



From Bar to Bench

*Report and Recommendation to
Enhance Judicial Recruitment*



Prepared for the
Idaho Supreme Court
Judicial Recruitment Committee
June 2010

Table of Contents

	<u>Page</u>
Executive Summary.....	1
The Judiciary’s Recruitment Problem.....	1
The Judiciary’s Response	1
What the Survey Tells Us.....	3
Recommendations	6
Goal I.....	6
Goal II.....	6
Goal III.....	7
Goal IV.....	7
Goal V.....	8
Goal VI.....	9
Goal VII.....	9
Goal VIII.....	9
Survey Report & Analysis.....	11
Respondent Interest in Judgeships and Intent to Apply	11
Respondent Opinions Regarding How to Attract the Highest Caliber of Applicants	17
Is The Judiciary Attracting the Best Lawyers for Judgeships?	18
Respondent Opinions Regarding the Judicial Selection Process.....	18
Conclusion	25
Appendices:	
A: Summary of Bar Membership and Idaho Judiciary by Sex.....	i
B: Judicial Recruitment Committee Roster	ii
C: Bar Survey.....	iv
D: Quantitative Bar Survey Results.....	ix
E: Judicial Selection Procedures	xx
F: Cross-Tabulated Bar Survey Results	xxii

Executive Summary

The Judiciary's Recruitment Problem

In the fall of 2008, a district judge vacancy in Ada County garnered only three applications (despite being Idaho's most populous county and with the highest number of attorneys). Of the three applicants, only two of those candidates were forwarded to the Governor for consideration to appoint. Indeed, in recent years, it has been the uncommon occasion when the Judicial Council has been able to forward the maximum four names to the Governor for appointment to a district judge position. If forwarding four names to the Governor is one objective measure of a robust, highly-qualified candidate pool, then Idaho receives a failing grade in this area. Since July 1, 2000, the Governor has received four names for district judge vacancies only eight times, or 25% of the time.

In other words, 75% of district judge vacancies over the last decade have had inadequate judicial applications—whether quantity, quality, or both—to afford the Governor the greatest choice in appointing district judges. The problem with lack of applicants for district judge service is not isolated to one county or even one judicial district—it is a statewide problem. Six of Idaho's seven judicial districts had at least one district judge vacancy during this decade where fewer than four names were forwarded to the Governor.

Another concern related to judicial recruitment is the continued scarcity of females and people of color on the bench. No females have been appointed to either the Supreme Court or Court of Appeals since 1993, and that last appointment is the only female currently serving on either appellate court. Before District Judge Susan Wiebe's appointment in October 2009, the last female appointed to the district bench was in January 2003, yet nineteen males were appointed to the district bench in the interim. Outside of the Third and Fourth Judicial Districts, there are no female district judges. When looking at the entire judiciary, no female was appointed to any judgeship from the fall of 2006 until three years later when Judge Wiebe took the bench; thirty-five consecutive males were appointed to the bench during this time period. Female judges comprise just 11% of the bench, despite female lawyers comprising 21% of the Bar membership that is eligible for judgeships. Appendix A summarizes both Bar membership and judicial representation by gender. Also, ethnic minority representation on the bench is almost nil—for years, Judge Sergio Gutierrez was Idaho's only judge from a minority group; he was joined in 2006 by Judge Jerold Lee and in 2009 Judge Dayo Onanubosi.

The judicial recruitment problem continues. In the fall of 2009, there were two district judge vacancies in the Fifth Judicial District. One vacancy garnered nine applications (one from a female) while the other vacancy had eight applications (none from females). Following the Judicial Council's selection process, only two candidates were deemed qualified and had their names forwarded to the Governor. The two candidates, however, were identical for each vacancy, which limited the Governor's appointment to assigning each candidate to a vacancy.

The Judiciary's Response

In response to the growing general concerns about the lack of judicial applications as well as the specific Ada County district judge vacancy that generated only three applications (but before the fifth district "no choice" situation), the Supreme Court requested in the fall of 2008 that a Judicial Recruitment Committee be formed to focus on enhancing judicial recruitment. Chief Judge Karen

Lansing and Judge Sergio Gutierrez, both of the Court of Appeals, agreed to serve as Committee co-chairs, and the following committee mission was adopted:

The Judicial Recruitment Committee will develop ongoing strategies for the effective recruitment of highly-qualified applicants for appellate, district, and magistrate judgeships.

To maximize the Committee's effectiveness, its membership was intended to broadly represent diverse perspectives regarding judicial recruitment and selection:

- Administrative District Judge R. Barry Wood
- Magistrate Judge Michael Oths
- Mayor Thomas Limbaugh
- Trial Court Administrator Burton W. Butler
- Judicial Council Executive Director Robert G. Hamlin
- Judicial Council Member Sherry Krulitz
- Administrative Director of the Courts Patricia Tobias
- Judicial Branch Human Resources Manager Andrea Patterson
- Idaho Law-Related Organizations (Idaho State Bar sections & associations):
 - Idaho State Bar Commissioner
 - Litigation Section
 - Government & Public Sector Lawyers Section
 - Family Law Section
 - Diversity Section
 - Idaho Prosecuting Attorneys Association
 - Idaho Association of Criminal Defense Lawyers
 - Idaho Trial Lawyers Association
 - Idaho Association of Defense Counsel
 - Idaho Women Lawyers

The committee roster is included as Appendix B.

The Judicial Recruitment Committee first met in April 2009, and as part of its work, surveyed the members of the Idaho State Bar regarding their perceptions of judges and judicial service, judicial selection procedures, and bias and diversity in judicial selection and appointment. The survey was published on-line using the Court's survey software and distributed via e-mail with the following introductory message:

In response to decreasing numbers of applicants for judicial positions, particularly district judge positions, the Idaho Supreme Court recently appointed a Judicial Recruitment Committee to develop and recommend ongoing strategies to promote the effective recruitment of highly-qualified applicants for appellate, district, and magistrate judgeships. The Committee's intent is to attract and advance the most talented individuals with diverse backgrounds and experience, regardless of their sex, race, religion, age, or any other dimension of diversity.

The ability to attract and retain highly-qualified judges is vital to the effectiveness of the Idaho judiciary. And having a strong, effective judiciary provides the foundation for successfully practicing law in Idaho and is the forum where many clients seek resolution of their issues. As a member of the Idaho State Bar, you represent the population from which future judges will be selected, and your voice is an important one as this issue is examined.

The Judicial Recruitment Committee has developed the following survey to seek your perceptions about serving as a judge, the judicial selection processes, compensation, and the motivation to seek judicial office. We are pleased to provide you the opportunity to complete this brief survey and appreciate of your willingness to respond.

The survey was distributed to just over 4,000 members of the Bar (in-state and out-of-state active members), and it enjoyed a significant response rate of 927 members, or over twenty-two percent of those surveyed.

The survey, which is included in this report as Appendix C, obtained demographic information for each respondent relating to years of practice, sex, area of practice, participation in Bar sections and law-related organizations. The survey then explored whether Bar members were interested in judicial service, why they were interested (or not), and whether they intended to apply. If someone indicated an intention to apply (or apply again), the survey asked for a ranking of the top three concerns about applying. Conversely, respondents interested in judicial service but who did not intend to apply (or apply again) were asked to rank the top three reasons for not applying. The survey also explored the Bar's perceptions of bias and diversity in judicial selection, as well as the role of politics. Finally, the survey concluded with a series of statements about judicial selection procedures to which the Bar members indicated their relative levels of agreement, neutrality, or disagreement. The survey results are included in these materials in Appendix D.

One area of survey focus, which generated significant response, is judicial selection procedures and elections. Given this focus, an understanding of Idaho judicial selection procedures is useful. Idaho's district and appellate judges are elected on a nonpartisan ballot. Interim vacancies are filled by the Governor appointing from a "short list" of candidates screened and nominated by the Idaho Judicial Council. The appointee must run in the next election and can face an election challenge. Despite the fact that judicial elections are nonpartisan (although in recent years, some elections have become politicized), each candidate must run in the primary election in May. If one of the candidates receives a majority of votes cast, that candidate wins the race, and no general election is necessary for that office. If no candidate wins a majority, the two candidates who receive the most votes in the primary participate in a "run-off" at the general election. Supreme Court Justices and the Court of Appeals Judges serve for six years; District Court Judges serve four-year terms. The District Court also includes a Magistrate Division. The local judicial district's Magistrate Commission appoints magistrate judges to initial 18-month terms. After completion of the initial term, magistrate judges stand for county-wide retention elections every four years. A more detailed description of these procedures is available in Appendix E.

What the Survey Tells Us

The survey results show that there is a great deal of interest in judicial positions among the Idaho Bar. This is true for attorneys practicing in all areas of the law, both males and females, and those with varying lengths of experience. Attorneys interested in judgeships, however, do have significant reservations about applying, and many doubt their ability to make it through the selection process successfully. The results of this survey seem to indicate that many of those with an interest (some of whom are presumably well qualified) may never apply, for a variety of reasons. Some of these reasons are of the practical sort—inadequate compensation or potential contested elections, but it is also evident that perceptions about existing biases and inequities in judicial selection and appointment procedures contribute to reservations about applying. Moreover, to some extent, reluctance to apply and perceptions about fairness vary by sex, length of practice, and area of emphasis. Key survey findings are:

- **There is strong interest in serving as a judge.** The majority of respondents expressed interest in applying for judgeships. This is true for all subgroups examined—males and females, attorneys practicing in all areas, and attorneys of with all levels of experience.
- **Those interested in serving as a judge want to do so for compelling reasons**—the role of judge as decision-maker and problem-solver as well as to serve the public.
- **The top three concerns about judicial service are:** the judicial selection process, potential elections, and inadequate compensation, and these concerns deter interested lawyers from applying for judgeships.
- **57% of the Bar does not believe that the judiciary is attracting the best lawyers for judgeships.** Only 10% of the Bar agrees that the judiciary is currently attracting the best lawyers for judgeships. The more experienced respondents were more likely to disagree with the statement that the judiciary is currently attracting the best lawyers for judgeships.
- **Those surveyed indicated that to attract the highest-caliber attorneys to the bench, it is most important to:** (1) increase compensation, (2) change selection procedures, and (3) eliminate contested elections.

In addition, there is a great deal of variation in how respondents view the various selection methods, particularly the methods used to select district and appellate judges. Those having more experience tend to have more positive opinions about the selection process, as do criminal litigators in the public sector, civil litigators and transactional lawyers in the private sector, and house counsel.

- There are notable differences between males and females in terms of how they perceive selection methods and in terms of their perceived likelihood of success in applying.
- Respondents generally view the magistrate selection process more favorably than the district/appellate judge selection process. Similarly, respondents feel more confident that they could succeed during the magistrate process than the

district/appellate process. Of those who feel confident they could become a magistrate judge, just 67% believe they could be recommended by the Judicial Council and 47% believe they could be appointed by the Governor.

- Respondent comments indicate that perceptions about the role of politics and party affiliation may account for much of the difference in how attorneys view the magistrate selection process and the district/appellate selection process.

Full analysis of the survey is detailed later in the report.

The Judicial Recruitment Committee has developed recommendations, as described in the next section, to enhance judicial recruitment. The Committee formed these recommendations out of its detailed review and analysis of the Bar survey, dialogue at committee meetings, and input and feedback from the committee members' representative groups. These recommendations and implementing strategies emphasize an active, rather than passive, recruitment model with outreach strategies to provide information regarding judicial service and selection. In addition, they focus on how best to resolve the three major concerns—inadequate compensation, judicial selection procedures, and potential contested elections—repeatedly raised by members of the Idaho State Bar. Although some of these concerns are within the purview of other organizations or branches of government, the Judiciary can take steps to encourage these other entities to consider, and positively impact, the concerns raised.

Recommendations

Goal I: Educate members of the Bar regarding judicial service so they understand what judicial service entails and can better assess their interest in judicial service.

- A. Develop and encourage participation in a “Day on the Bench” program where members of the Bar can spend time observing judges in a typical day, either discreetly or openly.
- B. Provide information about the ABA’s Judicial Mentorship Program, which is a pre-judicial opportunity to talk with a sitting judge, and encourage judges to become involved in this program.
- C. Identify opportunities for members of the Bar to participate in quasi-judicial activities to test the waters, such as serving as a pro tem judge handling a small claims calendar or youth court judge, evaluating Small Lawsuit Resolution Act cases, serving on a governmental body (e.g., City Council or school board), being an arbitrator, or hearing moot court or mock trial cases.
- D. Develop descriptions of desirable characteristics of highly-qualified applicants for magistrate, district, and appellate judgeships for consideration by potential candidates and those involved in the appointment process.

Goal II: Educate members of the Bar regarding judicial selection procedures and encourage refining them to increase confidence and number of applications.

- A. Develop and make available on the Judiciary’s website descriptions of judicial selection procedures in order to demystify and increase potential candidates’ understanding of them.
 - 1. Include a description of who serves on Magistrate Commissions and Judicial Council and how they are selected to serve.
 - 2. Encourage candidates who may consider applying for judicial office to observe interviews conducted by the Judicial Council and Magistrate Commissions.
 - 3. Develop a continuing legal education course to be offered at the Annual Bar Meeting (and at other opportunities) describing the realities and rewards of serving as a judge, including a section where the Judicial Council is invited to describe how the Bar surveys are used.
 - 4. Develop multimedia resources for potential candidates to review.
- B. Invite the Judicial Council and Magistrate Commissions to consider refining the Bar survey, given the significant support, perceptions and concerns about how it is used.
 - 1. Develop a description of the Bar survey and how it is used by the Judicial Council and Magistrate Commissions.

2. Consider enhancing the Bar survey with an admonition to complete it and that the rankings and comments are subject to ethical obligations as an attorney.
3. Given the results of the Bar survey, which show both significant concerns with and support for the Bar survey, request the Judicial Council and Magistrate Commissions to review (1) what level of anonymity should be employed with respect to comments in the Bar survey (i.e., should the Judicial Council, or its Executive Director, know the name of the person returning the survey even if the candidate does not); and (2) the value of anonymity.

Goal III: Prioritize strategies to address the concerns raised by women, more experienced practitioners, and other under-represented groups to increase confidence in judicial selection procedures and the number of judicial applications from these groups.

- A. Develop an inclusive description of desirable characteristics that highly-qualified judges possess.
- B. Partner with relevant law-related organizations (e.g., Idaho Women Lawyers and the Diversity Section) for opportunities to dialogue about judicial service.
- C. Engage in outreach regarding the Bar survey and judicial selection procedures.
- D. Encourage judges to serve as mentor judges for the ABA Judicial Mentorship and “Day on the Bench” programs.
- E. Ensure that outreach to under-represented groups occurs regarding the ABA’s Judicial Mentorship and the “Day on the Bench” programs.
- F. Encourage the Idaho State Bar to allow members of the Bar to designate their race to enhance statistical analysis of the composition of bench and Bar.

Goal IV: Broadly and persistently market serving in the judiciary to potential judges to create and build interest in judicial service.

- A. Encourage law students to consider serving as a judge as part of their careers as distinguished lawyers.
 1. Request the opportunity to participate in any classes or seminars directed at judicial law clerks.
 2. Explore additional opportunities with leadership at area law schools to build law student interest in a judicial career.
- B. Encourage newly-admitted members to keep judicial service in mind as they develop their careers at their required Practical Skills Seminar or the swearing-in ceremony and as they reach eligibility for judicial service after five and ten years of being admitted.
- C. Initiate and continue to dialogue with appellate and district judge law clerks about returning to the judiciary to serve as a judge.

1. Encourage district and appellate judges to have recruitment conversations with their law clerks.
 2. Compile a list of former law clerks and reach out to them once they reach eligibility for magistrate judge positions and again once they are eligible for district and appellate positions.
- D. Engage in outreach efforts to attorneys at 5 and 10 years of experience as they become eligible for judicial positions, and again at 15 years as they may have greater interest in pursuing a different career path and serving as a judge.
- E. Provide total compensation statement for recruitment efforts that describes the salary, retirement, comprehensive benefits, and post-retirement work opportunities.
- F. Enhance interactions between the Idaho Judiciary and Members of the Bar to maximize interest in judicial service and
1. Develop a continuing legal education course to be offered at the Annual Bar Meeting and other opportunities describing the realities and rewards of serving as a judge, including a section where the Judicial Council is invited to describe how the Bar surveys are used.
 2. Partner with district Bar leadership to promote bench/Bar interactions on an annual basis and consider whether to have a “Meet the Applicants” event when there is a judicial vacancy.

Goal V: Improve Judicial Compensation.

- A. Consider adoption of a judicial compensation policy: Judicial compensation is instrumental in the effective recruitment and retention of highly-qualified, experienced judicial officers with a variety of life and professional experiences who can serve in the judiciary without economic hardship and with independence unaffected by financial concerns.
- B. Recommend legislation to increase judicial salaries for Idaho judges as well as to provide for periodic, systematic reviews of judicial compensation to ensure regular increases and to maintain parity with the Western States average or other appropriate measure.
- C. Formulate the appropriate salaries for judgeship levels to address salary compression, or inequity between the highest- and lowest-paid judges relative to their range of skills responsibilities, and experience, to increase the number of highly-qualified candidates applying for all judgeships, but in particular, district judge positions.
- D. Advocate the importance of the benefits package to the Legislature and prevent further erosion of the package by increased employee costs and cost-sharing.
- E. Request the Idaho State Bar to consider a resolution to support the committee’s recommendations regarding all aspects of judicial compensation: salary, benefits, and retirement.

Goal VI: Enhance recruitment and selection practices.

- A. Create a central repository of relevant information on the Supreme Court’s website that can be accessed by members of the Bar and work with partner organizations (Idaho State Bar, Judicial Council, Judicial Districts, and law schools) to create links to the information.
- B. Track relevant biographical data of judges to assess recruitment and retention trends.
- C. Conduct entry, retention, and exit interviews of judges to identify trends that are useful for recruitment and retention.
- D. Together with the Judicial Council, Magistrate Commissions, and Idaho State Bar, develop mechanisms to track and report on diversity of Bar membership, judicial applicants, and the judiciary.
- E. Develop and provide training on the best practices in selection procedures, including explicit and implicit bias, for the Magistrate Commissions.
- F. Develop a program to provide information to those serving on Magistrate Commissions on what magistrate judges do, along with the opportunity to observe magistrate judges, to better equip them for their role on a Magistrate Commission.

Goal VII: Develop outreach strategies, including distribution of survey report and recommendations and presentation of the materials, to relevant organizations and offices.

- A. Idaho Supreme Court and Administrative Conference
- B. Judicial Council
- C. Trial Court Administrators as liaisons with Magistrate Commissions
- D. Bar Commissioners, sections, and law-related organizations
- E. Legislative Committees and Leadership
- F. Governor’s Office
- G. Idaho Association of Counties & Idaho Association of Cities

Goal VIII: Recommend further study of other issues for potential changes.

- A. Further explore the deterrent effect of contested elections, including fundraising requirements and the type, timing, and term of elections, while still affording Idahoans the opportunity to participate in determining who constitutes their judiciary.
- B. Emphasize the importance of a stable Judges’ Retirement Fund as recruitment and retention tool.

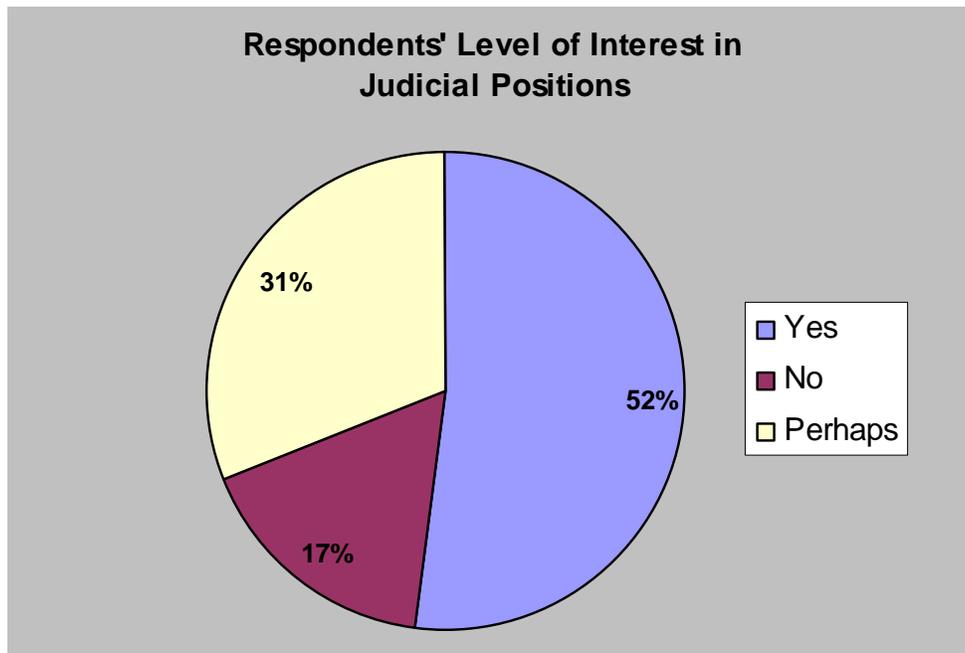
- C. Pursue strategies to positively impact the increasingly complex and heavy district judge workloads.
- D. Consider whether current statutory residency requirements meet Idaho's judicial needs.

Survey Results

Respondent Interest in Judgeships and Intent to Apply

Level of Interest in Judicial Positions

Survey respondents were asked to indicate whether they currently have or have ever had an interest in a judicial position. Responses are summarized in the chart below.



In order to ascertain which demographic groups tend to have the most interest in judicial positions, we examined levels of interest between groups. The complete results are included as Table 1 in Appendix D.

A few interesting observations can be made about these data. First of all, it is apparent that in general, there is a great deal of interest in judicial positions. The majority of respondents in every group indicated that they definitely do or may have interest in a judgeship at some point.

Interestingly, while fewer women (n=203) than men (n = 495) expressed interest in judicial positions, a greater percentage of women than men expressed interest. Eighty-seven percent of female respondents answered “yes” or “perhaps” to this question; only 72% of male respondents answered the same. Similarly, while fewer in total number among those who expressed an interest in judicial positions, those with less years of experience practicing law were more likely than those with more years of experience to indicate some level of interest.

While a large percentage of respondents participating in each of the specific law-related organizations expressed some level of interest, those involved with the Idaho Prosecuting Attorneys Association were

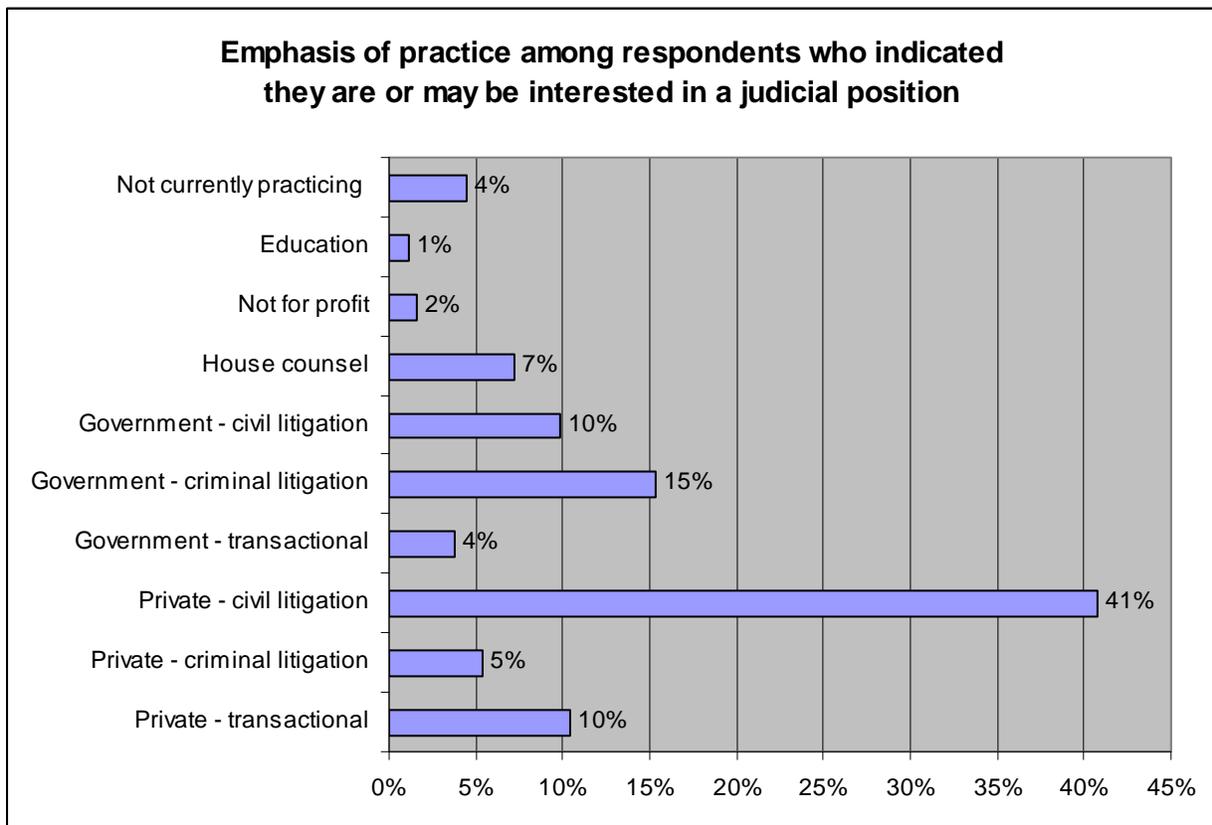
much more likely to express a definite interest (a “yes” answer) and much less likely to indicate a lack of interest (a “no” answer).

Though a small amount of variation can be observed between respondents participating in various Bar sections, one should use caution in interpreting these results where total numbers (n) are small.

Characteristics of Respondents Who Expressed an Interest in Applying

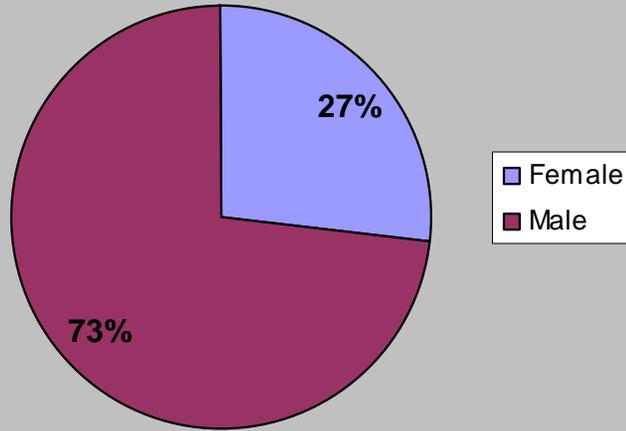
This section is intended to illuminate characteristics of those survey respondents who expressed some interest in applying for a judicial position. Although to some degree, these data reflect differences in sample size among the various demographic groups who responded to the survey, they are, nonetheless, revealing of what the “target” population might look like for judicial recruitment.

As illustrated in the following charts, the pool of respondents who expressed some interest in judicial positions is made up mostly of males and attorneys who have been practicing for more than ten years. In addition, interested attorneys are more likely to be practicing civil litigation in the private sector than any other area of the law, though it should be noted that this is largely a reflection of the number of Idaho attorneys (and therefore the number of respondents) who practice in this area.¹

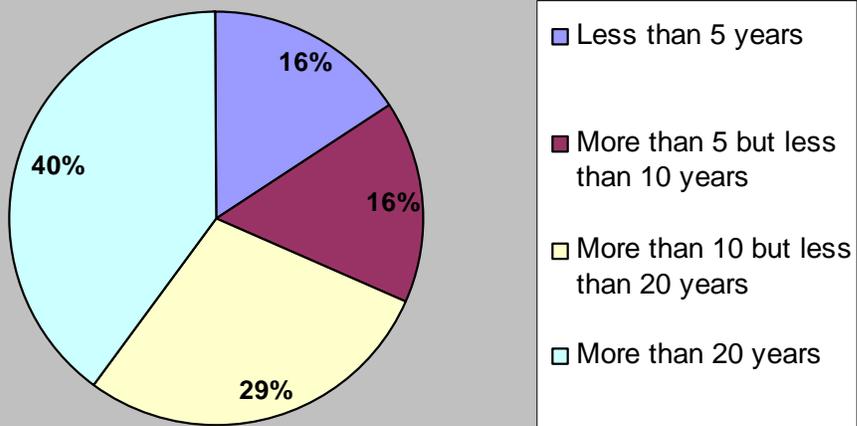


¹ Graphs show percentage of respondents who answered “yes” or “perhaps” to the question, “do you have or have you ever had an interest in a judicial position?”

Sex of Respondents who indicated they are or may be interested in a judicial position

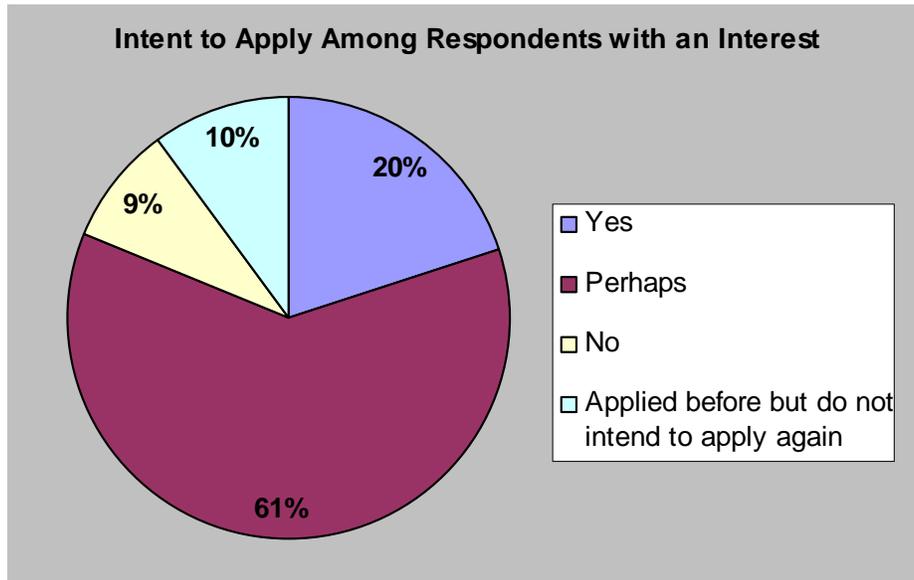


Years of practice among respondents who indicated they are or may be interested in a judicial position



Intent to Apply Among Those Who Expressed Interest

As shown in the following chart, the vast majority of respondents who reported an interest in judgeships indicated that they definitely or perhaps intend to apply at some point.



In an effort to identify and better understand the sample of respondents who expressed some interest in judicial positions, but do not intend to apply, we isolated those respondents who indicated that they definitely or may have an interest and analyzed intent to apply among various demographic groups within this sub-sample. These data are presented in Table 2 of Appendix D.

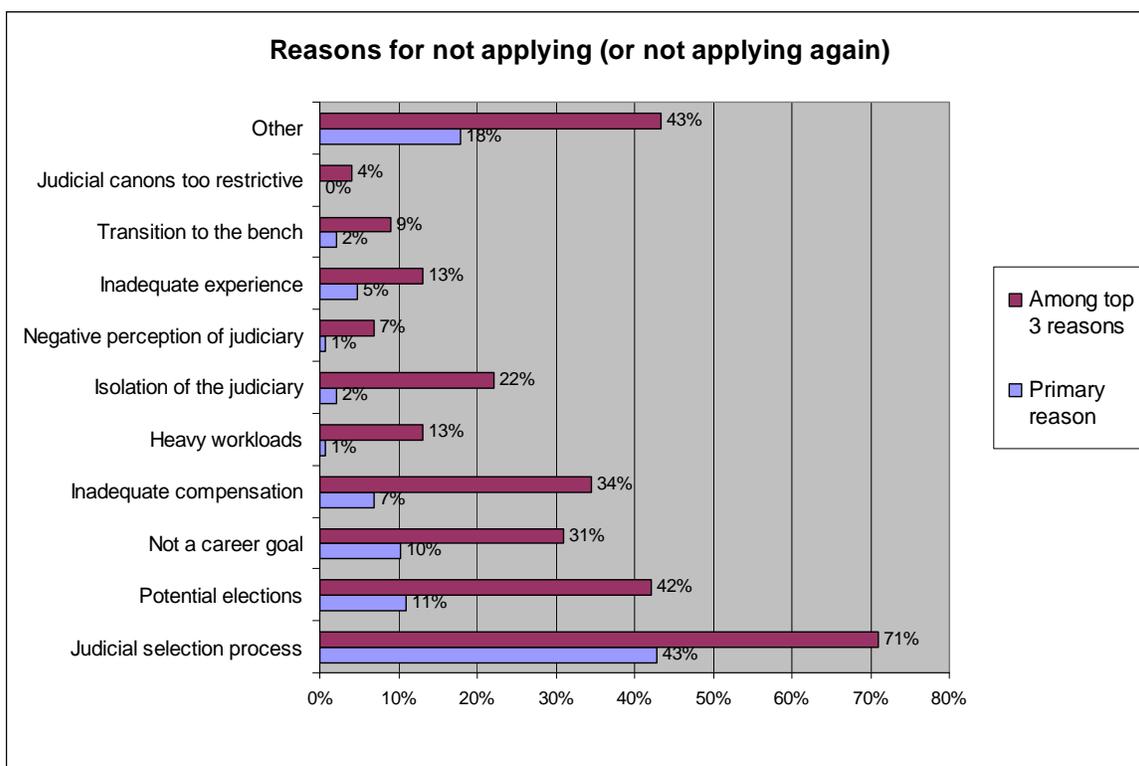
With regard to variation in intent to apply, perhaps the most notable observation occurs within years of practice. Though a large number of attorneys with more than 20 years of experience expressed an interest, a significant number indicated that they do not intend to apply. Moreover, a relatively large percentage (21%) reported that they have applied before but do not intend to apply again. Of course, simply by virtue of the age and experience of the attorneys in this group, there will be a large number who have already applied for judgeships. It is, however, noteworthy how few in this group (14%) express a definite intent to apply. These data are particularly interesting in light of some of the other results from this survey. Twenty-seven percent of respondents expressed a belief that an age bias exists within the judicial selection process (though the exact nature of this perceived bias is unclear). In addition, a number of those who responded to open-ended questions on the survey indicated that they are “too old” to apply or that their age might prevent them from being selected.

There are also some noteworthy differences in intent to apply between respondents involved with various law-related organizations. Intent to apply appears much more certain among respondents who participate in the Idaho Prosecuting Attorney’s Association than those who participate in any other organization. Eighty-nine percent of those in this group indicated that there is a possibility that they might apply and 42% reported that they definitely intend to apply. As an important point of

comparison, just 16% and 17% among those who participate in the Idaho Association of Defense Counsel and the Idaho Association of Criminal Defense Lawyers, respectively, expressed a definite intent to apply. Notably, 33% of those involved with the Idaho Association of Criminal Defense Lawyers indicated that they do not intend to apply and 22% reported that they have applied before but do not intend to apply again.

Reasons for Not Wanting to Apply (or Reapply)

Survey respondents were asked to rank their reasons for not wanting to apply (or reapply) for a judicial position. The following chart summarizes responses by indicating percentage of respondents who identified each factor as their primary reason or as one of their top three reasons.



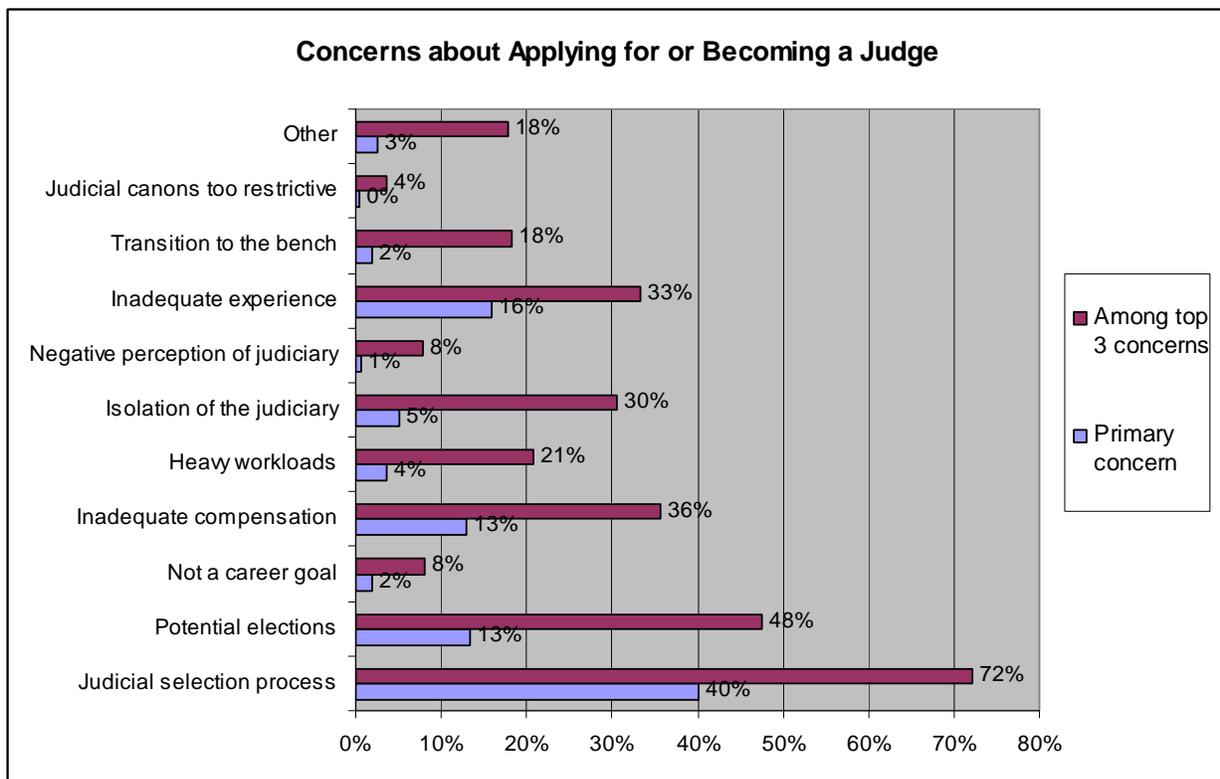
The judicial selection process clearly emerges as the most prominent reason attorneys have for not applying for judgeships. An examination of responses to survey questions, specifically pertaining to the selection process, may provide more detailed information about why potentially applicants have reservations about this process.

An analysis of responses among various demographic groups did not reveal any glaring patterns, though females (77%) were slightly more likely to include the judicial selection process in their top three reasons than males (68%), and those with more experience were more likely than those with less experience to identify the judicial selection process as a top reason. Generally, concerns about the judicial selection process are relatively high for all demographic groups.

Because so many respondents identified “other” as their primary or among their top three reasons, it is informative to analyze open-ended responses to this question. The most common “other” reason listed was that the respondent is “too old” or “close to retirement.” For many respondents, their “other” reason pertains to their reservations about the selection process. Some are deterred by a perception that the selection process is “too political” and others by a perception that various biases play a role in the selection process, including biases related to gender and area of practice.

Concerns about Applying for a Judgeship or Becoming a Judge

Those survey respondents who expressed an interest in applying for a judicial position were asked to rank their concerns about applying for a judgeship or becoming a judge. These data are reflected in the chart below.

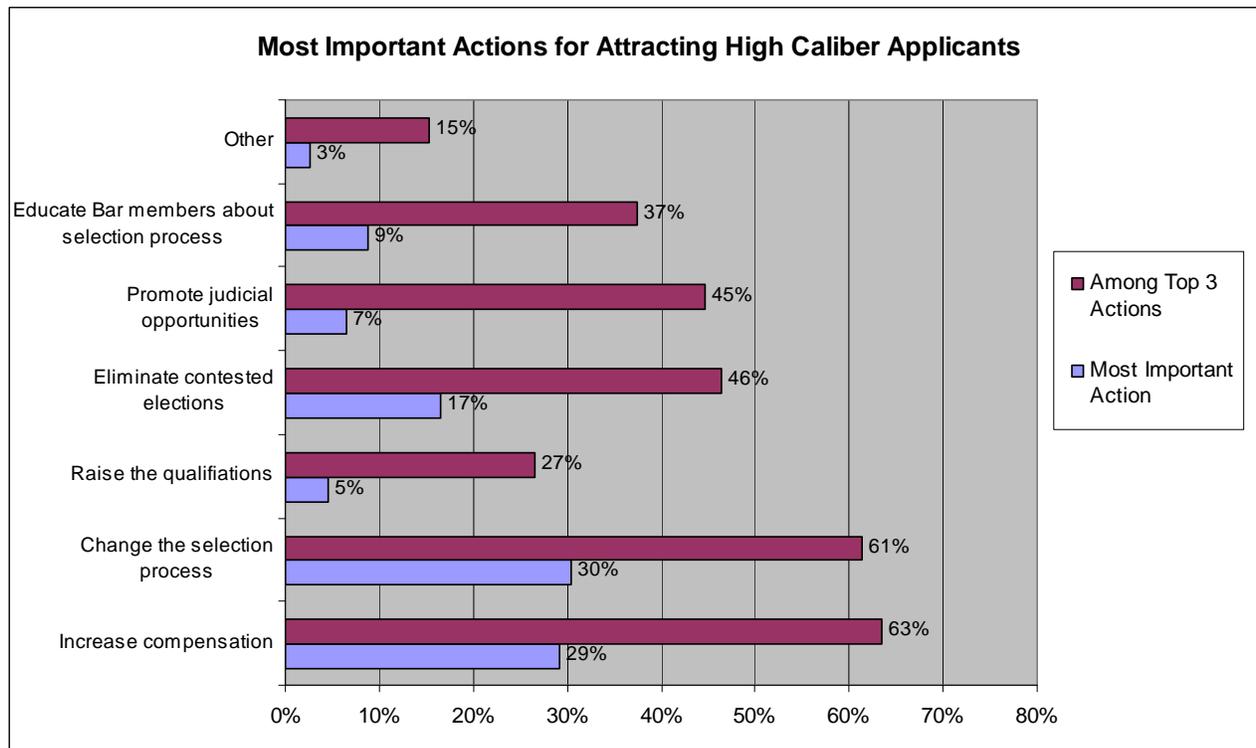


This chart looks very much like the chart illustrating reasons for not applying for a judicial position, indicating that those who do not intend to apply and those who are considering applying have many of the same reservations. Once again, judicial selection process is the most prominent concern, and potential elections and inadequate compensation are also major concerns. This group of respondents is more likely than those who do not intend to apply to have concerns about other factors such as inadequate experience, isolation of the judiciary, and heavy workloads.

An analysis of variation across demographic groups revealed some interesting, albeit minor, differences between males and females. Females are slightly more likely than males to be concerned about the selection process (78% v. 70%) and about potential elections (56% v. 44%). On the other hand, males (41%) are more likely than females (22%) to be concerned about inadequate compensation.

Respondent Opinions Regarding How to Attract the Highest Caliber of Applicants

Survey respondents were asked to rank the importance of potential actions for attracting the highest caliber of applicants for judicial positions. Responses are summarized in the chart below.



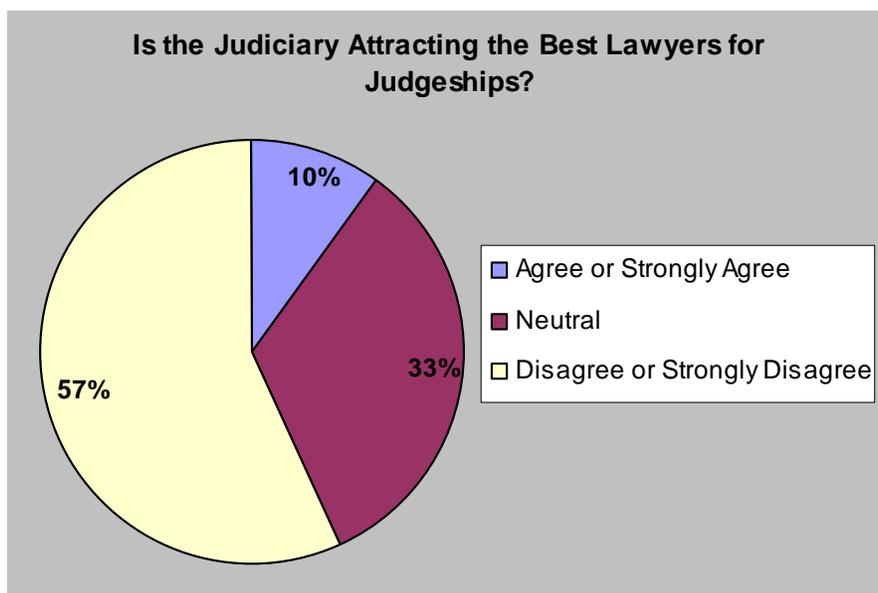
As the chart shows, a fair number of respondents consider each of these items to be important, though more weight is given to an increase in compensation and a change in the selection process.

In order to ascertain whether certain groups have a greater tendency than others to assign importance to certain actions, crosstabs were run to examine the relationships between demographic variables and the four most commonly selected items: increase in compensation, change in selection process, elimination of contested elections, and promotion of judicial opportunities. These data are included as Table 3 in Appendix D.

The data reveal some interesting patterns. For instance, some variation occurs between respondents with various areas of emphasis. There is also a clear relationship between sex and level of importance placed on an increase in compensation, with males (69%) being more likely than females (48%) to view this factor as important. There does not, however, appear to be an association between sex and the other actions that were examined. Slight variation can be observed between groups with varying amounts of experience. Though the differences are not great, those having more years of experience are more likely to assign importance to changing the selection process and are less likely to assign importance to the promotion of judicial opportunities.

Is the Judiciary Attracting the Best Lawyers for Judgeships?

Survey respondents were asked to indicate whether they believe the Judiciary is attracting the best lawyers for judgeships. As illustrated in the table below, just 10% of respondents reported that they agree or strongly agree that this is the case.



We also analyzed these data by demographic group and included these cross-tabulations in Appendix D, Table 4. As the tables show, there appears to be a relationship between years of practice and level of agreement, with those having less experience being more likely to agree and less likely to disagree. Some differences can also be observed between groups with varying areas of emphasis, though most of these differences are not substantial. This set of responses largely seems to reflect the general patterns reported above.

Respondent Opinions Regarding the Judicial Selection Process

Perceptions of Biases and Consideration of Diversity in the Selection Process

The survey data reveal some discrepancies in the way that respondents perceive the role of biases and consideration of diversity in the judicial selection process. Sixty-three percent of respondents expressed a belief that the selection process is affected by some sort of bias. The most commonly identified biases were: sex (42%), a bias against those living outside of the area in which the vacancy is located (37%), age (27%), religion (22%), and race (14%). In addition, 33% expressed a belief that some “other” bias exists, and the majority of these respondents expressed a belief that political bias is a factor. On the other hand, just 34% of respondents reported that not enough consideration is given to diversity in the

selection of judges. The other 66% believe either that the correct amount of consideration is given to diversity or that too much consideration is given to diversity.

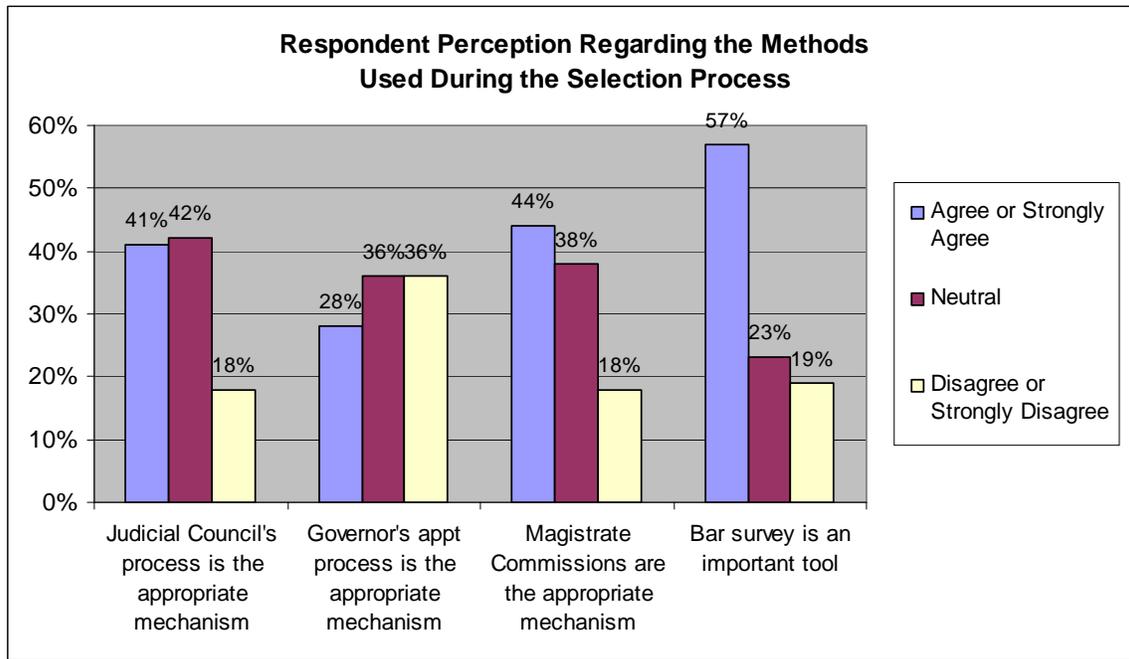
An analysis of perceptions about consideration of diversity among only those respondents who perceive one or more biases confirms that there are inconsistencies in the way that some respondents answered. Of those who believe one or more biases exists, 39% report that the correct degree of consideration is given to diversity and 16% report that too much consideration is given to diversity. One possible explanation for this discrepancy is that some respondents may not view the presence of certain biases as an indication that there is a lack of diversity. For instance, some may believe that there is a residential bias but may not consider the concept of residence when they think about diversity. To explore this idea further, we examined opinions regarding consideration of diversity among those who perceive biases related to age, race, religion, area of residence, and “other.”

Type of Bias Perceived	Level of Consideration Given to Diversity		
	Not enough consideration of diversity	The correct amount of consideration of diversity	Too much consideration of diversity
Age	40%	42%	18%
Race	74%	8%	19%
Religious	50%	39%	20%
Sex	72%	12%	16%
Residence	34%	53%	17%
Other	47%	40%	13%
Any bias (one or more biases selected)	45%	39%	16%

These data lend some support to the theory that different conceptions of diversity may account for some of the observed inconsistency. As the table shows, those who perceive there to be biases based on race and sex are most likely to report that not enough consideration is given to diversity. This should not be surprising because race and sex have traditionally been clear indicators of diversity. On the other hand, a substantial percentage of those perceiving all types of biases report that the correct amount or too much consideration is given to diversity, thus, some amount of the observed discrepancies remain unexplained.

Perceptions Regarding the Methods Used During the Selection Process

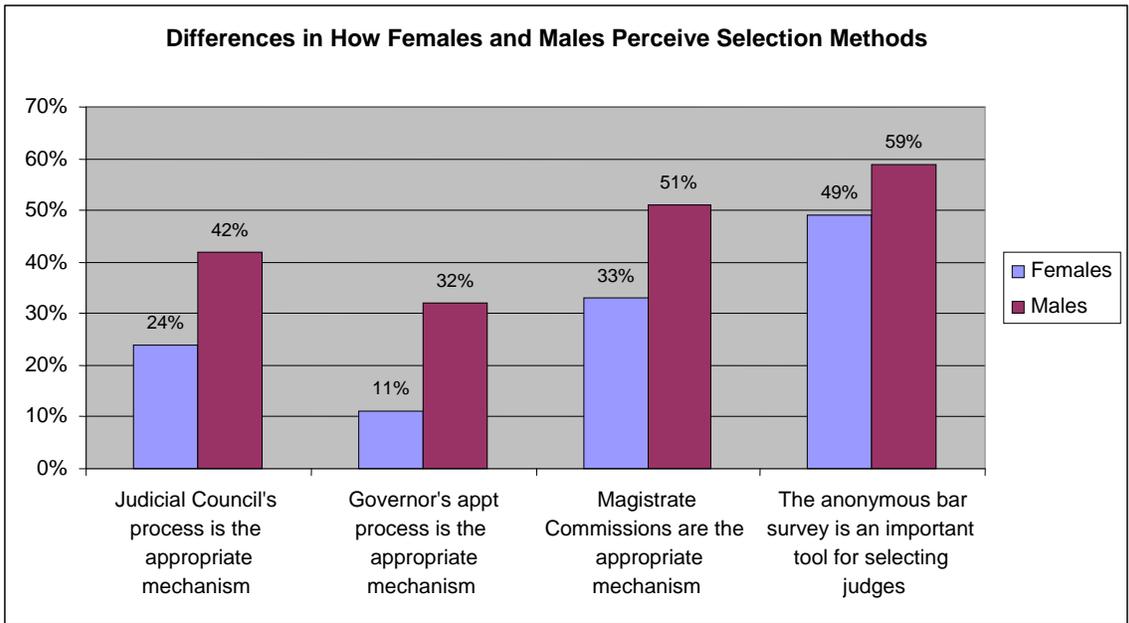
Respondents were asked to indicate how appropriate they believe the various selection methods (i.e. Judicial Council recommendations, Governor appointment, Magistrate Commissions, Bar survey) to be. Survey responses to this list of questions are summarized in the chart on the following page.



In addition, cross-tabulations analyzing these responses by demographic variables are included as Table 5 in Appendix D. These data show a fair amount of variation between groups, particularly with regard to opinions about the methods used to select district and appellate judges. Some types of lawyers are more likely than others to look favorably on the Judicial Council's process and the Governor's appointment process than others. Those practicing criminal litigation in the private sector, transactional and civil litigation in the government sector, and those working in the not-for-profit sector appear to be the least satisfied with these methods. There is also a notable relationship between years of practice and attitude towards the Judicial Council and Governor's selection processes, with those having more experience having more favorable opinions about these methods.

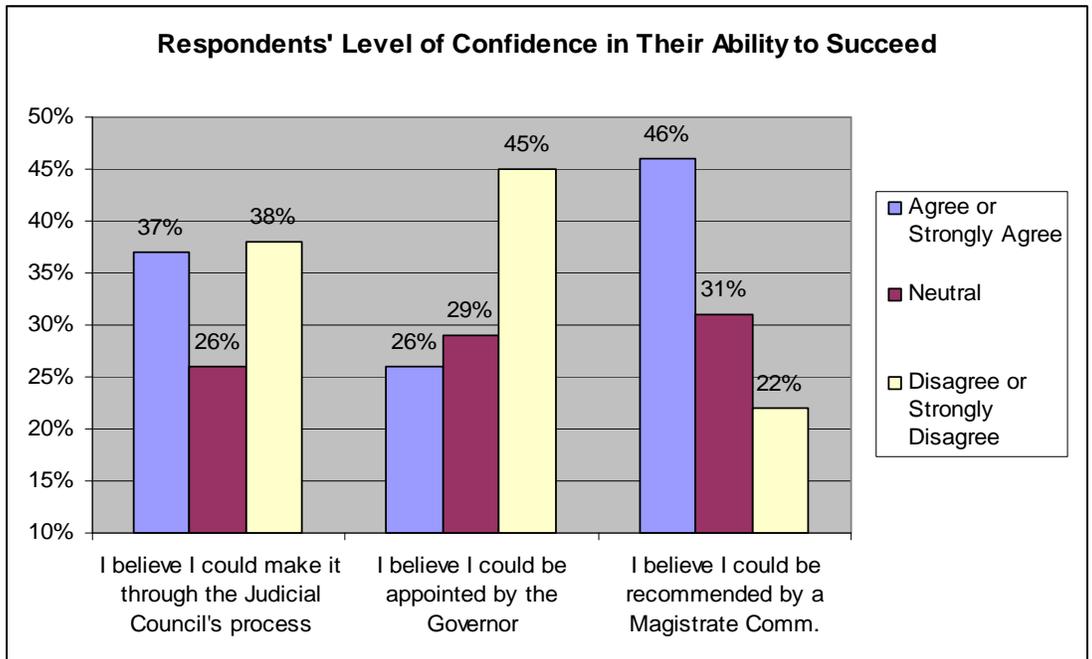
As shown in the chart below, the most striking difference in opinion can be observed between males and females. There are substantial differences in how males and females perceive the Judicial Council's process, the Governor's appointment process, and Magistrate Commissions, though the most pronounced difference is related to the appointment process. In each case, females have a much less favorable opinion of the selection method.

Regarding opinions about the anonymous Bar survey, a lesser degree of variation occurs. Those lawyers not currently practicing appear to look most favorably on the Bar survey, while a fair percentage of criminal litigators in both the private and public sectors and civil litigators in the public sector being most likely to express negative opinions about the survey. Additionally, males are slightly more likely than females to express positive opinions about the Bar survey, and some differences can be observed between groups with varying lengths of experience, though no clear relationship emerges here.



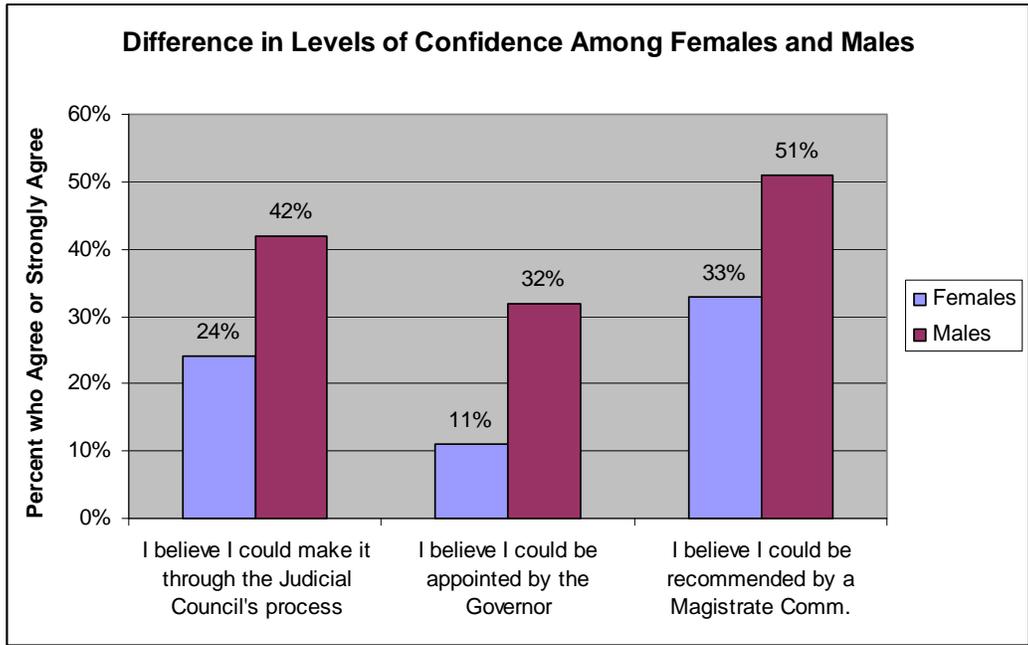
Respondent Confidence in Their Ability to Succeed

Survey respondents were asked to assess their ability to succeed during the various stages of the selection process. In part, these questions serve as indicators of respondents' opinions regarding the fairness of the selection process. As the chart below clearly illustrates, levels of confidence vary across different stages, with respondents' expressing the most confidence in their ability to succeed at the magistrate judge level and the least confidence in their ability to be appointed by the Governor.

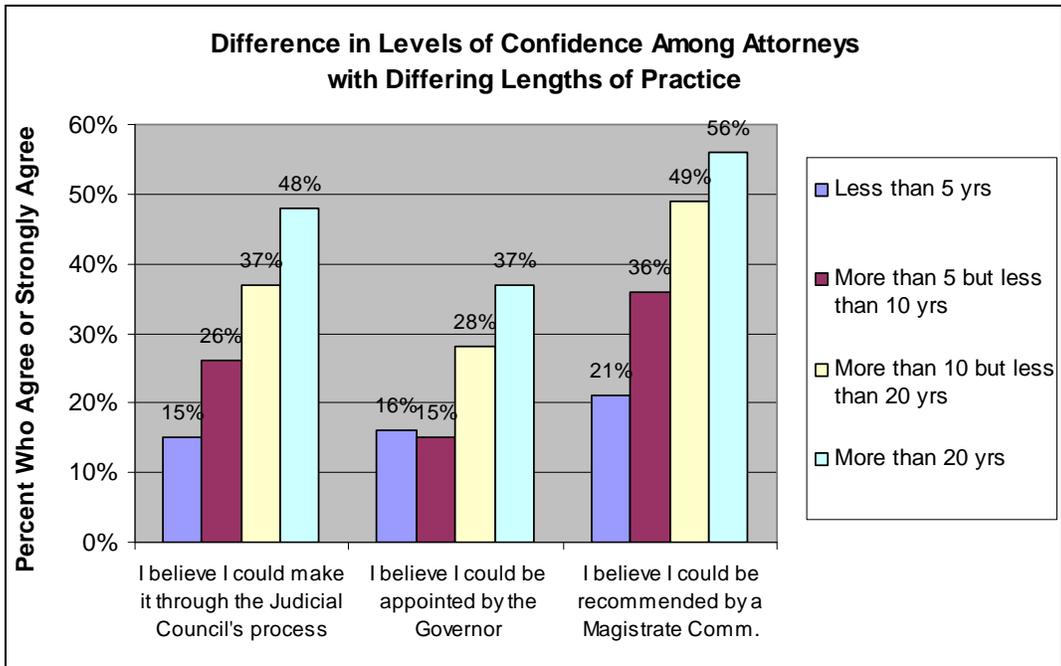


An analysis of levels of confidence among various demographic groups is presented in Table 6 of Appendix D. The most striking pattern that emerges from this analysis relates to sex. For each selection mechanism examined, females were much less likely than males to agree or strongly agree that they

could succeed. It is not unreasonable to assume that this pattern relates to the previous finding that 42% of respondents perceive that a sex bias exists in the judicial selection process.



There is also a relationship between levels of confidence and years of practice. This should not be surprising as those having more experience expressed higher levels of confidence in their ability to succeed at all stages of the process.



Some amount of variation occurs among lawyers practicing in different areas, though in most cases these differences are not substantial. A couple of interesting observations can be made related to emphasis of practice. There appear to be some notable differences between private attorneys and public

attorneys with regard to expressed levels of confidence at the district and appellate levels. For instance, criminal litigators in the private sector have lower levels of confidence than do criminal litigators in the public sector when it comes to the Judicial Council’s process and the Governor’s appointment process. Similar differences can be observed between civil litigators and transactional lawyers (although the pattern is reversed). Interestingly, differences are minimal or non-existent when looking at confidence levels at the magistrate judge level. It is also interesting to note that those not currently practicing tend to be the most (or among the most) confident, particularly in reference to the Judicial Council’s process and Magistrate Commissions.

Differences in Confidence Levels at the Magistrate and the District/Appellate Levels

Respondents were more likely to agree or strongly agree that they could be recommended for appointment by a Magistrate Commission than make it through the Judicial Council’s process or be appointed by the Governor. Further analysis revealed that of those respondents who expressed confidence that they could be successful at the magistrate judge level, more expressed confidence in their ability to be recommended for appointment by the Judicial Council than their ability to be appointed by a governor.

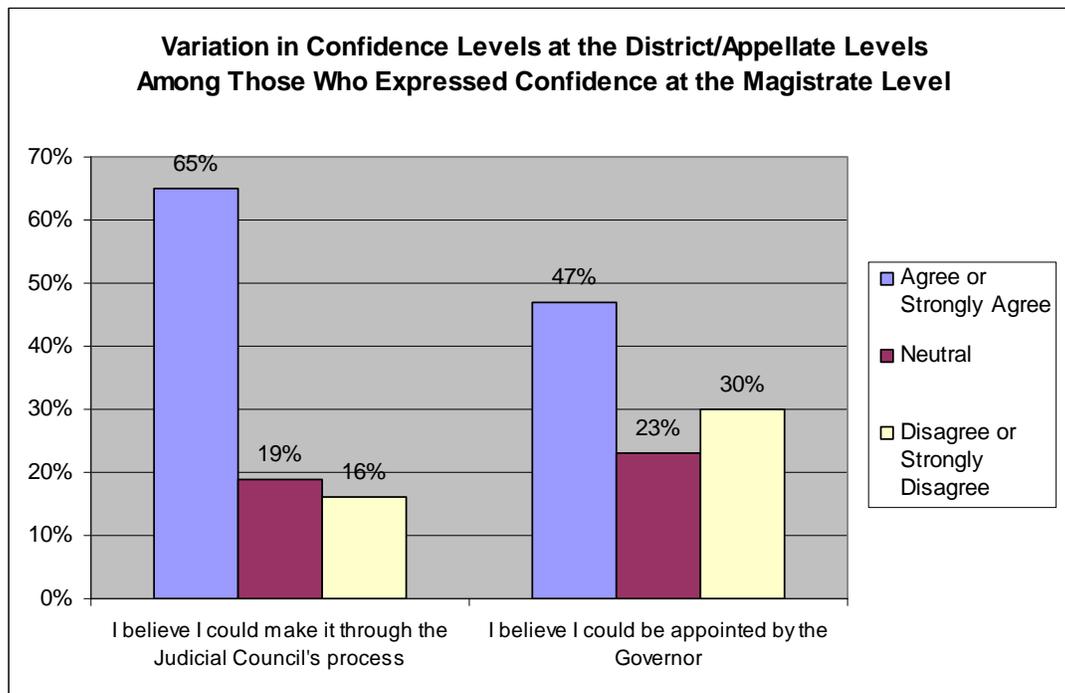


Table 7 in Appendix D summarizes these responses by demographic group. The table shows that there is some variation that occurs between groups practicing in different areas. However, it is important to note that because these tables only include respondents who agreed or strongly agreed that they could be appointed by a Magistrate Commission, some of the samples in the subgroups are too small to be considered representative of the population from which they were drawn.

Not surprisingly, those having more years of experience are more likely to express confidence in their ability to be recommended for appointment by the Judicial Council, though the variation here is perhaps not as great as one might expect given the requirement that attorneys must have at least ten years of experience to qualify for a district judgeship. Interestingly, this trend is not apparent when looking at the second stage of the process, appointment by the Governor.

Once again, there are some substantial difference in levels of confidence expressed by males and females, with females being much less likely to agree and much more likely to disagree with both statements.

The open-ended responses from this set of questions, along with those from the question concerning the role of politics and party affiliation in the selection process, shed some additional light on the differences in perception of the magistrate selection process and the district/appellate selection process. A considerable number of respondents indicated that they believe politics and/or party affiliation plays a large role in the selection process. For some respondents, politics and party affiliation are apparently synonymous, but for many others, politics is not so much about political party but about professional affiliations and connections. In other words, “it is about who you know.” According to their responses, many attorneys believe that due to the political nature of the selection process, those who are not republican or conservative or those who are not “well-connected” stand little chance of being appointed, particularly as district or appellate judges.

It is clear that generally, respondents are more likely to perceive that politics/party affiliation plays a role in the selection of district or appellate judges than in the selection of magistrate judges. Moreover, they are more likely to perceive that politics/party affiliation plays a role in the appointment of judges by the Governor than in the names that are forwarded to the Governor for consideration by the Judicial Council. Respondents referenced other types of biases at the various stages of the selection process; including those based on gender, religion, age, and area of practice (respondents most typically mentioned a bias towards criminal litigators or more specifically, prosecutors). However, at the district/appellate level, and particularly at the appointment stage, political bias is clearly the most prevalent concern among respondents.

Conclusion

The problem is clear: Idaho has insufficient numbers of highly-qualified candidates applying for judgeships. The Judicial Recruitment Committee has a simple mandate: “develop ongoing strategies for the effective recruitment of highly-qualified applicants for appellate, district, and magistrate judgeships.” The solution, however, is not simple.

Historical information, survey data, and the views of the Committee members and their represented organizations identify numerous concerns with judicial recruitment. Certainly, some issues are more prominent than others. Major problems with the judicial selection process need action. Generating positive, forward-looking improvements in the recruiting system will address the other issues. A broad range of problems and opportunities warrants a response equal in scope, and this report’s recommendations outline just such a response.

The third branch of government is rightly very concerned about low application numbers for district judge vacancies in particular, but also magistrate and appellate judicial vacancies to a lesser extent, and will do all within its purview to execute the recommendations. Implementation of these recommendations, however, matters to more than the judiciary and requires action beyond the third branch of government. Our state court judges make decisions in the everyday areas of law that affect countless Idahoans on a personal level: traffic infractions, criminal cases, divorce and custody cases, contracts, small claims, real property cases, mortgage and deed of trust claims, tort cases, and resolving the estates of the deceased. Having highly-qualified judges is of the utmost importance to Idahoans and those doing business in Idaho. Idaho’s judges also lead the innovative problem-solving courts—drug courts, mental health courts, DUI courts, domestic violence courts, and family services—that are the result of joint efforts among all three branches of government to create successful individual outcomes as well as a positive economic impact on statewide budgets. Likewise, implementation of the recommendations made here will also require efforts from the other branches of state government.

Idaho’s Judicial Branch is facing unprecedented budget cuts—like others—due to the dire economic situation in Idaho, across our country, and beyond. Although these cuts pose the risk of reducing access to justice for Idahoans, the dearth of highly-qualified applicants poses a longer-term problem threatening to undermine the quality of our judiciary. Implementation of the proactive steps recommended here is critical to assure the future quality of our Judicial Branch, and the time to implement these recommendations is now.

Appendix A: Summary of Bar Membership and Idaho Judiciary by Sex

Active Bar Membership as of August 20, 2009

Years Admitted	Male	% Male	Female	% Female	Total	Judgeship Eligibility
< 5	660	67%	332	33%	992	none
> 5 and < 10	509	71%	208	29%	717	Magistrate
> 10	1981	81%	452	19%	2433	District/Appellate
> 5	2490	79%	660	21%	3150	all judgeships
Total	3150	76%	992	24%	4142	

Idaho Judges and Justices as of August 20, 2009

Type of Judge	Male	% Male	Female	% Female	Total
Magistrate Judge	78	90%	9	10%	87
District Judge	37	88%	5	12%	42
Court of Appeals Judge	3	75%	1	25%	4
Supreme Court Justice	5	100%	0	0%	5
All Judges	123	89%	15	11%	138

Appendix B: Judicial Recruitment Committee Roster

<p>Chief Judge Karen Lansing, Co-Chair Idaho Court of Appeals P. O. Box 83720 Boise, ID 83720 Phone: 208-334-5168 Email: klansing@idcourts.net</p>	<p>Judge Sergio Gutierrez, Co-Chair Idaho Court of Appeals P. O. Box 83720 Boise, ID 83720 Phone: 208-334-5166 Email: sgutierrez@idcourts.net</p>
<p>Patricia Tobias, Administrative Director Idaho Supreme Court P. O. Box 83720 Boise, ID 83720 Phone: 208-334-2246 Email: ptobias@idcourts.net</p>	<p>Tom Limbaugh P. O. Box 83720 Boise, ID 83720-0041 tlimbaugh@iic.idaho.gov Phone: 208-334-6020 & 208-739-2918 (Representing Magistrate Commission)</p>
<p>Andrea Patterson, HR Manager Idaho Supreme Court P. O. Box 83720 Boise, ID 83720 Phone: 208-947-7437 Email: apatterson@idcourts.net</p>	<p>Burt Butler 7th District Trial Court Administrator 605 North Capital Avenue Idaho Falls ID 83402 Phone: 208-529-1350 ext. 1346 Email: bbutler@co.bonneville.id.us</p>
<p>Hon. Barry Wood Administrative District Judge, 6th District P. O. Box 27 Gooding, ID 83330 Phone: 208-934-4861 Email: bwood@co.gooding.id.us</p>	<p>Bob Hamlin Judicial Council Executive Director P.O. Box 1397 Boise ID 83701 Phone: 208-334-5213 Email: ijc@idcourts.us</p>
<p>Hon. Michael Oths Magistrate Judge, 4th District 200 W. Front Street Boise ID 83702-7300 Phone: 287-7623 Email: moths@adaweb.net</p>	<p>Sherry Krulitz P.O. Box 695 Pinehurst, ID 83850 Phone: 208-682-3640 or 208-512-7248 Email: krulitz@hotmail.com (Idaho Judicial Council Member)</p>
<p>Deborah Ferguson Assistant U.S. Attorney 800 Park Blvd. Ste. 600 Boise, ID 83712 Phone: 208-334-1211 Email: Deborah.ferguson@usdoj.gov (Representing Idaho State Bar Commission)</p>	<p>Wyatt Benton Johnson Angstman Johnson 3649 N. Lakeharbor Ln. Boise ID 83703 Phone: 208-384-8588 Email: wyatt@angstman.com (Representing Litigation Section)</p>

<p>Linda Pall, J.D., Ph.D. P. O. Box 8656 Moscow, ID 83843 Phone: 208-882-7255 Email: lpall@moscow.com or lpall@wsu.edu (Representing Family Law Section)</p>	<p>Ron Coulter 776 E. Riverside Dr., Ste 200 Eagle, ID 83616 Phone: 208-947-7290 Email: ron@cmclawgroup.com (Representing Diversity Section)</p>
<p>Gus Cahill, Ada Co. PD Office 200 W. Front Street Boise, ID 83702 Phone: 208-287-7400 Email: gcahill@adaweb.net (Representing Idaho Association of Criminal Defense Lawyers)</p>	<p>Bradford S. Eidam P. O. Box 1677 Boise, ID 83701 Phone: 208-338-9000 Email: beidam@mindspring.com (Representing Idaho Trial Lawyers Association)</p>
<p>Jeffrey Thomson Elam & Burke P. O. Box 1539 Boise, ID 83701-1539 Phone: 208-343-5454 Email: jat@elamburke.com (Representing Idaho Assoc. of Defense Counsel)</p>	<p>Peg Dougherty Office of the Attorney General P. O. Box 83720 Boise ID 83720-0036 Phone: 208-334-5541 Email: dougherp@dhw.idaho.gov (Representing Idaho Women Lawyers)</p>
<p>Jenny C. Grunke Deputy Attorney General Idaho State Police 700 S. Stratford Drive Meridian, ID 83680-0700 Email: Jenny.Grunke@isp.idaho.gov Phone: 208-884-7050 Cell: 208-867-4764 Fax: 208-884-7228 (Representing Government & Public Sector Lawyers Section)</p>	<p>J. Scott Andrew Bingham County Prosecutor 501 N. Maple, Ste. 302 Blackfoot, ID 83221-1700 Phone: 208-782-3101 Email: sandrew@co.bingham.id.us (Representing Idaho Prosecuting Attorneys Association)</p>

Appendix C: Bar Survey

Introductory Message

In response to decreasing numbers of applicants for judicial positions, particularly district judge positions, the Idaho Supreme Court recently appointed a Judicial Recruitment Committee to develop and recommend ongoing strategies to promote the effective recruitment of highly-qualified applicants for appellate, district, and magistrate judgeships. The Committee's intent is to attract and advance the most talented individuals with diverse backgrounds and experience, regardless of their sex, race, religion, age, or any other dimension of diversity.

The ability to attract and retain highly-qualified judges is vital to the effectiveness of the Idaho judiciary. And having a strong, effective judiciary provides the foundation for successfully practicing law in Idaho and is the forum where many clients seek resolution of their issues. As a member of the Idaho State Bar, you represent the population from which future judges will be selected, and your voice is an important one as this issue is examined.

The Judicial Recruitment Committee has developed the following survey to seek your perceptions about serving as a judge, the judicial selection processes, compensation, and the motivation to seek judicial office. We are pleased to provide you the opportunity to complete this brief survey and appreciate of your willingness to respond.

Survey Questions

1. How long have you been practicing law?

- Less than 5 years
- More than 5 years but less than 10 years
- More than 10 years but less than 20 years
- More than 20 years

2. What is your gender?

- Male
- Female

3. What is the main emphasis of your practice?

- Private law practice—transactional
- Private law practice—criminal litigation
- Private law practice—civil litigation
- Government agency—transactional
- Government agency—criminal litigation
- Government agency—civil litigation
- House counsel
- Not for profit
- Education
- Not currently practicing but otherwise employed
- Not currently employed
- Retired

4. Do you participate in any of the following sections of the Bar? (check all that apply)

- Alternate Dispute Resolution
- Business & Corporate Law
- Commercial Law & Bankruptcy
- Diversity
- Employment & Labor Law
- Environmental & Natural Resources Law
- Family Law
- Government & Public Sector Lawyers
- Health Law
- Indian Law
- Intellectual Property Law
- International Law
- Law Practice Management
- Litigation
- Professionalism & Ethics
- Real Property
- Taxation, Probate & Trust Law
- Water Law
- Workers Compensation
- Young Lawyers

5. Do you participate in any of the following law-related organizations? (check all that apply)

- Idaho Trial Lawyer's Association
- Idaho Association of Defense Counsel
- Idaho Prosecuting Attorneys Association
- Idaho Association of Criminal Defense Lawyers
- Inns of Court
- Idaho Women Lawyers
- Other _____

6. Have you ever applied for a judicial position?

- Yes No

7. Do you have or have you ever had any interest in a judicial position?

- Yes No Perhaps

If you answered "yes" or "perhaps" to question 7, please answer question 8.

If you answered "no" please skip questions 8 through 10, answer question 11, and then proceed to question 12.

8. Why are you interested in becoming a judge? (Please rank the top 3 reasons with 1 being the top reason.)

- Prestige of the office
- Public service
- Career goal
- The role of the judge as decision-maker and problem-solver
- Personal and professional development

- Stability of compensation
- The benefits package—insurance, leave, and retirement
- Collegiality of the bench
- Other _____

9. Do you someday intend to apply for a judgeship?

- Yes
- Perhaps
- No
- I have applied before but do not intend on applying again

If you answered yes or perhaps, please answer question 10; if you answered no or not again, please answer question 11.

10. What concerns do you have about applying for or becoming a judge? (Please rank the top 3 concerns with 1 being the top reason.)

- The judicial selection process
- Potential election(s) to keep your position
- Not a career goal
- Inadequate compensation
- Heavy workloads
- Isolation of the judiciary
- Negative perception of judiciary
- Do not possess the appropriate experience
- Transition to the bench
- Judicial canons governing a judge's conduct are too restrictive
- Other _____

11. Please identify your top 3 reasons for not applying (or not applying again):

- a. The judicial selection process
- b. Potential election(s) to keep your position
- c. Not a career goal
- d. Inadequate compensation
- e. Heavy workloads
- f. Isolation of the judiciary
- g. Negative perception of judiciary
- h. Do not possess the appropriate experience
- i. Transition to the bench
- j. Judicial canons governing a judge's conduct are too restrictive
- k. Other _____

12. Why are you NOT interested in becoming a judge? (Please rank the top 3 reasons with 1 being the top reason.)

- The judicial selection process
- Potential election(s) to keep your position
- Not a career goal
- Inadequate compensation
- Heavy workloads
- Isolation of the judiciary

- Negative perception of judiciary
- Do not possess the appropriate experience
- Transition to the bench
- Judicial canons governing a judge's conduct are too restrictive
- Other _____

13. In order to attract the highest caliber of applicants for judicial openings it is most important to: (Please rank the options with 1 being the top reason.)

- Increase compensation
- Change the selection process
- Raise the qualifications
- Eliminate contested elections
- Promote judicial opportunities
- Educate members of the Bar regarding judicial selection processes
- Other _____

14. What is your perception of the role that politics and/or party affiliation play, if any, in judicial selection?

[open field]

15. Please indicate whether you perceive bias in any of the following areas is a factor in judicial selection?

- Age
- Disability
- National origin
- Race
- Religion
- Sex
- Veteran's Status
- Residency outside of the area of the judicial vacancy (i.e., the city, county, or judicial district)
- Other _____

16. Which of the following statements do you consider to be most correct:

- Not enough consideration is given to diversity in the selection of Idaho judges.
- The correct degree of consideration is given to diversity in the selection of Idaho judges.
- Too much consideration is given to diversity in the selection of Idaho judges.

Rate the following questions as to whether you Strongly Agree, Agree, Are Neutral, Disagree, or Strongly Disagree. If you disagree or strongly disagree with any item, please provide the reason(s) for your disagreement. Comments from those who agree or are neutral are welcome as well.

17. The judiciary is currently attracting the best lawyers for judgeships.

[open comment field]

18. I believe I could make it through the Judicial Council's process and have my name forwarded to the Governor.

[open comment field]

19. I believe I could be appointed by the Governor.
[open comment field]

20. I believe I could be recommended for appointment by a Magistrate Commission.
[open comment field]

21. The Judicial Council's process is the appropriate mechanism for recommending district and appellate candidates to the Governor.
[open comment field]

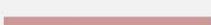
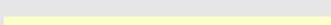
22. The Governor's appointment process is the appropriate mechanism for district and appellate judgeships.
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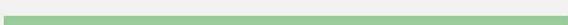
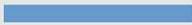
23. The Magistrate Commissions are the appropriate mechanism for recommending appointment of magistrate judges.
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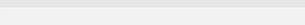
24. The anonymous Bar survey is an important tool for selecting judges.
[open comment field]

25. Do you have any other comments or observations that may be of interest to the Judicial Recruitment Committee?
[open comment field]

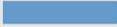
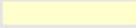
Appendix D: Quantitative Bar Survey Results²

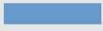
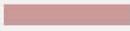
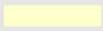
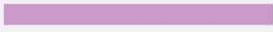
How long have you been practicing law?	Response Percent	Response Total
Less than 5 years 	14.4%	133
More than 5 years but less than 10 years 	14.6%	135
More than 10 years but less than 20 years 	27.7%	256
More than 20 years 	43.4%	401
Total # of respondents 927. Statistics based on 925 respondents; 0 filtered; 2 skipped.		

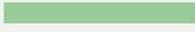
What is your sex?	Response Percent	Response Total
Male 	74.7%	687
Female 	25.3%	233
Total # of respondents 927. Statistics based on 920 respondents; 0 filtered; 7 skipped.		

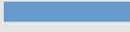
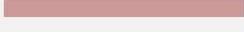
What is the main emphasis of your practice?	Response Percent	Response Total
Private law practice—transactional 	12.9%	119
Private law practice—criminal litigation 	5.8%	53
Private law practice—civil litigation 	40.5%	372
Government agency—transactional 	3.8%	35
Government agency—criminal litigation 	13.2%	121
Government agency—civil litigation 	8.8%	81
House counsel 	7.6%	70
Not for profit 	1.7%	16
Education 	1.3%	12
Not currently practicing but otherwise employed 	3.3%	30
Not currently employed 	0.2%	2
Retired 	0.9%	8
Total # of respondents 927. Statistics based on 919 respondents; 0 filtered; 8 skipped.		

² Complete results of the Bar survey, including the qualitative comments made by respondents, are available on the Judicial Branch's website at www.isc.idaho.gov/recruitmentsurvey.pdf.

Do you participate in any of the following sections of the Bar? (check all that apply)		Response Percent	Response Total
Alternate Dispute Resolution		7.3%	36
Business & Corporate Law		15%	74
Commercial Law & Bankruptcy		11.5%	57
Diversity		4.5%	22
Employment & Labor Law		10.7%	53
Environmental & Natural Resources Law		6.9%	34
Family Law		15.4%	76
Government & Public Sector Lawyers		11.9%	59
Health Law		3.4%	17
Indian Law		2%	10
Intellectual Property Law		3.6%	18
International Law		2%	10
Law Practice Management		2.6%	13
Litigation		24.9%	123
Professionalism & Ethics		8.5%	42
Real Property		18.4%	91
Taxation, Probate & Trust Law		9.3%	46
Water Law		5.3%	26
Workers Compensation		6.1%	30
Young Lawyers		9.3%	46
Total # of respondents 927 . Statistics based on 494 respondents; 0 filtered; 433 skipped.			

Do you participate in any of the following law-related organizations? (check all that apply)		Response Percent	Response Total
Idaho Trial Lawyer's Association		27.8%	129
Idaho Association of Defense Counsel		13.4%	62
Idaho Prosecuting Attorneys Association		16.2%	75
Idaho Association of Criminal Defense Lawyers		12.9%	60
Inns of Court		35.1%	163
Idaho Women Lawyers		11%	51
Other		20%	93
Total # of respondents 927 . Statistics based on 464 respondents; 0 filtered; 463 skipped.			

Have you ever applied for a judicial position?		Response Percent	Response Total
Yes		25.5%	236
No		74.5%	688
Total # of respondents 927 . Statistics based on 924 respondents; 0 filtered; 3 skipped.			

Do you have or have you ever had any interest in a judicial position?		Response Percent	Response Total
Yes		51.8%	480
No		17.2%	159
Perhaps		31.1%	288
Total # of respondents 927 . Statistics based on 927 respondents; 0 filtered; 0 skipped.			

Why are you interested in becoming a judge? (Please rank the top 3 reasons with 1 being the top reason.)

	1	2	3	4	5	6	7	Response Total
Prestige of the office	7.5% (16)	15.4% (33)	29% (62)	9.3% (20)	7.9% (17)	8.4% (18)	22.4% (48)	214
Public service	41.2% (235)	31.3% (179)	18.6% (106)	3.7% (21)	2.3% (13)	2.1% (12)	0.9% (5)	571
Career goal	17.7% (56)	32% (101)	26.6% (84)	6.6% (21)	7% (22)	5.1% (16)	5.1% (16)	316
The role of the judge as decision-maker and problem-solver	52.2% (326)	31.7% (198)	11.5% (72)	1.1% (7)	0.5% (3)	1.4% (9)	1.4% (9)	624
Personal and professional development	17.7% (77)	29.3% (127)	41.2% (179)	4.1% (18)	5.1% (22)	1.6% (7)	0.9% (4)	434
Stability of compensation	8.6% (21)	22.5% (55)	34.8% (85)	11.1% (27)	11.1% (27)	8.2% (20)	3.7% (9)	244
The benefits package—insurance, leave, and retirement	7.7% (19)	20.2% (50)	39.5% (98)	6.9% (17)	8.1% (20)	12.1% (30)	5.6% (14)	248
Collegiality of the bench	2.8% (3)	8.3% (9)	31.5% (34)	5.6% (6)	14.8% (16)	17.6% (19)	19.4% (21)	108
Other	6.2% (4)	9.4% (6)	56.2% (36)	4.7% (3)	1.6% (1)	7.8% (5)	14.1% (9)	64

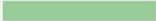
Total # of respondents **927**. Statistics based on **768** respondents; **0** filtered; **159** skipped.

Please list your "other" reason from the previous question.

	Response Total
	64

Total # of respondents **927**. Statistics based on **64** respondents; **0** filtered; **863** skipped.

Do you someday intend to apply for a judgeship?

	Response Percent	Response Total
Yes 	20.3%	156
Perhaps 	60.8%	467
No 	8.5%	65
I have applied before but do not intend on applying again 	10.4%	80

Total # of respondents **927**. Statistics based on **768** respondents; **0** filtered; **159** skipped.

What concerns do you have about applying for or becoming a judge? (Please rank the top 3 concerns with 1 being the top reason.)

	1	2	3	4	5	6	7	Response Total
The judicial selection process	53.8% (250)	27.1% (126)	15.7% (73)	0.6% (3)	1.3% (6)	0.4% (2)	1.1% (5)	465
Potential election(s) to keep your position	26% (83)	36.7% (117)	30.1% (96)	2.5% (8)	1.3% (4)	2.2% (7)	1.3% (4)	319
Not a career goal	17.6% (12)	19.1% (13)	36.8% (25)	7.4% (5)	4.4% (3)	5.9% (4)	8.8% (6)	68
Inadequate compensation	33.8% (80)	35.4% (84)	24.5% (58)	1.7% (4)	1.3% (3)	1.7% (4)	1.7% (4)	237
Heavy workloads	14.8% (23)	36.1% (56)	32.9% (51)	7.7% (12)	3.9% (6)	3.2% (5)	1.3% (2)	155
Isolation of the judiciary	15.5% (32)	36.4% (75)	40.3% (83)	1.9% (4)	2.9% (6)	1.9% (4)	1% (2)	206
Negative perception of judiciary	6.2% (4)	35.9% (23)	34.4% (22)	6.2% (4)	6.2% (4)	4.7% (3)	6.2% (4)	64
Do not possess the appropriate experience	44.6% (99)	20.3% (45)	28.4% (63)	2.7% (6)	1.4% (3)	0.9% (2)	1.8% (4)	222
Transition to the bench	9.2% (12)	29.2% (38)	49.2% (64)	4.6% (6)	4.6% (6)	3.1% (4)	0% (0)	130
Judicial canons governing a judge's conduct are too restrictive	9.4% (3)	37.5% (12)	21.9% (7)	6.2% (2)	6.2% (2)	3.1% (1)	15.6% (5)	32
Other	14.2% (16)	20.4% (23)	63.7% (72)	0% (0)	0% (0)	0% (0)	1.8% (2)	113

Total # of respondents **927**. Statistics based on **623** respondents; **0** filtered; **304** skipped.

Please list your "other" reason from the previous question.

	Response Total
	113

Total # of respondents **927**. Statistics based on **113** respondents; **0** filtered; **814** skipped.

Please identify your top 3 reasons for not applying (or not applying again):

	1	2	3	4	5	6	7	Response Total
The judicial selection process	59% (62)	30.5% (32)	8.6% (9)	0% (0)	1% (1)	0% (0)	1% (1)	105
Potential election(s) to keep your position	24.6% (16)	30.8% (20)	38.5% (25)	0% (0)	1.5% (1)	3.1% (2)	1.5% (1)	65
Not a career goal	34.9% (15)	34.9% (15)	27.9% (12)	0% (0)	0% (0)	0% (0)	2.3% (1)	43
Inadequate compensation	18.2% (10)	34.5% (19)	38.2% (21)	1.8% (1)	0% (0)	1.8% (1)	5.5% (3)	55
Heavy workloads	4.5% (1)	40.9% (9)	40.9% (9)	0% (0)	9.1% (2)	0% (0)	4.5% (1)	22
Isolation of the judiciary	7.7% (3)	35.9% (14)	38.5% (15)	5.1% (2)	2.6% (1)	7.7% (3)	2.6% (1)	39
Negative perception of judiciary	8.3% (1)	33.3% (4)	41.7% (5)	0% (0)	0% (0)	8.3% (1)	8.3% (1)	12
Do not possess the appropriate experience	35% (7)	40% (8)	20% (4)	0% (0)	5% (1)	0% (0)	0% (0)	20
Transition to the bench	20% (3)	26.7% (4)	40% (6)	6.7% (1)	0% (0)	0% (0)	6.7% (1)	15
Judicial canons governing a judge's conduct are too restrictive	0% (0)	14.3% (1)	71.4% (5)	14.3% (1)	0% (0)	0% (0)	0% (0)	7
Other	40% (26)	21.5% (14)	35.4% (23)	0% (0)	0% (0)	1.5% (1)	1.5% (1)	65

Total # of respondents **927**. Statistics based on **145** respondents; **0** filtered; **782** skipped.

Please list your "other" reason from the previous question.

	Response Total
	65

Total # of respondents **927**. Statistics based on **65** respondents; **0** filtered; **862** skipped.

Why are you NOT interested in becoming a judge? (Please rank the top 3 reasons with 1 being the top reason.)

	1	2	3	4	5	6	7	Response Total
The judicial selection process	32.9% (26)	32.9% (26)	24.1% (19)	5.1% (4)	0% (0)	5.1% (4)	0% (0)	79
Potential election(s) to keep your position	6% (3)	42% (21)	40% (20)	4% (2)	4% (2)	2% (1)	2% (1)	50
Not a career goal	60.6% (66)	20.2% (22)	16.5% (18)	1.8% (2)	0.9% (1)	0% (0)	0% (0)	109
Inadequate compensation	26.3% (20)	38.2% (29)	30.3% (23)	3.9% (3)	1.3% (1)	0% (0)	0% (0)	76
Heavy workloads	3.3% (1)	46.7% (14)	30% (9)	3.3% (1)	10% (3)	6.7% (2)	0% (0)	30
Isolation of the judiciary	8% (4)	38% (19)	44% (22)	6% (3)	2% (1)	0% (0)	2% (1)	50
Negative perception of judiciary	14.3% (2)	14.3% (2)	57.1% (8)	7.1% (1)	0% (0)	0% (0)	7.1% (1)	14
Do not possess the appropriate experience	50% (23)	26.1% (12)	23.9% (11)	0% (0)	0% (0)	0% (0)	0% (0)	46
Transition to the bench	6.2% (1)	6.2% (1)	62.5% (10)	6.2% (1)	0% (0)	0% (0)	18.8% (3)	16
Judicial canons governing a judge's conduct are too restrictive	0% (0)	22.2% (2)	44.4% (4)	11.1% (1)	0% (0)	11.1% (1)	11.1% (1)	9
Other	31.4% (11)	25.7% (9)	34.3% (12)	2.9% (1)	2.9% (1)	0% (0)	2.9% (1)	35

Total # of respondents **927**. Statistics based on **159** respondents; **0** filtered; **768** skipped.

Please list your "other" reason from the previous question.

	Response Total
	35

Total # of respondents **927**. Statistics based on **35** respondents; **0** filtered; **892** skipped.

In order to attract the highest caliber of applicants for judicial openings it is most important to:
(Please rank the top 3 actions with 1 being the top action.)

	1	2	3	4	5	6	7	Response Total
Increase compensation	44.3% (270)	29.2% (178)	23% (140)	1% (6)	0.7% (4)	1.3% (8)	0.5% (3)	609
Change the selection process	48% (282)	27% (159)	21.8% (128)	1% (6)	0.9% (5)	0.7% (4)	0.7% (4)	588
Raise the qualifications	16% (42)	37.6% (99)	39.9% (105)	0.8% (2)	2.7% (7)	1.9% (5)	1.1% (3)	263
Eliminate contested elections	34.3% (154)	38.3% (172)	23.2% (104)	1.6% (7)	1.1% (5)	1.1% (5)	0.4% (2)	449
Promote judicial opportunities	13.9% (61)	38.6% (169)	42% (184)	2.3% (10)	1.8% (8)	1.1% (5)	0.2% (1)	438
Educate members of the bar regarding judicial selection processes	22.1% (82)	30.2% (112)	41.2% (153)	2.7% (10)	1.6% (6)	1.3% (5)	0.8% (3)	371
Other	17% (25)	17% (25)	61.9% (91)	0% (0)	0.7% (1)	0.7% (1)	2.7% (4)	147

Total # of respondents **927**. Statistics based on **927** respondents; **0** filtered; **0** skipped.

Please list your "other" reason from the previous question.

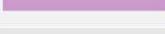
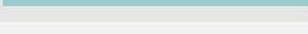
	Response Total
	147

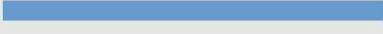
Total # of respondents **927**. Statistics based on **147** respondents; **0** filtered; **780** skipped.

What is your perception of the role that politics and/or party affiliation play, if any, in judicial selection?

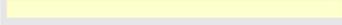
	Response Total
	800

Total # of respondents **927**. Statistics based on **800** respondents; **0** filtered; **127** skipped.

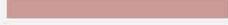
Please indicate whether you perceive bias in any of the following areas is a factor in judicial selection?		Response Percent	Response Total
Age		27.4%	161
Disability		2.7%	16
National origin		6.1%	36
Race		14%	82
Religion		21.8%	128
Sex		40.7%	239
Veteran's Status		0.9%	5
Residency outside of the area of the judicial vacancy (i.e., the city, county, or judicial district)		36.8%	216
Other		33.4%	196
Total # of respondents 927 . Statistics based on 587 respondents; 0 filtered; 340 skipped.			

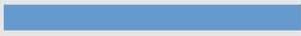
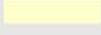
Which of the following statements do you consider to be most accurate:		Response Percent	Response Total
Not enough consideration is given to diversity in the selection of Idaho judges.		34%	294
The correct degree of consideration is given to diversity in the selection of Idaho judges.		50.2%	434
Too much consideration is given to diversity in the selection of Idaho judges.		15.7%	136
Total # of respondents 927 . Statistics based on 864 respondents; 0 filtered; 63 skipped.			

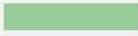
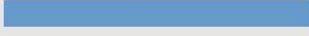
If you disagree or strongly disagree with any item, please provide the reason(s) for your disagreement. Comments from those who agree or are neutral are welcome as well.

The judiciary is currently attracting the best lawyers for judgeships.		Response Percent	Response Total
Strongly Agree		0.9%	8
Agree		9.3%	86
Neutral		32.6%	300
Disagree		43.5%	400
Strongly Disagree		13.7%	126
Comment			232
Total # of respondents 927 . Statistics based on 921 respondents; 0 filtered; 6 skipped.			

I believe I could make it through the Judicial Council's process and have my name forwarded to the Governor.		Response Percent	Response Total
Strongly Agree		9.4%	86
Agree		27.7%	253
Neutral		26.3%	240
Disagree		27.6%	252
Strongly Disagree		9%	82
Comments			188
Total # of respondents 927 . Statistics based on 916 respondents; 0 filtered; 11 skipped.			

I believe I could be appointed by the Governor.		Response Percent	Response Total
Strongly Agree		4.7%	43
Agree		21.7%	197
Neutral		28.9%	263
Disagree		29.4%	267
Strongly Disagree		15.3%	139
Comments			208
Total # of respondents 927 . Statistics based on 914 respondents; 0 filtered; 13 skipped.			

The Magistrate Commissions are the appropriate mechanism for recommending appointment of magistrate judges.		Response Percent	Response Total
Strongly Agree		5.7%	52
Agree		38.5%	350
Neutral		38%	345
Disagree		13%	118
Strongly Disagree		4.7%	43
Comments			94
Total # of respondents 927 . Statistics based on 912 respondents; 0 filtered; 15 skipped.			

The anonymous bar survey is an important tool for selecting judges.		Response Percent	Response Total
Strongly Agree		17.4%	159
Agree		39.7%	363
Neutral		23.4%	214
Disagree		11.7%	107
Strongly Disagree		7.8%	71
Comments			189
Total # of respondents 927 . Statistics based on 915 respondents; 0 filtered; 12 skipped.			

Do you have any other comments or observations that may be of interest to the Judicial Recruitment Committee?		Response Total
		260
Total # of respondents 927 . Statistics based on 260 respondents; 0 filtered; 667 skipped.		

Appendix E: Judicial Selection and Election Procedures

The Idaho Supreme Court

Five justices serve on the Supreme Court. They are elected at large, on a nonpartisan ballot, for a term of six years with staggered terms to ensure continuity on the Court. A Supreme Court Justice must be a qualified elector, at least 30 years of age, who has resided in Idaho for at least two years preceding his or her election and been admitted to the practice of law for at least ten years. See Idaho Constitution, Article V, Section 6, Idaho Constitution, Article V, Section 7, Idaho Revised Code § 34-905 and Idaho Code § 34-615(2).

When there is a vacancy during the term of office, the Idaho Judicial Council advertises the vacancy to all attorneys licensed to practice law in the state of Idaho and solicits applications for the position. After the applications are received, a survey is circulated to all members of the Bar, soliciting their opinions (that can be anonymous) about the applicants. Notice is also given to the public, inviting them to comment on the applicants as well. The results of these surveys are compiled and are used by members of the Judicial Council during interviews. The Judicial Council considers the integrity and moral courage of the candidates, legal ability and experience, wisdom, intelligence, capacity to be fair-minded and deliberate, industriousness and promptness in performing duties, compatibility of personal habits and outside activities with judicial offices, capacity to be courteous and considerate on the bench, and legal research and writing abilities. At the conclusion of the selection process, the Judicial Council submits “the names of not less than two (2) nor more than four (4) qualified persons” to the Governor. Idaho Revised Code § 1-2102(3). When submitting the candidates’ names to the Governor, the Judicial Council may describe the candidates’ qualifications as “exceptionally well qualified,” “well qualified,” or “qualified.”

The Governor then appoints the justice to fill the remainder of the elected term. Thereafter, the appointed justices stand for popular election on a non-partisan ballot. See Idaho Code § 1-2102.

When there is an open judicial seat (typically caused by a retirement at the end of a term), or if a qualified lawyer challenges a sitting justice at election time, nonpartisan elections for justices are held during the May primary election. If one of the candidates receives a majority of votes cast, that candidate wins the race, and no general election is necessary. If no candidate wins a majority, the two candidates who receive the most votes in the primary participate in a “run-off” at the general election.

Idaho State Bar Survey in Contested Judicial Elections

The Idaho State Bar and its Committee on Judicial Integrity and Judicial Independence agreed that Surveys of Judicial Candidate Qualifications are useful to inform the public about judicial candidates in contested elections (when there is more than one candidate per position). Administered by the Idaho State Bar, the survey is sent to the voting members of the Idaho State Bar, asking for input based on each member’s personal knowledge and/or professional experience with the candidates. The survey and the results are anonymous, and evaluate the candidates based upon integrity and independence; knowledge and understanding of the law; judicial temperament and demeanor; and legal ability and experience.

The Idaho State Bar provides the survey results to the public to help them make informed decisions about the judicial candidates running for a contested judicial position. The Idaho State Bar does not interpret or express any opinion about the results of the survey. To read a media advisory and see an

example of the survey information from May 2008, please see the [Judicial Survey Results](#).

The Idaho Court of Appeals

The Court of Appeals currently has four judges and cases are heard by three-judge panels. They too are elected at large, on a non-partisan ballot, for a term of six years, staggered to provide continuity. The description of the election and selection process for Supreme Court Justices also applies to the judges of the Court of Appeals. See [Idaho Code § 1-2404](#).

District Judges

Idaho has 42 District Court judges, who sit in the 44 counties. They are Idaho attorneys, elected by nonpartisan ballot within the judicial district in which they serve. A District Court judge is elected for a four-year term by the electorate of the judicial district in which the judge serves. District judges stand for election within their judicial districts. A qualified lawyer may challenge a district judge during the May primary election, on a non-partisan, contested ballot. When vacancies occur, the same selection procedures described above apply.

Magistrate Judges

Idaho has 87 magistrate judges, with at least one judge resident within each county. See [Idaho Code § 1-2201](#). A District Magistrates Commission exists in each of the seven judicial districts, comprised of county commissioners, mayor, citizens, lawyers, a magistrate judge in a non-voting capacity, and chaired by the administrative district judge. To fill a vacancy, the District Magistrates Commission interviews eligible applicants and makes an appointment to an initial 18-month term of office. A qualifications questionnaire is mailed to all attorneys, with evaluations compiled for use by the District Magistrates Commission. Just prior to the conclusion of the first 18-months, the Magistrates Commission evaluates the performance of the new magistrate judge and may determine that the judge has successfully completed the probationary period, or they may extend the probationary period, and/or can remove the magistrate judge from office. Magistrate judges stand for a retention election every four years on a non-partisan judicial ballot, where the registered voters are asked whether they wish to retain the magistrate judge in office, or not.

Appendix F: Cross-Tabulated Bar Survey Results

Table 1: Level of Interest in Judicial Position

Emphasis of Practice	Level of Interest			Total (n)
	Yes	Perhaps	No	
Private - transactional	40%	27%	37%	119
Private - criminal litigation	49%	29%	23%	53
Private - civil litigation	45%	38%	17%	372
Government - transactional	43%	40%	17%	35
Government - criminal litigation	71%	26%	3%	121
Government - civil litigation	65%	7%	27%	81
House counsel	51%	21%	27%	70
Not for profit	38%	25%	38%	16
Education	67%	25%	8%	12
Not currently practicing ³	73%	15%	13%	40
Total (n)	480	288	159	919

Participation in Bar Sections	Level of Interest			Total (n)
	Yes	Perhaps	No	
ADR	78%	14%	8%	36
Business & Corporate	50%	30%	20%	74
Commercial & Bankruptcy	51%	12%	31%	57
Diversity	55%	41%	5%	22
Employment & Labor	55%	32%	13%	53
Env. & Natural Resources	50%	29%	21%	34
Family Law	56%	24%	20%	76
Gov. & Public Sector	61%	29%	10%	59
Health Law	24%	59%	18%	17
Indian Law	50%	40%	10%	10
Intellectual Property	50%	33%	17%	18
International	70%	30%	0%	10
Law Practice Mgmt	69%	23%	8%	13
Litigation	53%	13%	34%	123
Professionalism & Ethics	57%	31%	12%	42
Real Property	55%	28%	18%	91
Taxation, Probate, & Trust	41%	35%	24%	46
Water	54%	27%	19%	26
Workers Comp.	50%	27%	23%	30
Young Lawyers	50%	44%	7%	46

³ Includes those who are retired, those who are not currently employed, and those who are not currently practicing but are otherwise employed.

Table 1 Cont.: Level of Interest in Judicial Position

Participation in law-related organizations	Level of Interest			Total (n)
	Yes	Perhaps	No	
Idaho Trial Lawyer's Association	48%	27%	27%	129
Idaho Assoc. of Defense Counsel	50%	34%	34%	62
Idaho Prosecuting Attorneys Assoc.	73%	23%	23%	75
Idaho Assoc. of Criminal Defense Lawyers	52%	33%	33%	60
Inns of Court	57%	16%	16%	163
Idaho Women Lawyers	49%	36%	36%	51

Sex	Level of Interest			Total (n)
	Yes	Perhaps	No	
Female	47%	40%	12%	233
Male	53%	19%	28%	687
Total (n)	477	157	286	920

Years of Practice	Level of Interest			Total (n)
	Yes	Perhaps	No	
Less than 5 yrs	42%	8%	50%	133
More than 5 but less than 10 yrs	49%	40%	11%	135
More than 10 but less than 20 yrs	51%	34%	15%	256
More than 20 yrs	56%	20%	24%	401
Total (n)	158	479	288	925

Table 2: Intent to Apply Among Those Who Expressed Interest in a Judicial Position

Emphasis of Practice	Intent to Apply				Total (n)
	Yes	Perhaps	No	Have applied before but do not intend to again	
Private - transactional	9%	65%	15%	11%	79
Private - criminal litigation	29%	44%	7%	20%	41
Private - civil litigation	17%	65%	9%	7%	310
Government - transactional	10%	76%	0%	14%	29
Government - criminal litigation	33%	56%	1%	9%	117
Government - civil litigation	28%	60%	5%	12%	75
House counsel	16%	69%	15%	0%	55
Not for profit	25%	67%	0%	8%	12
Education	22%	11%	33%	33%	9
Not currently practicing	27%	27%	12%	35%	34

Participation in Bar Sections	Intent to Apply				Total (n)
	Yes	Perhaps	No	Have applied before but do not intend to again	
ADR	33%	39%	12%	15%	33
Business & Corporate	17%	61%	12%	10%	59
Commercial & Bankruptcy	20%	54%	14%	12%	50
Diversity	19%	62%	10%	10%	21
Employment & Labor	20%	54%	15%	11%	46
Env. & Natural Resources	11%	70%	11%	7%	27
Family Law	36%	44%	8%	12%	61
Gov. & Public Sector	34%	55%	4%	8%	53
Health Law	7%	71%	7%	14%	14
Indian Law	22%	67%	0%	11%	9
Intellectual Property	13%	73%	13%	0%	15
International	40%	60%	0%	0%	10
Law Practice Mgmt	17%	67%	0%	17%	12
Litigation	21%	67%	8%	3%	107
Professionalism & Ethics	30%	51%	16%	3%	37
Real Property	21%	61%	12%	5%	75
Taxation, Probate, & Trust	11%	60%	11%	17%	35
Water	20%	61%	8%	10%	21
Workers Comp.	13%	61%	17%	9%	23
Young Lawyers	30%	70%	0%	0%	43

Table 2 Cont: Intent to Apply Among Those Who Expressed Interest in a Judicial Position

Participation in law-related organizations	Intent to Apply				Total (n)
	Yes	Perhaps	No	Have applied before but do not intend to again	
Idaho Trial Lawyer's Association	14%	63%	9%	13%	97
Idaho Assoc. of Defense Counsel	17%	60%	17%	6%	52
Idaho Prosecuting Attorneys Assoc.	42%	47%	1%	10%	72
Idaho Assoc. of Criminal Defense Lawyers	16%	60%	33%	22%	51
Inns of Court	28%	55%	7%	10%	137
Idaho Women Lawyers	28%	63%	5%	5%	43

Sex	Intent to Apply				Total (n)
	Yes	Perhaps	No	Have applied before but do not intend to again	
Female	19%	66%	7%	8%	205
Male	21%	59%	9%	11%	558

Years of Practice	Intent to Apply				Total (n)
	Yes	Perhaps	No	Have applied before but do not intend to again	
Less than 5 yrs	23%	76%	8%	0%	122
More than 5 but less than 10 yrs	33%	62%	5%	0%	120
More than 10 but less than 20 yrs	21%	67%	7%	5%	219
More than 20 yrs	14%	50%	14%	21%	306

Table 3: Respondent Opinions Regarding How to Attract the Highest Caliber of Applicants

Increase Compensation			
Emphasis of Practice	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Private - transactional	31%	66%	119
Private - criminal litigation	25%	59%	53
Private - civil litigation	35%	70%	372
Government - transactional	20%	51%	35
Government - criminal litigation	24%	50%	121
Government - civil litigation	21%	53%	81
House counsel	33%	77%	70
Not for profit	0%	13%	16
Education	8%	75%	12
Not currently practicing	25%	70%	40
Sex	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Female	16%	48%	233
Male	34%	69%	687
Years of Practice	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Less than 5 yrs	26%	60%	133
More than 5 but less than 10 yrs	30%	61%	135
More than 10 but less than 20 yrs	26%	61%	256
More than 20 yrs	32%	68%	401

Table 3 Cont.: Respondent Opinions Regarding How to Attract the Highest Caliber of Applicants

Change the Selection Process			
Emphasis of Practice	Level of Importance		Total (n)
	Most Important Reason	Among top 3 Reasons	
Private - transactional	30%	57%	119
Private - criminal litigation	40%	62%	53
Private - civil litigation	26%	59%	372
Government - transactional	43%	86%	35
Government - criminal litigation	41%	74%	121
Government - civil litigation	37%	68%	81
House counsel	10%	40%	70
Not for profit	56%	69%	16
Education	42%	58%	12
Not currently practicing	23%	53%	40

Sex	Level of Importance		Total (n)
	Most Important Reason	Among top 3 Reasons	
Female	35%	68%	233
Male	29%	59%	687

Years of Practice	Level of Importance		Total (n)
	Most Important Reason	Among top 3 Reasons	
Less than 5 yrs	17%	47%	133
More than 5 but less than 10 yrs	24%	56%	135
More than 10 but less than 20 yrs	33%	66%	256
More than 20 yrs	35%	65%	401

Table 3 Cont.: Respondent Opinions Regarding How to Attract the Highest Caliber of Applicants

Eliminate Contested Elections			
Emphasis of Practice	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Private - transactional	18%	50%	119
Private - criminal litigation	11%	38%	53
Private - civil litigation	17%	47%	372
Government - transactional	14%	46%	35
Government - criminal litigation	12%	42%	121
Government - civil litigation	14%	42%	81
House counsel	21%	50%	70
Not for profit	6%	31%	16
Education	25%	58%	12
Not currently practicing	23%	65%	40

Sex	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Female	17%	44%	233
Male	16%	47%	687

Years of Practice	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Less than 5 yrs	22%	46%	133
More than 5 but less than 10 yrs	16%	39%	135
More than 10 but less than 20 yrs	17%	50%	256
More than 20 yrs	15%	47%	401

Table 3 Cont.: Respondent Opinions Regarding How to Attract the Highest Caliber of Applicants

Promote Judicial Opportunities			
Emphasis of Practice	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Private - transactional	6%	45%	119
Private - criminal litigation	6%	57%	53
Private - civil litigation	3%	40%	372
Government - transactional	14%	46%	35
Government - criminal litigation	8%	43%	121
Government - civil litigation	11%	56%	81
House counsel	13%	51%	70
Not for profit	13%	88%	16
Education	8%	33%	12
Not currently practicing	8%	38%	40
Sex	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Female	8%	51%	233
Male	6%	43%	687
Years of Practice	Level of Importance		
	Most Important Reason	Among top 3 Reasons	Total (n)
Less than 5 yrs	11%	55%	133
More than 5 but less than 10 yrs	8%	50%	135
More than 10 but less than 20 yrs	7%	45%	256
More than 20 yrs	4%	39%	401

Table 4: Responses to the Question: “Is the Judiciary Attracting the Best Lawyers for Judgeships?”

Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private - transactional	8%	38%	54%	118
Private - criminal litigation	13%	32%	55%	53
Private - civil litigation	11%	28%	61%	369
Government - transactional	9%	34%	57%	35
Government - criminal litigation	7%	31%	61%	121
Government - civil litigation	16%	32%	52%	81
House counsel	2%	44%	54%	68
Not for profit	19%	38%	44%	16
Education	17%	33%	50%	12
Not currently practicing	15%	46%	39%	39

Sex	Level of Importance			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	9%	30%	61%	231
Male	10%	34%	56%	682

Years of Practice	Level of Importance			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	17%	39%	44%	132
More than 5 but less than 10 yrs	8%	34%	58%	132
More than 10 but less than 20 yrs	7%	35%	59%	255
More than 20 yrs	11%	29%	61%	399

Table 5: Respondent Perceptions Regarding the Methods Used During the Judicial Selection Process

The Judicial Council's process is the appropriate mechanism for recommending district and appellate candidates.				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private - transactional	34%	37%	39%	117
Private - criminal litigation	30%	28%	42%	53
Private - civil litigation	40%	27%	33%	366
Government - transactional	21%	24%	60%	34
Government - criminal litigation	44%	21%	35%	120
Government - civil litigation	27%	32%	41%	81
House counsel	34%	34%	32%	68
Not for profit	13%	25%	63%	16
Education	42%	17%	42%	12
Not currently practicing	58%	18%	24%	38
Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	24%	28%	48%	230
Male	42%	26%	33%	676
Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	15%	32%	53%	130
More than 5 but less than 10 yrs	26%	34%	40%	131
More than 10 but less than 20 yrs	37%	26%	36%	254
More than 20 yrs	48%	22%	30%	396

Table 5 Cont.: Respondent Perceptions Regarding the Methods Used During the Judicial Selection Process

The Governor's appointment process is the appropriate mechanism for district and appellate judgeships.				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private - transactional	30%	30%	40%	114
Private - criminal litigation	19%	30%	51%	53
Private - civil litigation	27%	29%	44%	363
Government - transactional	11%	23%	68%	35
Government - criminal litigation	33%	28%	39%	120
Government - civil litigation	16%	35%	49%	82
House counsel	31%	31%	38%	68
Not for profit	6%	38%	56%	16
Education	42%	17%	42%	12
Not currently practicing	33%	21%	46%	39

Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	11%	26%	63%	229
Male	32%	30%	38%	673
Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	16%	32%	52%	131
More than 5 but less than 10 yrs	15%	37%	49%	130
More than 10 but less than 20 yrs	28%	28%	44%	253
More than 20 yrs	33%	26%	41%	393

Table 5 Cont.: Respondent Perceptions Regarding the Methods Used During the Judicial Selection Process

Magistrate Commissions are the appropriate mechanism for recommending appointment of magistrate judges.				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private - transactional	44%	33%	23%	114
Private - criminal litigation	51%	25%	25%	53
Private - civil litigation	47%	33%	20%	363
Government - transactional	46%	26%	29%	35
Government - criminal litigation	48%	25%	27%	120
Government - civil litigation	47%	32%	21%	81
House counsel	39%	40%	21%	67
Not for profit	13%	50%	38%	16
Education	42%	.25.33		12
Not currently practicing	59%	26%	15%	39

Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	33%	35%	32%	
Male	51%	30%	19%	

Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	21%	45%	34%	131
More than 5 but less than 10 yrs	36%	42%	22%	131
More than 10 but less than 20 yrs	49%	30%	21%	252
More than 20 yrs	56%	24%	20%	391

Table 5 Cont.: Respondent Perceptions Regarding the Methods Used During the Judicial Selection Process

The anonymous Bar survey is an important tool for selecting judges.				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private - transactional	56%	27%	16%	117
Private - criminal litigation	60%	15%	25%	53
Private - civil litigation	59%	22%	19%	366
Government - transactional	63%	29%	9%	35
Government - criminal litigation	53%	19%	29%	119
Government - civil litigation	55%	18%	29%	80
House counsel	50%	35%	15%	68
Not for profit	50%	25%	25%	16
Education	33%	50%	17%	12
Not currently practicing	70%	28%	3%	40

Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	49%	27%	24%	
Male	59%	22%	18%	

Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	62%	28%	10%	130
More than 5 but less than 10 yrs	65%	15%	20%	131
More than 10 but less than 20 yrs	48%	26%	27%	251
More than 20 yrs	59%	23%	18%	400

Table 6: Respondents' Confidence in Their Ability to Succeed

I believe I could make it through the Judicial Council's process and have my name forwarded on the Governor				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private - transactional	34%	27%	39%	117
Private - criminal litigation	30%	28%	42%	53
Private - civil litigation	40%	27%	33%	366
Government - transactional	21%	24%	56%	34
Government - criminal litigation	44%	21%	35%	120
Government - civil litigation	27%	32%	41%	81
House counsel	34%	34%	32%	68
Not for profit	13%	25%	63%	16
Education	42%	17%	42%	12
Not currently practicing	58%	18%	24%	38
Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	24%	28%	48%	230
Male	42%	26%	32%	676

Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	15%	32%	53%	130
More than 5 but less than 10 yrs	26%	34%	40%	131
More than 10 but less than 20 yrs	37%	26%	36%	254
More than 20 yrs	48%	22%	30%	396

Table 6: Respondents' Confidence in Their Ability to Succeed

I believe I could be appointed by the Governor.				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private - transactional	30%	30%	40%	114
Private - criminal litigation	19%	30%	51%	53
Private - civil litigation	27%	29%	44%	363
Government - transactional	11%	23%	66%	35
Government - criminal litigation	33%	28%	39%	120
Government - civil litigation	16%	35%	49%	81
House counsel	31%	31%	38%	68
Not for profit	6%	38%	56%	16
Education	42%	17%	42%	12
Not currently practicing	33%	21%	46%	39

Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	11%	26%	63%	229
Male	32%	30%	39%	673

Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	16%	32%	52%	131
More than 5 but less than 10 yrs	15%	40%	49%	130
More than 10 but less than 20 yrs	28%	28%	44%	253
More than 20 yrs	37%	26%	41%	393

Table 6: Respondents' Confidence in Their Ability to Succeed

I believe I could be recommended for appointment by a Magistrate Commission.				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private - transactional	44%	33%	23%	114
Private - criminal litigation	51%	25%	25%	53
Private - civil litigation	47%	33%	20%	363
Government - transactional	46%	26%	29%	35
Government - criminal litigation	48%	25%	27%	120
Government - civil litigation	47%	32%	21%	81
House counsel	39%	40%	21%	67
Not for profit	13%	50%	38%	16
Education	42%	25%	33%	12
Not currently practicing	59%	26%	15%	39

Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	33%	35%	32%	230
Male	51%	30%	19%	670
Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	21%	45%	34%	131
More than 5 but less than 10 yrs	36%	42%	22%	131
More than 10 but less than 20 yrs	49%	30%	21%	252
More than 20 yrs	56%	24%	20%	391

Table 7: Variation in Confidence at the District/Appellate Levels Among Those Who Expressed Confidence at the Magistrate Level

I believe I could make it through the Judicial Council's process and have my name forwarded on the Governor				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private – transactional	60%	14%	20%	50
Private – criminal litigation	52%	26%	22%	27
Private – civil litigation	68%	18%	14%	171
Government – transactional	33%	27%	40%	15
Government – criminal litigation	75%	18%	7%	57
Government – civil litigation	40%	29%	32%	38
House counsel	69%	23%	8%	26
Not for profit	50%	0%	50%	2
Education	80%	20%	0%	5
Not currently practicing	78%	9%	13%	23

Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	49%	23%	28%	75
Male	68%	18%	14%	339

Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	56%	30%	15%	27
More than 5 but less than 10 yrs	59%	26%	15%	46
More than 10 but less than 20 yrs	60%	21%	19%	124
More than 20 yrs	70%	15%	15%	217

Table 7 Cont.: Variation in Confidence at the District/Appellate Levels Among Those Who Expressed Confidence at the Magistrate Level

I believe I could be appointed by the Governor.				
Emphasis of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Private – transactional	55%	25%	20%	49
Private – criminal litigation	33%	26%	41%	27
Private – civil litigation	48%	21%	31%	169
Government – transactional	13%	19%	69%	16
Government – criminal litigation	56%	25%	19%	57
Government – civil litigation	24%	34%	42%	38
House counsel	58%	27%	15%	26
Not for profit	50%	0%	50%	2
Education	100%	0%	0%	5
Not currently practicing	44%	17%	39%	23

Sex	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Female	32%	18%	50%	74
Male	47%	23%	30%	338
Years of Practice	Level of Agreement			
	Agree or Strongly Agree	Neutral	Disagree or Strongly Disagree	Total (n)
Less than 5 yrs	56%	26%	19%	27
More than 5 but less than 10 yrs	33%	31%	36%	45
More than 10 but less than 20 yrs	48%	24%	27%	124
More than 20 yrs	47%	21%	32%	216