



MINUTES

**City of Scottsdale  
JUDICIAL APPOINTMENTS ADVISORY BOARD  
Regular Meeting  
Wednesday, May 5, 2021**

**Virtual Public Hearing**

**PRESENT**

**Board Members:**

Robert Gruler, Chair  
Susan Galpin-Tyree, Vice Chair  
Laura Ingegneri  
Joseph Kiefer  
Suzanne Marwil  
Tricia Schafer

**Absent:**

Brian Adamovich

**Staff:**

Stephanie Heizer, Assistant City Attorney  
Donna Brown, Human Resources Executive Director  
Autumn Asmus, Staff Coordinator

**CALL TO ORDER**

Chair Gruler called the meeting to order at 6:00 p.m.

**ROLL CALL**

Members present as listed above.

**Possible Executive Session**

Chair Gruler noted that the Board has the ability to go into executive session with regard to item 5, if necessary.

**1. APPROVAL OF FEBRUARY 17, 2021 JUDICIAL APPOINTMENTS ADVISORY BOARD MEETING MINUTES**

Chair Gruler called for a motion to approve the minutes.

BOARD MEMBER MARWIL MOVED TO APPROVE THE FEBRUARY 17, 2021 JUDICIAL APPOINTMENTS ADVISORY BOARD MEETING MINUTES. VICE-CHAIR GALPIN-TYREE SECONDED THE MOTION, WHICH CARRIED SIX (6) TO ZERO (0). CHAIR GRULER, VICE-CHAIR GALPIN-TYREE, BOARD MEMBERS KIEFER, MARWIL, INGEGNERI, AND SCHAFFER VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSENTING VOTES.

**2. INTRODUCTION OF NEW BOARD MEMBER**

Chair Gruler welcomed new board member Laura Ingegneri.

**3. PUBLIC COMMENT**

No comments were submitted from members of the public.

Chair Gruler closed public comment.

**4. DISCUSSION OF JUDICIAL SURVEY RESULTS ON ASSOCIATE CITY JUDGE JAMES BLAKE**

Chair Gruler asked whether everyone had read the survey information and whether anyone would like to comment. He reminded the board of their obligation to maintain confidentiality regarding the survey results.

Board Member Marwil said that the survey results indicated that Judge Blake had very strong marks in knowledge of the law and that the area in which he had some difficulty or could use improvement had more to do with judicial temperament, which was consistent with the due diligence interviews she conducted. Those people she spoke with who raised concerns about his temperament said that Judge Blake is an asset and they would vote to keep him on the bench. She commented that sometimes people have a more cantankerous personality, which may be the case with Judge Blake.

Board Member Keifer said that he had a similar observation with both the survey results and due diligence interviews. He opined that sometimes judges that have been on the bench for a long time have seen a lot of things and that can come across in their temperament.

Ms. Heizer reminded board members that item 4 is limited to discussing the survey results. Due diligence interviews can be discussed as part of item 5 on the agenda.

Chair Gruler clarified that there are two statistical surveys, one that is a comprehensive of all judicial performance evaluations over a long period of time and the other is specific for Judge Blake. In the area of understanding/compassion/courteous, Judge Blake averages a 2.0, compared to the general survey results of 3.1.

Vice-Chair Galpin-Tyree noted that a 2 is considered satisfactory/average for purposes of the surveys.

Board Member Ingegneri noted that under integrity/equal treatment regardless of race, Judge Blake scored very low, with 51 out of 79 respondents saying that they felt he was not treating people equal as a result of race.

Chair Gruler said that it is interesting that staff numbers on judicial temperament reflect the general public's response. He noted that defendant scores in the judicial temperament category are lower than average by approximately half of a point.

#### **5. DISCUSSION OF CONFIDENTIAL RECORDS AND CONFIDENTIAL INFORMATION RELATED TO JUDGE BLAKE'S PERFORMANCE OR REAPPOINTMENT**

The Board may discuss confidential records in a manner that does not reveal confidential information and did so in the public portion of the meeting as follows:

Board Member Keifer reiterated that the due diligence interviews he conducted were similar to the survey results regarding Judge Blake's judicial temperament and that, in his opinion, sometimes judges who have been on the bench for a long time have seen a lot of things and that can come across in their temperament.

Chair Gruler said that he received comments concerning Judge Blake's temperament and disposition, but they all said that they would recommend retaining him in his position because he is a fair and impartial judge.

Board Member Ingegneri said she received similar comments related to temperament and support for retaining Judge Blake in his position.

Board Member Schafer said that in addition to receiving the same feedback as other Board members, she had comments that Judge Blake is very consistent and rule/procedure driven.

#### **6. DISCUSS QUESTIONS FOR INTERVIEW OF JUDGE BLAKE**

Board members made suggestions and discussed questions that would be asked. Ms. Heizer reminded the Board that they are not limited to asking the questions that were discussed, as long as questions are related to his merit as a judge. Follow-up questions can be asked as appropriate.

Board members suggested that in the future, candidates be provided with a copy of the survey results for review prior to their interview.

#### **7. INTERVIEW OF JUDGE BLAKE**

Chair Gruler invited Judge Blake to make a statement. Judge Blake declined to make an opening statement.

Board Member Marwil asked Judge Blake to talk about what he thinks is his greatest strength and greatest weakness. Judge Blake said that his greatest strength is that he likes studying the law. He added that he teaches law at the Arizona Judicial Committee Conference, at the Magistrate and JP level. He said that his weakness is that he tends to make decisions too quickly and has to stop himself to reconsider.

Board Member Kiefer noted that some of the comments collected through interviews and surveys related to concerns about Judge Blake's judicial temperament. He asked Judge Blake to comment on whether or not he has heard similar comments at other points in his career. Judge Blake said that he is a very strict judge and not a particularly touchy-feely person. He tries to make sure that people understand what he's saying to them. He said that if he does not understand what a person is saying, he gives them an opportunity to further explain themselves so that he can make the right decision. He opined that sometimes people take strictness or questioning in the wrong way. Board Member Kiefer asked if Judge Blake has a certain type of judicial temperament he is trying to convey. Judge Blake said that he does strive to convey a certain kind of temperament, because every circumstance is different.

Chair Gruler said that some of the responses he received were that people felt like they were being hurried out of the courtroom and not being given an opportunity to discuss their questions. He asked how Judge Blake is working to balance the different variables so the Scottsdale City Court is making people feel they are getting a fair shake. Judge Blake said that he tries to give all parties, not just the defendants, a chance to speak. He said that when he does not understand an issue, he asks questions of the parties to try to gain understanding. He tries to be careful to ask questions in a way that the parties do not feel like they are being interrogated. He said when he feels that a person is getting frustrated trying to convey their point, he tells them to take their time. He further mentioned that he often notices that he and the defendant are cutting each other off during a discussion and when that happens he stops the discussion and tells the defendant to finish their point without interruption and then to let him finish his point without interruption.

Chair Gruler asked if Judge Blake thinks he has a problem with his judicial temperament. Judge Blake said that he does not feel like he has a problem with judicial temperament. Chair Gruler noted that the pertaining to the item about judicial temperament, Judge Blake's score was almost a full point below the results shown on the global survey. Judge Blake said that he is stricter than a lot of judges and understands why people view that negatively sometimes. He strives to treat everyone with respect. Chair Gruler noted that the feedback has consistently shown that he is strict across the board.

Board Member Ingegneri noted that in the area of defendants and witness surveys, there were a significant number of respondents who questioned Judge Blake's equal treatment regardless of race. She asked what he thought those scores might be attributed to. Judge Blake said that he has worked as a hate crime prosecutor and written the hate crime laws of Arizona and that he does not discriminate. If he were presented with a specific instance he would be able to address it.

Board Member Marwil mentioned that Judge Blake has been on the City Court since 2001 and asked what goals he has for his future judicial career and how he could help the City of Scottsdale bench in the future. Judge Blake said that he would like to go back to having more in-person court appearances. They are planning to start in-person arraignments again next

week. He said that he runs the restitution court and has recently adjusted the process so that people do not have to come in person each month as long as they are making their restitution payments on time. He looks forward to continuing with teaching and doing more in-person proceedings as COVID restrictions are lifted.

Chair Gruler indicated that the Board had no further questions.

Judge Blake thanked the Board for the opportunity to appear and thanked them for volunteering their time as Board members.

## **8. DISCUSSION OF AND REAPPOINTMENT RECOMMENDATION REGARDING JUDGE BLAKE**

Chair Gruler commented that the feedback he got was largely in alignment with the feedback received by other Board members and that temperment is a problem from the community's perspective. He noted that Judge Blake does not see it the same way. Respondents were consistent in saying that Judge Blake is a good judge and is fair, even though he is strict on both sides. He expressed concern about Judge Blake's inability to see his temperment as a potential issue. He said that he will support reappointment.

Board Member Ingegneri suggested that the Judicial Observation Program could be a good tool for Judge Blake. The program offers an opportunity for judges to have their interactions during court proceedings videotaped for later review. Board Member Marwil said that she has participated in the program and felt that it is a beneficial program, because people don't always have great insight into what other people perceive. Donna Brown, Human Resources Executive Director, suggested that Judge Olcavage be consulted about the availability of the program to Scottsdale judges.

Board Member Kiefer commented that while Judge Blake's judicial temperment score was low relative to the global survey results, it is not in an unsatisfactory category, but it was concerning that he wasn't more open to the idea of a temperment issue. Board Member Kiefer was hopeful that based on the interview questions and access to the survey results, Judge Blake will take the initiative to address the judicial temperment concerns. He noted that Judge Blake is strong in areas of knowledge of the law, decision making, and other data points and, therefore, he would support reappointment.

Board Member Schafer said that Judge Blake seemed genuinely concerned about getting everything right and she was impressed with his explanation of how he conducts his courtroom so that he and defendants do not interrupt each other. She said that because he has extensive experience as a trainer and an educator, she thinks he would be open to feedback and training in the area of judicial temperment. She said that based on his knowledge, consistency, and procedural integrity, she would support reappointment.

Board Member Marwil said that although the judicial temperment issue does appear concerning, to keep in mind that there were very few people who responded to the survey and it is important to keep in mind that people who respond to surveys may be the people who wanted to comment on something, either from a positive or a negative standpoint. She would be more concerned by a judge who was not willing to change their opinion of the law than someone who has a lack of compassion. She commented that when someone has been a judge for 20 years, they could

become somewhat hardened on some of the day-to-day issues. She said that she would have liked for Judge Blake to have more introspection than he showed in some of his answers, but that he might have been taken by surprise, because he did not have access to the survey results. She said that she would vote for retention of Judge Blake, because he excels in the areas most important to the integrity of a bench.

Vice-Chair Galpin-Tyree said relative to the question about race, the survey is a small sampling and if it were her, she would want to see the data. She noted support for reappointment.

CHAIR GRULER CALLED FOR A VOTE TO RECOMMEND REAPPOINTMENT OF JUDGE BLAKE (THERE WAS NO MOTION MADE). CHAIR GRULER, VICE-CHAIR GALPIN-TYREE, BOARD MEMBERS KIEFER, MARWIL, INGEGNERI, AND SCHAFFER VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSENTING VOTES.

Brief discussion was held about drafting a letter to City Council. Typically, a representative would be present at the Council meeting to answer questions, but in light of COVID restrictions, City Council is not holding public meetings, so the Board representative should plan to be available to respond to questions as needed.

BOARD MEMBER MARWIL MOVED TO APPOINT CHAIR GRULER TO DRAFT A RECOMMENDATION LETTER TO CITY COUNCIL. VICE-CHAIR GALPIN-TYREE SECONDED THE MOTION, WHICH CARRIED SIX (6) TO ZERO (0). CHAIR GRULER, VICE-CHAIR GALPIN-TYREE, BOARD MEMBERS KIEFER, MARWIL, INGEGNERI, AND SCHAFFER VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSENTING VOTES.

**9. JUDGE STATIA HENDRIX AND JOSEPH OLCAVAGE JUDICIAL REAPPOINTMENT TIMELINE**

Ms. Asmus asked if anyone had questions regarding the timeline for judicial reappointments of Judge Statia Hendrix and Judge Joseph Olcavage, which was provided to Board members in advance of the meeting. Board members had no questions regarding the timeline.

Chair Gruler asked about the process involving Board member term limits. Ms. Asmus said that both Chair Gruler and Vice-Chair Galpin-Tyree's first term will expire in September. Both are eligible for a second term. If they are not interested in continuing their service on the Judicial Appointments Advisory Board, the positions will be opened to new applicants.

**10. DISCUSSION REGARDING COVID-19-RELATED IMPACTS ON SURVEY COLLECTION AND OVERALL PERFORMANCE RESULTS**

Chair Gruler recalled that the topic of COVID-19-related impacts on survey collection and overall performance results was brought up during the last meeting.

Board Member Marwil said that she brought the topic up during the February meeting because the Superior Court recently made changes to its survey collection process because of COVID, and she wondered if the Board should consider making a recommendation to City Council regarding Scottsdale City Court's process. Chair Gruler said that the Board's powers are limited by City Code to making recommendations on the reappointment of judges.

**11. FUTURE AGENDA ITEMS**

No future agenda items were identified.

**ADJOURNMENT**

VICE-CHAIR GALPIN-TYREE MOVED TO ADJOURN THE MEETING. CHAIR GRULER SECONDED THE MOTION, WHICH CARRIED SIX (6) TO ZERO (0). CHAIR GRULER, VICE-CHAIR GALPIN-TYREE, BOARD MEMBERS KIEFER, MARWIL, INGEGNERI, AND SCHAFFER VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSENTING VOTES.

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 7:12 p.m.

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