Surgeons or Scribes? The Role of United States Court of Appeals Law Clerks in "Appellate Triage"

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SURGEONS OR SCRIBES?
THE ROLE OF UNITED STATES COURT
OF APPEALS LAW CLERKS IN
“APPELLATE TRIAGE”

TODD C. PEPPERS
MICHIEAL W. GILES
BRIDGET TAINER-PARKINS

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I. INTRODUCTION

One of the most unique aspects of the Judicial Assistants or Junior Judges: The Hiring, Utilization, and Influence of Law Clerks Symposium held at Marquette University Law School in April of 2014 was that the panelists did not focus their comments solely on United States Supreme Court law clerks—a common practice found in the current literature on law clerks. Instead, symposium members discussed issues of selection,
utilization, and influence regarding all types of law clerks—from lower federal court clerks and state court clerks to clerks on the Canadian Supreme Court.² This conversation included a trio of judges—
Minnesota Supreme Court Justice David Stras; Judge Diane Sykes, U.S. Court of Appeals for the Seventh Circuit; and Judge James A. Wynn, Jr., U.S. Court of Appeals for the Fourth Circuit—who shared with the audience their own clerkship hiring and employment practices.3

In keeping with the broader scope of the Symposium, we offer the first comprehensive examination of the criteria used by United States courts of appeals judges to select their law clerks from the hundreds of applications that they receive each year as well as of the job duties assigned to their law clerks.4 The incentives for courts of appeals judges to hire qualified law clerks have never been higher. It has been thoroughly documented that the work of the federal courts of appeals has grown at a steadily increasing, if not alarming, rate.5 Professors Richman and Reynolds note that between 1960 and 2010 “the circuit courts’ caseload . . . increased by 1436 percent, a more than fourteenfold increase.”6 Given the fact that the number of active federal courts of appeals judgeships has barely doubled in the same time period, today a court of appeals judge faces a caseload 600 percent larger than his predecessors in 1960.7

Richman and Reynolds write that federal courts of appeals judges have come up with a variety of different approaches (which they call “Appellate Triage”) to attack their bulging caseloads, from writing fewer published opinions to reducing the number of cases scheduled for oral argument.8 Of relevance to this Essay, the authors observe that federal courts of appeals judges have also turned to an increasing number of law clerks (or “para-judges”); while courts of appeals judges in the 1940s and 1950s could only hire a single law clerk per chambers, the number rose to two in 1969 and three in 1979.9 At present, courts of appeals judges are authorized to hire four law clerks per chambers (if they forgo a second secretarial position),10 and these staff assistants are

3. Panel Discussion, supra note 2.
4. See, e.g., Aldisert et al., supra note 1, at 837 (discussing large number of clerkship applications).
5. The definitive work on this topic is WILLIAM M. RICHMAN & WILLIAM L. REYNOLDS, INJUSTICE ON APPEAL: THE UNITED STATES COURTS OF APPEALS IN CRISIS (2013).
6. Id. at 3 (emphasis omitted).
7. Id. at 5–6.
8. Id. at 6–7.
9. Id. at 97–98.
10. Id. at 97–98.
supplemented by approximately 500 staff attorneys spread across the federal appellate courts. Richman and Reynolds lament the fact that “[t]here is little quantitative evidence on what the clerks do,” a hole in the judicial institutions literature that we intend to fill.

Using original survey data, we explore how federal courts of appeals judges select and use their law clerks—a question that we answered in an earlier article about federal district court clerks. As with that first article, we do not intend to tackle such normative issues as whether courts of appeals law clerks possess too much influence over the judicial process or whether the selection criteria used by these judges is appropriate. What we will present, however, is descriptive data on the criteria that courts of appeals judges use to pick their law clerks as well as the tasks assigned to those clerks. We believe that our findings, namely, that courts of appeals judges delegate substantial job duties to their clerks, should serve as the springboard for a future debate over the wisdom of such delegation.

II. Survey Data and Analysis

In the summer of 2013, a cover letter, a survey, and a self-addressed, stamped envelope were mailed to all active and senior courts of appeals judges (approximately 257 judges) regarding their law clerk selection and utilization practices. In all, fifty-nine completed surveys were returned for a response rate of approximately twenty-three percent. Given the anonymous nature of the survey, follow-up surveys could not be sent to those judges who did not complete the original survey.

Historically, the norm has been for courts of appeals judges to select recently graduated law students to work in their chambers as law clerks for a limited period of time—typically one to two years. These “short term” clerks use the clerkship for training and experience as well as a springboard to positions in the academy, government, and private practice. Of the judges surveyed in this project, ninety-eight percent stated that they had hired law clerks for a one-year term. While it has been suggested that more federal judges are reducing the costs of

11. Id. at 112.
12. Id. at 99.
13. Peppers, Giles & Tainer-Parkins, supra note 1, at 625, 637–38.
14. See infra Appendix.
15. See Norris, supra note 1, at 765.
16. See id. at 766.
training new clerks by turning to long-term or “permanent” clerks, we found little evidence to support such claims. While forty percent of the courts of appeals judges responding to our survey stated that they had hired permanent clerks, the majority of those (65%) had only hired one, and only one judge had hired as many as four permanent clerks.

As for the criteria used to select short-term clerks, the survey offered the respondents a list of factors and requested that the judges rank what they thought were the most relevant in selecting their clerks. These factors include the following: law school class rank, quality of law school attended, quality of undergraduate institution attended, law review membership, participation in moot court, work experience, letters of recommendation, writing sample, applicant’s political ideology, and applicant’s personality. The results of that ranking are found in Table 1.

The data collected from the respondents reflect the value that the judges place on “performance based” selection criteria. Not surprisingly, law school class rank is the most important factor in the selection process. Over ninety percent of the respondents stated that they considered law school rank, with sixty-six percent of those respondents reporting that it was either the most important or second most important factor that they took into account.

Placing an applicant’s class rank in the context of the quality of the law school attended was an important consideration for the respondents. Ninety-three percent of the judges reported that they took into account the quality of a candidate’s law school in selecting clerks, and fifty-eight percent of those judges stated that they ranked it first or second in importance. Given the fact that the majority of courts of appeals judges rely on their clerks to draft opinions, it is logical to assume that these judges also place a premium on law clerks with research and writing skills—this assumption is borne out by the data. Over eighty percent of the respondents stated that they look for applicants with law review membership, and roughly thirty-six percent consider it first or second in importance. Moreover, approximately seventy-four percent of the judges responded that they weigh the quality of the writing sample—with seventeen percent ranking it as first or second in importance. In

17. Peppers, Giles & Tainer-Parkins, supra note 1, at 633.
18. See infra Appendix, Question 2.
19. See infra Table 1.
20. See infra note 35 and accompanying text.
short, academic success at a good law school, combined with law review membership (our “performance factors”), rank amongst the most important selection criteria for courts of appeals judges. These findings mirror the responses given by federal district court judges in our earlier research.\textsuperscript{21}

Court of Appeals Judge Patricia M. Wald has written that

\begin{quote}
[t]he judge-clerk relationship is the most intense and mutually dependent one [she] know[s] of outside of marriage, parenthood, or a love affair. . . . Judges talk about it being a “good” or “bad” year, not just in terms of results they have achieved, or in the importance of matters before the court, but also in terms of teamwork and the dynamics of work within their chambers.\textsuperscript{22}
\end{quote}

Her observation is borne out in the value that judges place on the applicant’s personality. Our findings indicate that candidates are not selected merely on their academic achievements in law school, but that considerable weight is also given to an applicant’s personality. Eighty-two percent of the respondents reported that a candidate’s personality is relevant to their decision-making process, with twenty-five percent of the judges ranking it as first or second in importance; in other words, the respondents consider it almost as important as law review membership.\textsuperscript{23} We found similar emphasis placed on personality in our earlier work on the selection criteria used by federal district court judges.\textsuperscript{24}

Of course, it is likely that an applicant’s personality is not assessed by a judge until he or she interviews a candidate (although considerations of personality may be addressed in letters of recommendation). If judges, however, do not have direct or indirect measures of an applicant’s personality until the interview, then an argument could be made that class rank, quality of law school, and writing skills may be the most important criteria in determining which applicants will be given interviews, and the importance of personality (or “chamber fit”) is more critical when the judge makes his or her final selections for the short list of candidates. Accordingly, the wise candidate should recognize that a glittering résumé may not be sufficient in seizing the brass ring of a federal clerkship.

When we surveyed federal district court judges, we were surprised to

\begin{flushleft}
\ \textsuperscript{21} Peppers, Giles & Tainer-Parkins, supra note 1, at 633–34.
\textsuperscript{22} Wald, supra note 1, at 153.
\textsuperscript{23} \textit{See infra} Table 1.
\textsuperscript{24} Peppers, Giles & Tainer-Parkins, supra note 1, at 633–34.
\end{flushleft}
find that more emphasis was not placed on the letters of recommendation written on behalf of clerkship candidates. While sixty-nine percent of the judges in that early survey reported that they considered letters of recommendation, only eleven percent of them ranked the letters as the first or second factor of importance. Thus, we were not startled to learn that courts of appeals judges placed similar emphasis on such letters. Seventy percent of the respondents indicated that they considered letters of recommendation when picking their clerks, but, like their lower court brethren, they did not place considerable weight on the letters (only seventeen percent of those appellate court judges who considered letters ranked them as first or second in importance). These findings should not be interpreted as indicating that clerkship candidates should not solicit well-written letters of recommendation from law school faculty members, but rather that candidates should appreciate that the letter of recommendation is of secondary importance in the selection process when compared to performance factors and chambers fit.

In recent years, it has been argued that a clerkship applicant’s ideology is an important factor considered by Supreme Court Justices, and, therefore, also by the feeder court judges who are supplying qualified applicants to the Supreme Court. While we did not find political ideology to be an important factor in selecting district court law clerks, we included ideology in our list of selection criteria contained in the present survey, given the role that some courts of appeals judges play in supplying law clerks to the Supreme Court. The courts of appeals judges who responded to the survey, however, stated that a candidate’s political ideology was the least important factor in picking law clerks. This finding ran counter to our expectations, and led us to speculate about the level of judicial candor reflected in our completed surveys. Simply put, we believe that there is too much ideological matching between courts of appeals judges and their law clerks to be the result of chance or applicants applying to like-minded jurists.

Only twenty-three of the respondents reported that they hired

25. Id. at 634.
26. See infra Table 1.
28. Peppers, Giles & Tainer-Parkins, supra note 1, at 634.
29. See infra Table 1.
professional clerks; thus, any information gathered from the surveys regarding variations in selection criteria for long-term clerks (as opposed to short-term clerks) must be treated with caution. Of those courts of appeals judges who hired professional clerks, the greatest emphasis was placed on prior work experience (fifty-seven percent of respondents ranked work experience as important, with almost half of those respondents ranking it as first or second in importance), the applicant’s writing sample, and personality. Performance factors carried less weight for the judges selecting professional clerks; law school rank and law review experience were rated as first or second in importance by seventeen and thirteen percent of the judges, respectively. There was no indication that political ideology played any role in the selection of long-term clerks.

Given the high work load in the courts of appeals and the increasing number of appellate law clerks, we were very curious to see what job duties are delegated to law clerks. Modern Supreme Court law clerks are involved in all aspects of processing the business of the High Court, from preparing memoranda regarding petitions for certiorari to drafting bench memos and opinions, and our previous survey of federal district court judges confirmed that they relied heavily on their clerks. Accordingly, we wanted to see what delegation practices were followed by court of appeals judges. After consulting with several former courts of appeals law clerks regarding their clerkships, we crafted a survey question that listed a wide range of possible job duties and asked the respondents to state which duties were delegated to their law clerks. The duties included the following: performing legal research, maintaining chamber files, preparing bench memoranda (memos written prior to oral argument), drafting opinions, meeting with the judge and fellow law clerks to discuss opinion drafting, reviewing drafts prepared by other law clerks or chambers, and preparing non-legal materials (such as helping write speeches).

30. See supra notes 5–10 and accompanying text.
32. Peppers, Giles & Tainer-Parkins, supra note 1, at 635–36.
33. See infra Appendix, Question 13.
Our expectation that appellate court clerks would be involved in all aspects of chambers work was supported by the data. Almost all respondents stated they required clerks to prepare opinion drafts, and that they individually met with the clerks regarding their specific opinion assignments.34 Less than half of the judges, however, reported that they met with their entire staff of law clerks to discuss a specific opinion draft.

The law clerk’s role in opinion writing extends to (1) opinions drafted by other law clerks within the judge’s chambers, and (2) opinions circulated by other chambers.35 Eighty-five percent of the judges reported that they required their clerks to review the opinions drafted in other chambers, while sixty-nine percent stated that they asked their clerks to review opinions drafted within their own chambers. Thus, as at the Supreme Court, courts of appeals law clerks have taken on a large role in the drafting and vetting of court opinions. Given these findings, those who study and model the decision making process in the federal appellate courts need to consider the role and impact of law clerk involvement in the resolution of appeals.

We were also curious about judicial attitudes toward the use of law clerks, and we asked the respondents (1) if they agreed with the statement that “federal appeals court judges are too dependent upon their law clerks,” and (2) how many law clerks the respondents believed should be allocated to courts of appeals judges.36 Of the forty-five respondents who answered the first question, only seventeen percent agreed with the statement. The majority of the judges also stated that they thought the current number of clerks—four—was adequate given the present workload of the courts. If there is concern about judges delegating too much responsibility to law clerks, it does not appear to be shared by our respondents.

In the last two decades, a debate over the duty of confidentiality owed by law clerks has emerged37—sparked, in part, by a book, written

34. See infra Table 2.
35. See infra Table 2.
36. See infra Appendix, Questions 23 & 24.
by a former law clerk to Supreme Court Justice Harry Blackmun, which arguably violated the Court's confidentiality rules. While an ethical code of conduct for judicial employees, including law clerks for federal district court and courts of appeals judges, has been adopted by the Judicial Conference of the United States, and this code of conduct includes a discussion of the duty of confidentiality, we were still interested to see if courts of appeals judges met with their clerks to discuss the duty of confidentiality. Of the judges surveyed, eighty-five percent stated that they have a “formal meeting” with their law clerks to go over rules of confidentiality. The majority of the courts of appeals judges (fifty percent) who discuss confidentiality rules tell their law clerks that everything that takes place in chambers is confidential. Twenty-one percent reported adopting a less sweeping standard, namely, “don’t discuss cases outside of chambers,” while eighteen percent of the respondents simply indicated that they followed “standard” or “model” rules regarding law clerk confidentiality.

Social scientists who study decision making at the United States Supreme Court often discuss the “clerk network,” namely, the discussions that take place amongst law clerks from different chambers, which allows the justices to gather intelligence about the attitudes of their fellow justices and thereby more efficiently form coalitions. Of


40. Canon 3(D) states:

A judicial employee should avoid making public comment on the merits of a pending or impending action and should require similar restraint by personnel subject to the judicial employee's direction and control. This proscription does not extend to public statements made in the course of official duties or to the explanation of court procedures. A judicial employee should never disclose any confidential information received in the course of official duties except as required in the performance of such duties, nor should a judicial employee employ such information for personal gain. A former judicial employee should observe the same restrictions on disclosure of confidential information that apply to a current judicial employee, except as modified by the appointing authority.

Id.

41. WARD & WEIDEN, supra note 31, at 159–70. For further discussion of the Supreme Court law clerk, see Randall P. Bezanson, Good Old Number Three: Harry Blackmun and His Clerks, in IN CHAMBERS, supra note 31, at 326, 334; Todd C. Peppers & Beth See Driver,
course, a clerk network at the court of appeals level is more difficult for the simple fact that the three judges involved in a specific case—and their law clerks—could be in different cities, courthouses, and states. Nevertheless, if the majority of courts of appeals judges have truly adopted the rule that their clerks cannot discuss pending appeals outside of individual chambers, it calls into question whether clerk networks efficiently operate at the court of appeals level.

Law clerk firings, while rare, have been known to occur in the history of the Supreme Court, and we were curious if courts of appeals judges had fired clerks and, if so, why. Of the fifty-nine judges surveyed, approximately fourteen percent indicated that they had terminated a law clerk’s employment. The judges indicated that the firings stemmed from “poor work ethic/poor work product” (thirty-eight percent of all firings) as well as personality conflict and incompatibility (thirteen percent). None of the responding judges, however, indicated that a clerk had been dismissed due to a violation of their rules of confidentiality.

III. CONCLUSION

While the lucky few who have clerked at the United States Supreme Court have caught the attention of legal scholars and social scientists, less time has been spent studying courts of appeals law clerks. We hope that the empirical data presented in this Essay will convince judicial scholars that courts of appeals law clerks are worthy of investigation. Like their Supreme Court peers, courts of appeals law clerks are assigned a wide range of substantive tasks—including the drafting of appellate opinions. Yet courts of appeals law clerks are involved in thousands of more cases than Supreme Court law clerks, and


42. Justice James Clark McReynolds, however, accounts for the vast majority of known law clerk firings, which had to do less with the quality of his law clerks and more to do with Justice McReynolds’s nasty disposition. See Peppers, supra note 31, at 116; see generally The Forgotten Memoir of John Knox: A Year in the Life of a Supreme Court Law Clerk in FDR’s Washington, at xix–xxi (Dennis J. Hutchinson & David J. Garrow eds., 2002). While Justice William O. Douglas also fired a number of clerks, he never followed through on the firings and the clerks—usually shaken—would remain in chambers. Bruce Allen Murphy, Fifty-Two Weeks of Boot Camp, in IN CHAMBERS, supra note 31, at 179, 187–89.

43. See supra note 1 and accompanying text.
the courts of appeals are the courts of final resort for the vast majority of those cases. 44 While there is no evidence that courts of appeals judges have delegated decision-making authority to their clerks in terms of the winners and losers of appeals, substantial influence lies in how these law clerks shape legal doctrine and craft judicial opinions. In other words, they are essential players in the appellate triage performed in courts of appeals across the country and, therefore, must be incorporated in future studies on appellate court decision making.

Table 1
Factors Considered by Courts of Appeals Judges in Selecting Law Clerks

<table>
<thead>
<tr>
<th>Factor</th>
<th>Percent of Respondents Ranking the Factor</th>
<th>Percent of Respondents Ranking the Factor as 1 or 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law School Class Rank</td>
<td>91.2</td>
<td>66.1</td>
</tr>
<tr>
<td>Personality</td>
<td>82.5</td>
<td>25.4</td>
</tr>
<tr>
<td>Law Review</td>
<td>82.5</td>
<td>35.6</td>
</tr>
<tr>
<td>Work Experience</td>
<td>66.7</td>
<td>13.6</td>
</tr>
<tr>
<td>Writing Sample</td>
<td>73.7</td>
<td>17.0</td>
</tr>
<tr>
<td>Quality of Law School Attended</td>
<td>93.0</td>
<td>57.6</td>
</tr>
<tr>
<td>Quality of Undergraduate School Attended</td>
<td>43.9</td>
<td>5.1</td>
</tr>
<tr>
<td>Participation in Moot Court</td>
<td>31.6</td>
<td>1.7</td>
</tr>
<tr>
<td>Letters of Recommendation</td>
<td>70.2</td>
<td>17.0</td>
</tr>
<tr>
<td>Applicant’s Political Ideology</td>
<td>15.8</td>
<td>1.7</td>
</tr>
<tr>
<td>N=</td>
<td>57</td>
<td>59</td>
</tr>
</tbody>
</table>
### Table 2
Duties Assigned to Courts of Appeals Law Clerks

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Frequency of Task Mentioned (valid n=59)</th>
<th>Percent Mentioning Task</th>
</tr>
</thead>
<tbody>
<tr>
<td>13A – legal research</td>
<td>58</td>
<td>98.3</td>
</tr>
<tr>
<td>13B – prepare bench memos</td>
<td>52</td>
<td>88.1</td>
</tr>
<tr>
<td>13C – meet with judge to discuss drafting opinion</td>
<td>55</td>
<td>93.2</td>
</tr>
<tr>
<td>13D – review drafts prepared by other in-chamber clerks</td>
<td>41</td>
<td>69.5</td>
</tr>
<tr>
<td>13E – meet with clerks to discuss case</td>
<td>48</td>
<td>81.4</td>
</tr>
<tr>
<td>13F – prepare non-legal materials, like speeches</td>
<td>17</td>
<td>29.3</td>
</tr>
<tr>
<td>13G – maintain chamber files</td>
<td>10</td>
<td>17.0</td>
</tr>
<tr>
<td>13H – draft opinions</td>
<td>56</td>
<td>94.9</td>
</tr>
<tr>
<td>13I – meet with judge &amp; other clerks to discuss drafting opinion</td>
<td>26</td>
<td>44.8</td>
</tr>
<tr>
<td>13J – review draft opinions prepared by other chambers</td>
<td>50</td>
<td>84.8</td>
</tr>
<tr>
<td>13K – meet with clerks to discuss drafting/editing opinion</td>
<td>27</td>
<td>45.8</td>
</tr>
<tr>
<td>13L – prepare questions for oral argument</td>
<td>26</td>
<td>44.1</td>
</tr>
</tbody>
</table>
APPENDIX

Survey on Law Clerks Selection and Utilization Practices in the United States Courts of Appeals

Please note: the survey questions below distinguish between two different types of law clerks: (1) the “short-term” law clerk, who has just graduated from law school and plans on clerking for no more than 1–2 years prior to taking a job in private practice or academia, and (2) the “professional” law clerk, who often has prior legal experience and plans to be a long-term or permanent part of your staff.

1. Have you ever hired recently graduated law school students to serve as short-term law clerks (as opposed to professional clerks)?
   _____ Yes      _____ No

(If your answer is no, then please skip to Question No. 6)

2. If your answer to Question No. 1 is yes, then please rank the following factors by their importance to your hiring decision. Rank the most important factor “1”, the second most important factor “2”, etc. and leave blank those factors that you do not consider.

   _____ Law school class rank  _____ Quality of law school attended
   _____ Personality          _____ Quality of undergraduate institution
   _____ Law review          _____ Participation in moot court
   _____ Work experience     _____ Letters of recommendation
   _____ Writing sample      _____ Applicant’s political ideology
3. Are there additional factors that you consider that are not listed above? If yes, then please list below and indicate their importance to your decision:

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

4. Do you typically hire recently graduated law school students for a one or two year clerkship?
   
   _____ One year   _____ Two year   _____ Other

5. Regarding your answer to Question No. 4, what factors influence the length of clerkship that you offer?

   ________________________________________________________________
   ________________________________________________________________

6. Have you also hired “professional” law clerks (namely, attorneys who consider the position to be a long-term or permanent employment position) to work in your chambers?
   
   _____ Yes   _____ No

7. If your answer to Question No. 6 is yes, then please rank the following factors by their importance to your hiring decision. Rank the most important factor “1”, the second most important factor “2”, etc. and leave blank those factors that you do not consider.

   _____ Law school class rank   _____ Quality of law school attended
   _____ Personality   _____ Quality of undergraduate institution
   _____ Law review   _____ Participation in moot court
   _____ Work experience   _____ Letters of recommendation
   _____ Writing sample   _____ Applicant’s political ideology
8. Are there additional factors that you consider in selecting professional clerks that are not listed above? If yes, then please list below and indicate their importance to your decision:

______________________________________________________________

______________________________________________________________

______________________________________________________________

9. If you have hired both recently-graduated, short-term law clerks and professional law clerks, then which type of clerk do you prefer to hire and why?

______________________________________________________________

______________________________________________________________

______________________________________________________________

10. During your tenure on the bench, approximately how many short-term law clerks versus professional law clerks have you hired? (indicate the number of each below)

_____ Short-term clerks   _____ Professional clerks

11. At the start of the clerkship, do you have a formal discussion with your law clerks as to their duty of confidentiality?

_____ Yes   _____ No

12. If your answer to Question No. 11 is yes, then what are the basic requirements of that duty of confidentiality?

______________________________________________________________

______________________________________________________________

______________________________________________________________
13. Which of the following job duties do your law clerks perform? **Check as many as apply.**

- [ ] Legal research  
- [ ] Maintain chamber files  
- [ ] Prepare bench memos  
- [ ] Draft opinions  
- [ ] Meet with you to discuss drafting of opinion  
- [ ] Meet with you **AND** fellow clerks to discussing drafting of opinion  
- [ ] Review drafts prepared by your other clerks  
- [ ] Review drafts prepared by other chambers  
- [ ] Meet with clerks to discuss cases  
- [ ] Meet with all clerks to discuss opinion drafting/editing  
- [ ] Prepare non-legal materials, such as speeches  
- [ ] Have clerks prepare questions for oral argument

14. Are there other law clerk job duties that are not listed above? If yes, then please list below:

- __________________________________________________________
- __________________________________________________________
- __________________________________________________________

15. If you have employed both short-term and professional clerks, then do their job duties vary?

- [ ] Yes  
- [ ] No  
- [ ] Not applicable

16. Have you ever fired a law clerk?

- [ ] Yes  
- [ ] No
17. If your answer to Question No. 16 is yes, then please explain why.

______________________________________________________________

______________________________________________________________

______________________________________________________________

18. Have your selection and employment practices changed over time?

_____ Yes      _____ No

19. If your answer to Question No. 18 is yes, then how and why have your employment practices changed over time?

______________________________________________________________

______________________________________________________________

______________________________________________________________

20. Do you ever rely upon staff attorneys (attorneys located in a central office and available to all judges)?

_____ Yes      _____ No

21. If your answer to question No. 20 is yes, then under what circumstances do you use staff attorneys rather than your own law clerks?

______________________________________________________________

______________________________________________________________

______________________________________________________________

22. How important do you think it is for judges to serve as mentors to their law clerks?

______________________________________________________________

______________________________________________________________

______________________________________________________________
23. Some have suggested that federal appeals court judges are too dependent upon their law clerks. Do you agree with that assessment?

_____ Yes   _____ No   _____ Don’t know

24. Given the current workload of the federal judiciary, how many law clerks do you believe that federal court of appeals judges should be allocated per year?

_____ 0   _____ 1   _____ 2   _____ 3   _____ 4   _____ 5   _____ 6

25. How many years have you been on the federal bench?

_________________________________________________________________

26. Did you ever work as a law clerk for a federal judge?

_____ Yes   _____ No

27. Do your law clerks hold routine reunions?

_____ Yes   _____ No