

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 183

Approving the Final Report of the Committee on Duties and Powers of Presiding Superior and District Court Judges; Rescinding Rule 38, Rules Governing the Administration of All Courts; Amending Rule 37, Rules Governing the Administration of All Courts

IT IS ORDERED:

1. The Final Report of the Committee on Duties and Powers of Presiding Superior and District Court Judges, attached hereto, is hereby approved and the recommendations contained therein are adopted.
2. Pursuant to the recommendations made in the attached Final Report, Rule 38, Rules Governing the Administration of All Courts, is hereby rescinded.
3. Rule 37(a), Rules Governing the Administration of All Courts, is amended to read as follows:

Presiding Judge. The chief justice shall designate a superior court judge from each district to be presiding superior court judge of that district. The presiding court judge shall perform the duties required of him by law and shall serve at the pleasure of the chief justice. The presiding court judge shall be responsible for supervising the administration of all court units within his district.

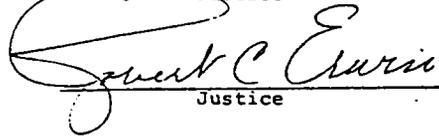
We wish to acknowledge and express our thanks to the Honorable Thomas B. Stewart, the Honorable William H. Sanders, the Honorable C. J. Occhipinti, the Honorable Warren W. Taylor, Presiding Superior Court Judges, and to Arthur H. Snowden, II, Administrative Director, who served as members of this committee.

EFFECTIVE DATE: July 1, 1974

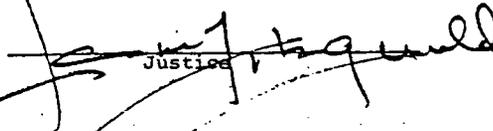
DATED this 26th day of June, 1974.


Chief Justice


Justice


Justice


Justice


Justice

Distribution:

- S/C Justices
- Sup/Ct Judges
- Dist/Ct Judges
- Magistrates
- Clks/Ct
- Law Librarian
- Probate Master
- Adm Dir
- Gov
- Lt/Gov
- Dept/Law
- Leg/Coun
- Dep/Pub Sfty
- Pub Def Agency
- Alaska Legal Services

Final Report
of the
Committee on Duties and Powers
of
Presiding Superior and District Court Judges

I

Introduction

By request of the Chief Justice and the Supreme Court, a committee composed of Presiding Superior Court Judges Stewart, Sanders, Occhipinti and Taylor, and Administrative Director Snowden, has considered in broad perspective the roles of presiding superior and district court judges and the general administrative structure of the Alaska Court System. The committee has held eight meetings to consider (1) these general administrative relationships within the court system and (2) definitions of the duties and powers of presiding judges in specific functional areas.

The report states the views of the committee on the major steps required to improve the administrative structure and relationships within the court system. A preliminary report containing these views was circulated to all judges in the system, and comments were received from eight superior and district court judges. All comments were carefully reviewed by the committee, and helpful changes in the report were made where the committee found criticisms justified. All responses received are appended to this report with a brief commentary by the committee noting its views on the individual criticisms made.

This report is in two general sections. The first consists of a statement on over-all organization for administration within the Alaska Court System. In this

section the recommendations for major changes are based on direct observation of the functioning of the system and on recent developments in other jurisdictions, including the federal court system and the trial courts of California. The second section sets out in a more detailed manner the specific functions, duties and relationships of presiding judges and the administrative director in the recommended reorganized system.

II

General Organization and Structure

When the Alaska Court System was inaugurated in 1959, the new judicial officers had no direct experience in the management of courts. The members of the judiciary committees of the First State Legislature similarly lacked direct court management experience. Recognizing these limitations, responsible officials, both judicial and legislative, enacted the rules and laws governing court administration in relatively broad and general terms, leaving more specific definitions to evolve from the lessons of experience and observed needs.

Accordingly, the statute providing for presiding judges is both brief and broadly stated. It appears in AS 22.10.130 and is set out here for ease of reference:

APPOINTMENT AND DUTIES OF PRESIDING JUDGES. The chief justice of the supreme court shall designate a presiding judge for each district. The presiding judge shall in addition to his regular judicial duties (1) assign the cases pending to the judges made available within the district, (2) supervise the judges and their court personnel in the carrying out of their official duties within the district, and (3) expedite and keep current the business of the court within the district.

This language is codified in Chapter 10 of the Title on the judiciary. It appears implicit in the language quoted and

related provisions of the Title that the presiding judges of the Superior Court have general supervision over all court personnel in their district. The absence of any statutory provision for presiding judges of the district courts confirms this conclusion.

Rule 38, Rules Governing the Administration of All Courts, provides that the presiding judge of the superior court in each district may appoint a presiding judge of the district court. There is no language in the statutes or rules to specify the functions and duties of the presiding judges of district courts, other than to appoint (with concurrence of the chief justice) coroner public administrators.

The existing pattern of administrative authority and responsibility in the Alaska Court System has developed and operated on the basis of these relatively general statutes and rules. Underlying this structure is the basic constitutional authority of the chief justice as administrative head of the unified court system, exercised through his appointment, with the approval of the Supreme Court, of an administrative director of courts to supervise all administrative operations of the judicial system. (Constitution of Alaska, Art. IV, Sec. 16; AS 22.05.150). A more explicit and detailed statement of the duties and functions of the administrative director is provided in Rule I, Rules of Administration. However, little in the latter Rule or in other provisions of the Rules of Administration states expressly the relationships of the presiding judges with the administrative director.

This preliminary statement is simply descriptive of the existing administrative system and may seem to report the obvious. It is presented from the conviction that inherently the system has fundamental weaknesses including a lack of responsibility, overlapping and confused lines of

authority, and resulting inefficiencies and ineffectiveness in administrative direction.

The structure has tended to separate the district courts, and the magistrates, from the superior courts in administrative operations. This is contrary to the constitutional concept of an unified court system, and inhibits efforts toward consolidation and simplification of administrative functions of the trial courts. The existence of presiding judges of both the superior and district courts, having generally stated supervisory powers and operating without well-defined relationships, has resulted in the development of two separate and distinct administrative units in each judicial district. Each has communicated independently with the central office of the administrative director, with a resultant lack of knowledge of the policies, actions and decisions the other court has taken.

In reporting this weakness of the present system, there is neither intended nor implied any personal criticism of incumbent or prior judicial officers holding presiding judge positions. These officers have sought to perform conscientiously in their roles, but the system as described has inherently led to the unsatisfactory results noted. The system should therefore be re-structured along simpler, more efficient lines with fewer responsible supervising officers having more explicitly defined functions, duties, and responsibilities.

It is recommended that there be only one presiding judge for each judicial district with responsibility for supervising administration of all court units within the district. There is no necessity in the Alaska Court System for a substantial number of supervisory officers. With staff assistance, a single administrative judge can provide adequate supervision over all operations in a judicial

district. This would clearly focus and channel all administrative matters through a single supervisory authority in each district and avoid ambiguity, confusion, overlapping of responsibility, and duplication of effort. It is therefore recommended that Rule 38, Rules of Administration be rescinded. The thrust of this recommendation is to eliminate dual supervisory authority over the entire area of a judicial district.

It is further recommended that there be a court administrator in each district to provide staff and technical support to the presiding judge. This officer should be selected by the presiding judge from a list of qualified candidates provided by the administrative director. He should be responsible for the detailed work of administration for all trial courts of every level throughout the district under the supervision of the presiding judge. This appointment should not necessitate additional personnel or expense to the court system, because with consolidation of administration in the courts, at least two staff positions in most districts can eventually be eliminated.

This simplified structure should be fully adequate for administration of all courts in each district. It can be implemented without any statutory changes and without a change in the present rules of administration, except the elimination of Rule 38, ARA. Detailed statements of the functions and duties of the supervisory officers involved should be established by rules to fix responsibilities previously not met because of a lack of express definition.

These conclusions for revision of the administrative structure were reached from direct observation and involvement in the problems of the present system. Corroboration for these recommendations appears in an extensive study on feasibility of unification of the trial courts of California.

This study was made by the management consulting firm of Booz, Allen & Hamilton of San Francisco for the Judicial Council of California. The structure outlined also has many features analogous to developments in administration of the federal courts. In that system circuit executives have been created who provide the type of area-wide administrative staff services recommended in this report. These officers also serve under the general supervision of the chief judge of the respective federal circuits.

III
Functions and Duties
of
Presiding Judges

The office of presiding judge should be maintained for the purpose of assisting the chief justice in performing court management responsibilities in the respective judicial districts. Judges should continue to be appointed to these positions by the chief justice, to serve at his pleasure or for appropriate renewable terms. The selection should be on the basis of the interest and abilities of the judge as an administrator rather than as a jurist. Qualifications should also include leadership characteristics for appropriately guiding the activities of other judges.

The basic function of the presiding judge, reporting to and acting on behalf of the chief justice, is to provide direction and coordination in the management of all trial courts and their personnel within the assigned judicial district. This includes balancing workloads among courts and judges, insuring implementation of statewide court policies, identifying problem areas in court operations, coordinating efforts to improve judicial services, and assisting in the professional development of judicial personnel.

Principal duties and responsibilities of presiding judges should include the following:

1. Implementing statewide court objectives and operating policies for trial court judges and personnel, and reviewing and approving plans and programs to meet these objectives and policies; recommending changes to the Chief Justice in statewide policies as needed for area conditions.
2. Reviewing operations of all trial courts in the district to assure adherence to statewide policies and to identify and implement improvement opportunities in court management.
3. Advising and consulting with the chief justice, and the administrative director, on all significant matters of management and operations in the district.
4. Coordinating professional development activities for all judges, magistrates and staff.
5. Assigning, under authority of the chief justice, individual judges to courts within the district as necessary for maintaining balanced workloads.
6. Supervising the activities of the area court administrator and other personnel in the district.
7. Reviewing staffing levels for all courts and recommending changes as required.
8. Cooperating and working closely with other presiding judges and the administrative director in the exchange of information for improvement of court management and operations.
9. Keeping informed and disseminating information throughout the district on all matters which can aid efficiency and effectiveness of court management and operations.
10. Representing the chief justice in community, civic and professional affairs when requested and improving communications between the courts and the public served.

11. Reviewing and recommending budgets for the district.

12. Recommending orderly plans of vacations, and for attendance at conferences, schools and training programs by judges and other court personnel.

13. Supervising the administrative business of all courts and personnel within the judicial district.

In the performance of these duties each presiding judge must work closely with the chief justice, the administrative director of courts, other presiding judges, and the area court administrator.

In addition to this general noting of duties, the committee has considered more specific statements of responsibilities with relation to the principle functional areas of court administration. These statements address specifically identified problem areas and are not intended as comprehensive or complete definitions of duties and responsibilities in the functional areas involved.

1. Budget.

- a. The presiding judge should have responsibility for planning the budget of all courts in the district for submission to the administrative director of courts.
- b. There should be budget conferences with the administrative director and the presiding judges at least twice yearly: in the fall for final preparation of the statewide court budget, and in the spring for allocation of the funds appropriated by the legislature.

2. Personnel.

- a. The presiding judges should have authority for employment of personnel, subject to

statewide policies for hiring.

- b. Personnel evaluation procedures should be revised to be made more meaningful toward performance improvement.
- c. Establishment of new positions and re-grading of existing positions within districts should be done only upon recommendation or approval of presiding judges, unless determined by statewide policy.

3. Capital Improvements.

- a. Presiding judges should be consulted for the planning of all capital improvements in the district.

4. Calendaring.

- a. Calendar control should be established and implemented by the presiding judge consistent with statewide policies developed by the administrative director.

5. Magistrate Supervisor.

- a. The appointment of magistrates should remain with the presiding judges.
- b. The magistrate supervisor should function as a statewide staff assistant under the control of the administrative director and should consult with the presiding judges in activities within a judicial district.

6. Legislation.

- a. Presiding judges should solicit ideas for legislative changes from all judges within the district for submission to the chief justice. However, there

should be central responsibility in the chief justice, through the administrative director, for expression of legislative changes on behalf of the court system. Judges should be free to state individual ideas of dissent and to state reasons for them.

7. Public Relations.

- a. Statements to the press on behalf of the courts of a district should be made only by the presiding judge, or his designee, after consultation with other judges of the district and, where appropriate, with approval of the administrative director and the chief justice.
- b. Presiding judges should take initiative to foster on-going public relations programs.
- c. Presiding judges should foster good relations with local bar organizations and establish liaison committees with them to carry out this policy.

8. Channels of Communication.

- a. All communications on administrative matters initiated by any judge of the trial courts or their staff personnel should be directed to the respective presiding judges, or the area court administrator for the district involved, except as otherwise fixed by express direction of the administrative director of courts.
- b. Presiding judges should refer to the administrative director those administrative problems that cannot be resolved at the district level.

- c. Any judge or magistrate may appeal in writing to the chief justice, or the administrative director where applicable, when the judge believes the presiding judge of the district has made an unsatisfactory response to a stated problem.

There are other functional areas in which more detailed definitions of functions and duties should be helpful. In the course of preparation of this report there has been close and harmonious cooperation by and with the administrative director, and this relationship should be fostered in all administrative operations of the court system. Quarterly meetings between the presiding judges and the administrative director are an excellent means of resolving problems of communication and of court administration in general. These meetings do not obviate the need for further definition of the respective roles of the administrative director and the presiding judges, but they serve to provide cooperative resolution of pending problems. The meetings should be continued as an important technique for resolving problems of operating relationships between the state administrative office and the presiding judges. Continuing work should be done by the presiding judges and the administrative director in order to accomplish more detailed statements of relative responsibilities in the many facets of the operations of the courts. The recommendations of this report should provide solid foundations for the improvement of these relations and of judicial administration throughout the Alaska Court System.

Respectfully submitted,

William H. Anderson *Arthur H. Saunders, II*
Werrante Taylor *J. DeLoach*
James B. Stewart
Chairman

Dated: May 15, 1974.

APPENDIX

Contained in this appendix are copies of all comments and criticisms received from judges by the committee on its preliminary report dated January 11, 1974. Several of the responses generally endorse the conclusions of the report and require no further comment. On those that state criticisms, the committee has made brief comments in reply in this appendix in order to indicate either (1) action taken to amend the report to meet the criticism where the committee believed it was warranted, or (2) the counter view of the committee where disagreement with the criticism was determined.

1. Response from Judge Hanson. The committee has agreed that there is no necessity for a separate chief judge at any location. Local needs may be met through appointment by the presiding judge of individual judges to supervise particular functional areas that may require special consideration in a multi-judge court. Accordingly, the reference to a chief judge was stricken in the final report.
2. Response from Judge Carlson. The committee concurred in the comment with respect to magistrates and amended the statement in the final report. With respect to the relationship of area administrators to the administrative director, the committee stands by the statements as made in the final report.
3. Response from Judge Robson. Paragraphs I and II require no comment, as they supported the

report of the committee. With respect to Paragraph III, the committee notes that the power of the chief justice to appoint the presiding judges is inherent in the constitutional authority and statutory power of the chief justice, and no changes in these are believed needed. We do not agree that the type calendar system adopted in any court location is mandated by the conclusions of the report or that local policy decisions are eliminated. With respect to the so-called "gag rule" referred to in Paragraph IV, it was not the intention of the committee to prevent any judge whatever from expressing publicly or privately his or her personal views on the justice system or its operation. The committee has sought simply to clarify the authority and responsibility to speak officially on behalf of the court system in matters of public information. With regard to internal management, the committee has added language in the final report to make clear that any judge should be free to communicate directly with the administrative director or the chief justice concerning problems in the operation of the courts, especially when not satisfied with the actions of the presiding judge of the district. We have recommended, however, that such communications should be in writing, and copies should be provided to the presiding judge.

4. Response from Judge Schulz. The committee believed that this response required no

comment.

5. Response from Judge Keene. The committee believed that this response required no comment.
6. Response from Judge Brewer. The committee disagrees with the position that its determinations lacked "input", for Judge Brewer's letter, and those of the other judges who commented, provided the opportunity limited only by the extent to which each desired to offer comment. The committee was not charged with concern for consolidation of the trial courts, and the recommendations of its report do not in any sense suggest the elimination of district court judges.
7. Response from Judge Miller. Concerning the suggestion that the committee report recommends a "gag rule", we believe this criticism has been answered in the modification made in the final report and in the comments above on the response by Judge Robson. The committee disagrees that the report is "geared toward central administrators", and we feel that on the contrary it tends to return more administrative responsibility to the several districts and allows more participation at the district level in administrative decision-making for the court system. The committee also disagrees with the comment that its recommendations will consume the time of the presiding judge in administration. We believe that establishment of the positions of area administrators will in fact tend to free the presiding

judges of administrative details that are now unduly time-consuming and will permit more time for judicial functioning.

8. Response from Judge Tyner. The criticism of Judge Tyner related to appointment of a chief judge has been answered previously in that the final report has stricken this express provision. However, appointment of judges, in multi-judge courts, to supervise specific functional areas should provide flexibility for presiding judges appropriately to delegate supervisory responsibilities.