

**MINUTES OF THE  
CITY OF GLENDALE  
JUDICIAL SELECTION ADVISORY BOARD**

**WEDNESDAY, MAY 6, 2015**

**Municipal Complex  
5850 West Glendale Avenue  
6:00 p.m., Room B-3**

MEMBERS PRESENT: Judge Randall Warner, Chair  
Christina Rubalcava, Vice Chair  
Justin Beresky, Member  
Jo Ann Caufield, Member  
Justice Ann Scott Timmer, Member  
Dr. Frank Sisti, Member  
Judge Elizabeth Finn, Non-Voting Member

STAFF PRESENT: Jim Brown, HR & Risk Management Director  
Katie Douglas, JSAB Staff Representative  
Chris Phelps, Court Administrator

CALL TO ORDER

Chair Judge Randall Warner called the meeting to order at 6:01 p.m.

APPROVAL OF MINUTES FROM JANUARY 29, 2015 MEETING

Board Member Justin Beresky moved to approve the minutes as presented and Board Member Dr. Frank Sisti seconded the motion. It was voted unanimously to approve the Minutes as presented.

OATH OF BOARD VICE CHAIR CHRISTINA RUBALCAVA

Vice Chair Christina Rubalcava, who became JSAB Chair effective January 27, 2015, took her oath at this time.

OATH OF BOARD MEMBER JUSTIN BERESKY

Board Member Justin Beresky, who was reappointed to serve his first three-year term on April 28, 2015, took his oath at this time.

INTRODUCTION OF JUDICIAL SURVEY PROVIDER JIM RIGGS OF RESEARCH  
& INFORMATION SPECIALISTS (RIS), INC.

Jim Riggs, of RIS, Inc. attended the meeting at the invitation of the Board. Chair Judge Randall Warner stated Mr. Riggs was scheduled to attend the meeting after questions were raised regarding the survey process at the previous JSAB meeting of January 29, 2015. He invited Mr. Riggs to introduce himself to the Board. Mr. Riggs did so, stating he was one of the founding members of RIS, Inc. dating back to 1986. He stated the company performed survey work for the Supreme Court Judicial Performance Review as well as the cities of Mesa, Scottsdale and the State of Tennessee.

Jim Riggs explained the survey process. He stated RIS works with the City to develop items that go onto the survey to decide who should get surveyed. They also take care of distribution of surveys, compile mailing lists, try to ensure the appropriate people get the appropriate survey, monitor responses when they come in, perform all data entry, transcribe confidential comments and produce the reports.

Judge Warner stated a few years ago some of the board members went through a process revising the questions for the Presiding City Judge survey. He stated his recollection was the initial questions that had been used up to that point for the surveys came from RIS.

Mr. Riggs confirmed this. He stated what RIS had done for the cities was adapt the instruments that they developed with the Commission on Judicial Performance so they align pretty closely to those asked of people who go to Superior Court and the Appellate Court. He also stated the cities of Mesa and Scottsdale have made a few changes to their survey forms as well. He stated changes were made most extensively on the questions for Glendale's Judge Finn on the Presiding Judge forms.

Mr. Riggs then referred the board to the document he provided them which showed a breakdown of who received surveys for three valley cities including Glendale, Mesa, and Scottsdale. The table showed survey question recipients for both the Associate Judges and Presiding Judges. He stated Glendale is a special case because Glendale is the only City for whom they provide a separate Presiding City Judge report. He stated they also send questions to people Judge Finn works with on boards and commission which is a substantial list.

#### DISCUSSION OF JUDICIAL SAMPLING AND SURVEY PROCESS

Judge Warner stated the prompting event for this meeting was a series of questions and concerns raised about the distribution of surveys. He stated he is aware there is a method that is prescribed in the rules for this board, which he had read earlier that day. He asked Mr. Riggs to walk him through how he gets the names and addresses for the people he sends surveys to and then what he does after that to get them surveyed, process the responses and what kind of response rates he gets.

Mr. Riggs stated the Court staff compiles the lists which he believed came from an automated system.

Judge Finn stated there is no automated system.

Mr. Riggs stated Court staff provided him with the names and addresses. He stated this time there were some questions on duplicates. He stated two or three prosecutors did slip through the cracks but they usually catch all those before they send them out. He stated RIS also has systems in place on the back end. He stated when they get the mailing list they're usually identified for a specific judge and specific respondent groups, such as attorneys or jurors. He stated Glendale doesn't survey jurors.

Katie Douglas stated Glendale used to survey jurors, too, but this year we didn't provide a juror's list to RIS.

Judge Finn explained this was because in the past the Superior Court provided us with juror names. But, for the first time, the Superior Court would not provide us with juror names, citing confidentiality. She went on to say the Court handed out individual jury surveys for jurors in Judge Delgado's courtroom. She explained she actually doesn't sit in a courtroom except for Mental Health Court. She stated the Court now has "AgileJury" software and they are just waiting for Maricopa County Superior Court to do what they need to do. She stated for the next reappointment, we should be able to extract specific juror information.

Mr. Riggs stated RIS doesn't verify the sampling pool, because they don't have the means to do so. He stated if the Court tells RIS these are the attorneys that appeared for Judge Delgado during this period of time, then we have to accept that because we don't have any way to prove or disprove that. He went on to say he didn't have any reason to doubt the veracity of the lists anyway. He stated once they receive the lists they screen them to look for missing zip codes and other information or items they are able to correct. Additionally, if RIS has any serious questions about addresses, they'll contact the Court and try to get them to take care of it.

Mr. Riggs stated each respondent group receives a separate survey. He stated some of the items are different. For example, attorneys will be asked about a judge's legal ability and their courtroom management; things that attorneys should be able to answer. For the Court staff, their survey doesn't include questions about legal ability. Their surveys ask about the kind of person the judge is, how he or she runs the courtroom, how they get along with other people, etc. He stated he would answer any questions the Board had about the survey forms. He reiterated the survey questions were based on those used by the Commission on Judicial Performance, which had been vetted and used for a long time.

Mr. Riggs stated once the mailing lists are compiled, they use a commercial mailing service. He stated they upload the forms and the mailing lists to the mailing service provider who handles the printing and mailing of the survey forms for RIS. He stated it helps RIS provide a much faster response time to their customers and it helps keep costs down. RIS tracks surveys that are sent out, including how many they send out of each type, for each judge. He stated sometimes they get surveys back that can't be delivered to the address they were given, so they try to correct it. If there is a forwarding address, RIS will re-submit it and send out a fresh survey.

Mr. Riggs stated he brought some surveys that had been sent out and returned undeliverable. He offered to show them to the board to give them an idea of what the survey respondents see when they receive a survey. The Board did not request to see them.

Mr. Riggs stated when RIS receives the completed surveys, they log receipt of each survey against the master file so they know which ones they got back and which ones they didn't. He showed that the surveys are set up with a tear-away page so that all the mailing information could be separated from the portion of the survey with the questions and responses. He stated RIS knows who the respondents are but they don't care. The tear-away page with the mailing information is shredded and the remaining portion with survey responses goes into data entry. He stated it's hard to use a scanner with this type survey, so they use a double-key entry whereby one person handles the data entry and the second person verifies the first person's work. He went on to say RIS has been audited and their accuracy rate is in excess of 99%. He stated RIS does make errors, but they're few and far between.

Mr. Riggs stated they also transcribe any comments that are related to the Judge's performance. He stated each jurisdiction handles those a little differently. For example, the City of Glendale does not provide them as part of the reappointment packet. After the judge is reappointed or not appointed, Judge Finn receives those comments for City Judges and any comments regarding Judge Finn go to Judge Davis at the Superior Court. Once all data has been entered and verified, they produce the reports using an automated process. They give the reports a final review and send them to HR.

Judge Finn stated six prosecutors were listed twice for both herself and Judge Delgado. She asked Mr. Riggs if he has a way to see if names are listed more than once.

Mr. Riggs stated this was one time when they didn't do their pre-mail edit on that particular list. He stated they received the mailing lists two times from two different sources and he thought they were different lists. He stated the error was his. He stated they scanned each list separately and there were no duplicates on the individual lists but when they combined the lists, that's when the duplicates crept in. He then stated when RIS gets the surveys back, they track who returns the surveys. He stated they go to the master list and check it off. He didn't recall receiving any duplicates back but stated if they did, they would have caught it at that point and only the first response would have counted.

Dr. Sisti asked if they got the two lists from different sources.

Katie Douglas stated the lists all came from the Court, but additional lists did come a little later.

Judge Finn then asked if six prosecutors could have turned in duplicate survey responses.

Mr. Riggs stated they could have turned them in but he only would have counted the first one they received. He stated the list they would have compared the responses to is a list of names in alphabetical order.

Mr. Beresky asked what would happen if they had two different addresses for the same survey respondent. He asked if the duplicate would still be caught.

Mr. Riggs stated he didn't think that had ever happened. He stated if they're listed for the same pool of respondents, such as attorneys, they would probably have checked that because they'd need to determine if it was the same person or two different people.

Mr. Beresky said it sounds like if you're getting the list from two different sources, it's conceivable it could happen, especially with defense attorneys who don't update their information. He stated he knows some attorneys whose information is three offices old.

Mr. Riggs stated if they came across such a situation, he would definitely ask the person who provided the list to confirm whether it's the same person.

Mrs. Rubalcava asked Mr. Riggs to clarify if the prosecutors were sent multiple surveys for the same judge and they completed both surveys, only one response would be counted. He confirmed this was the case.

Judge Warner stated at the Superior Court, for whatever reason, the surveys are handed to people as they are leaving the courtroom. He stated this includes family litigants whose children have been taken away from them. As jurors leave, they hand them a survey. He stated they don't mail them out, probably because of the cost of doing so. He asked Mr. Riggs if he got a sense whether one process is likely to get a better sampling for the survey or if he felt the people who want to speak up complete the survey and the others are just going to throw them in the trash. He asked whether getting a survey handed to them versus getting it in the mailbox would make a difference.

Mr. Riggs stated he thinks the latter would be more effective. He stated he's not sure how they handle it in Superior Courts anymore for attorneys but they usually mail the surveys to the attorneys. He stated he knew they distributed them to the litigants and defendants personally as they left the courtroom. He stated jurors typically are mailed a survey.

Mr. Riggs stated the City of Mesa, at the conclusion of each jury trial, sends a list of the jurors involved to RIS and they create a mailing list for those jurors and send them a survey. He stated jurors are typically the highest percentage of respondents. According to Mr. Riggs, the response rate for attorneys is typically 20 – 25%, defendants: 10 – 12%, Court staff are usually 60-70%, and jurors are usually 60-70% as well. He stated as part of the survey report, RIS includes data including the number of surveys distributed, the number of surveys returned as undeliverable, and the number of completed surveys used to complete the reports.

Judge Finn stated the Court gives surveys to every single juror. She stated those completed survey forms were submitted this time as part of the judicial reappointment packet and the Court provided surveys from 100% of the jurors who were with Judge Delgado.

Katie Douglas stated traditionally Judges Baxter and Burkholder would include their completed jury surveys as part of their reappointment submittals.

Judge Finn stated if we can get this worked out, Maricopa County Superior Court will have actual names of jurors for the next survey.

She read the bylaws and stated the survey respondents were supposed to be people who appeared in front of them. She stated she was not sure that's what was done. She stated she hasn't been involved with the process since the Human Resources Department (HR) took it over, and she had no idea how they came up with the names. She stated for law enforcement, they surveyed two entire police stations. She stated it had nothing to do with whether or not they appeared in front of Judge Delgado. She stated that is one thing the committee probably wants to discuss.

Judge Finn stated the only defendants that could be surveyed for her would be the ones present when she filled in to cover a judge that took a plea. She stated she hasn't tried a jury trial in twelve years. She stated she's about tried four bench trials. She stated she has done some protective order hearings. She then asked the Board if they want statistics for orders of protection hearings, or not. She stated it is not in the bylaws and she thinks the bylaws are a separate part of the discussion. Judge Finn stated her understanding was that a defendant list was sent to RIS for her last survey and that RIS did not include that.

Mr. Riggs stated that is correct, because there was no provision for including defendants in the Presiding Judge survey. He stated they had never received a defendant list for her before.

Judge Finn stated it's not in the bylaws, which is probably why he never received one before. She asked if the two police patrol stations were included.

Mr. Riggs stated he couldn't answer that directly, saying all he knew was that they were given lists of police officers. He stated he had no way of knowing if these people actually appeared in Court or not. He stated if he had case numbers or other relevant information, he could possibly verify that.

Judge Finn stated that's not written in the bylaws and she thinks it's something we just need to visit. She stated after reviewing the bylaws and knowing what was sent, RIS caught the defendants and the double prosecutors, but it doesn't sound as if in terms of law enforcement it was caught. She stated she does have one change that needs to be made to the bylaws.

Mrs. Rubalcava asked where this appeared in the bylaws.

Katie Douglas referred her to pages 10 and 11.

Judge Finn stated the bylaws for the Presiding Judge survey doesn't have defendants or police personnel. She stated there are a number of lists that were generated this time that are listed in the bylaws. She stated she has no caseload except for mental health defendants.

Judge Warner stated he wanted to talk about the significance of the survey. He stated it seems the survey is not a scientific one. He stated we get who we get and you could surmise that some people are more motivated to respond to the survey. If you get a low response, it skews the numbers. He stated his concern was that for people who don't fully understand the process, they may perceive the numbers as a rating of the judge when that's not what they are. Rather, it's a tool for identifying areas of further inquiry. He asked if Mr. Riggs agreed with that and observed Mr. Riggs was nodding in response. Judge Warner stated maybe this is the best there is and there's just not another way that we could do it, short of spending a lot of money.

Mr. Riggs informed Judge Warner that he was right on all counts. He stated it's a scientific approach, but when you talk about the scientific approach, it usually involves random sampling where you have some control over how the sample is selected. In this case, you might call it a convenience sample. He stated the response rates are typically low enough where you're still not talking about a majority of the people you surveyed. He stated to select samples scientifically, it would require a lot more up front work and more intensive follow up, because if you select samples and you base your findings on the samples, then every person in that sample pool is so valuable that you can't let their response go unused. You would have to do everything you possibly can to get a response from every member of the sample.

Dr. Sisti stated the reality of it is, what is it that comes out of the survey that is useful? And how much effort do we want to put into it to then carry forward? He stated after seeing what they did as a board during the reappointment process, he was not sure that the survey really had an impact on the board's decision. He stated the most important function of the survey is "What's it used for and what purpose does it serve?"

Mr. Riggs stated what they're doing is trying to quantify something to give information that they didn't have before about the judge's tendencies. He stated he doesn't know of any board that he has worked with that bases their decisions strictly on the survey results. He also stated he hasn't recommended to anybody that they base their decision strictly on the survey results. But, he stated he does think they have value and they do give some information where the judge's strengths and weaknesses are and how the judge may compare to other judges in a broad sense.

Dr. Sisti stated there are two issues. One is "What does the judge want to do with the survey results?" He stated Judge Delgado spoke to this during his last reappointment interview when he stated he looked at the results and took away messages based on the results. Dr. Sisti stated that's a very worthwhile endeavor. Dr. Sisti compared it to a 360 degree review. He stated the survey also provides insight, but it's not used for the decision per se. He stated it provides a richer decision area that a person could use when they look at the judge and hear what they have to say when they sat down to interview. He also stated he personally felt it's not articulated what this survey can actually provide. He stated it's certainly not intended to be scientific.

Judge Finn stated as she looked at it again, it said prosecutors and defendants were included, but the checklist stated they weren't.

Mr. Riggs stated they were included but they weren't broken out separately, they were all included in one survey pool with the judges.

Judge Finn asked Mr. Riggs if prosecutors, attorneys and judges are all in the same pool, to which Mr. Riggs responded they were.

Judge Finn stated this all came up when a prosecutor said something to Judge Delgado who said something to her and she said something to Katie Douglas. She stated they've never had any questions about the survey ever since she came to Glendale in 2002. She stated this is when she thought the board should revisit whether the bylaws are what the board wants. She stated if the bylaws are what the board wants, she needs to see if there's a way that the Court can make sure that the lawyers who are being queried are actually the lawyers who appeared in front of that judge. She stated that because she hasn't been involved in the process, she doesn't know that those surveyed are lawyers who actually appeared in front of Judge Delgado.

Judge Finn stated the Court uses Aztec software. She also stated she has limitations in being able to extract that survey information. She stated she is not in a position to say how the most recent survey information was derived at this point.

Judge Warner stated what he's hearing is two sets of actual concerns: 1) The Board needs to look at whether the process should be changed; specifically, whether the process of giving names to RIS should be changed to keep it consistent with the bylaws, and 2) the Board need to do a better job of communicating the purpose of the survey results and what they should be used for. He asked the board if there is a different concern other than those two items.

Board Member Rubalcava stated it sounds as though the surveys are not anonymous.

Mr. Riggs stated there is a difference between anonymity and confidentiality. He stated they couldn't distribute the surveys if they don't know who the potential respondents are. He stated RIS maintains their confidentiality and does not disclose who the respondents are to anybody. Unless respondents sign their comments, their names are not included on any report.

Board member Dr. Sisti asked Mr. Riggs if he considered using SurveyMonkey to help preserve the anonymity of the respondents.

Mr. Riggs stated that is a question he had for the board, namely whether they would be interested in going in that direction or not because it would be beneficial in that it could be set up so respondents would be anonymous to RIS.

Judge Finn stated the City of Phoenix uses SurveyMonkey. She also stated the smaller jurisdictions on the west side are also using SurveyMonkey.

Board member Rubalcava referenced Mr. Riggs' statement that the comments from the survey don't go to the board members, but only to Judge Finn or Judge Davis. She asked why that is.

Judge Finn stated that from a historical perspective this board thought that it was not appropriate to consider an anonymous comment because there's no way for a judge to respond to it. However, if a respondent signs their name to a comment, that comment goes forward as part of the survey the board receives.

She further stated they use the anonymous comments as an educational tool for the referenced judge.

Judge Warner stated he agreed with not giving the anonymous comments to the board because one or two comments could stand out just because of what was said and become the focus of the survey rather than the overall results.

Dr. Sisti stated it skews survey results in a direction that is almost always negative.

Board Member Rubalcava stated she felt the board should receive all of the comments, including anonymous comments.

Judge Warner asked how Mr. Riggs would suggest the board articulates and communicates what the surveys are for.

Dr. Sisti stated he would like to see the actual process and the timeline for the reappointment process referenced in the bylaws.

Dr. Sisti also stated Mr. Riggs is doing a masterful job considering how many variables he must put together to create a "whole" out of the parts. He stated he sees two uses for the survey. One is for training and the other is using the survey as one part of the board's decision making process. He also stated comparing across judges is very difficult because each judge is an individual.

Judge Warner asked Judge Finn what she suggests we do to get the process more in line with the bylaws.

Judge Finn stated the problem is in the City of Phoenix they don't have to go to HR because their Court handles the survey. She stated when it was taken from Glendale's Court and assigned to HR, she was excluded from the process. She said she had no idea what information was being sent to HR for the surveys. She stated she thinks she needs to go back and see what kind of information can be extracted from Aztec by inputting a judge's name. Another option is to do random sampling which would be assigned to a Court employee who would do random sampling over time. She stated the board needs to look at the bylaws and see which groups are identified as who should be surveyed and determine whether the board wants those groups to be surveyed.

She stated one change must be made to the bylaws but it is not related to this topic. She stated she first needs to find out what information the Court can extract from their system.

Judge Warner suggested Judge Finn and HR work together to determine whether we can bring the process by which the survey company gets names in line with what's intended by the bylaws. He stated he hasn't heard anybody say what the bylaws require is wrong. He stated assuming the board likes the way the bylaws read, it's just a matter of bringing reality in line with what the bylaws say. He asked HR and Judge Finn to figure it out and come back to the board if there's a change we need to make to the bylaws.

Judge Finn stated the bylaws state attorneys who appear before the Court should be surveyed for the Presiding Judge. She stated a review of the list of attorneys who were provided for the survey included attorneys who hadn't appeared before the Court.

Katie Douglas asked why the Court would provide names of attorneys who hadn't appeared before the Court.

Judge Finn stated it was because Court staff provided the names of attorneys who appear frequently in Court. She stated when she asked her staff where the names came from, they said they got them from a Court clerk who stated they were some attorneys who frequently appear in Court. She also stated that regarding protective orders, somebody told them that information is confidential, so those people could not be surveyed, which is not an accurate statement. Judge Finn also stated the Board might want to evaluate whether they want plaintiffs and defendants on protective orders being sent surveys. She said it could be a problem because if a plaintiff says it's confidential, she can't give us the address of the plaintiff for the survey. She stated this could result in a skewed survey.

Board member Beresky stated it sounds like someone is selectively choosing attorneys because it sounds like every attorney who appeared in the City of Glendale Court should get this survey, not just those who appear often.

Judge Finn stated this is a process that's developed and at one point the Court was more in control of the data and now they're not. She agreed that the Court should determine what information they can get from the system and once they get that, then it can be memorialized. She further stated if she or someone from the Court is not involved in the process making sure the information is correct, this is what can happen.

HR Director Jim Brown stated HR gets the names from the Court and based on what we receive from the Court, that information is used for the survey. He stated HR does not know who appears and who doesn't and we are relying on getting that information from the Court. He stated the process has gone from the Court over to HR and we're trying to work collaboratively to ensure that it's accurate. He referenced her statement that she is no longer involved and she is hands off and asked if there was a reason for that, such as a conflict of interest issue.

Judge Finn stated the topic was raised by the former Mayor saying that the person at the Court who was handling the process works for Judge Finn and the Mayor thought it

would be more appropriate if HR took it over. Judge Finn stated she surveyed most of the large Courts and found out that is an exception, as most of the city Courts get their surveys back directly and it doesn't go elsewhere as it does in Glendale.

Mr. Brown asked Judge Finn if it's her preference that the Court manage the process. He stated it may be something for the board to discuss in terms of the process as a whole.

Judge Warner stated before the board discusses that, what he would like to do is to find out what the options are and the next time the board meets we'll bring information back to the board to evaluate. He also stated the next step will be to put the process in writing afterward.

Judge Finn pointed out that bylaws three and four need to be revised to reflect the ordinance change that was made last year stating the state bar and county bar representatives no longer are required to be a Glendale resident, but must be a resident of Maricopa County.

Judge Warner asked if the bylaws are approved by the board or by the City.

Judge Finn stated the bylaws have never gone to Council.

Mr. Brown asked if Council should be advised of the changes.

Judge Finn stated her comments are not directed at the bylaws, they are directed at the process.

Judge Finn asked Mr. Riggs if he used SurveyMonkey or was involved with the City of Phoenix's use of it for judicial surveys.

Mr. Riggs stated he was very familiar with it but did not have involvement with Phoenix's use of it. He stated he would be very interested in utilizing it for future judicial surveys for Glendale. He stated it would be important to determine which respondent groups should have access to it. For example, the defendant groups might be too numerous to sit at a kiosk or a public computer to complete the survey. Attorneys might not like to sit at a public computer. He stated there are different ways to invite people to respond to the survey. He stated you can send them an email invitation including a website address they could visit.

Judge Finn stated the Courts she is familiar with use email addresses.

Judge Warner stated at some point we may want to determine if we want to proceed with SurveyMonkey. He thanked Mr. Riggs for his presentation and informed him he was welcome to stay for the remainder of the meeting.

#### PUBLIC COMMENT

There were no comments from the public.

STAFF REPORT

Karen Doncovio reintroduced herself to the board and advised them she was once again their staff contact person. She also advised the board Terrance Mead's position was vacated and the State Bar had provided the City with the names and resumes of three interested parties who would be considered to fill the seat vacated by him.

BOARD COMMENTS

There were no comments from the Board.

CALL FOR FUTURE MEETING

The Board's next meeting will be to further discuss the judicial sampling and survey process.

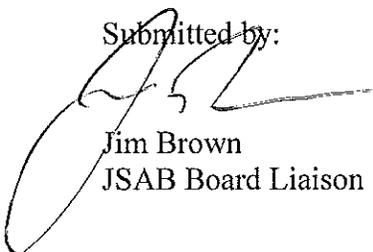
NEW BUSINESS

No new business was discussed.

ADJOURNMENT

The Board unanimously voted to adjourn at 7:23 p.m.

Submitted by:



Jim Brown  
JSAB Board Liaison