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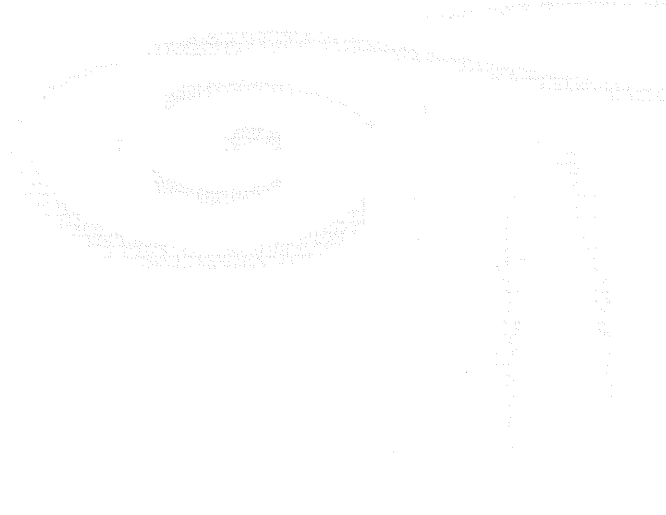
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**Statement of
Dwight D. Murray
of the Council for Court Excellence
before the
Committee on Public Safety and the Judiciary,
Council of the District of Columbia**

**Agency Performance Oversight Hearing on the
District of Columbia Judicial Nomination Commission
February 25, 2009**





COUNCIL FOR COURT EXCELLENCE

Good morning, Chairman Mendelson and members of the committee. My name is Dwight Murray. I am a member of the Executive Committee of the Council for Court Excellence and also a partner in the Washington, DC, law firm Jordan, Coyne & Savits. The Council for Court Excellence is a local nonpartisan civic organization founded in 1982 to improve the administration of justice in the courts and related justice agencies in the District of Columbia. For 26 years, CCE has been a unique resource for our city that brings together members of the civic, legal, business, and judicial communities to work in common purpose to identify and promote court reforms, improve public access to justice, and increase public understanding and support of our justice system. As is our policy, no judicial member of CCE participated in formulating today's testimony.

The Council for Court Excellence wanted to be present at this performance oversight hearing today to commend the DC Judicial Nomination Commission for the important work it does for residents of the District of Columbia in ensuring that we have a very highly qualified corps of judges in our local court system. With only one paid staff member, the Commission performs this mission at extraordinarily low cost to the DC taxpayers.

We especially want to praise the Commission for the significant improvements it has made recently in making its operations more transparent to the community, and for making it more possible than in the past for members of the community to participate in its screening process for candidates for judicial appointment. The improvements include:

- A Commission website (<http://jnc.dc.gov>) which provides complete information on the Commission, identifies and provides contact information for each member of the Commission, posts all judicial vacancy and judicial nomination notices of the Commission, provides application materials for persons who are considering applying for a judicial appointment; and answers frequently asked questions;
- Use of an email list to distribute widely, quickly, and inexpensively all public notices of the Commission even before they can be posted on the website;
- Inviting the public to participate in the Commission's process this past summer of selecting the new Chief Judge of the DC Superior Court by submitting comments on the two candidates; and
- For the first time CCE is aware of, publishing the names of all applicants for a particular judicial vacancy and inviting any member of the public to submit



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comments on the qualifications of those applicants, before the Commission members meet to decide which three candidates to recommend to the President for nomination.

All of these new procedures are excellent additions to a judicial merit-selection process which was undoubtedly already of high quality but which was largely shielded from public view. The new openness can only increase public confidence in the selection process itself and ultimately in the quality of the District's judiciary. We commend Judge Emmet Sullivan, the Commission Chair, and his colleagues on the Commission for making these significant performance improvements.

We also want to thank Judge Sullivan and Natalie Ludaway, two members of the Commission, for attending the public forum the Council for Court Excellence and several other organizations presented last August. At that forum, the two candidates for Chief Judge of the Superior Court spoke and responded to the questions submitted by the more than 100 attendees. We were proud to support the Commission's efforts to solicit and review public comment on the qualifications of the candidates for this important judicial leadership position.

The performance improvements cited above are all outgrowths of three of the Initiatives the Judicial Nomination Commission included in its FY09 Performance Plan.

Our testimony will now turn to the Commission's fourth fiscal year 2009 Initiative: "Perform outreach efforts to improve the diversity of judicial applicants." We strongly support the Commission's goal to increase the number and diversity of judicial applicants. Increased diversity of experience and legal practice is particularly important; thanks to the Commission, the District's bench already has a commendable record of racial and gender diversity.

In December 2005, the Council for Court Excellence published a community guide titled "How the District of Columbia Gets its Judges." That guide described the qualifications required for District of Columbia judges and the judicial selection process. The publication also described the "professional pathways to the DC Superior Court" by analyzing the professional backgrounds of the persons nominated for judgeships and installed as judges between 1994 and 2005.

During that 1994 to 2005 period, 33 of the court's full complement of 59 associate judge positions were filled. The primary sector experience of 79% of the 33 new judges was in government service; the primary subject matter experience of 61% of the 33 new judges was in criminal law. By contrast, only 36% of the judges in the Superior Court serve in the Criminal



Division. We have not done a similar statistical analysis of the judges installed since 2005, but we are confident that the court is still heavily over-weighted to persons whose principal legal experience is in government and in the criminal law.

The Superior Court needs its judicial corps to include persons with a wide variety of legal expertise in order to properly staff the various subject-matter divisions of the court. Therefore, we commend the Commission for its recent efforts to increase the professional diversity of its applicant pool. First, the Commission's publicizing for the first time the names of judicial applicants lets potential applicants know how large the applicant pool is and how their background might enhance the subject-matter diversity of the applicant pool. Second, Commission members have been speaking out publicly to encourage persons with non-governmental, non-criminal law backgrounds to apply for judicial vacancies. And most recently, the Commission's February 10, 2009 judicial vacancy notice states: "In view of the current make-up of the court and anticipated needs in the future, attorneys with extensive civil litigation experience are encouraged to apply."

Speaking as a civil litigator who practices frequently in the Civil Division of the Superior Court, I am very pleased to see that the Judicial Nomination Commission is taking these steps to deepen the reservoir of expertise on civil and commercial law within the Superior Court. The Council for Court Excellence would welcome the opportunity to help the Commission reach out to the civil bar to encourage applications for judicial appointment.

Thank you for permitting us to testify this morning. I am happy to answer any questions you have.