

MEMORANDUM

TO: Executive Committee of the Richmond Bar Association

FROM: Belinda D. Jones, Chair of Administration of Justice Committee

DATE: December 12, 2012

SUBJECT: Administration of Justice Subcommittee's Report Concerning
Observations of Judge Thorne-Begland

I. Task Assignment

The Richmond delegates to the Virginia General Assembly requested that the Richmond Bar Association (the "Association") evaluate the performance of Richmond General District Court Judge, Tracy Thorne-Begland, prior to the Courts Committees' formal interviews of Judge Thorne-Begland. The Executive Committee of the Association tasked the Chair of the Administration of Justice Committee with the formation of a subcommittee to develop criteria for observation of a presiding judge and to use the criteria to observe Judge Thorne-Begland on the bench.

The subcommittee was comprised of: Charles Seyfarth with LeClair Ryan, a Professional Corporation; Candace Blydenburgh with McGuireWoods LLP; Carolyn Lavecchia with Williamson Petty, LC; and Belinda Jones with Christian & Barton LLP. The members of the subcommittee collaborated and drafted Guidelines for Observation of Presiding Judges (the "Guidelines"), relying on the AMERICAN BAR ASSOCIATION'S GUIDELINES for Reviewing Qualifications of Candidates for State Judicial Office, the AMERICAN JUDICATURE SOCIETY GUIDELINES for Reviewing Qualifications of Candidates for State Judicial Office, and the Code of Conduct for United States Judges. The Guidelines focus on the

assessment of three criteria: (1) judicial temperament; (2) professional aptitude; and (3) diligence. Each subcommittee member committed to observing Judge Thorne-Begland in his courtroom for a minimum of two hours, using the Guidelines as benchmarks. Each subcommittee member recorded his or her observations. In addition to the subcommittee's observations, the subcommittee spoke with attorneys who regularly practice before Judge Thorne-Begland. This memorandum is a compilation of the subcommittee's observations and the comments provided by counsel who regularly appear before Judge Thorne-Begland.

II. Judicial Temperament

A. Guidelines

1. A presiding judge should possess a judicial temperament, which includes common sense, compassion, decisiveness, firmness, humility, open-mindedness, patience, tact and understanding.
2. A presiding judge should possess an ability to deal with counsel, witnesses, parties and court personnel calmly and courteously, and the willingness to hear and consider the views of all sides.
3. A presiding judge should possess a willingness and ability to assimilate data outside the judge's own experience.
4. A presiding judge should accord every person who has a legal interest in a proceeding and that person's lawyer the full right to be heard.
5. A presiding judge should possess a mature sense of proportion, reverence for the law, but an appreciation that the role of law is not static and unchanging.
6. A presiding judge should possess compassion as the judge deals with matters before him or her.
7. A presiding judge should possess an absence of arrogance, impatience, pomposity, loquacity, irascibility, arbitrariness or tyranny.

B. Observations Concerning Judicial Temperament

Subcommittee members and counsel practicing before Judge Thorne-Begland are impressed by Judge Thorne-Begland's temperament, as reflected in his interactions with counsel,

defendants and witnesses before him. Judge Thorne-Begland demonstrated the utmost professionalism, while being firm and decisive. For example when each defendant stood before the bench, the judge greeted him or her by name, i.e. “Good Morning Mr.” When each case concluded he wished the defendant a good day. He used “sir” and “ma’am” when addressing defendants, counsel and witnesses.

Judge Thorne-Begland strikes an appropriate balance between being respectful and considerate to the parties and counsel appearing before him, on the one hand, and respecting the gravity of the matters before the court, on the other hand. He was approachable without sacrificing the necessary formality of judicial proceedings. He was thorough in explaining the judicial process to litigants in language that they could understand and he confirmed that the litigants did, in fact, understand the process and their respective rights. By way of example, when a *pro se* defendant cross-examined a witness for the Commonwealth, Judge Thorne-Begland would remind the defendant that cross-examination was not his or her time to testify, and that the opportunity would be provided for the defendant to present his or her evidence. On one occasion, Judge Thorne-Begland found a defendant in contempt of court for using vulgar language. He is both respectful and firm in maintaining order, which affords all interested parties the right to be heard.

III. Professional Aptitude

A. Guidelines

1. A presiding judge should possess a high degree of knowledge of established legal principles and procedures and have a high degree of ability to interpret and apply them to specific factual situations.
2. A presiding judge should possess familiarity with procedural and evidentiary rules.
3. A presiding judge should communicate, both orally and in writing, the reasoning leading to the legal conclusion.

4. A presiding judge should reach concise decisions rapidly once apprised of sufficient facts, the ability and willingness to respond to issues in a reasonably unequivocal manner and the ability to quickly grasp the essence of questions presented.

B. Observations Concerning Professional Aptitude

Subcommittee members and counsel appearing before Judge Thorne-Begland agree that his professional aptitude is strong. Judge Thorne-Begland displayed a command of both the procedural and substantive areas of the law that were applied by the court. He appeared decisive, fair, and able to explain legal issues in plain, common language that could be understood by litigants. Judge Thorne-Begland consistently allowed defendants to ask questions and made sure that they understood the rulings of the court. He explained to each defendant found guilty his or her right to appeal the judgment.

Judge Thorne-Begland was decisive on motions and asked counsel questions regarding their positions when appropriate. During the trials, he ruled on objections quickly and confidently.

IV. Diligence

A. Guidelines

1. A presiding judge should be diligent and prepared.
2. A presiding judge should hear and decide all matters assigned and maintain order and decorum in all proceedings.
3. A presiding judge should be constant and attentive to the matters before him or her.
4. A presiding judge should manage his or her docket and set priorities in relation to the importance of the tasks to be accomplished.
5. A presiding judge should be a good administrator, knowing how to manage time, prioritize tasks, and ensure that any judicial staff work at peak efficiency.

B. Observations Concerning Diligence

Subcommittee members and counsel appearing before Judge Thorne-Begland agree that he is prepared and diligent in the management of his docket. He stands throughout the docket, which allows for more efficiency in the handling of documents passed from counsel to him, to the clerk, and back to counsel. At the end of the docket, Judge Thorne-Begland reviewed the docket to make sure that every case had been addressed. He is attentive, fair and maintains order in the courtroom.