



Approved June 8, 2017

MINUTES

**City of Scottsdale
JUDICIAL APPOINTMENTS ADVISORY BOARD
Regular Meeting
6:00 p.m., Tuesday, March 7, 2017
North Corp Yard, Wrangler Conference Room
9191 E. San Salvador Drive
Scottsdale, Arizona 85258**

PRESENT: Donald Alvarez, Chair
Judge Bruce Cohen, Vice Chair
Judge Bradley Astrowsky, Board Member
James Padish, Board Member
Sandra Schenkat, Board Member
Stanley Morganstern, Board Member
Brian Adamovich, Board Member

STAFF: Lorelei Oien
Bill Hylan
Donna Brown

GUESTS: Patricia Badenoch
Laurie Coe
Presiding Judge Joseph Olcavage
Judge James Blake

CALL TO ORDER

The meeting was called to order at 6:05 p.m.

ROLL CALL

A formal roll call confirmed the presence of Board Members as noted above. Chair Alvarez asked that all those in attendance introduce themselves. Board Member Padish introduced himself as the Scottsdale Bar representative. Board Member Morganstern introduced himself as a representative of the general public. Board Member Schenkat stated that this was her second term on the Board. Board Member Adamovich introduced himself as a representative of the public. Board Member Adamovich introduced himself as a Judge in the Maricopa County Superior Court. Chair Alvarez stated that he was the State Bar representative. Vice Chair Cohen had not yet arrived.

1. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

BOARD MEMBER PADISH MOVED TO NOMINATE JUDGE BRUCE COHEN FOR THE POSITION OF CHAIR. BOARD MEMBER ASTROWSKY SECONDED THE MOTION.

Discussion:

Board Member Schenkato asked when Judge Cohen's term ends. Ms. Oien stated that Judge Cohen's term ends in one year. He was just appointed and the administrative order was received two weeks ago.

Judge Cohen arrived at 6:06 p.m.

Chair Alvarez asked for additional nominations. None were made.

THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). VICE-CHAIR COHEN ABSTAINED.

Chair Alvarez called for nominations for Vice Chair.

BOARD MEMBER SCHENKAT MOVED TO NOMINATE JUDGE BRADLEY ASTROWSKY FOR POSITION OF VICE CHAIR. VICE CHAIR COHEN SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER ASTROWSKY ABSTAINED.

Board Member Morganstern suggested that Chair Alvarez continue as Chair for the remainder of the meeting.

BOARD MEMBER MORGANSTERN MOVED THAT DONALD ALVAREZ WILL CONTINUE TO ACT AS CHAIR FOR THE DURATION OF THE MEETING. VICE CHAIR JUDGE COHEN SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS VOTE OF SEVEN (7) TO ZERO (0).

2. APPROVAL OF MINUTES OF PUBLIC MEETING CONDUCTED DECEMBER 10, 2013.

Chair Alvarez called for a motion to approve the minutes.

BOARD MEMBER SCHENKAT MOVED TO APPROVE THE MINUTES OF THE PUBLIC MEETING CONDUCTED DECEMBER 10, 2013. BOARD MEMBER ADAMOVICH SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER PADISH ABSTAINED.

3. APPROVAL OF 2013 JAAB ANNUAL REPORT

Chair Alvarez called for a motion to approve the 2013 annual report.

BOARD MEMBER MORGANSTERN MOVED TO APPROVE THE 2013 JAAB ANNUAL REPORT. BOARD MEMBER ADAMOVICH SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER PADISH ABSTAINED.

4. REAPPOINTMENT OF BOARD MEMBER

Chair Alvarez congratulated Board Member Schenkat for her appointment to a second term.

5. APPOINTMENT OF NEW BOARD MEMBERS

Chair Alvarez congratulated and welcomed Judge Astrowsky, Stanley Morganstern and Brian Adamovich as new members of the Board.

6. PUBLIC COMMENT

Board Member Schenkat recused herself from participating in any item related to Judge Jejna's reappointment recommendation and left the meeting at 6:16 p.m.

Chair Alvarez invited Judge Olcavage to speak. Judge Olcavage's comments were recorded as follows:

"Good evening, Mr. Chairman, members of the Judicial Advisory Board. I'm Joseph Olcavage, Presiding Judge, Scottsdale City Court. And I'm here to today to speak on behalf of Judge Jejna. I think that he has the knowledge and experience over the years to do this job, but I want to point out a few other things. First of all, he's very helpful in helping out the other courtrooms when they're backed up. My courtroom sits next to his. And in our court, sometimes we also have a Jail Court proceeding and you gotta be two places at once. And I don't have to ask him. If he sees things are backing up and he has time, he'll come into my courtroom. When I get back there, he's processes cases. And it's extremely helpful for us. Two, he's part of teaching our COJET, which means he has to do research in areas of the law, make sure they're updated. Then he teaches them to both our court staff and our judges. And that's required by the Arizona Supreme Court every year.

He also volunteered to be on the Innovation Team. We have a case management system that's pretty darn efficient in the – the purpose is to process cases with justice for everybody as efficiently as possible. Not only does that help court staff and the judges, but it also helps the public, because they don't want to spend all their time in court. They don't want take off from a vacation or time out of school. They want to be able to do what they're doing. And we – innovation also means other than the case management system. For example, we have online motions now, where a defendant can actually file a motion online. Judge can review it, get an answer. They don't even have to take time off from work and school. So that certainly is part of the committee that he is on.

I also want to point out one other thing. He was assigned one of the most contentious cases we've ever had in the City of Scottsdale. This case started as a felony. Grand Jury turned it down. The State decided to file in our court 18 charges. It really was a felony case. Numerous motions had to be read, researched and decided before that trial started. The press was involved, so he had to review the rules and make sure the press understood what they could and could not do in the courtroom. And he had to control them and make sure they followed all the procedures. Additionally, because we needed a far greater jury panel than normal, we couldn't house them in our courtroom. We had to house them in the library auditorium, which is adjacent to our building, which means he had to coordinate with the lawyers, security and staff and seamlessly transition those people back and forth as the voir dire process went on.

And finally, the trial itself was extremely contentious. Lots of arguing. Lots of bickering. Lots of calling names. He managed to control that trial and keep it on task. Trial lasted Monday through Thursday. Fridays were reserved for motions and other arguments or housekeeping measures. It probably was the longest jury trial for a misdemeanor in the history of the State of Arizona. It lasted seven weeks. But the key is when the trial was over, both the Defendant's attorneys and the State's attorneys thought they had received fair trial from that judge. And that's all you can ask any judge to be, is fair during the course of a proceeding to both sides. And obviously, one side won and one side lost, because there was 18 not guilty verdicts. But both sides thought they had been treated fairly. And I think that shows Judge Jejna's professionalism and patience and his ability to do the job. Thank you."

Chair Alvarez thanked Judge Olcavage and invited Judge Blake to speak. Judge Blake's comments were recorded as follows:

"Thank you. Mr. Chairman, members of the committee, I'm Jim Blake. I'm an associate judge of the City of Scottsdale. I'm here to strongly support the retention of Judge Jejna, even though I blame him for the cold he's given me for the past several days. The reason I support Judge Jejna is I've known him for over 33 years. I've known him as an opponent, when I was a prosecutor and he was a defense lawyer. And I've known him as a judge for almost the past 16 years. I've also known Judge Jejna, even as an opponent – and sometimes when you're going at it against each other, it can be a little rough. But I've always known him to be a fair man and a man who keeps his word, which is – criminal lawyers will tell you is a very important thing. Lot of civil lawyers do everything by writing in writing. Criminal lawyers know each other and they know who can be trusted and who cannot. And he's always had that reputation as an honest, fair man.

I had the opportunity to see him as a judge all the years that I've been a judge. And I know he works hard. I know he's considered to be ethical by everyone who knows him. And I know he has – people believe he genuinely tries to care about people and to do what's right in the system. And you can't really ask more than that of a Judge. He's – as I say, he is very ethical and cares about people. And I think that's one of the most important things you want to look to as a judge. He knows the law. He follows the law. And he is fair. I strongly urge you to retain Judge Jejna. Mr. Chairman and members of the committee, I'd be happy to answer any questions you may have. And thank you for your service and your time."

Chair Alvarez asked whether there were any questions. There were no questions. Chair Alvarez invited any others present to speak. Ms. Oien said that she received a written public comment letter as a result of the ads that were run from Mr. Gerald Rosler. She read the letter for the record as follows:

"Regarding the reappointment of associate City Judge Orest Jejna. Dear Chair Alvarez, I would like to submit this public comment letter in support of another four-year term for Associate City Judge Orest Jejna. From 2009 to 2014, in my role as supervisor of court security for the City of Scottsdale, I had the opportunity and privilege of working with Judge Jejna as we performed our respective duties for the City of Scottsdale Court. The knowledge and professionalism displayed in the courtroom by Judge Jejna serves as an example to all of us as we perform our duties to assist him. Both on or off the bench, our security officers had access to the judge. And often we were able to speak with him in order to coordinate our various security duties in his courtroom. The judge was always available to meet with and welcomed us in his chambers to discuss matters relating to the court and his hobby of collecting cars. I truly believe that the

City of Scottsdale and its citizens are fortunate to have Judge Jejna on the bench. Sincerely, Gerald R. Rosler.”

Ms. Oien said that Mr. Rosler is a retired court security supervisor in Scottsdale, retired vice president of Lockheed Martin Security, Burbank, California and retired deputy chief of police, Martin Grove, Illinois. Chair Alvarez thanked Ms. Oien for reading the letter and invited further public comment. There were no further comments. Chair Alvarez announced public comment closed.

7. DISCUSSION OF JUDICIAL SURVEY RESULTS ON ASSOCIATE CITY JUDGE OREST JEJNA.

Ms. Oien reminded Board Members to not use any names. The recording is a public record. Those surveyed were promised confidentiality. Chair Alvarez asked Board Member Padish to begin. Board Member Padish stated that he was in the unique position of knowing most, if not every person whom he was assigned to to speak with about Judge Jejna. Board Member Adamovich called a point of order and asked whether the discussion was as to Agenda Item 7 or 8. Item 7 was to discuss survey results and 8 was to discuss comments. Ms. Oien agreed that was a correct assessment.

Chair Alvarez asked whether everyone had read the survey information and whether anyone would like to comment. Board Member Adamovich asked whether there was historical information regarding how Judge Jejna's scores compare to others. Chair Alvarez stated his understanding the Board was not given that information. Ms. Oien said that the Board was provided with the results of the survey from four years ago.

Chair Alvarez noted that the first survey does not list a judge's name. Ms. Oien explained that this is an accumulation of all the surveys that RIS has done on the judges. This reflects the average of all the surveys that the survey company has performed in the past. Chair Alvarez said that based on a cursory review, Judge Jejna has performed much better than the average scores.

Judge Astrowsky said that to put this in perspective, when Maricopa County Superior Court judges are rated through the judicial performance review process, the commission looks at the unsatisfactory and poor ratings. If the combined score is 25 percent or above, the judge is interviewed. This standard has been used for decades. On this standard, Judge Jejna's results would cause no concern that would warrant speaking with the judge, questioning him or requiring that he provide explanations.

Board Member Padish stated that from the perspective of being the subject of a survey as well as serving on the judicial performance review commission conference team in the Superior Court, one of the challenges is getting people to actually fill out and return the surveys. The data is skewed simply by those who take the time to fill out the surveys. As a judge, it is uncomfortable to find someone guilty and then have staff ask them to fill out a survey on one's performance. Despite this, Judge Jejna did quite well.

Ms. Oien said that in an attempt to achieve a higher survey response rate, the survey time frame was increased from three months to six months. However, the return rate was exactly the same, at 14.4 percent. Chair Alvarez added that this low response percentage has been consistent for the entire time he has been on the Board.

Vice Chair Cohen said that contextually, with this response rate, the question is who are the people that generally do fill out surveys. Not unlike other industries, those who have gripes will be more likely to make a comment than those who have a good or satisfactory experience. Of course those who have an extraordinary experience might also comment. In this context, the scores favor Judge Jejna. He pointed out that as with Superior Court as well and for whatever reason, court staff generally scores judges lower than every other category. One reason for this is that within the rating criteria for staff, it takes a lot for them to receive a superior rating. This logic explains the large number of threes on the surveys. Judge Jejna's scores are excellent. Also, the integrity and judicial temperament scores are very consistent with the comments and opinions received when Vice Chair Cohen spoke with people. The comments received indicate that Judge Jejna's temperament and integrity are beyond reproach.

Vice Chair Cohen posed a due diligence question. He stated that some comments he received were highly sensitive. He does not have identifying information about who made the comments, but he also does not know where the line is drawn on going into executive session. Mr. Hylen said that it is the confidentiality of the person who is giving the information and the risk that it may be divulged is what determines the necessity of executive session.

Vice Chair Cohen asked whether the public has access to the list of names assigned to each Board member to conduct the due diligence. Ms. Oien stated that the names were not included, for the privacy of the attorneys contacted. If anything were to become part of the public record, it would have to be redacted. Personal information is protected above all else. Part of the process includes informing the contacts that this is a confidential survey. Vice Chair Cohen made the point that were the list public, it might be easy to determine the name of a particular individual based on the comments of a Board member.

JUDGE ASTROWSKY MOVED TO CONVENE INTO EXECUTIVE SESSION FOR THE REMAINDER OF THE DISCUSSION ON THIS TOPIC. VICE CHAIR JUDGE COHEN SECONDED THE MOTION.

Discussion:

Mr. Hylen asked for clarification that the purpose of executive session would be to receive legal advice. There was consensus that it would be this as well as discussion of confidential information related to Judge Jejna.

THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER SCHENKAT WAS NOT PRESENT.

The Board recessed into executive session at 6:35 pm and reconvened the public meeting at 7:05 p.m.

8. DISCUSSION OF CONFIDENTIAL RECORDS AND CONFIDENTIAL INFORMATION RELATED TO JUDGE JEJNA'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 Padish stated that Judge Jejna was ranked very highly by every single person he spoke to with a rather universal ten out of ten when rating his abilities. Respondents described him as very fair, trustworthy and patient. There was concern raised about external

influence and pressure by the prosecutor's office disfavoring him. There was some concern raised that he may have been indirectly affected by the perceived disfavor that some in the Prosecutor's Office exhibited toward him.

Board Member Morganstern said that his responses were substantially better than the percentage that was shown in the survey, although it took several phone calls at times. The attorneys unanimously indicated that Judge Jejna was easy to work with, mild-mannered, very respectful, nice, appropriate and wonderful judge. One attorney described Judge Jejna as his favorite judge. Other comments were, "Excellent judge. Treats everybody with respect. Patient with unrepresented litigants. His decisions are well thought out and based on law and fact." There was nothing negative from the defense attorneys spoken with. Prosecutors had the same kind of response, although they did say that defense lawyers love him. There was comment with respect to Judge Jejna granting multiple continuances to defense attorneys, which the prosecutors felt should not be occurring continuously, as it puts the prosecution in defensive mode. Prosecutors had the same kinds of comments about the Judge Jejna that the defense attorneys did.

Board Member Astrowsky commented that he received overwhelmingly positive responses. These responses were short in their descriptions, but consistent. The negative responses were long in description. The positive responses included, "A plus judge. Treats attorney and clients fairly. Only positive things to say." One person even said they had no problem with anyone on the Scottsdale Municipal Court. Another person said they love him, "Listens to both sides, fair, great temperament." There were consistent comments stating how nice Judge Jejna is as a person. Another commenter said, "He calls balls and strikes the same, regardless of who is at bat and is one of the favorites within the City of Scottsdale. Deals well with difficult pro pers. He has realistic expectations concerning the time needed to go to trial. Is fair in sentencing. Really good demeanor." A particularly notable comment was that Judge Jejna, "Is the best judge in Scottsdale by a good margin, fair to all and knows the law well."

Negative comments include, "Although he is a really super nice guy, the nice guys don't necessarily make the best judges." In other words, that one cannot please everyone. That his preference is to have the attorneys work out difficult issues amongst themselves, so he does not have to make a decision that will be unpopular with one side or the other. Therefore, there is frustration with him concerning times when he is called upon to make a hard or tough decision, or even times when it may be called for for him to be tough on a perceived powerful defendant or the client of a powerful defense attorney. Some of the comments received were that he may treat a pro per defendant poorly compared to represented people, particularly when they are represented by higher profile defense attorneys.

Vice Chair Cohen said that almost all the comments were favorable. To the extent that there were negative comments, it seemed to be more systemic than it was about Judge Jejna personally. Quotes included, "Nothing bad to say. He always treated me professionally. Fairly applies the constitution and the law. Should be retained. He's an excellent Judge. He's reasonable, willing to listen to requests. He's not like some judges from other jurisdictions, who wake up with an attitude. Terrific judge. Always a pleasure to be in front of him." There was a concern regarding a difference in how he handled things before and after a major trial. Some people complimented his handling of the case and acknowledged that he was not the reason for the many issues in the case. He was simply stuck attempting to resolve those issues. There was a sense of shift in behavior afterwards regarding a pattern of actions from the Prosecutor's Office and the perception that Judge Jejna was more responsive to the Prosecutor's Office.

Chair Alvarez said that he called 12 attorneys. One could not be reached, and three did not respond. He interviewed eight, seven defense attorneys and one prosecutor. The comments all included requests to keep Judge Jejna on. All comments were very good, including the following, "He is patient, well reasoned, fair, impartial, respectful, available, personable and well prepared." One of the attorneys interviewed was involved in the aforementioned lengthy case, who also had nothing but good things to say about Judge Jejna. Further comments included, "Fair minded. All sides like him. Great judge. Cordial. Respectful. Can be firm, but not nasty or rude. Great temperament. Excellent temperament. Dignified. Thoughtful. Moves cases efficiently. Knowledgeable." Five out of the eight attorneys made very negative comments about dealing with the Prosecutor's Office, not about the judge, including particularly the prosecutor of the lengthy trial. The one prosecutor that was interviewed said "He has no negatives. Courteous. Good demeanor. Runs a good courtroom. Good with pro pers. Sometimes he is slow in getting decisions out, but he has a busy calendar."

Board Member Padish commented that the municipal court has a higher volume of unrepresented people than superior court does. Dealing with pro pers is a challenge because of the high volume. Some individuals are unable or unwilling to figure out what is happening. A judge must be pretty direct with these individuals. If there is a perception that there is a difference in how Judge Jejna treats pro pers from those who are represented, it is not necessarily a negative, but is what he needs to do in order to run his courtroom. When a pro per is being oppositional, it is also necessary to send a message to other pro pers waiting for their cases to heard that that does not play very well. As such, Board Member Padish would not view this necessarily as a negative.

9. DISCUSS QUESTIONS FOR INTERVIEW OF JUDGE JEJNA

Chair Alvarez noted that board members have been provided with a list of possible questions. Normally the process is on a play by ear basis. Board members have their own questions to ask the judge. The judge will make a statement and this is followed by a question stage. Chair Alvarez asked whether there are particular areas that should be covered. Vice Chair Cohen said that he may have some questions that were not addressed in executive session. Board Member Astrowsky commented that he likes question number eight on the first page. Ms. Oien clarified that board members are not limited to these questions, nor are they required to ask these particular questions. Chair Alvarez added that board members can ask whatever questions they wish.

10. INTERVIEW OF JUDGE JEJNA

Chair Alvarez invited Judge Jejna to make a statement. Judge Jejna stated that it was a pleasure to be present and that he looks forward to continue to serve the community as he has for the past 16 years.

Chair Alvarez invited questions from the Board.

Vice Chair Cohen asked how long Judge Jejna would like to continue to serve in his capacity as a judge. Judge Jejna stated that he has good health and would like to continue perhaps as long as he can. His wife is a few years younger than he and he would like to be at the point where both can think about this further. He has two young adult children who still need help. He enjoys his work very much. He has spent 38 years in the legal field, primarily in the criminal

field. This is an area where he feels very comfortable. He has developed a rapport with the community.

Board Member Astrowsky asked if most attorneys would feel they receive a fair hearing in Judge Jejna's courtroom, whether or not he rules in their favor. Judge Jejna stated that he believes most would have this belief. Board Member Astrowsky asked him to elaborate. Judge Jejna stated the importance of listening to whatever is being presented. He acknowledged that some who have come before him may disagree with the premise of a fair hearing. However, it is his opinion that most attorneys who appear before him feel they are receiving a fair opportunity. On changes of plea, there may be "Judge shopping," that occurs when attorneys come before him. He does open, walk-in calendars on Mondays and Wednesdays. At times he is inundated with attorneys who come in to resolve their cases and specifically plead them in front of him, rather than the judge to whom they are assigned. This is an indicator that there is a sense of fairness attorneys feel they receive when in his court. In criminal cases, the defense does not often win. Sometimes both the facts and the law are against them. Judge Jejna does have quite a few lawyers who appear before him repeatedly. In general, lawyers feel that there is a level of fairness in the court. If there is not, then he is not doing his job.

Chair Alvarez acknowledged that everyone has weaknesses, including his own, impatience. He asked Judge Jejna to describe his weaknesses as a judge and how he would go about improving upon his weakness. Judge Jejna stated that as a human being, he can sometimes be a procrastinator. He was uncertain as to how this transcends into his daily life. The court is high volume, so there is not time to procrastinate. There are occasions where the court feels pressured to move cases quickly, due to the tremendous volume. In the last month or so, the court has upped its output during pretrial conferences. For example, six weeks ago, on pretrial conferences, they were handling 25 assigned cases and an additional portion of the calendar would handle walk-in matters. The walk-in calendar can range anywhere from 15 to 30 cases on top of the 25. In the last month or so, they increased their assigned cases from 25 to 45 cases. Now the court is handling 45 cases plus 20 to 30 potential walk-in matters. This means that Judge Jejna is handling potentially 60 to 70 cases in an afternoon.

He acknowledged that at times, his patience may run thin and there is a constant battle to ensure he delivers the product that the community expects from him. This includes showing proper respect to individuals and not being short with people. At times, he would like to be able to spend more time with individuals than is feasible. Sometimes individuals are not represented. There are occasions when he feels rushed to get through the calendar. He would like have more time with individuals when possible to assist them in the process, as many who appear are not represented. Every day is a learning experience. He still finds the same satisfaction as he did 16 years ago. He feels comfortable in the position and hopes he is delivering the proper product to the constituents of the community.

Board Member Morganstern asked whether Judge Jejna has any specific policy on granting continuances. Judge Jejna replied that he is fluid in this sense. Continuances apply in different phases and situations. On Monday there is a calendar call for jury trials. There are times where peculiar things occur. In terms of jury trials, there is a heavy concentration in the DUI category, which is a niche area of the law, having developed over the past 20-25 years.

A difficult situation has arisen relating to continuances on DUI jury trials. In January an expert witness who frequently testifies for defendants had a serious accident. Initially, Judge Jejna was continuing some of these matters. However, he has now taken a different approach and asks lawyers to consider retaining an alternative expert, given that this expert may be

unavailable for an extended period. The problem is that there are only two or three experts serving the entire state. Each has varying degrees of expertise and effectiveness. In this unique situation, Judge Jejna feels he has some flexibility in the area of continuances, although there are AOC and Arizona Supreme Court directives regarding timely completion of trials. At the same times, the State has also had to request continuances, because their expert is pregnant and will be on maternity leave for eight to twelve weeks. While he does not have a specific policy on continuance, he is conscious of the importance of these instances. There is a court policy that they attempt to follow, however, sometimes this amounts to fitting a square peg into a round hole.

Board Member Morganstern asked about local rules regarding filing a motion in a particular time frame in order to be granted a continuance and whether there are acceptable reasons that may apply. Judge Jejna stated that there are no specific reasons outlined. There are general rules in the rules of criminal procedure that do require a motion. Most of the time, lawyers do present motions. A classic case will have an arrangement. Typically 30 days later, there is a pretrial conference. It is a setting where little gets done, unless the parties know ahead of time that they are going to resolve the case at this first setting. Predominately, most of the first settings are continued. Sometimes the attorneys come onboard two weeks after the arrangement and sometimes not until just before the pretrial. They will ask for a continuance, because they do not have discovery. A request for discovery requires a certain payment of administrative fees. Sometimes there is a two to three week delay, depending on the circumstances. If there's an on body camera, there will be a further delay, due to the process of obtaining that evidence. A scheme is followed in terms of the tracking of a case, however at times, continuances are necessary to make the process work.

Vice Chair Cohen cited Judge Jejna's 16 years with the court and asked where he sees the court relative to where it was in the past and where he sees it heading in the future. Judge Jejna said there have been strides towards going paperless. Initially, there was a level of panic knowing there would not be a physical file to look at. He has come to the point now where he would never wish to go back to the paper system. There is much greater ease in handling cases. For example, before the paperless system, a motion would come and be handled by a clerk. The clerk would create a file and eventually get the file to Judge Jejna. It would sit on his desk. He would have to look at the motion or correspondence, respond in writing and get the file back. Now what occurs is a bank of cases are placed in his queue. He can go right to the case, immediately pull up the motion or correspondence, respond to it and immediately transfer it to the clerk that handles the particular matter. The response speed has changed dramatically. He considers it lightning speed compared to the paper process.

The volume of cases remains high at this point. This may or may not continue. There has been a drop to some degree in filings. Some of this may be related to, "the Uber situation," as DUI filings have dropped somewhat. The court is on track to continue with many jury trials as compared to other jurisdictions, including Phoenix. Appeals are also probably greater than Phoenix, perhaps because the populace is of more financial capability. From a technology standpoint, the court is way ahead of the curve. He hopes to improve the court in the future in whatever ways possible, including additional technology and improved services to the end user. Being a member of the Innovative Team, the committee gets together quarterly to discuss improvements can be made to assist the end user. Additionally, they discuss ways to assist staff in completing tasks more efficiently.

Chair Alvarez thanked Judge Jejna for being present to answer questions. Vice Chair Cohen noted that it was great to see Judge Jejna again. He added that as a fellow member of the

bench, Judge Jejna casts a very favorable light on all of the judges. Judge Jejna stated that he tries to do well and will strive to do better.

11. DISCUSSION AND REAPPOINTMENT RECOMMENDATION REGARDING JUDGE JEJNA

Chair Alvarez asked board members for further discussion with regard to Judge Jejna. Vice Chair Cohen said that the consistent feedback regarding Judge Jejna is that among those with whom he serves, he is looked at as among the most respected. He is very consistent with how he presents himself and as someone who garners respect fairly universally. He is very thoughtful and deliberate in his responses. His passion for what he does is very evident. Board Member Padish stated that he would like to echo these comments. This was a constant with those he spoke with. While he did not solicit a comparison of Judge Jejna to other judges, most respondents volunteered the sentiment that they would place him at the top.

Board Member Padish added that with Judge Jejna's experience before becoming a judge, he understands it is a court of limited jurisdiction. He weighs in his decisions that the gravity of what he is dealing with merits a more deliberate, patient approach.

VICE CHAIR COHEN MOVED TO RECOMMEND REAPPOINTMENT OF JUDGE JEJNA TO ANOTHER FOUR YEAR TERM. BOARD MEMBER PADISH SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER SCHENKAT RECUSED HERSELF.

Chair Alvarez stated that Vice Chair Cohen would be the one recommending Judge Jejna to the City Council, now that he is the new Chair of the Board. The recommendations are typically early in the agenda. Ms. Oien clarified that meetings usually begin at 5:00. Vice Chair Cohen said that getting to the Council meeting on time is challenging because of his duties in Juvenile Court.

Vice Chair Cohen commented that he is not yet reappointed. Ms. Oien said that the Vice Chair Cohen is continuing his appointment until the administrative order goes to Council and they make the announcement. Vice Chair Cohen asked whether this would be the same Council meeting that he would be present to recommend reappointment of Judge Jejna. Ms. Oien acknowledged that this is a good question. The date for the reappointment is April 4th. Chair Alvarez offered to handle it, if needed. He stated that in the past, he would meet with the Mayor and share the Board's recommendation ahead of time. Sometimes, there have been meetings with interested Council Members in order to give them the opportunity to ask questions. Ms. Oien said that she would inquire as to Council's preference this week. She stated that she would assume the meeting with Mayor Lane and meeting for Council Members to ask questions would continue to be the expectation, however, she will confirm this.

Vice Chair Cohen referenced Judge Blake and asked if they would be coming in fairly quick succession. Ms. Oien said that Judge Hendrix and Judge Olcavage's appointments are up next spring. The process with all four judges will take less than one year. Last time, the meeting for Judge Olcavage and Judge Hendrix was in December with the recommendation to City Council in January. She stated that she had not yet developed a timeline. However, at a future date, the Board can decide if they want to do them together again or hold separate meetings. As soon as the process of Judge Blake is complete, she will begin work on the final two.

12. TIMELINE FOR JUDGE JAMES BLAKE'S JUDICIAL REAPPOINTMENT

This item was discussed at the beginning of the meeting before Board Member Schenkat departed. Ms. Oien prefaced her comments by stating that the timeline is a draft. She would like to present this to City Council by July 6th, as Council will break from July 10th to the last Tuesday and Wednesday in August. She has already submitted Judge Blake's application to him and is waiting for a response. Her interest is whether the schedule conflicts with any of the Board's schedules. The July 6th date is firm, but the others are fluid. There was general consensus that the week of June 5th works for everyone. Changes can be made if necessary.

13. FUTURE AGENDA ITEMS

This item was discussed at the beginning of the meeting before Board Member Schenkat departed. Chair Alvarez asked Board Members if they had specific items to place on future agendas. Board Member Schenkat said that when she appeared before Council, she was asked why she wanted to be on the Board. Her response was that because of the increasing population, a fifth judge will be needed in the near future. She also mentioned this to Judge Olcavage, who indicated that the amount of cases have decreased. It would be helpful to discuss this issue further. The last meeting included discussion on how overloaded the judges were with cases, as well as budget increases for pro tems. A fifth judge would alleviate this problem. Chair Alvarez asked that the item be placed on a future agenda. Ms. Oien asked whether the Board wished to have a separate meeting for this or to include it into the next reappointment meeting, which would occur the first week of June. Chair Alvarez asked that the issue be included in that upcoming agenda.

Board Member Morganstern asked whether there is any indication in the charter that discusses how many judges should be appointed based on population or other criteria. Chair Alvarez asked Mr. Hysten to address the question. Mr. Hysten said that the ordinance states that the purpose of JAAB is to recommend to the City Council the best qualified persons to become full time City judges, to evaluate the performance of incumbent full-time City judges and to advise the City Council about retaining them in office. Whether the jurisdiction would extend to recommending the addition of judges is open to interpretation. Vice Chair Cohen posed the question of whether it goes to the issue of the ability of the sitting judicial officers to meet their obligations. Mr. Hysten concurred that the argument could be made and added that there would be no harm in putting it on the agenda. Vice Chair Cohen requested that there be research into any charter which includes a relationship between population and number of judges.

ADJOURNMENT

With no further business to discuss, and being duly moved and seconded, the meeting of the Judicial Appointments Advisory Board adjourned at 7:49 p.m.

SUBMITTED BY:

eScribers, LLC

Respectfully submitted,
Lorelei Oien
Staff Coordinator

Reviewed by,
Donald Alvarez
JAAB Chairperson