She frequently lectures on legal topics.

Performance Evaluation: Judge Kirby's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected a good performance, with areas of excellence as well as potential for self-improvement. Her ratings relative to oral argument were particularly noteworthy. Her survey ratings indicated potential for self-improvement in the use of structured, logical reasoning, properly applying the law to the facts of the case, and promptness in writing opinions. The Commission noted that Judge Kirby has improved her timeliness in writing opinions as the judicial term progressed.

Interview: The interview with Judge Kirby supported the results. Judge Kirby noted the increasing complexity of cases the Court of Appeals has encountered during her ten years on the Court. Judge Kirby discussed her goal of writing timely opinions while maintaining the quality of the opinions. She stated that although emphasizing timeliness had an impact on her written opinions, the overall effect had not adversely affected the quality of her opinions.

Recommendation: The Judicial Evaluation Commission unanimously recommends the retention of Judge Holly M. Kirby to the Tennessee Court of Appeals.

RESPONSE BY JUDGE KIRBY: I want to publicly thank the Evaluation Commission for their hard work in doing these evaluations, and for recommending a "yes" vote for my re-election. I am appreciative that all groups of persons surveyed rated my written opinions, my conduct during oral argument, and my overall performance as either Good or Excellent in all areas. It has been an honor to serve on cases that often involve the most difficult matters in people's lives. If I am re-elected, I will continue to strive to decide cases with wisdom and honesty.

COURT OF APPEALS

JUDGE WILLIAM C. KOCH, JR.

Recommendation: RETAIN

Commission Vote: 9 FOR RETENTION - 2 AGAINST RETENTION

Legal Education and Experience: Judge William C. Koch, Jr. received a law degree from Vanderbilt University School of Law in 1972 and an L.L.M. from the University of Virginia School of Law in 1996. He was a member of the Attorney General's Office from 1972 to 1979, rising to the position of Deputy Attorney General. Judge Koch served as Tennessee Commissioner of Personnel from 1979 to 1981 and as Counsel to the Governor from 1981 to 1984. He also completed the American Academy of Judicial Education, Appellate/Trial Judges Writing Seminar at the University of Colorado in 1987 and the Institute of Judicial Administration, Intermediate Appellate Judges Seminar at New York University in 1986. He was appointed to the Court of Appeals in June 1984, was elected in August 1984, and was reelected in 1990 and 1998.

Service to the Profession: Judge Koch is a Fellow of the Nashville and Tennessee Bar Foundations, is President of the Harry Phillips American Inn of Court and is Secretary for the American Inns of Court Foundation Board of Trustees. He chairs the Judicial Conference Committee on Compensation and Retirement. Judge Koch, a former adjunct instructor at Vanderbilt University School of Law, is currently an instructor at the Nashville School of Law. He has published several articles in legal journals and is a frequent lecturer on legal topics.

Performance Evaluation: Judge Koch was acknowledged by his peers as a talented jurist. His written opinions received excellent ratings from appellate and trial judges for his use of structured and logical reasoning and his knowledge of substantive law, and he received high ratings in the oral argument process. However, fellow appellate judges rated him substantially lower than any other appellate judge in timeliness of writing opinions.

Interview: Judge Koch said that technology and the addition of a second law clerk have helped improve the timeliness of judicial decisions. He acknowledged that he produced opinions more slowly than some other members of the Court and stated that the illness of one of his clerks had increased the number of his cases awaiting disposition. Further, he noted that his backlog, while still relatively large, has decreased when compared with prior years.

After receiving the Commission's draft evaluation and recommendation, which reflected the Commission's serious and substantial concerns regarding Judge Koch's historical lack of timeliness in writing opinions, Judge Koch appeared personally before the Commission to respond to the draft evaluation as permitted under Tenn. S. Ct. Rule 27. Judge Koch presented specific detail and information to the Commission regarding not only his continued progress in this area but also his personal commitment and plan to ensure that his opinions would meet the timeliness standards that the public expects and deserves.

Recommendation: Some members of the Commission were concerned about the timeliness of

Judge Koch's written opinions. A majority of the Commission recommends the retention of Judge William C. Koch, Jr. to the Tennessee Court of Appeals.

RESPONSE BY JUDGE KOCH: I am grateful that the Commission has again endorsed my work as an appellate judge. It has been my privilege to serve on the Court of Appeals for the past twenty-one years, and I look forward to continuing to work hard for the people of Tennessee.

Every appeal is important, and every case deserves serious and thoughtful consideration. Because my court is generally the last one to consider a civil case, I review each appeal personally, and I strive to write clear, precise opinions that are faithful to the law and the facts of the case. In addition to the Commission's recognition of the excellence of my work, I am grateful that the American Board of Trial Advocates named me Appellate Judge of the Year in 2002 and that I have been recognized recently as one of the *500 Leading Judges in America*. I am also honored and humbled that the Tennessee Judicial Selection Commission has found me qualified to serve on the Tennessee Supreme Court.

Our legal system must strive to render equal justice under the law. If re-elected, I pledge that I will continue to approach my work with skill, professionalism, and civility, striving always for excellence.

COURT OF APPEALS

JUDGE SHARON G. LEE

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Sharon G. Lee received a law degree from the University of Tennessee College of Law in 1978. She engaged in the private practice of law in Madisonville from 1978 until 2004, during which time she served as County Attorney for Monroe County, City Attorney for Madisonville and Vonore and Municipal Judge for the City of Madisonville. She completed training as a Rule 31 Family Mediator and Advanced Family-Domestic training in 2001. She was appointed to the Court of Appeals on June 2, 2004 and was elected on August 6, 2004. Since her appointment, she has attended the Appellate Judges Summit at SMU Law School and the Roscoe Pound Foundation Judicial Seminar.

Service to the Profession: Judge Lee is a member of the Tennessee Bar Association, the American Judicature Society and the American Association of Women Judges. Judge Lee is a Director for the Tennessee Lawyers' Association for Women and a Past President of the Monroe County Bar Association. She is a member of the American Judicature Society and Scribes. She co-authored "Opening and Closing Arguments" and lectures frequently on legal topics.

Performance Evaluation: Judge Lee's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. Her ratings in the areas of performance during oral argument were particularly noteworthy. At the time the surveys were administered, Judge Lee had been on the bench for six months. Her short tenure in the position was reflected in survey ratings relative to written opinions. Although the ratings were good, they suggested the opportunity for self improvement by Judge Lee as she gains experience in her position.

Interview: The interview with Judge Lee supported the survey results. Judge Lee noted that she is adapting from her recent role as a trial attorney in general practice to the role of appellate judge. While new appellate judges have limited training and orientation opportunities, Judge Lee noted that she has undertaken studying well-written opinions of other judges to incorporate their best elements into her writing style. Judge Lee demonstrated a clear desire to improve her performance as she gains experience in the position.

Recommendation: The Commission unanimously recommends the retention of Judge Sharon G. Lee on the Tennessee Court of Appeals.

COURT OF APPEALS

JUDGE CHARLES D. SUSANO, JR.

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Charles D. Susano, Jr. received a law degree from the University of Tennessee College of Law in 1963. He served as law clerk to the Tennessee Supreme Court from 1963 to 1964. He engaged in the private practice of law in Knoxville from 1964 to 1994. He also served as Assistant District Attorney for Knox County from 1967 to 1968. Judge Susano was appointed to the Tennessee Court of Appeals in March 1994 and was elected in August 1994 and reelected in 1998.

Service to the Profession: Judge Susano served as a member of the Court of the Judiciary from 1999 to 2003 and was Presiding Judge *Pro Tem* from 1999 to 2002. He is a Fellow of the Tennessee and American Bar Foundations. He was selected 2003 Appellate Judge of the Year by the American Board of Trial Advocates, Tennessee Chapter. Judge Susano was also awarded the Courage in the Face of Adversity Award by the Knoxville Bar Association in 2004. He has served as an Executive Committee Member and Treasurer for the Tennessee Judicial Conference. He has frequently lectured on legal topics.

Performance Evaluation: Judge Susano's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in all areas related to written opinions were particularly noteworthy, encompassing elements of quality and promptness. His ratings in the areas of oral argument, ethical conduct, freedom from bias, and demonstration of appropriate judicial temperament were equally noteworthy.

Interview: The interview with Judge Susano confirmed the survey results. Judge Susano stated that the Court's most important responsibility is deciding who wins and who loses, while the next most important responsibility requires an opinion that explains the decision.

Recommendation: The Commission unanimously recommends the retention of Judge Charles D. Susano, Jr. on the Tennessee Court of Appeals.

COURT OF APPEALS

JUDGE D. MICHAEL SWINEY

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge D. Michael Swiney received a law degree from the University of Tennessee College of Law in 1978 and engaged in the private practice of law in Knoxville from 1979 to 1999. Beginning in 1994, he served as a Certified Mediator with the U.S. District Court for the Eastern District of Tennessee until appointed to the Court of Appeals in July 1999. He was elected in August 2000.

Service to the Profession: Judge Swiney is a member of the Knoxville and Tennessee Bar Associations, and the Hamilton Burnett American Inn of Court. He serves as adjunct professor at the University of Tennessee College of Law. Judge Swiney currently serves as a member of the Court of the Judiciary. He authored an article for DICTA, a Knoxville Bar Association publication, and frequently lectures on legal topics to bar associations and other groups.

Performance Evaluation: Judge Swiney's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in the use of structured, logical reasoning, knowledge of rules of evidence and procedure and promptness in written opinions were particularly noteworthy.

Interview: The interview with Judge Swiney supported the survey results. Judge Swiney noted that he evaluates the complexity of cases for the purpose of managing his resources and time to produce quality opinions. He also noted that the major responsibility of an appellate judge is disposing of cases, which requires two things – reaching a decision and then writing an opinion that explains the decision.

Recommendation: The Commission unanimously recommends the retention of Judge D. Michael Swiney on the Tennessee Court of Appeals.

COURT OF CRIMINAL APPEALS

JUDGE ALAN E. GLENN

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Alan E. Glenn received a law degree from Vanderbilt University School of Law in 1968. He served as a law clerk to a Memphis U.S. District Judge. He was a U.S. Attorney from 1970-71, an assistant district attorney general from 1971 to 1982 and in private practice in Memphis from 1982 to 1999. He was appointed to the Court of Criminal Appeals in April 1999 and was elected in 2000.

Service to Profession: Judge Glenn is a Member of the Memphis/Shelby County Bar Association and Tennessee Bar Association. He has served as an instructor in Trial Advocacy at Harvard Law School and as a lecturer at the National College of District Attorneys. Judge Glenn has also served as an arbitrator in the American Arbitration Association. He is a frequent lecturer on legal topics.

Performance Evaluation: Judge Glenn's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in all areas related to written opinions were particularly noteworthy, encompassing elements of both quality and promptness. His ratings in the areas of oral argument, ethical conduct, freedom from bias, and demonstration of appropriate judicial temperament were equally noteworthy.

Interview: The interview with Judge Glenn supported the survey results. Judge Glenn noted the Court of Criminal Appeals' caseload has remained fairly constant during his six years on the Court. He stated that the Court of Criminal Appeals' internal rules on timeliness of opinions have not affected his opinion-writing process.

Recommendation: The Commission unanimously recommends the retention of Judge Alan E. Glenn to the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE DAVID G. HAYES

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge David G. Hayes received a law degree from the University of Mississippi in 1970. He was employed in a corporate law department in Houston, Texas, from 1971 to 1972. He was engaged in the private practice of law in Union City from 1972 to 1978. He was elected District Attorney General in 1978 and was reelected in 1982. Judge Hayes was appointed Circuit Judge in January 1990, and was elected in August 1990. He was appointed to the Court of Criminal Appeals in April 1994, and was elected in August 1994 and 1998.

Service to the Profession: Judge Hayes is a Member of the Tennessee Court of the Judiciary and a former Chairman of the Tennessee Judicial Ethics Committee. He is a Past President of the Tennessee District Attorneys General Conference as well as a delegate to the National District Attorneys General Conference. He is the author of Merchant's Handbook on Economic Crimes and is a frequent lecturer on legal topics.

Performance Evaluation: Judge Hayes' survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in use of structured, logical reasoning, knowledge of substantive law and rules of evidence and procedure, and promptness in written opinions were particularly noteworthy.

Interview: The interview with Judge Hayes supported the survey results. Judge Hayes noted that the Court's caseload has remained largely unchanged during his tenure, although the types of criminal cases that are appealed to the Court have changed. He indicated that he does not believe that the Court of Criminal Appeals' internal rules on timeliness of opinions have required him to sacrifice quality in his work.

Recommendation: The Commission unanimously recommends the retention of Judge David G. Hayes to the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE J.C. McLIN

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge J.C. McLin received a law degree from the University of Tennessee in 1974. He was an attorney with Memphis Area Legal Services in 1975 and an assistant district attorney general from 1975 to 1990. He was in private practice from 1990 to 1999. Judge McLin served as a Criminal Court Judge from 2000 to 2004, graduating from the National Judicial College in 2001. He was appointed to the Court of Criminal Appeals in 2004.

Service to Profession: Judge McLin is a member of the National Bar Association Ben Jones Chapter, and the American, Tennessee and Memphis and Shelby County Bar Associations. He is author of the *McLin Report* and a frequent lecturer on legal topics.

Performance Evaluation: Judge McLin's survey results were based upon limited responses due to his short tenure on the Court of Criminal Appeals at the time of the survey distribution. Judge McLin's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected a good performance, with areas of excellence as well as potential for self-improvement. His ratings were particularly noteworthy in the areas of oral argument and general performance, with potential for self-improvement in both the quality and promptness of written opinions.

Interview: The interview with Judge McLin supported the survey results. Judge McLin noted that his transition from trial to appellate court judge during his first year on the bench was sometimes difficult. He described a trial court judge's duties as requiring one to make quick decisions, while an appellate court judge is required to engage in more reading, research, and reflection. He indicated that he has adjusted to his job and enjoys his work, but believes that a formal training program for new appellate court judges would be beneficial. Judge McLin endorsed the Court of Criminal Appeals' internal rules on timeliness of opinions. He reported that he had written 92 opinions, had one opinion in circulation, and was completely current in his written decisions at the time of his interview.

Recommendation: The Commission unanimously recommends the retention of Judge J.C. McLin to the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE NORMA McGEE OGLE

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Norma McGee Ogle received a law degree from the University of Tennessee College of Law in 1977. She practiced law with the Memphis Area Legal Services, Inc. from 1977 to 1979, and engaged in the private practice of law from 1979 to 1998. Judge Ogle was appointed to the Court of Criminal Appeals in November 1998 and elected in August 2000.

Service to the Profession: Judge Ogle is a member of the Sevier County, Knox County and Tennessee Bar Associations. She was a member of the Tennessee Human Rights Commission from 1995 to 1998 and served as its chair in 1998. She regularly lectures on legal topics as well as speaking to lay groups on the role of judges and the courts.

Performance Evaluation: Judge Ogle's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. Her ratings in oral argument and appropriate judicial temperament were particularly noteworthy. The Commission noted that Judge Ogle had improved in both the quality and promptness of written opinions during the judicial term.

Interview: The interview with Judge Ogle supported the survey results. Judge Ogle stated that she initially was concerned that the emphasis on timeliness of opinions would cause the quality of opinions to suffer, but that such had not been the case. She observed that timeliness is important because people's lives are depending on the Court's decisions. Judge Ogle affirmed her commitment to meet or exceed the standards set by the Court of Criminal Appeals in promptness of opinion writing and to maintain the high standards of Tennessee appellate courts for quality of opinions.

Recommendation: The Commission unanimously recommends the retention of Judge Norma McGee Ogle on the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE JERRY L. SMITH

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Jerry L. Smith received a law degree from the University of Tennessee College of Law in 1978. He engaged in the private practice of law in Linden and Murfreesboro from 1978 to 1980. He was employed in the Office of the Attorney General from 1980 to 1995, serving as Deputy Attorney General from 1984 to 1995. Judge Smith was appointed to the Court of Criminal Appeals in November 1995 and was elected in August 1996. He was reelected in 1998.

Service to the Profession: Judge Smith is an instructor at the Nashville School of Law. He is a member of the Harry Phillips Inn of Court, Tennessee Bar Association and Nashville Bar Association. Judge Smith has also served as President of the National Association of Extradition Officials. Judge Smith has published articles on Interstate Rendition and Tennessee's asset forfeiture laws. He is a frequent lecturer on legal topics.

Performance Evaluation: Judge Smith's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in applying substantive law and demonstrating knowledge of evidence and procedure were particularly noteworthy. While his ratings in promptness in writing opinions indicated potential for self-improvement, the Commission noted that Judge Smith had improved significantly in this area during the judicial term while maintaining excellent quality.

Interview: The interview with Judge Smith supported the survey results. Judge Smith noted that the Court's caseload has been stable during his tenure of approximately 10 years. He noted that he has implemented self-imposed deadlines on himself and his clerks in addition to the Court's internal guidelines, and that these guidelines have resulted in much improved timeliness. He noted the emphasis on timeliness has not had a negative impact on the quality of his opinions.

Recommendation: The Commission unanimously recommends the retention of Judge Jerry L. Smith on the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE JOSEPH M. TIPTON

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Joseph M. Tipton received a law degree from the University of Tennessee College of Law in 1971. He engaged in the private practice of law in Knoxville from 1971 to 1990. Judge Tipton was appointed to the Court of Criminal Appeals in 1990, was elected in 1992, and was reelected in 1998.

Service to the Profession: Judge Tipton is a Fellow of the Tennessee Bar Foundation, and a member of the Knoxville and Tennessee Bar Associations. He has served as an assistant member on the Tennessee Board of Law Examiners and is a former adjunct professor at the University of Tennessee College of Law. He is a Past President of the Tennessee Association of Criminal Defense Lawyers. Judge Tipton has authored legal publications and regularly lectures on legal topics.

Performance Evaluation: Judge Tipton's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in use of structured, logical reasoning, properly applying law to the facts of the case, knowledge of substantive law and rules of evidence and procedure, and writing clear and well written opinions were particularly noteworthy. The Commission noted that Judge Tipton had improved in timeliness of written opinions while maintaining excellent quality.

Interview: The interview with Judge Tipton supported the survey results. He candidly admitted problems early in his career on the appellate bench, during a prior judicial term, with promptness of opinion writing. He explained that he had made a significant effort, when the previous difficulty occurred, to overcome the problem and to achieve timeliness of opinion writing while maintaining excellent quality.

Recommendation: The Commission unanimously recommends the retention of Judge Joseph M. Tipton on the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE GARY R. WADE

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Gary R. Wade received a law degree from the University of Tennessee College of Law in 1973. He engaged in the private practice of law in Sevierville from 1973 to 1987. He also served as Mayor of Sevierville from 1977 to 1987. Judge Wade was appointed to the Court of Criminal Appeals in 1987, was elected in 1988, and was reelected in 1990 and 1998. He attended the New York University Institute of Judicial Administration. Judge Wade is the Presiding Judge of the Tennessee Court of Criminal Appeals.

Service to the Profession: Judge Wade is a Fellow of the Tennessee Bar Foundation. He is a member of the Hamilton Burnett American Inn of Court. He is a past President of the Tennessee Judicial Conference, a past member of the Tennessee Sentencing Commission and past member of the Commission on the Future of the Tennessee Judicial System. Judge Wade is the founder of the Tennessee Judicial Conference Foundation and served on the Governor's Task Force on Sentencing. In 2004 he was given the Judicial Excellence Award by the Knoxville Bar Association and was named Appellate Judge of the Year by the American Board of Trial Advocates. He has authored legal publications and is a frequent lecturer on legal topics.

Performance Evaluation: Judge Wade's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in oral argument and appropriate judicial temperament were particularly noteworthy. As Presiding Judge of the Court of Criminal Appeals, he was credited by his colleagues with instituting and monitoring promptness in disposing of cases, and with promoting collegiality of the members of the court.

Interview: The interview with Judge Wade supported the survey results. Judge Wade noted that many changes have occurred during his eighteen years on the Court, including a slightly smaller caseload, fewer oral arguments, and an increased use of computers. He observed that the Court of Criminal Appeals enjoys a high degree of collegiality. Judge Wade stated that he is committed to promptly issuing written opinions that clearly explain the Court's decisions. The Commission noted Judge Wade's excellent leadership as Presiding Judge of the Court of Criminal Appeals.

Recommendation: The Commission unanimously recommends the retention of Judge Gary R. Wade on the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE ROBERT W. WEDEMEYER

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Robert W. Wedemeyer received his law degree from the Memphis State University School of Law in 1976. Judge Wedemeyer engaged in the private practice of law from 1977 until 1990. He was appointed to serve as Circuit Judge in the 19th Judicial District in 1990, was elected to the position in 1990 and was reelected in 1998. Judge Wedemeyer was appointed to the Court of Criminal Appeals in 2000 and was elected in 2000.

Service to Profession: Judge Wedemeyer serves on the Bench/Bar Relations Committee of the Tennessee Judicial Conference and has previously served on the Tennessee Pattern Jury Instructions Committee of the conference. He is a member of the Tennessee, Montgomery County and Robertson County Bar Associations, having served as President of the Montgomery County Bar Association. Judge Wedemeyer is also a past member of the Tennessee Trial Lawyers Association and the Tennessee Trial Judges Association. He is a frequent lecturer on legal topics and has taught courses on Family Law and the Death Penalty at Austin Peay State University.

Performance Evaluation: Judge Wedemeyer's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected a good performance with areas of excellence as well as potential for self-improvement. His ratings in the areas of oral argument and general performance were particularly noteworthy. The Commission noted that Judge Wedemeyer had improved in both the quality and promptness of written opinions as he gained experience during his five year tenure on the bench.

Interview: The interview with Judge Wedemeyer supported the survey ratings. He noted that he was pleased with his survey results because they reflected his efforts to improve in promptness while still maintaining quality in his written opinions.

Recommendation: The Commission unanimously recommends retention of Judge Robert W. Wedemeyer on the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE DAVID H. WELLES

Recommendation: RETENTION

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge David H. Welles received a law degree from the University of Tennessee College of Law in 1974. He engaged in the private practice of law in Dresden from 1974 to 1986, serving as City Attorney for the Dresden from 1982 to 1986. In addition, from 1976 to 1987 he served as a part-time assistant District Attorney General. Judge Welles served as legal counsel to the Governor from 1987 to 1994. He was appointed to the Court of Criminal Appeals in February 1994, was elected in August 1994 and reelected in 1998.

Service to the Profession: Judge Welles is a Fellow of the Nashville and Tennessee Bar Foundations. He is member of the Judicial Council and previously served on the Court of the Judiciary. He is a member of the Nashville, Tennessee and American Bar Associations and a Past President of the Weakley County Bar Association. He is a member of the National Guard, serving as a JAG Officer with the rank of Lieutenant Colonel.

Performance Evaluation: Judge Welles' survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in ethical conduct and promptness in writing and circulating opinions were particularly noteworthy.

Interview: The interview with Judge Welles supported the survey results. He noted that his goal is getting the decision right in a quality, well-reasoned, timely opinion. While accomplishing this goal is challenging, Judge Welles stated that he did not believe the Court of Criminal Appeals' emphasis in timeliness had resulted in diminished quality.

Recommendation: The Commission unanimously recommends the retention of Judge David H. Welles on the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE JOHN EVERETT WILLIAMS

Recommendation: RETAIN

Commission Vote: 8 FOR RETENTION – 3 AGAINST RETENTION

Legal Education and Experience: Judge John Everett Williams received a law degree from the Cumberland School of Law, Samford University, in 1981. He engaged in the private practice of law in Huntingdon from 1981 until 1998. Judge Williams was appointed to the Court of Criminal Appeals in November 1998 and was elected in 2000.

Service to Profession: Judge Williams is a member of the Tennessee and Carroll County Bar Associations. He has also been a member of the Tennessee Trial Lawyers Association and is a Past President of the Carroll County Bar Association. Judge Williams is a frequent lecturer on legal topics.

Performance Evaluation: Judge Williams' survey ratings from appellate judges, trial judges, attorneys and court personnel reflected a good performance with both areas of excellence and potential for self-improvement. His ratings in giving parties an adequate time to be heard in oral argument and demonstrating courtesy and respect to court personnel were particularly noteworthy. While Judge Williams' ratings in the quality of written opinions reflected the need for additional self-improvement, the Commission recognized his improvement in this area during the judicial term.

Interview: Judge Williams' interview supported the survey results. Judge Williams described his judicial philosophy as one that reflects a practical approach to the law. He noted that he has made a concerted effort to improve the quality of his written opinions. He has sought and received assistance from other judges and has paid greater attention to the details of opinion writing. He noted that some cases require more time than others and stated that there is no better professional satisfaction than reaching the correct result.

Recommendation: Some members of the Commission were concerned about the quality of Judge Williams' written opinions. A majority of the Commission recommends the retention of Judge John Everett Williams to the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE JAMES CURWOOD WITT, JR.

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge James Curwood Witt, Jr. received a law degree from the University of Tennessee College of Law in 1973. He served as Juvenile Court Referee in Monroe County from 1974 to 1979 and was Juvenile Court Judge from 1979 to 1982. Judge Witt also served as counsel for the Monroe County Board of Education from 1989 until 1997. He was appointed to the Court of Criminal Appeals in January 1997 and elected August 1998.

Service to the Profession: Judge Witt has served on the Judicial Council and on the Court of the Judiciary. He is a Fellow of the Tennessee Bar Foundation. He is a member and Past President of the Monroe County Bar Association and is a current member of the Tennessee Bar Association. He has served as a Hearing Committee Member for the Board of Professional Responsibility. Judge Witt has served on the Faculty of the Tennessee Judicial Academy and regularly lectures on legal topics.

Performance Evaluation: Judge Witt's survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in oral argument and ethical conduct were particularly noteworthy.

Interview: The interview with Judge Witt supported the survey results. In describing his approach to his work, Judge Witt noted that he had developed a personal process for reviewing the factual aspects of cases and records that substantially reduced the opportunity for technical errors, thus reducing the likelihood of applications to rehear or reconsider cases.

Recommendation: The Commission unanimously recommends the retention of Judge James Curwood Witt, Jr. to the Tennessee Court of Criminal Appeals.

COURT OF CRIMINAL APPEALS

JUDGE THOMAS T. WOODALL

Recommendation: RETAIN

Commission Vote: 11 FOR RETENTION – 0 AGAINST RETENTION

Legal Education and Experience: Judge Thomas T. Woodall received his law degree from Cecil C. Humphreys School of Law, University of Memphis in 1981. He served as a judicial law clerk from 1981 to 1982. He served as Assistant District Attorney General from 1984 to 1990, and engaged in the private practice of law in Dickson from 1990 to 1996. He was appointed to the Court of Criminal Appeals in December 1996 and was elected in 1998.

Service to the Profession: Judge Woodall currently serves on the Court of the Judiciary. He is a member of the Tennessee and Dickson County Bar Associations. Judge Woodall has authored articles for the Memphis State University Law Review as well as “A Judge’s View of Appellate Advocacy,” The Prosecutor’s Desk Book (3d ed.): Ethical Issues and Emerging Roles for 21st Century Prosecutors, 2001, American Prosecutors Research Institute. Judge Woodall frequently lectures on legal topics.

Performance Evaluation: Judge Woodall’s survey ratings from appellate judges, trial judges, attorneys and court personnel reflected an excellent performance. His ratings in use of structured, logical reasoning, applying law to the facts of the case, and ethical conduct were particularly noteworthy.

Interview: The interview with Judge Woodall supported the survey results. He noted the adoption by the appellate courts of a more standardized form of opinion writing as a change that had occurred during his nine year tenure on the Court. Judge Woodall noted that the emphasis on timeliness has not caused him to sacrifice quality in written opinions.

Recommendation: The Commission unanimously recommends the retention of Judge Thomas T. Woodall on the Tennessee Court of Criminal Appeals.

If you have questions or need additional information about Tennessee's Judicial Performance and Evaluation Program, you may write the commission at:

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