

**An Evaluation of the United States  
District Court Judges in Chicago  
Who Are On Senior Status**

**by**

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## **I. Introduction.**

The Chicago Council of Lawyers is a public interest bar association which has been dedicated to bringing about an exemplary legal system for over 30 years. Throughout its history, the Council has evaluated federal judges who sit in Chicago. These past evaluations include an evaluation of the judges sitting on the U.S. Court of Appeals for the Seventh Circuit (1994), evaluations of the U.S. District Court Judges sitting in Chicago (1972, 1976, 1991, and 2006), and an evaluation of the U.S. Bankruptcy Judges sitting in Chicago (1992). The Council has also evaluated various candidates for the federal bench.

The Council's federal judicial evaluations are motivated by a desire to improve the quality of justice in Chicago by providing honest feedback to the judges themselves and to the public officials who will be making future judicial selections. Federal district judges hold positions of great power. Although the decisions of a federal district judge are subject to review by a higher court, in reality, the vast majority of a district judge's actions are never reviewed by a higher court, and are only rarely seen or discussed by the press or public at large.<sup>2</sup> Moreover, because of the respect and deference accorded the position of a district judge, honest, informal feedback also can be a rarity.

U.S. district judges on "senior" status hold the same powers as those not on senior status. However, by virtue of their years of service and age, they are permitted to elect senior status, which entitles them to greater discretion with respect to the types and volume of cases that they handle. As a result, senior district judges generally have smaller case dockets than non-senior judges.

This evaluation reflects the candid views of the active federal court lawyers in Chicago. In conducting the evaluation, the Council created a non-partisan, non-ideological process designed to accurately capture the bar's views and present them in a synthesized, readable format. While this evaluation is no doubt imperfect, it is the product of over a year's work by a

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<sup>1</sup> There are presently 13 United States district judges in the United States District Court for the Northern District of Illinois who are on senior status. However, Judge Philip G. Reinhard, who sits in Rockford, Illinois, was excluded from this evaluation because he does not sit in Chicago. Meanwhile, Judge Charles P. Kocoras was evaluated as part of the Council's 2006 evaluation of the non-senior judges in the Northern District of Illinois and therefore also was not included in this evaluation. Accordingly, only 11 of the 13 senior judges are included in this evaluation.

<sup>2</sup> Indeed, as part of the Council's 2006 evaluation of the non-senior district judges in Chicago, it found that in 2004, no district judge included in the Council's evaluation had more than 20 of his/her cases decided on the merits by the U.S. Court of Appeals for the Seventh Circuit. This observation was based on publicly available information on WESTLAW reviewed by the Council as part of the evaluation.

group of more than 30 lawyers, and incorporates views expressed by over 575 active federal court lawyers in Chicago.

## II. Methodology.

The evaluation process began with the Council's formation of a Federal Judicial Evaluation Committee which, in turn, created a multi-faceted evaluation process with a variety of built-in checks and balances.<sup>3</sup>

### The Written Survey

In the Summer of 2005, the Clerk's Office of the U.S. District Court for the Northern District of Illinois provided the Council with the names and addresses of approximately 4000 randomly selected members of the Federal Trial Bar for this District (*i.e.*, approximately one third of the members). The Council played no role in the selection of these names. After verifying and updating these addresses, and eliminating attorneys without a Chicago-area address, the Council was left with a sample of 3,250 lawyers. In supplementation of this list of randomly selected lawyers, the Council added all Assistant United States Attorneys in the Chicago office (approximately 125 in total) and all staff lawyers practicing with the Federal Defender's Office in Chicago (approximately 30 in total).

The Council developed a 34-question written survey, which was based on the survey utilized by the Council in its four previous evaluations of the federal district judges in Chicago. The written survey (a blank copy of which, along with the cover letter containing instructions on how to complete the survey, is attached as Exhibit 1 hereto) contains a series of questions about the respondent's level of federal court experience and then asks specific questions about each judge's legal ability, integrity, temperament, decisiveness, and diligence. Finally, as a means of eliciting an overall assessment for each judge, the respondent was asked whether the judge is a good district judge and whether he or she would make a good Court of Appeals judge. The survey ends with a series of demographic questions which allowed us to know the type of lawyers answering the questionnaire. Respondents were informed that their responses were to be used in the aggregate, and that their responses would be anonymous. The written survey does not ask for the respondent to provide their identity, and in fact, the Council has no way of matching a given written survey response with a particular respondent. Respondents were instructed to limit their input to only their direct, personal experience with each judge within the past five years, and were further instructed not to base their answers on the opinions of other lawyers which they may have heard.

The surveys were mailed out in the Summer of 2006, and completed surveys were returned by 137 lawyers. The results are attached hereto as Exhibit 2.<sup>4</sup>

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<sup>3</sup> The Committee which prepared this report was co-chaired by Michael W. Early (Chicago Underwriters Group, Inc.) and Peter A. Steinmeyer (Epstein Becker & Green, P.C.). Committee Members included Malcolm Rich (the Executive Director of the Chicago Council of Lawyers), Armando Carlo III (The Boeing Company), Patricia Bronte (Jenner & Block), Adam Goodman (Goodman Law Offices LLC), Robert Greenspoon (Flachsbart & Greenspoon, LLC), Gregory Mayer (Hollister Incorporated), Paul W. Mollica (Meites, Mulder, Mollica & Glink), Rachel Blum Niewoehner (Sidley Austin LLP), Keith Spielfogel (Law Office of Keith Spielfogel), Jake Schmidt (Epstein Becker & Green, P.C.), and David E. Schoenfeld (Grippio & Elden).

### Telephone interviews

The Council supplemented the written survey with telephone interviews conducted by a panel of volunteer lawyers (generally, two different interviewers per judge, each of whom had federal court experience). The list of lawyers to be interviewed was generated by printing out published opinions issued between 2004 and 2006 by the federal judges being reviewed. Investigators were instructed to call lawyers on each side of those published decisions. The investigators were supervised by the Council's Federal Judicial Evaluation Committee and its Executive Director.

Each investigator was provided a sample script (Exhibit 3) with specific questions to be asked of each respondent. Investigators had the opportunity to ask additional questions, as well. The general categories of questions were: Legal Ability, Quality of Written Opinions, Decisiveness, Diligence, Integrity, Judicial Temperament, Fairness, Respect for the Rule of Law, and Independence from Political and Institutional Influences. All responses were used anonymously.

Each investigation of a given judge involved at least 40 interviews of lawyers having direct experience before that federal judge. In total, more than 440 lawyers were interviewed.

Finally, after this evaluation was reviewed and approved by the entire Board of the Council, a draft of the evaluation was provided to each judge included in the evaluation. Each judge was given two weeks in which to review and comment on his/her draft evaluation, and the Council also offered to meet in person with Chief Judge Holderman and any other judge who wanted to discuss his/her respective evaluation.

### III. A Note Regarding The Effect Of Ideology On The Evaluation's Results.

In formulating the evaluation process, and in evaluating the input received from active federal court practitioners in Chicago, the Council undertook every reasonable effort to strip the process of any partisanship or ideology. In that regard, the process succeeded, for the results bear little if any correlation to a given judge's reputed ideological leanings, or to the party affiliation of the President by whom they were nominated.

### IV. Specific Results.

The specific results for each of the 11 senior federal district court judges included in this evaluation are set forth below.

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<sup>4</sup> Because the Council is simultaneously preparing an evaluation of the federal magistrate judges in Chicago, the Council's written survey covered both the senior judges and the magistrate judges. The survey results with respect to the magistrate judges will be released in the forthcoming magistrate judge evaluation.

## **Judge Marvin Aspen**

Judge Aspen, born in 1934, was appointed to the District Court by President Jimmy Carter in 1979. He graduated from the Northwestern University School of Law in 1958. He served as an Assistant State's Attorney in Cook County and as an Assistant Corporation Counsel for the City of Chicago. From 1971 to 1979 Judge Aspen served as a Circuit Judge in Cook County in both the Criminal and Law Divisions. He was Chief Judge of the Northern District of Illinois from 1995 to 2002. He assumed senior status in 2002.

Judge Aspen received high praise for his legal ability. The active federal bar described him as one of the most rigorous and scholarly district court judges in the Northern District. Lawyers interviewed about him report that Judge Aspen knows the law and knows how to work with practitioners to keep litigation moving forward.

Judge Aspen is praised by the bar for being fair, attentive and respectful of lawyers and litigants. He is said to be of the highest judicial integrity; no one questions his fairness and impartiality. Lawyers that appear before him describe Judge Aspen's temperament as even-keeled and calm. Judge Aspen treats all parties in a courteous manner and deals reasonably and fairly with any problems that arise during litigation. He is said to remain attentive to the arguments put forth by both sides and to rule only after giving both sides a fair and impartial hearing.

Judge Aspen is considered to be a well-prepared and diligent member of the federal judiciary. Lawyers appearing before Judge Aspen consider him a competent manager of his courtroom who is punctual and always prepared. In the Council's written survey results, Judge Aspen received the best score of any senior judge on the question about whether he rules with appropriate decisiveness during trial.

A few lawyers commented that Judge Aspen pushes deadlines and takes other steps to encourage settlement a little too hard. Nevertheless, the Council's written survey results found Judge Aspen with an average score on the question asking whether he effectively assists the parties to reach settlement and with a better than average score on the question whether he refrains from coercing settlements.

Judge Aspen's written work product is praised by the bar as clear and concise and his written opinions are said to be issued in a timely manner without undue delay. He is said to stay abreast of developments in the law and is seen as having a scholarly knowledge of the law. Lawyers report that Judge Aspen consistently does an excellent job of conforming his ruling to the letter of the law. The Council's survey results found Judge Aspen tied for the best score among senior judges on the question regarding whether he would make a good court of appeals judge.

Overall, the active federal bar regards Judge Aspen as a judge of high standing who is a respected and dedicated member of the judiciary.

## **Judge Suzanne B. Conlon**

Born in 1941, Judge Conlon graduated from Loyola University School of Law and was admitted to practice in 1968. After law school, Judge Conlon clerked for Judge Edwin A. Robson (a former district judge in the Northern District of Illinois) for three years and then worked in private practice for several years. She later worked as an Assistant U.S. Attorney and served as the Executive Director of the National Sentencing Commission, which established the Sentencing Guidelines for federal criminal cases. President Reagan appointed her to the federal bench in 1988. She assumed senior status in 2004.

Judge Conlon receives praise for her intelligence, legal ability, and the quality and timeliness of her written opinions. Attorneys appearing before her note that her written opinions, though issued speedily, are consistently thoughtful and well reasoned. Judge Conlon is diligent in mastering complex factual issues and digesting them into concise, well written summaries.

Judge Conlon is hard-working and attentive during trials. She is very organized, manages her calendar well, and always begins her motion call on time. During telephone interviews, attorneys reported that Judge Conlon is impartial and has high standards of integrity. However, the Council's written survey revealed that some attorneys question whether Judge Conlon's rulings are influenced by the identity of the lawyers or parties, or by a predisposition to rule for the plaintiff or the defendant in civil matters.

Active federal court practitioners had two principal criticisms of Judge Conlon's judicial performance: undue rigidity in adhering to litigation deadlines and poor judicial temperament. Those two criticisms may have colored attorneys' opinions of the judge's performance in other areas.

Almost all attorneys complained that Judge Conlon's scheduling deadlines are unrealistic and inflexible. Judge Conlon refuses to accommodate the scheduling concerns not just of the lawyers, but also of litigants and fact and expert witnesses. Several attorneys commented that Judge Conlon's paramount concern seems to be the speed with which she can move her docket. Of the senior judges, Judge Conlon received by far the worst marks (3.1 in the Council's written survey, compared to an average score of 1.6) on whether the judge "gives due consideration to the convenience of lawyers and litigants in scheduling proceedings."

Judge Conlon's judicial temperament and communication skills also received widespread criticism. Attorneys described the judge as abrupt, unpleasant, intolerant, and condescending. Nevertheless, attorneys agree that Judge Conlon is even-handedly intemperate. As one attorney noted, "she treats everyone the same (badly)." In responding to the written survey, attorneys gave Judge Conlon the worst marks of any senior judge for courtesy toward lawyers and litigants (3.1, compared to an average of 1.6).

In addition to scheduling and temperament issues, many attorneys commented on Judge Conlon's unwillingness to facilitate settlements of civil matters. Judge Conlon often refuses to make herself available for settlement conferences, or even to engage in discussions to focus the scope of the litigation. As a result, several attorneys recommended that litigants with cases

before the judge should consent to trial before a magistrate judge, who would be more amenable to settlement discussions or narrowing the issues for discovery and trial. Attorneys responding to the Council's written survey gave Judge Conlon the worst marks of any senior judge (3.5, compared to an average of 1.8) for "effectively assist[ing] the parties to reach settlement." This attribute appears to be at odds with Judge Conlon's emphasis on the prompt disposition of cases.

In summary, Judge Conlon's rigidity in scheduling matters, her poor judicial temperament, and her refusal to facilitate settlements in civil matters appear to have overshadowed her excellent legal abilities and diligence on the bench. The Council hopes that Judge Conlon will address these issues.

### **Judge John F. Grady**

Judge Grady was appointed by President Gerald Ford in 1976. He graduated from Northwestern University School of Law in 1954. He worked as an associate at a Chicago firm for two years, when he became an Assistant U.S. Attorney. In 1961, Judge Grady returned to private practice as an associate in a Waukegan firm. In 1963, he went into solo practice in Waukegan. From 1973 to 1976, he served as a member of the Illinois Attorney Registration and Disciplinary Commission. Judge Grady assumed senior status in 1994.

Judge Grady is well regarded by most federal practitioners. He receives high marks for legal ability and knowledge of the law. Judge Grady's temperament generally draws praise; most lawyers say he is courteous, patient, considerate, and very fair to *pro se* litigants. Nevertheless, a few commented that Judge Grady can be irritable. Judge Grady's integrity, independence and impartiality are unquestioned. He manages his docket efficiently and starts court sessions promptly.

Judge Grady works hard and keeps up on current developments in the law. He generally is prepared on his pending cases. In the Council's written survey, lawyers reported that the timeliness of Judge Grady's written opinions is about average for the district. However, in the phone interviews, some lawyers commented that Judge Grady's opinions took longer than expected. Lawyers report that Judge Grady's oral and written rulings deal sufficiently with the issues presented.

Judge Grady is decisive – a judge who will make a decision and stick with it. A majority of lawyers interviewed also said that if Judge Grady makes a decision that proves to be wrong or unfair, he will change his position. A few lawyers, however, report that he makes up his mind too early in the case, while others said he allows early reactions to color later proceedings. Judge Grady generally is firm on deadlines, but shows reasonable flexibility when circumstances warrant.

Overall, federal practitioners report that Judge Grady ranks among the better senior judges on the Northern District bench.

### **Judge William T. Hart**

Judge Hart, born in 1929, was appointed by President Reagan in 1982. He graduated from Loyola University School of Law in 1951, after which he served in the U.S. Army, was an Assistant U.S. Attorney, a Special Assistant Illinois Attorney General, and a Special Assistant State's Attorney in Cook County. He was then at Schiff, Hardin & Waite from 1959 until his appointment to the bench. Judge Hart assumed senior status in 1996.

Overall, respondents to the Council's phone survey regarded Judge Hart as a fair, competent, and well-prepared judge. They described the judge as a good, but not outstanding jurist, who is generally even-tempered in the courtroom, except with lawyers who come to court unprepared; those lawyers may experience impatience and a curt demeanor from the judge. In the Council's written survey, Judge Hart received the best score among any of the Senior Judges in the category "He/she effectively assists the parties to reach settlement."

A few attorneys interviewed as part of the Council's evaluation complained that the judge was not as clear as he could be in his oral courtroom rulings, and indicated that this was an area where he could improve. Some attorneys also reported that Judge Hart seemed less familiar with complex civil issues. However, in the Council's written survey, Judge Hart tied for the best score in the categories "He/she understands the issues in complex cases" and "His/her oral rulings are clearly expressed."

Attorneys practicing in front of Judge Hart can expect a tight, efficiently run courtroom and should not expect to have an extension request granted without a good reason. Judge Hart has the highest level of integrity, is a "straight down the middle judge" with no visible political influences or other biases, and is well regarded by the active federal bar.

Generally, lawyers surveyed and interviewed as part of this process rank Judge Hart among the better senior judges on the Northern District bench.

### **Judge Harry D. Leinenweber**

Judge Leinenweber, born in 1937, was appointed by President Reagan in December 1985. He graduated from the University of Chicago Law School in 1962. Prior to joining the federal bench, he was in private practice and also served as a Representative in the Illinois House of Representatives from 1973 to 1983. He assumed senior status in 2002.

Judge Leinenweber received positive remarks regarding his overall legal ability, decisiveness, diligence, and courtroom demeanor, and very positive remarks regarding his integrity and judicial temperament. Lawyers remarked that he keeps abreast of current developments in the law, and that his rulings are clear and show a sound respect for the law. Attorneys agreed that he is more than fair and accommodating to *pro se* litigants. He is described as "nice" and "even-handed." Attorneys did not report any signs of an improper judicial temperament. On the contrary, he is described as a good listener with good communication skills.

Many lawyers commended Judge Leinenweber's administrative skills, commenting that he uses the pretrial process well and keeps status calls short. Most attorneys agreed that Judge Leinenweber is decisive in that he makes his rulings and sets deadlines and sticks to them. Although the judge encourages parties to cooperate to develop a schedule, attorneys view this as an attempt to involve the parties in the process rather than a sign of indecisiveness. Attorneys agreed that delays are rare in his courtroom and most praised Judge Leinenweber's work ethic and administrative skills as a reason for his ability to effectively expedite cases. Lawyers also stated that Judge Leinenweber runs an orderly courtroom and effectively reigns in difficult witnesses or attorneys.

Lawyers praised the judge's preparedness, commenting that he has clearly read the briefs and has intelligent questions prepared in advance. Attorneys reported that Judge Leinenweber listens to both sides before ruling and that his rulings reflect consideration of each side's arguments. His opinions are described as concise, clear and fairly well-researched. Attorneys also noted that he delivers his opinions in a timely manner. However, one criticism reported by lawyers was that Judge Leinenweber sometimes focuses on the biggest issue in the case and gives little attention to issues considered to be peripheral.

Lawyers regard Judge Leinenweber as impartial and free from bias or political influence. "Exemplary," "excellent," "great," and "strong" are some of the words used to describe the judge's integrity.

As reflected above, the active federal bar gave Judge Leinenweber very positive feedback in virtually all categories. In the Council's written survey, Judge Leinenweber received the best score among the senior judges in response to the question, "Overall, he/she is a good judge."

### **Judge George W. Lindberg**

Judge Lindberg, born in 1932, was appointed by President George H.W. Bush in 1989. He graduated from Northwestern University School of Law in 1957. He served as a State Representative in the Illinois General Assembly from 1967 to 1973. From 1973 until 1977, he was the Illinois State Comptroller, and he served as the Deputy Attorney General for the State of Illinois from 1977 to 1978. In 1978, he was elected to the Illinois Appellate Court, Second Judicial District, and served in that capacity until 1989, when he joined the federal bench. He assumed senior status in 2001.

In the Council's phone interviews, lawyers rated Judge Lindberg's legal ability as average to above average. However, in the Council's written survey, Judge Lindberg was rated substantially below average, compared to his fellow senior judges, in his understanding of the issues in both complex and ordinary cases.

Many lawyers interviewed as part of the Council's evaluation speculated that he relies too much on his law clerks. Several attorneys reported instances where his law clerks questioned counsel in open court, and others reported instances where the judge interrupted status or motion calls to consult with his law clerks.

Many lawyers interviewed were critical of Judge Lindberg's pretrial procedures. The judge's standing order states that "[he] allows **90 days for the completion of all discovery** and does not grant extensions except for serious family emergencies," motions for summary judgment are to be filed "**10 days** after the close of discovery," and that "[t]he trial date is set for a specific date approximately **seven months** from the parties' first appearance."<sup>5</sup> Many attorneys reported that Judge Lindberg's inflexible approach to discovery deadlines, regardless of the complexity of the case, is unfair and forces parties to settle or consent to the magistrate judge rather than litigating under the judge's unrealistic deadlines. In the Council's written survey, Judge Lindberg ranked second to last among the senior judges in response to the question asking whether he gives due consideration to the convenience of lawyers and litigants in scheduling proceedings. Multiple attorneys commented that he avoids trials whenever possible.

The judge's standing order also requires a face-to-face settlement conference between the actual parties within one month of the first status hearing in the case. Lawyers commented that this one-size-fits-all approach can be inefficient in that it sometimes requires clients to fly across the country to meet face-to-face in cases that have little to no chance of settling, and/or to meet and discuss settlement prematurely before sufficient facts have been developed during discovery. In the Council's written survey, Judge Lindberg ranked second to last among the senior judges in response to the question regarding whether he effectively assists the parties to reach settlement.

Regarding his courtroom demeanor, lawyers described Judge Lindberg as polite and firm and "business-like" but not particularly cordial. Most agreed that he is respectful of lawyers and litigants. His opinions are described as solid, well-written and well-reasoned. Attorneys reported that his opinions are issued in a timely manner, address the issues presented to the court and respect the rule of law. Lawyers also described Judge Lindberg as fair and unbiased.

Overall, Judge Lindberg is viewed as an adequate judge in terms of his legal ability. However, the active bar has concerns about the appropriateness of his pretrial procedures, and the Council urges him to reevaluate these procedures.

### **Judge George M. Marovich**

Judge Marovich, born in 1931, graduated from the University of Illinois College of Law in 1954. President Ronald Reagan appointed him to the bench in 1988. He was in private practice for many years, serving as counsel for several villages and suburban school districts. He was elected to the Circuit Court of Cook County in 1976, and served in the Criminal and Chancery Divisions before his appointment to the federal bench. He assumed senior status in 2000.

Lawyers interviewed by the Council report that Judge Marovich is a solid judge who tries hard to be fair. Respondents to the Council's written survey rate him about average of all senior judges in every major category.

In interviews, respondents had no major criticisms of Judge Marovich's temperament or acumen. Lawyers describe him as a "no nonsense" and "strict" judge, and compliment him for

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<sup>5</sup> See <http://www.ilnd.uscourts.gov/JUDGE/LINDBERG/gwlpge.htm> (emphases in original).

his even courtroom demeanor and his courteous treatment of lawyers. Even when one respondent described him as “harsh” at times, the respondent qualified that this harshness was not a problem. He reportedly deals with unexpected developments well. Respondents were also satisfied with Judge Marovich’s integrity, impartiality and diligent work ethic.

The consensus among respondents is that Judge Marovich’s legal abilities are adequate and average among the judges in the Northern District of Illinois. His legal rulings are regarded as competent and appropriate, and no respondent articulated any concerns or questions about his legal abilities. One respondent stated that Judge Marovich sees the practical consequences of things and pushes for a fair resolution. In this vein, most respondents described his written opinions and legal reasoning as average.

Interview respondents gave Judge Marovich good marks for decisiveness, though in written survey responses lawyers rate him slightly below average in this category (compared to his fellow senior judges).

Judge Marovich was praised for his fairness and impartiality, with some respondents stating that Judge Marovich bends over backwards to be fair.

Overall, Judge Marovich is regarded as a dedicated, practical and hard working judge who succeeds in his efforts to be fair.

### **Judge James B. Moran**

Judge Moran, born in 1930, was appointed to the court by President Carter in 1979. He graduated from Harvard Law School in 1957. After clerking for Judge Edward Lumbard on the U.S. Court of Appeals for the Second Circuit, he joined the Chicago law firm of Bell, Boyd & Lloyd, where he remained until appointed to the bench. From 1965 to 1966, Judge Moran also served as a member of the Illinois House of Representatives. He was Chief Judge of the Northern District of Illinois from 1990 to 1995. He assumed senior status in 1995.

Judge Moran was praised by respondents for his decisiveness, his ability to grasp and summarize complex legal issues, his scrupulous fairness, his courtesy to parties and counsel (notably with the many *pro se* parties who populate the federal docket), and his work ethic.

Among the categories evaluated by the Council, Judge Moran’s temperament earned particular praise. Lawyers paid tribute to his patience, good humor, and friendly and respectful tone. With respect to Judge Moran’s legal ability, the survey found a consensus that his rulings are typically well-reasoned and clear (one lawyer described his writing style as “very conversational”), and that he keeps current with the law. His rulings are said to remain within “the bounds of Seventh Circuit law.” Many (though not all) lawyers approved of Judge Moran’s practice of conducting statuses in chambers. The atmosphere of these conferences is informal; indeed, one lawyer suggested that “if you want a status conference transcribed for the record, you have to request it ahead of time.” Lawyers expressed nothing but the highest regard for Judge Moran’s integrity. He was described universally as impartial, except (to a degree) that he indulged *pro se* litigants.

There were some mild criticisms of the judge's current performance. Some lawyers noted delays with the issuance of written opinions from Judge Moran's chambers, and some lawyers also found it a sticking point that the judge does not always hold litigants to previously-set deadlines. As a result, one interviewee described a situation where cases "take on lives of their own." However, respondents to the Council's written survey gave him positive marks in all categories measuring decisiveness (questions 21 – 25). Finally, a few lawyers noted Judge Moran's apparent tolerance of prolonged argument by counsel, which can delay proceedings.

Overall, attorneys gave Judge Moran very positive feedback, with one attorney stating that "Judge Moran is an excellent role model for what we should all want from the federal and state judiciary."

### **Judge John A. Nordberg**

John A. Nordberg, born in 1926, graduated from the University of Michigan Law School in 1950. From 1950 to 1975, he practiced law at Pope Ballard Shepard & Fowle. He was appointed to the Circuit Court of Cook County in 1976 by the Illinois Supreme Court and was then elected to the bench. In 1982, he was appointed to the District Court by President Ronald Reagan, and assumed senior status in 1994.

In most areas, Judge Nordberg is viewed favorably by the active federal bar. He received high marks for his legal ability in both the interviews and written survey. He reportedly follows the law, and his rulings – both oral and written – are considered well articulated and well reasoned.

Attorneys also praise Judge Nordberg's courtroom management and judicial temperament. In the written survey, he received high marks for punctuality (question 28) and the best score among the senior judges on question 30, "He/she deals with emergency matters expeditiously." He also scored much better than average among the senior judges on question 9, "He/she is courteous toward lawyers and litigants," and question 11, "He/she gives due consideration to the convenience of lawyers and litigants in scheduling proceedings." Consistent with these results, virtually every attorney interviewed reported that Judge Nordberg is even-tempered, courteous and respectful to counsel, and several described him as a "gentleman." He reportedly goes out of his way to give *pro se* litigants their day in court, taking extra time to explain procedural issues and granting *pro se* plaintiffs ample time for briefing. Some attorneys did note, however, that he "doesn't tolerate fools easily" and may be provoked to impatience when parties are unprepared.

The majority of attorneys interviewed also described Judge Nordberg as decisive, yet open-minded. Indeed, several said that Judge Nordberg does not come to court predisposed to a particular outcome and is capable of changing his mind after counsel makes a strong argument. Survey respondents likewise gave him high marks for not prejudging the outcome of cases.

Judge Nordberg is also praised for his integrity. Survey respondents strongly agree that he shows no bias or predisposition to decide matters a certain way. And almost all lawyers

interviewed believe he is “fair” and “impartial,” although a few lawyers indicated that he seems to favor big businesses over consumers.

Judge Nordberg’s diligence received mixed reviews. Whereas he received very good marks for diligence on the written survey (questions 28-31), the attorneys interviewed had inconsistent views of his work ethic. Many attorneys interviewed indicated that Judge Nordberg works hard and is well-prepared and attentive during court sessions. These attorneys believe that Judge Nordberg is always very familiar with the pleadings. Some attorneys, however, indicated that he was unprepared for court sessions and had not read the relevant pleadings.

The only consistent criticism of Judge Nordberg is that he issues rulings and moves his cases too slowly. On the written survey, he received the lowest scores among the senior judges on question 21, “He/she rules promptly on pretrial civil motions,” question 22, “He/she insures steady progress of case prior to trial,” and question 24, “He/she decides substantive motions with reasonable promptness.” Many attorneys interviewed believe his slow rulings are his biggest weakness.

Although a few lawyers expressed concerns regarding Judge Nordberg’s current abilities, those concerns are not widely shared. Aside from the criticisms of his failure to rule and move cases quickly, Judge Nordberg is viewed favorably by the federal bar.

### **Judge Paul E. Plunkett**

Judge Paul Plunkett, born in 1935, is a 1960 graduate of Harvard Law School. From 1960 to 1963, he practiced with the firm now known as Mayer Brown Rowe & Maw. He then served from 1963 to 1966 as an Assistant United States Attorney. Returning to private practice, he was with the firm now known as Nisen & Elliott from 1966 to 1978. He then rejoined Mayer Brown from 1978 to 1983 and then was appointed to the federal bench by President Reagan in 1983. He assumed senior status in 1998.

Lawyers have an almost uniformly positive opinion of Judge Plunkett. He is considered to have very good legal ability and to be firm yet reasonable with regard to case management. His written opinions are well regarded.

Judge Plunkett’s temperament and demeanor were frequently and uniformly complimented. Lawyers interviewed reported that he is even-tempered and able to handle difficult situations without losing composure. These reports are consistent with feedback provided by respondents to the Council’s written survey. Additionally, several lawyers who were interviewed specifically mentioned that Judge Plunkett dealt very well with *pro se* plaintiffs.

For a number of years Judge Plunkett has spent the winter months outside the Chicago area. While out of town he holds status conferences by telephone. While several of the lawyers surveyed commented on this practice, the Council received no reports that a party suffered prejudice as a result.

Judge Plunkett received consistently good reviews in the Council's written survey, and these reviews are consistent with the feedback provided by lawyers interviewed as part of the Council's evaluation.

### **Judge Milton I. Shadur**

Milton I. Shadur, born in 1924, is a 1949 graduate of the University of Chicago Law School. He was appointed to the bench by President Jimmy Carter in 1980. From the time of his law school graduation until his appointment to the bench, Judge Shadur practiced law at the firm currently known as Miller Shakman & Hamilton LLP. He assumed senior status in 1992.

By virtually all accounts, Judge Shadur is a very capable and decisive judge, with a keen intellect, good judicial temperament and strong work ethic. There were, however, concerns expressed about his tendency to prejudge the outcome of cases.

Attorneys report that Judge Shadur has excellent legal ability. He is widely regarded as a "brilliant" judge who easily grasps complex issues, stays up to date on legal developments and is often "one step ahead of the litigants." Many attorneys interviewed rank him among the top judges, or *the* top judge, in the Northern District when it comes to his intellect. His written decisions are generally considered clear, well written, and well reasoned.

Like his intellect, Judge Shadur's work ethic is legendary, and interviewees and survey respondents alike praise his extreme diligence.

Judge Shadur's judicial temperament also receives high marks. While attorneys interviewed observed that Judge Shadur "doesn't suffer fools gladly," has little patience for poor work product, and enforces procedural rules strictly, interviewees and survey respondents agree that he is generally courteous to counsel, even-tempered and unflappable. Many interviewees consider his demeanor to be among the best in the Northern District and praise his sensitivity to *pro se* plaintiffs.

Judge Shadur's respect for the law and integrity are unquestioned. He reportedly follows precedent even when noting his disagreement with it, and a few attorneys commented that he has become progressively more sensitive to the Seventh Circuit. Many attorneys interviewed observed that Judge Shadur is liberal on certain issues (particularly so in constitutional contexts), but most interviewees nevertheless consider him fair, impartial and independent. A few attorneys, however, believe Judge Shadur is biased in favor of plaintiffs. On questions 4, 5, and 6 of the Council's written survey, which relate to bias and predisposition to favor particular sides in civil and criminal cases, Judge Shadur's scores were a bit worse than the aggregate average scores of the senior judges.

Judge Shadur is regarded as very decisive and is described as more likely to rule from the bench than other judges in the Northern District. Attorneys report that Judge Shadur issues rulings very promptly and that he frequently expresses opinions on issues early in a case. Many attorneys interviewed believe that he nonetheless keeps an open mind and listens to arguments before reaching a final decision. Indeed, a few of the attorneys interviewed view his early

expression of opinions as a helpful, candid effort to focus the issues. Others, however, believe that after forming an early opinion based on his independent consideration of the issues, Judge Shadur becomes difficult to move and will not consider contrary arguments or later factual developments. On question 12 of the Council's written survey, "He/she refrains from prejudging the outcome of a case during pretrial or early trial proceedings," Judge Shadur received the worst score among all senior judges.

Notwithstanding these concerns, Judge Shadur is highly regarded by the federal bar. Attorneys practicing before him should expect to encounter a courteous but decisive judge with a formidable intellect and an equally strong work ethic.

V. **Conclusion.**

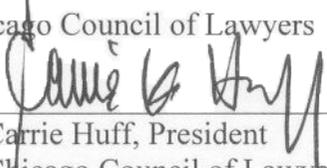
On the whole, the senior U.S. district judges in Chicago are held in high regard by the lawyers who appear before them. Although there are certainly judges who are held in lower regard than others, the Council received few complaints of bias or lack of impartiality, and absolutely no suggestions or hints of dishonesty, corruption, impropriety, or blanket disregard of the law by any judge.

To the extent that this evaluation contains negative feedback, the Council hopes that such feedback will be used as an opportunity for positive improvement. Conversely, by shining rare public light on the characteristics of the district's most highly regarded judges, the Council hopes that such characteristics will become benchmarks for all judges, at whatever level and whatever locale.

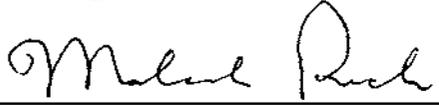
Respectfully Submitted,

The Chicago Council of Lawyers

By:

  
Carrie Huff, President  
Chicago Council of Lawyers

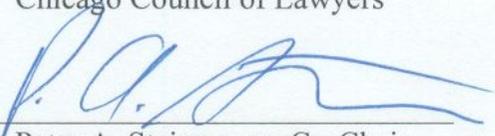
By:

  
Malcolm Rich, Executive Director  
Chicago Council of Lawyers

By:

  
Michael W. Early, Co-Chair  
Federal Judicial Evaluation Committee  
Chicago Council of Lawyers

By:

  
Peter A. Steinmeyer, Co-Chair  
Federal Judicial Evaluation Committee  
Chicago Council of Lawyers

July 2007

# **APPENDIX**

## **Exhibit 1**

**The Chicago Council of Lawyers'  
2006 Written Survey Regarding the Performance of  
Senior U.S. District Judges in Chicago and Accompanying  
Cover Letter**

## **Exhibit 2**

**The Results of the Chicago Council of Lawyers' 2006 Written  
Survey Regarding the Performance of  
Senior U.S. District Judges in Chicago**

## **Exhibit 3**

**The Telephone Interview Script Used in Connection With the  
Chicago Council of Lawyers' Evaluation of  
Senior U.S. District Judges in Chicago**

Exhibit 1

The Chicago Council Of Lawyers' 2006 Written Survey Regarding The  
Performance Of Senior U.S. District Judges In Chicago And Accompanying Cover Letter

# Chicago Council of Lawyers

Dear Lawyer:

The Chicago Council of Lawyers requests your cooperation in evaluating the performance of the sitting United States District Court Senior Judges and Magistrate Judges in Chicago. You have been selected as a respondent because of your membership in the Federal Trial Bar. We have enclosed a questionnaire for you to complete, along with an extra sheet for you to use in giving us your written feedback on any of the federal judges. Your responses will be used anonymously!

This is the sixth survey conducted by the Council. Our most recent survey was conducted in 2005 regarding the United States District Court Judges in Chicago. You can find and download a copy of the resulting report on our website, [www.chicagocouncil.org](http://www.chicagocouncil.org). You can also contact our office to request a copy of the report (312-988-6565). Our previous surveys received nationwide attention as unique assessments of the federal courts. The results of this survey will inform the judges of the bar's opinion about their strengths and about areas where the bar perceives each judge could improve.

This survey will serve several purposes. First, it will give judges feedback not readily available. This will enable them to consider changing their practices in areas where members of the bar have concerns. Second, the survey will provide information to other lawyers and to the public about the performance of each judge and of the court as a whole. Finally, the survey will provide a method of assessing whether the proper persons are being selected for the bench. By reviewing the survey as a whole, and comparing it to the Council's prior surveys, those responsible for choosing and approving federal judges in Chicago will have information about the quality of those chosen for the bench.

We hope you will participate in this project and do so at your earliest convenience. The tabulation of the responses will serve a constructive purpose only if there is a broad base of participation. For statistical purposes please answer the final questions on your background and return the questionnaire even if you do not feel qualified to rate any of the Judges or Magistrate Judges. Please reply by November 30, 2006.

A stamped reply envelope has been enclosed for your convenience in returning the questionnaire to us. If you have any questions, please call the Council's Executive Director, Malcolm Rich, at (312) 988-6552. We appreciate your cooperation.

Very truly yours,

Michael W. Early  
Co-Chair,  
Federal Judicial Evaluation Committee

Peter A. Steinmeyer  
Co-Chair,  
Federal Judicial Evaluation Committee

# INSTRUCTIONS

## Federal Judicial Evaluation From the Chicago Council of Lawyers

The first three survey questions ask how much, and what kind of, personal experience you have had before the senior district judges and magistrate judges about whom we are surveying. The next questions relate to integrity, judicial temperament, legal ability, decisiveness, diligence and overall evaluation of the judges. Please answer as many of the following questions as you can for each judge. Each of your answers should be based solely upon your personal observations within the past five years. Please do not base your answers on the opinions

of other lawyers which you may have heard.

The questions ask the degree to which you agree with favorably phrased statements about each judge. Agreement will indicate a favorable assessment of the particular judge on a given characteristic and disagreement will indicate an unfavorable assessment. If you do not have sufficient personal experience to provide an informed opinion about a given characteristic of a particular judge, please leave the appropriate response for that question blank. If you have sufficient personal

experience within the past five years but have no opinion about one or more characteristics, please respond with the letter "N" to indicate "no opinion."

On the last page, there is a short series of questions about your background and an extra sheet has been provided for your optional comments about specific judges.

Thank you for your cooperation.









	Marvin E. Aspen																				
	Suzanne B. Conlon																				
	John F. Grady																				
	William T. Hart																				
	Harry D. Leinenweber																				
	George W. Lindberg																				
	George M. Marovich																				
	James B. Moran																				
	John A. Nordberg																				
	Paul E. Plunkett																				
	Milton L. Shadur																				
	<b>Overall (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion)</b>																				
	32. Overall, he/she is a good judge.																				
	33. For Magistrate Judges: He/she would make a good United States District Judge																				
	34. He/she would make a good United States Court of Appeals Judge.																				

Exhibit 2

The Results of the Chicago Council Of Lawyers' 2006 Written Survey  
Regarding The Performance Of Senior U.S. District Judges In Chicago

	Senior District Judges										
	Marvin E. Aspen	Suzanne B. Conlon	John F. Grady	William T. Hart	Harry D. Leinenweber	George W. Lindberg	George M. Marovich	James B. Moran	John A. Nordberg	Paul E. Plunkett	Milton I. Shadur
aggregate average											
<b>Your Experience Before Each Judge</b>											
1. State the number of trials and/or evidentiary hearings in which you have actively participated before each judge during the past five years.	1.3	1.2	1.7	0.9	2	1	0.9	1	0.5	0.9	1.6
2. State the approximate number of contested motions in which you have actively participated before each judge in the past five years.	2.7	3.1	3.4	2.3	3.4	3.5	2.4	2.5	1.3	2.2	3.1
3. State the approximate number of mediations or settlement conferences in which you have actively participated before each judge in the past five years.	1	0	0	0	0	0	1	1	0	0	1
<b>Integrity (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion)</b>											
4. His/her rulings are not influenced by the identity of the lawyers and parties involved.	1.2	1.9	1.1	1.2	1.3	1.3	1.4	1.1	1.3	1.2	1.6
5. His/her rulings in criminal cases are free from any predisposition to decide for either government or defense.	1.3	1.8	1.4	1.9	1.5	1.8	1	1.2	1	1.2	1.6
6. His/her rulings in civil cases are free from any predisposition to decide for either plaintiff or defendant.	1.3, 2.0		1.3	1.5	1.6	1.8	1.4	1.3	1.4	1.3	1.8

		Marvin F. Aspen	Suzanne B. Conlon	John F. Grady	William T. Hart	Harry D. Leinenweber	George W. Lindberg	George M. Marovich	James B. Moran	John A. Nordberg	Paul F. Plunkett	Milton I. Shadur
	7. His/her awards of attorney's fees in appropriate cases and fees to court-appointed trustees and similar appointees are fair and reasonable.	1	1.3	2.2	1	1	1.8	1	1	1	1	1.9
	8. He/she refrains from ex parte communications.	1.2	1.2	1	1	1	1.1	1.1	1.1	1	1	1.1
	<b>Judicial Temperament (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion)</b>											
1.6	9. He/she is courteous toward lawyers and litigants.	1.4	3.1	1.3	2	1.2	2	1.7	1.1	1.2	1.5	1.6
1.4	10. He/she conducts court proceedings with appropriate firmness.	1.2	1.9	1.2	1.2	1.3	1.7	1.6	1.3	1.2	1.6	1.5
1.6	11. He/she gives due consideration to the convenience of lawyers and litigants in scheduling proceedings.	1.6	3.1	1.3	1.4	1.3	2.1	1.8	1.2	1.2	1.2	1.6
	12. He/she refrains from prejudging the outcome of a case during pretrial or early trial proceedings.	1.2	1.9	1.4	1.3	1.6	1.7	1.5	1.1	1.2	1.3	2.2
1.8	13. He/she effectively assists the parties to reach settlement.	1.8	3.5	1.5	1	1.7	2.2	1.8	1.1	1.6	1.5	1.9
1.6	14. He/she refrains from coercing settlements.	1.4	1.9	1.1	1.3	1.1	1.6	1.4	1.1	1.1	1.2	1.5
	<b>Legal Ability (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion)</b>											
1.4	15. He/she understands the issues in complex cases.	1.2	2	1.3	1.1	1.3	2	1.4	1.1	1.4	1.5	1.3

		Marvin F. Aspen	Suzanne B. Conlon	John F. Grady	William T. Hart	Harry D. Leinenweber	George W. Lindberg	George M. Marovich	James B. Moran	John A. Nordberg	Paul E. Plunkett	Milton L. Shadur
	16. He/she readily understands the issues in ordinary cases.	1.1	1.5	1.2	1.2	1.2	1.6	1.3	1.1	1.1	1.3	1.2
	17. He/she states the reasons for ruling in appropriate instances.	1.2	2	1.2	1.1	1.3	1.6	1.5	1.1	1.2	1.2	1.2
	18. His/her written rulings are clearly expressed.	1.1	1.8	1.3	1.1	1.3	1.5	1.5	1.1	1.3	1.2	1.3
	19. His/her oral rulings are clearly expressed.	1.2	2.2	1.3	1.1	1.3	1.6	1.5	1.1	1.2	1.4	1.3
	20. He/she is attentive to arguments and testimony.	1.3	2.2	1.3	1.4	1.3	1.7	1.6	1	1.2	1.4	1.4
	<b>Decisiveness (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion)</b>											
1.5	21. He/she rules promptly on pretrial civil motions.	1.4	1.7	1.6	1.5	1.3	1.7	1.8	1.4	1.9	1.6	1.3
	22. He/she insures steady progress of case prior to trial.	1.3	1.4	1.6	1.1	1.3	1.5	1.4	1.3	1.8	1.6	1.3
	23. He/she rules with appropriate decisiveness during trial.	1	1.2	1.1	1.1	1.2	1.5	1.1	1.1	1.1	1.1	1.1
	24. He/she decides substantive motions with reasonable promptness.	1.3	1.5	1.4	1.4	1.2	1.6	1.7	1.5	2	1.5	1.2
1.4	25. He/she promptly issues decisions after bench trials.	1.1	1.5	1.2	1	1.1	2.2	2	1.5	1.3	1	1.2
	26 For District Judges: He/she uses magistrate judges properly with regard to substantive matters.	1.4	1.5	1.5	1.1	1.2	1.9	2	1.1	1.1	1.2	1.5





Exhibit 3

The Telephone Interview Script Used In Connection With The Chicago Council  
Of Lawyers' Evaluation Of Senior U.S. District Judges In Chicago

## SAMPLE FEDERAL EVALUATION SCRIPT FOR SENIOR JUDGES

“I’m calling from the Chicago Council of Lawyers. We are currently evaluating senior district court judges sitting in Chicago. We found your name through a LEXIS search of Judge X’s written opinions (or, in the case of off-the-list contacts, “X recommended that we speak with you”). Do you have a few moments to discuss Judge X with me?”

After greeting the interviewee, assure him or her that all information given is confidential; names are only used in order to keep track of who has been contacted (see below).

At the beginning of the call, the interviewer should establish the amount of knowledge that the attorney has about the judge; ask if the attorney and the judge have any personal relationship; and determine the number of times the attorney has appeared before the judge, the nature of the cases, and whether the attorney won or lost. The interviewer should also establish that, unless advised to the contrary, the questions seek information based on the interviewee’s experiences before the judge during the prior five years.

You are not limited to these questions; do not accept one-word answers and try to get as much information as you can. If given a one-word response, ask “Can you explain that?” or “Can you provide an example of that?” You are also not required to ask each and every sub-question but should instead view them as a guide to help you obtain sufficient information and to prompt answers where an interviewee tends toward one- or two-word responses.

1. **Legal Ability:** What is your opinion of the judge’s legal ability? Is he or she a competent judge?
  - Does the judge have good communication skills?
  - Does the judge listen carefully?
  - Are the reasons for the judge’s rulings clear?
  - Does the judge seem to be abreast of current developments in the law?
  - Does the judge make effective use of pretrial procedures?
  - Does the judge clearly explain courtroom procedures to the involved parties?
  
2. **Written Opinions:** Was there a written opinion in your case?
  - Was the opinion issued in a timely manner?
  - Was the opinion clearly written?
  - Was the opinion well written?
  - Did the opinion deal sufficiently with the issues presented in the case?

3. **Decisiveness:** Is the judge decisive? Does he or she make a decision and stick with it?
  - Does the judge make a deadline and stick to it?
  
4. **Diligence:** Describe the judge's overall work ethic.
  - Is the judge always well-prepared?
  - Is the judge attentive to evidence and arguments?
  - Did the court session start on time?
  - Does the judge manage his or her schedule well?
  - Were there any delays? Why? Were they explained?
  - Are matters disposed of in a timely manner?
  
5. **Integrity:** What have you observed about this judge's integrity?
  
6. **Judicial Temperament:** How would you characterize the judge's temperament?
  - Is the judge even-tempered?
  - Is the judge courteous to all parties?
  - How does the judge treat pro se parties?
  - Does the judge deal well with stress and unexpected developments?
  
7. **Fairness:** Is the judge able to remain impartial at all times?
  - Does the judge treat all parties fairly, regardless of their race, gender, age, etc.?
  - Does the judge consciously act to reduce or eliminate words or conduct which manifest bias?
  - If there was inappropriate behavior on the part of anyone else, did the judge attempt to stop or correct it?
  - Does the judge remain neutral and impartial regarding all legal issues?
  - Does the judge remain neutral and impartial to all lawyers or parties?
  - Is the judge able to remain impartial at all times?
  - Were both sides given equal opportunity to present their case?
  
8. **Respect for the Rule of Law:** Do the judge's rulings follow the law?
  
9. **Independence from Political and Institutional Influences:** Is there any indication that the judge is susceptible to outside influences?
  - Is there any evidence of the judge's political leanings in his or her conduct or writings?

It is important that the investigator ask follow-up question in order to elicit useful information. If given a one-word response, ask “Can you explain that?” or “Can you provide an example of that?”

**10. Developments over time.** Did you appear before this judge more than five years ago? If yes,

- How long ago?
- Since then, have you observed any material changes in the judge’s abilities, demeanor, work ethic, etc.?

**11. Catch-all.** Is there anything else that you believe is important or that you would like to tell me about your experiences with or opinions of this judge?

In some instances follow-up calls should be made in order to determine if negative reports of a serious nature have any validity.

## **CONFIDENTIALITY**

Please keep in mind that the Council’s evaluation process is confidential. Names of investigators will be used internally for record-keeping purposes but will not otherwise be disclosed. Similarly, any information gathered may become part of the Council’s evaluation process, or may be used for further investigation of a judge, but any details that would reveal its source will be removed.

## **ABOUT THE COUNCIL**

If you are asked what the Council is:

The Chicago Council of Lawyers is a public interest bar association founded in 1969 to address inadequacies in the legal system. Focusing on the administration of justice, the Council strives to achieve effectiveness, accountability, and equity in the law. The Council began evaluating state court and federal district court judges in 1970.

You may also direct the interested to our website at [www.chicagocouncil.org](http://www.chicagocouncil.org).