

# Indiana Law Blog Newsletter

*This is the last of 4 special editions of the Indiana Law Blog Newsletter, published yesterday and today, featuring the reporting of Professor Joel Schumm, IU-McKinney School of Law, on the Marion County judicial selection process.*

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## ***Tuesday's Retention Interviews for Existing Marion County Judges, the Results, and a Look Ahead***

### **Tuesday's Interview Summary**

Tuesday's interviews were similar in tone and topics to Monday's interviews. The Committee heard from the final six incumbent judges after hearing from eleven years. At 1:00 the Committee unanimously recommended all seventeen for retention; the motion was from Mr. Johnson and seconded by Ms. Slash.

### **The Innovation/Reorganization/Specialization Debate**

Many questions again focused on the structure of the court and opportunities presented with the new building. Judges noted concerns with the present building (including the ease with which inmates on the "chain" can end up in Judge Nelson's office) to opportunities for more efficient use of space and consolidation of resources and services.

At least some MCJSC members seem to like the idea of specialized courts—as do some judges. Judge Amy Jones discussed her specialized mental health docket. Like others yesterday, she noted that specialized courts are best served by those knowledgeable and compassionate about the issues. Judge Gooden, who earlier created a specialized paternity courts, discussed the importance of timing and current needs. Although a paternity court was needed at the time, she now sees merit in a broader family division that is able to pool resources and has consistent judicial officers hearing cases that affect a family. The increase in drug cases has required reallocation of resources; having judges hear a wide range of criminal cases can help address that caseload.

### **A Useful Exercise**

The interviews highlight that Marion County is fortunate to have an impressive, engaged, and committed group of judges. That questions were easy and friendly is not a bad thing; it reflects, at least in part, an overall sense that the current system and judges are working well. As discussed in Monday morning's entry, the retention process is not a competitive one; the statute sets a low bar of whether a judge is merely qualified to continue to serve.

Judges are presumed qualified, and nine of members (13 of the 14 participated in the retention interviews) would need to vote unqualified for a negative recommendation.

Having judges reflect on the background and discuss their ideas for the future is a useful exercise—for the judge and for the public they serve. But it takes considerable time for both the judges (who must prepare their applications and for their interviews) and the Committee (who must review the applications and participate in interviews). Perhaps at some point there may be moves to change or eliminate the Committee’s retention review role if interviews are largely an opportunity to expound on positive things from an application—and recognizing that a negative or positive Committee vote may have little effect in November, when voters cast the retention votes that ultimately matter.

### **The Selection Process Ahead**

As mentioned in yesterday’s entries, the retention applications and interviews are a trial run of sorts for the selection process for filling three vacancies in the coming weeks. Indeed, some judges were specifically asked what qualities are important for new judges.

Some retention questions were particular to the individual incumbent; others are like to be repeated in some form for those vying for the open positions. In addition to the list from yesterday, Mr. Christie asked two incumbents about the decline in civil jury trials. In addition, after the motion to recommend all 17 judges for retention was seconded, a number of Committee members made comments about the incumbent judges, which could be viewed as areas for further inquiry with candidates:

- Ms. Thuma noted the judges had shown “kindness and compassion” as well as dedication working with mental health and homeless populations.
- Mr. Mallon appreciated that judges showed the ability and interest to adapt regarding the new judicial center.
- Ms. Lewis Burks was impressed with how involved judges were in the community. Sen. Breaux noted the importance of ethnic diversity not just of the judges but with their court
- Ms. Jackson-Lindsay added that the judges showed an appreciation of need for diversity and had discussed how their experiences can contribute to diversity.

Although there are frequently wrong or not-very-good answers, candidates often have some latitude in answering questions well, provided they are thoughtful and evince a temperament well-suited for the courtroom and working with colleagues and others.

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