

DRAFT RECOMMENDATION (Judicial Performance Review website)

Abbreviated Recommendation:

Recommendation:

As a result of its year-long study, the Task Force has become aware of ongoing attacks on the reputation of individual Arizona judges via the Internet, broadcast media, social media, or other means. Many of these attacks have no basis in fact and are designed to undermine public confidence in the judge and the administration of justice. At best, these attacks create distractions from the work of the court and at worst they tend to discourage qualified individuals from serving in the judiciary. Whether the judge is located in a merit selection county or stands for popular election, his or her electoral prospects and standing in the community may be unfairly impacted. In extreme cases, the judge or justice may feel compelled to devote scarce personal resources or to call upon supporters in order to defend his or her reputation. At the same time, measurable public trust in the judiciary has statistically declined to an alarming extent, jeopardizing an indispensable foundation of our democratic system.

The Task Force believes that the Rules of Procedure for Judicial Performance Review (JPR) and the JPR website should be amended to provide a mechanism for judges in merit selection counties to provide personal statements or otherwise address attacks originating outside the JPR formal comment procedure, such as on the internet and on social media. The ballot for each Retention Election should contain a printed reference to the JPR website preceding the list of candidates for retention in recognition of the fact that many voters vote by mail, desire more information on judges, and can take the time to consult the website before voting.

The Arizona Code of Judicial Conduct should be amended to affirmatively state that a judge, whether elected or appointed, may respond to attacks upon the judge's reputation from whatever source in writing, via social or broadcast media or otherwise, so long as he or she does not comment upon a pending case or a specific ruling.