

Professional History

8. Year admitted to practice law in Washington: 2003

9. Employment History (in reverse chronological order):

a. Start Date: October, 2004 End Date: Presently employed
Organization: Spokane County Prosecuting Attorney's Office
Address: 1101 West Mallon (Public Safety Building), Spokane WA, 99260-2043
Phone No.: (509)-477-3662
Position/Title: Deputy Prosecuting Attorney (Major Crimes Unit)
Supervisor: Jack Driscoll (Chief Criminal Deputy Prosecutor), Steve Tucker (Elected)
Nature of Practice (including frequency of court appearances):

I am currently a full-time Deputy Prosecuting Attorney assigned to the Major Crimes Unit. I am specifically assigned criminal prosecutions of violent felony and homicide cases. I have extensive jury trial experience, with daily court appearances in Superior Court, carrying an average caseload of sixty separate and ongoing violent felony case assignments as sole-counsel. I handle the most serious cases at every stage of the prosecution process. Further, I represent the prosecutor's office at COMPSTAT (data driven policing) and Inland Northwest Intelligence Officers Terrorism Intelligence meetings (INWIO). My caseload has always included between two and five simultaneous murder case assignments. I also specialize in prosecuting cold-case homicides and threats to public officials. I have successfully prosecuted multiple high-profile murder cases as sole-counsel since joining the Major Crimes Unit in 2007.

My previous assignments within the prosecutor's office included the District Court/Traffic, Juvenile, and Property/Fraud Units. (2004-2007).

I have prosecuted everything from minor traffic infractions to complex First Degree, Aggravated Murder cases in my tenure at the Spokane County Prosecutor's Office.

Reason for leaving: N/A, presently employed.

b. Start Date: August, 2003 End Date: September, 2004
Organization: Yakima County Prosecuting Attorney's Office
Address: 128 North Second Street, Room 329, Yakima WA 98901
Phone No.: (509)-574-1210
Position/Title: Deputy Prosecuting Attorney
Supervisor: Michael Laws/Ron Zirkle (Former Elected Prosecutor)
Nature of Practice (including frequency of court appearances):

I was assigned to the District Court Unit. I appeared in District Court daily, prosecuting DUI and domestic violence cases. In approximately one year, I conducted eight criminal jury trials and numerous civil infraction bench trials. I was promoted to District Court Supervisor, overseeing five attorneys before taking a position with the Spokane County Prosecuting Attorney's Office.

Reason for leaving: **I was hired by the Spokane County Prosecutor's Office and returned to my hometown to be near family.**

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

c. Start Date: **January, 2002** End Date: **May, 2003**
Organization: **Spokane County Prosecuting Attorney's Office**
Address: **1100 West Mallon Ave (Public Safety Building), Spokane WA, 99260-2043**
Phone No.: **(509)-477-3662**
Position/Title: **Rule 9 Intern (Juvenile Unit)**
Supervisor: **Robert Jalovi**
Nature of Practice (including frequency of court appearances):

I worked part-time as a Rule 9 Intern in the Juvenile Unit while attending law school. I performed various legal research and writing tasks and conducted multiple bench trials on both criminal and civil truancy cases. I was assigned an autonomous caseload representing Spokane School Districts in fact-finding hearings related to truancy enforcement. I also participated in juvenile-decline hearings, which included my direct participation on a First Degree Murder case. In addition to court hearings, I regularly met with parents, students, and school officials to help tailor education plans for At Risk Youths. During my Rule 9 internship, I processed hundreds of truancy-related cases in Superior Court and conducted three criminal bench trials.

Reason for leaving: **After graduating from Gonzaga University School of Law in May of 2003, my internship with the Spokane County Prosecutor's Office concluded. After taking the bar examination, I was then hired by the Yakima County Prosecutor's Office with high recommendations from both the Spokane County Prosecutor's Office and the Spokane Superior Court Juvenile Judge.**

d. Start Date: **July, 1998** End Date: **July, 2000**
Organization: **Witherspoon-Kelley, Law Firm**
Address: **422 West Riverside Avenue, Suite 1100, Spokane WA 99201-0300**
Phone No.: **(509)-624-5265**
Position/Title: **Clerk/Messenger**
Supervisor: **Robin Balow**
Nature of Practice (including frequency of court appearances):

I performed mostly ministerial tasks in a large civil law firm while attending Gonzaga University as an undergraduate. My responsibilities included document and discovery processing on large civil litigation matters. In particular, I processed and organized the discovery in *United States vs. Sterling's Savings and Loan Bank*. This case involved a claim for hundreds of millions of dollars. While the tasks I performed were somewhat menial, this experience exposed me to complex civil practice, large law firm culture, and the business aspects of civil litigation practice. Working at Witherspoon-Kelley influenced my decision to attend law school and pursue a legal career.

Reason for leaving: **Graduated from college and left employment to attend my first year of law school. I also felt at this time that I wanted to dedicate my legal career to a life of public service and to a career that would provide frequent trial work.**

Please continue, if necessary, on a separate piece of paper in the above format as needed.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

10. Please list all other courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Please provide the same information for administrative bodies having special admission requirements.

I was admitted to the Washington State Bar on November 6th, 2003.

11. Please list all bar associations and professional societies of which you are a member and give the titles and dates of any offices that you have held in such groups.

Washington State Bar Association:

-Member in good standing (2003-present).

Spokane County Bar Association:

-Elected President (2014-present).

-Elected Secretary/President-Elect (2013-2014).

-Elected Treasurer (2012-2013).

-Elected to the Board of Trustees (2010-2012).

-Board Liaison to the Diversity Section (2012 and 2014-present).

-Board Liaison to the Standing Advisory Committee for the Volunteer Lawyers Program (2011).

-Board Liaison to the District Court Committee (2013).

-Chairman of Strategic Planning Committee (2013).

-Chairman of Continuing Legal Education Committee (2013).

Volunteer Lawyers Program:

-Elected President (2014-present).

-Elected Secretary/President-Elect (2013-2014).

-Elected Treasurer (2012-2013).

-Elected to the Board of Trustees (2010-2012).

Prosecutor's Union, 1553 PA AFSCME

-Elected President (2010-2012).

-Elected Vice President (2009-2010).

-Elected to the Executive Board (2007-2009).

-Shop Steward (2012-2013).

-Chairman of the Collective Bargaining Committee responsible for labor contract negotiations.

Spokane Regional Labor Council, AFL-CIO

-Prosecutors' Union Delegate to the Spokane Regional Labor Council (2004-present).

-Chairman of Labor Council's Ethics Committee, appointment by State Representative Timm Ormsby (2005-2013).

12. Are you in good standing in every bar association of which you are a member? Yes/No. If you answered "no", please explain.

YES.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

13. If you have ever been a judge, please identify any court committees on which you have served or administrative positions you have held. Please state the dates of service for each.

N/A.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

14. Please list up to five of your most significant professional accomplishments. (If applicable, please provide the case and court name and the citation if a case was reported and copy of the opinion.)

1. I significantly contributed to the formation of Spokane's Identify Theft Task Force in 2006, which dramatically reduced identity theft-related crimes in Spokane by combining prosecutorial charging strategy with public education and community outreach programs. I successfully lobbied Federal and local law enforcement agencies to provide personnel, work space, and other investigative resources during the initial formation of this task force. Once formed, the task force pursued charges of Leading Organized Crime where I acted as the prosecutor. I consider this work an accomplishment because the task force was highly successful, and the identity theft crime rate declined significantly following the implementation of our strategies.

2. Since 2007, I have been assigned to the Major Crimes Unit. In an office of 67 attorneys, I am one of only five attorneys assigned to the Major Crimes Unit. I am responsible for handling the most serious and complicated matters in the criminal justice system. My caseload while serving in this unit has been exclusively comprised of felony assignments designated by law as "violent." I am routinely assigned the most serious cases that occur in Spokane. I have successfully prosecuted numerous homicide and high profile cases and 99% of all my case-work has been assigned to me as sole-counsel.

3. In 2009, I was elected by colleagues to serve as the Prosecutors' Union President and Chief Contract Negotiator for collective bargaining during a historic county budget crisis. Prior to being elected, Spokane County eliminated 11 prosecutor positions, and the office was in crisis. I worked collaboratively with management and the County to restore all 11 eliminated positions. I'm proud to have demonstrated successful leadership in a difficult political and economic climate by maintaining the proper focus on public service and promoting community safety.

4. In 2011, I was asked by Spokane's Mayor-Elect to serve on the City's Public Safety Transition Team. As the sole representative of the County Prosecutor's Office on this advisory team, I studied evidence-based criminal justice, consolidation models, and policing practices. I participated in the interview and hiring process for Spokane's current Chief of Police. I was the first county prosecutor to be formally trained on evidence-based criminal justice, and many of the evidence-based practices have since been formally adopted and implemented by the Spokane Prosecutor's Office. Ultimately, the Transition Team recommended a formal review of the criminal justice system, geared toward implementing concepts of evidence-based criminal justice. The review was subsequently conducted, and the specific recommendations were published in 2013 as "Spokane's Blue Print for Reform." Since publication, the specific recommendations were adopted by both the City and County governments of Spokane and both the Republican and Democratic candidates for the Spokane County Prosecutor's race. I consider my participation on the advisory team and subsequent efforts to promote reform an accomplishment as I made substantive and positive contributions to the future of Spokane's criminal justice reform efforts.

5. In 2014, I was elected and currently serve as President of the Spokane County Bar Association and Volunteer Lawyers Program. The Volunteer Lawyers Program is the largest pro bono service provider in Eastern Washington and provides free legal services to over a thousand low-income clients annually. The combined efforts of our organization(s) promote professionalism, fellowship, and vital legal services to Eastern Washington's community. I've held various elective offices with the Spokane County Bar since 2010 and I consider being President of these two organizations as a great honor.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

15. Please summarize up to eight of the most significant matters that you participated in as an advocate. Please include the dates of your participation and the reason each was significant to you. Please provide the citation if a case was reported. If you have been a judge, please include some cases that have been tried before you.

State of Washington vs. Patrick K. Gibson, No. 31077-9 Div. III, (Unpublished) 2013: Prosecution of “cold-case” First Degree Murder. Brian Cole was shot and killed in front of his wife during a robbery of a Spokane furniture store in 1992. The case went unsolved for 20 years and was featured by John Walsh on the television show America’s Most Wanted in the mid-1990s. During the trial in 2012, John Walsh’s DNA was obtained for comparison as it was discovered that he had handled the actual evidentiary items while reenacting the episode. Following conviction at trial, the defendant was sentenced to 42 years. This case was significant to me because of the character, resilience, and kindness displayed by the entire Cole’s family who went through life deprived of a husband and father. After 20 years of unanswered questions, I was honored to seek justice on their behalf. (Assigned 2011-2012).

State of Washington vs. Donna Perry: Prosecution of three counts of alleged First Degree Murder. These homicides involved an alleged “cold-case” serial-killer. In 2013, DNA analysis revealed Donna Perry as a suspect. In the 1990s during the time frame of the murders, Donna Perry was living as a man by the name of Doug Perry but later had gender reassignment surgery. This case is significant to me because of its evidentiary complexity. In addition, the victims of these crimes were prostitutes, and it is important that our system of justice ensure that all human life is treated with value and dignity regardless of perceived social stigmas. Conversely, it is important that Mrs. Perry receives a fair trial and only on the relevant and legally admissible facts. She is innocent until proven guilty, and the State has only made an accusation at this point. At this time, competency is being litigated. (Assigned 2013-present).

State of Washington vs. Adrian W. Ellenwood: Prosecution of a Murder in the Second Degree. The defendant entered a plea of Not Guilty by Reason of Insanity and was placed into the custody of DSHS. This case had a legitimate insanity defense where the state’s own experts concluded that the defendant was insane at the time of the incident. Despite some pressure to the contrary, I agreed to the entry of the NGRI (insanity plea) as it was the right and just action to undertake. This case is important to me as it demonstrates my desire to always seek justice even in the face of pressure to obtain a conviction. (Assigned 2008-2011).

State vs. Mathew Hacker: Prosecution of Arson, Intimidating a Judge, and Threats to Public Officials. The defendant started a fire in a restricted radioactive field located in Spokane’s Industrial Park. Following his arrest, the defendant issued numerous death threats to various public officials. Many of the victims requested that the case referral be assigned to me, which made me feel honored. Although I later received threats in connection with this case, it did not influence my determination to seek justice. Since prosecuting this case, I have received several other public official threat-related case assignments. (Assigned 2009-2010).

State vs. Robbie Bishop: Prosecution of Aggravated First Degree Murder with Premeditation and Manslaughter (Quick Child). The defendant stabbed his girlfriend, Robin Anderson, over 72 times using three different knives killing her and her unborn child. Mrs. Anderson was six months pregnant with her child in common with the defendant. This case is important to me because the defendant is a significant danger to the community due to a long history of anti-social behavior. (Assigned 2008-present).

State vs. Dennis Karioris: Prosecution of a Kidnapping charge. This case initially involved an unlawful arrest and detention perpetrated by an unlicensed bounty hunter. During my trial preparation, it was discovered that a Spokane Police Officer had engaged in police misconduct by collaborating with my defendant to unlawfully circumvent mandated warrant requirements. I launched an investigation and exposed this official misconduct. Following an investigation, the police officer was permanently terminated from the police department. Public servants need to be held to the highest ethical standards to maintain public trust and protect constitutional rights. No one is above the law, and I will always hold myself to this same standard.

Educational Background

16. Please list all undergraduate and graduate (non-law school) colleges and universities attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

<u>Gonzaga University</u> College/University	<u>August, 1995 – May 2000</u> Dates of Attendance	<u>Bachelor of Arts, Political Science</u> Degree
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-Mock Trial Team (1998-2000), earned a national individual award for “All American Attorney” (1999).

17. Please list all law schools attended, years of attendance, degree awarded and reason for leaving if no degree was awarded.

<u>Gonzaga School Of Law</u> Law School	<u>August 2000 - May 2003</u> Dates of Attendance	<u>Juris Doctor, Cum Laude</u> Degree
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Professional Experience

18. Please summarize, briefly, the general nature of your current law practice.

Criminal prosecution of violent felony and homicide cases in the Major Crimes Unit. My caseload is comprised exclusively of violent felony cases. Extensive jury trials with daily court appearances in Superior Court, carrying an average caseload of sixty ongoing violent felony case assignments as sole-counsel. Current tasks encompass five pending murder cases, including an alleged serial-killer cold-case (State vs. Donna Perry). Duties include: advising detectives during investigations, charging decisions, performing follow-up investigation, working with crime labs and in-court prosecution at all stages of litigation including trial and sentencing.

19. If you are in a practice, please describe your typical clients and any areas of special emphasis within your practice.

Although prosecutors do not have traditional clients, the *Washington State Constitution § 35*, and *RCW 7.69* impose a duty that prosecutors afford victims of violent crime the opportunity for participation and consideration throughout court proceedings. Since my major-crimes caseload is comprised exclusively of violent felony cases, I consult with victims on nearly every case. Similarly, when prosecuting homicide cases, I frequently consult with the deceased's family members. The victims I have worked with encompass every ethnic and socio-economic background imaginable. The circumstances of a typical victim on my caseload are often extreme. When compatible with the exercise of sound prosecutorial discretion, I give full consideration to the interests and opinions of the victims. Although my workload does include every variety of violent felony crime, I have particular expertise and a greater portion of case assignments related to cold-case murders, homicides with mental health (sanity/competency) defenses, and threats to public official cases. I also serve as the primary consultant to the Spokane Valley Fire Department relating to arson investigations and act as the sole representative for the prosecutor's office at Federal Terrorism Intelligence meetings.

20. If your present law practice is different from any previous practice, please describe the earlier practice, including the nature of your typical clients and any area of special emphasis within your practice.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Prior to assignment in the Major Crimes Unit in 2007, my previous experience included working in the District Court, Juvenile, and Property/Fraud Units. While working for the Yakima County Prosecutors office, my caseload consisted of DUIs and domestic violence cases. In 2005, I was one of the founding members of the specialized DUI Therapeutic Court. This DUI Therapeutic Court was one of the first courts of its kind in Eastern Washington and after establishment became a validated evidence-based model. After this court had been established, I was one of the two attorneys assigned to this court at its inception. In 2006, I was assigned the task of forming the Identity Theft Task Force comprised of all local and federal law enforcement agencies. Following formation of this task force, I prosecuted large organized identity theft-rings utilizing Washington's Leading Organized Crime Statute.

21. Within the last five years, did you appear in trial court:
- Regularly Occasionally Infrequently
22. Within the last five years, did you prepare appellate briefs and appear before appellate courts:
- Regularly Occasionally Infrequently
23. Within the last five years, how often did you appear in the court for which you are applying:
- Regularly Occasionally Infrequently

Career Experience

24. (a) What percentage of your appearances in the last five years was in:

(1) Federal appellate courts	<u>0</u> %
(2) Federal trial courts	<u>0</u> %
(3) State appellate courts	<u>0</u> %
(4) State trial courts	<u>99</u> %
(5) Municipal courts	<u>0</u> %
(6) District courts	<u>1</u> %
(7) Administrative tribunals	<u>0</u> %
(8) Tribal courts	<u>0</u> %
(9) Other	<u>0</u> %
TOTAL	100%

- (b) What percentage of your practice in the last five years was:

(1) Civil litigation (excl. family law)	<u>0</u> %
(2) Criminal litigation	<u>100</u> %
(3) Family law litigation	<u>0</u> %
(4) Non-litigation	<u>0</u> %
TOTAL	100%

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

(c) What percentage of your trials in the last five years were:

(1) Jury trials	<u>95%</u>
(2) Non-jury trials	<u>5%</u>
TOTAL	<u>100%</u>

(d) State the number of cases during your total career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate for each court the following percentages: trials in which you were sole counsel or chief counsel, jury trials, and trials were you were the arbiter/decision maker.

<u>Number</u>	<u>Court</u>	<u>% as Sole/Chief Counsel</u>	<u>% Jury</u>	<u>% as the Arbiter</u>
<u>2</u>	Municipal	<u>100%</u>	<u>100%</u>	<u>0%</u>
<u>30+</u>	State Dist.	<u>100%</u>	<u>95%</u>	<u>0%</u>
<u>20+</u>	State Superior	<u>99%</u>	<u>95%</u>	<u>0%</u>
<u>0</u>	Federal Dist.			
<u>0</u>	Administrative			
<u>0</u>	Tribal Courts			
	Other			

*** The above statistics do not include 100+ civil infraction and or truancy bench trials conducted in early career as sole-counsel. The statistics also do not reflect a dozen or more contested competency and or sanity hearings (RCW 10.77 hearings) conducted as sole-counsel in Superior State Court throughout career.**

(e) State the number of appellate cases during your total career where you appeared as counsel of record in the following courts, and indicate for each court the following percentages: cases where you were sole counsel or chief counsel, and cases were you were the arbiter/decision maker (if applicable).

<u>Number</u>	<u>Court</u>	<u>% as Sole/Chief Counsel</u>	<u>% as the Arbiter</u>
<u>4</u>	State Superior Court	<u>100%</u>	<u>0%</u>
<u>0</u>	WA. Div. I COA		
<u>0</u>	WA. Div. II COA		
<u>0</u>	WA. Div. III COA		
<u>0</u>	WA. Supreme Court		
<u>0</u>	Fed. Cir. COA		
<u>0</u>	U.S. Supreme Court		

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

- (f) Briefly describe no more than five significant litigation matters that you directly handled as the sole counsel. For each, please provide the name and telephone number of opposing counsel, the name of the judge or other judicial officer, and the citation (if applicable).

(Note: 99% of all career case work has been conducted as sole-counsel. I have had a total of only two cases in my entire career in which co-counsel was assigned).

State vs. Frank Uhyrek: Prosecution of a repeat violent offender on six counts of Aggravated First Degree Robbery and Attempted First Degree Robbery charges. The defendant served a long prison term for the beating of an 86-year-old man bound to a wheelchair. Six days after being released from prison on that charge, the defendant then robbed several Safeway store employees. During these robberies, the defendant specifically targeted an elderly female employee by placing a knife to her throat and demanding money. These crimes were committed six days after the defendant had been released from prison. The State used a combination of DNA, eyewitness testimony, and photographic evidence to present its case to the jury. The jury convicted, and the defendant was sentenced to a 52-year prison term. The defendant had 34 prior convictions many of which were for violent offenses. (Hon. Judge Kathleen O'Conner, Defense Attorney John Perry (509)-328-2188).

State vs. Craig Heiny: Prosecution of a Murder in the Second Degree with weapon enhancements. This prosecution was a homicide case that went to a jury trial during the original 90-day speedy trial period without any continuances. The defendant stabbed two homeless men, killing one. The defense claimed self-defense. The defendant was ultimately convicted of Manslaughter and received a seven-year sentence. (Hon. Judge Michael Price (509)-477-4766, Defense Attorney David Partovi (509)-590-2682).

State vs. Shawn Anderson: This case is an example of the cases I handled in 2006 while serving on the Identity Theft Task Force. I charged the defendant with Leading Organized Crime as he was operating a sophisticated check forgery ring. In 2005 and 2006, identity theft-related crimes had dramatically spiked in the Spokane area. The Identify Theft Task force was formed and investigated the influx of crime and discovered that these criminal cells were committing hundreds of thefts in the community. Following these prosecutions and others like it, the identity theft-related crime rate in Spokane receded substantially. (Hon. Judge Jerome Leveque Ret (509)-953-4261, Defense Attorney Rob Cossey (509)-499-4849).

State of Washington vs. David Fagundes: Prosecution on charges of Murder in the Second Degree. The defendant and victim were acquaintances and frequently used drugs together. While using drugs, an altercation between the two erupted. The defendant stabbed the victim during the fight that took place inside the defendant's apartment. The defendant maintained it was self-defense. The victim left the apartment after sustaining a stab wound, and did not report the incident to police nor seek medical treatment. Witnesses' statements indicated that the victim was walking around the downtown area and was otherwise ambulatory. Hours after leaving the apartment, the victim died from his injury, and his body was found on a public street in Downtown Spokane. The medical examiner's report noted that the stab wound sustained by the victim would likely have been treatable if prompt medical attention had occurred. The defendant was convicted of Manslaughter. (Hon. Judge Linda Tompkins (509)-255-0115, Defense Attorney Kyle Zeller (509)-435-5313).

State of Washington vs. Mykel Strasser: Prosecution of a "home-invasion" First Degree Burglary. The defendant along with several unidentified associates broke into an occupied home and threatened the victims with a baseball bat while ransacking the house. The case resulted in a conviction following a jury trial. (Hon. Judge Greg Sypolt (509)-535-9595, Defense Attorney Jeff Compton (509)-477-4246).

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

- (g) State in detail your experience in adversary proceedings before administrative boards or commissions during the last five years.

As the Chief Contract Negotiator for the Prosecutors' Union, I engaged in a series of mediation sessions before PERC officials during ongoing collective bargaining negotiations with Spokane County. Ultimately, we settled the union contract outside of PERC mediation.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

25. Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.

My experience as a Union President has given me broad exposure to labor, employment, and contract law.

Serving as the current President and Treasurer of the Spokane County Bar Association has provided me with experience in risk management and budgetary policy.

My participation on the Public Safety Transition Team has exposed me to court management systems, evidence-based criminal justice, various paperless clerk/court models, and courtroom technologies. In addition, I possess an in-depth knowledge of the current reform processes currently taking place in Spokane as well as current issues facing the Spokane's court system and criminal justice system.

My past experiences as a mock trial coach, often acting as a judge, gave me insight on the listening skills required to be a judge. In addition, teaching undergraduate students about the Rules of Evidence, courtroom decorum, and procedures have provided me with experience in dealing with persons unfamiliar with law and procedure. I believe this will enhance my abilities to deal with pro se litigants. Furthermore, through this experience I gained familiarity with civil procedure as I was required to teach undergraduate students the Federal Rules of Civil Procedure.

I often act as the "on-call" prosecutor for Spokane County. Therefore, I routinely deal with real-time emergency legal inquiries from law enforcement at various hours of the day or night with little or no time for legal research. Providing legally flawed instruction or advice in this context can have disastrous consequences for public safety, public trust, civil rights, and the ability to successfully prosecute cases. Thus, this duty has required me to remain vigilant in keeping up to date with any changes in criminal law, criminal procedures, and policing protocols. I have always maintained a self-imposed standard to stay current and proficient in my knowledge of the law. I would continue this habit on the bench.

I have served as a consultant and advisor on several successful political campaigns including county-wide judicial races. I am well versed in the science of campaigning and have a detailed understanding of how to successfully run a campaign specifically tailored for a Spokane County-wide race. I also earned a bachelor's degree in Political Science from Gonzaga University in 1999. These skills will help me to retain the judicial position if appointed.

26. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning.

N/A

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

27. Please list all chairmanships of major committees in bar associations and professional societies and memberships on any committees that you have held and believe to be of particular significance.

Please see number 11 above regarding bar and union associations.

Judicial Interest and Experience

28. In 50 words or less, please describe why you should be appointed/elected and are seeking a judicial position.

My career has demonstrated my strong work ethic, intellectual competence, leadership ability, passion for public service, and a professional temperament. Supported by 30 elected officials, including 21 judges, I have earned a community-wide reputation for fairness, integrity, and competence. I will be fair, impartial, consistent, predictable, and just.

29. In 50 words or less, please describe your judicial philosophy.

A judge has competing priorities but should never abandon any. The following are priorities in order of importance: Constitution, following the law, public safety balanced with reasonableness and fairness, fiscal responsibility. Of these priorities, none are in competition with hard work or treating everyone with the upmost respect and professionalism.

30. Have you ever held a judicial office or have you ever been a candidate for such office? Yes/No. If you answered "yes", please provide details, including the courts involved, whether elected or appointed, and the periods of your service.

No.

31. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? Yes/No. If you answered "yes", please provide details, including the offices involved, whether elected or appointed, and the length of your service.

No.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

32. Please briefly identify all of your experience as a neutral decision-maker (e.g. judge (permanent or pro tem) in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). Give courts, approximate dates, and attorneys who appeared before you.

Although a prosecutor is not technically a neutral decision-maker, the Rules of Professional Conduct dictate that a prosecutor is a quasi-judicial officer with specific duties to seek truth above engaging in zealous advocacy. Furthermore, the prosecutor has a duty to ensure that the defendant's procedural and constitutional rights are observed with an obligation to seek justice. These principals have been central to how I have approached case prosecutions. Accordingly, I routinely decline to charge crimes or dismiss existing offenses when doing so is in the interests of justice. Similarly, if exculpatory evidence (evidence that mitigates a crime or is favorable to the defendant) is found during trial preparation, I promptly turn that evidence over to the defense, even if the disclosure would make achieving a conviction more difficult. Finally, I refrain from making statements that are designed to inflame or appeal to the emotions of the jury and rather make arguments that will appeal to the rational thoughts of the jury based on the evidence admitted. The responsibility of ensuring that a person charged with a public offense receives due process falls to the judge, defense attorney, and the prosecutor. As a prosecutor, I have experience with analyzing competing legal interests and deferring to the appropriately higher legal principal.

It should be noted that the Spokane County Prosecutor's Office has actively discouraged all of its employees from attempting to serve as a pro tem judge due to the potential legal conflicts that can arise from such service. For this reason, I have not served as a pro tem judge.

Community and Civic Activities

33. Please list your community and civic activities, including dates and leadership roles held, over the last 10 years.

Volunteer Lawyers Program and Spokane County Bar Association

- Current President(s) (2014-present).
- Secretary(s) (2013-2014).
- Treasurer(s) (2012-2013).
- Member of the Board of Trustees (2010-2012).

Team Gleason Northwest

- Member of the Board (National nonprofit charity that raises money and awareness for ALS research and seeks to develop new technologies for the disabled).

Salvation Army's Back to School Drive

- Administers the annual Back to School Drive on behalf of Spokane County employees, record donations compared to all other Spokane Salvation Army locations (2009-2013).

Salvation Army's Christmas/Holiday Charity

- Participates in "Adopt a Family" program during Christmas/winter holiday (annual).

Prosecutor In Every School Program

- Acted as a liaison to local schools on safety issues, facilitated annual field trips to the court house.

Traffic Safety Committee

- Reviewed traffic data and public commentary, then made traffic enforcement/infrastructure recommendations.

City Of Spokane Public Safety Transition Team

- Advised Mayor on public safety topics, studied and recommended reforms (2011-2013).

Volunteer coach for Gonzaga University's undergraduate Mock Trial Team

- Advanced nationally ranked teams (2004-2007).

Discipline and Disputes

34. Have you ever been held, arrested, charged or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation or ordinance? Yes/No. If you answered "yes", please provide details. (Do not include traffic violations for which a fine of \$150.00 or less was imposed.) Please feel free to provide your view of how it bears on your present fitness for judicial office.

No.

35. Has a client ever made a claim or suit against you for malpractice? Yes/No. If you answered "yes", please provide details and the current status of the claim and/or suit.

No.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

36. Please describe your direct experience, if any, with domestic violence and sexual harassment.

I have prosecuted numerous domestic violence related crimes including homicides. I have met with and interviewed numerous victims of domestic violence. I have worked closely with domestic violence victim-advocates in connection with prosecutions. I have received specialized training related to domestic violence and have studied topics such as the “cycle of power and abuse” and the impacts of exposure to domestic violence on child neurologic brain development. As President of the Prosecutor’s Union, I helped to develop and implement policies aimed at protecting employees from sexual harassment. As a leader within the prosecutor’s office and legal community, I have been dedicated throughout my career to conducting myself in a highly professional manner at all times to promote professional behavior.

37. Have you been a party in interest, witness, or consultant in any legal proceeding? Yes/No.
If you answered “yes”, please provide details. Do not list proceedings in which you were merely a guardian ad litem or stakeholder.

Yes. On two occasions, I was the listed victim on Intimidation of a Public Servant charges for death threats I received in connection to my duties as a prosecutor. These cases ultimately settled to lesser crimes, and I was never called to testify.

I testified briefly in a hearing regarding accidental contact I had with a juror. While preparing for a homicide trial, I learned through follow-up investigation that the same defendant in my homicide case was alleged to have sexually assaulted a female months before the homicide incident occurred. I discovered this information after reading through archived police reports. Although the sexual assault incident was unrelated to the homicide case, there was enough similarity between the two crimes that I needed to evaluate whether the female witness could potentially testify in my trial as a possible 404(b) witness. I contacted the witness by telephone to request an interview. Upon contacting the witness and explaining to her the nature and reason for my phone call, the witness unexpectedly revealed to me that she was currently serving on jury duty in a separate criminal trial. Upon learning of her jury duty status, I immediately stopped the conversation and promptly self-reported this inadvertent contact to the trial judge and to all parties. It should be noted that I was not the attorney assigned to the trial or in any way connected to the case she was acting as a juror on. The timing of my evidentiary discovery and subsequent phone call was purely coincidental to her jury service. Nevertheless, it was necessary for me as a member of the prosecutor’s office to report this incident as my contact had the potential to cause undue influence or create the appearance of impropriety. Following my self-reporting, the court held a brief hearing outside the presence of the jury where I testified as to what had occurred and to the substance of our brief communication. The court complimented me on the record for handling the circumstances appropriately and in conformity with the Rules of Professional Conduct. The juror was allowed to continue with her jury service. Following the completion of her jury service, I was able to interview the witness regarding my unrelated homicide case. She subsequently testified as a 404B witness in my murder trial months later, which helped to secure a conviction.

I routinely act as a consultant for fellow prosecutors related to their case prosecutions.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

38. Have you ever been the subject of a complaint to any bar association, disciplinary committee, court, administrative agency or other professional group? Yes/No. If you answered "yes", please provide details.

Yes. Following his conviction at trial for First Degree Murder, Defendant Patrick Gibson filed a pro se motion which contained accusations that I "lied to the court", "conspired with witnesses to evoke perjury", and "falsified transcripts of the court proceedings". Upon review, the Division III Court of Appeals denied the appeal and made findings in an unpublished opinion that "the Defendant offered no evidence to support his speculation" and that "nothing in the record suggest[ed] the prosecutor lied." *State of Washington vs. Patrick K. Gibson, No. 31077-9, Div. III (Unpublished) 2013.*

39. Have you ever been disciplined or cited for breach of ethics or unprofessional conduct? Yes/No. If you answered "yes", please provide details.

No.

40. If you have served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you? Yes/No. If you answered "yes", please provide details.

No.

Miscellaneous

41. Are you aware of anything that may affect your ability to perform the duties of a judge? Yes/No. If you answered "yes", please provide details.

Yes. I would be required to recuse myself from any pending criminal cases that I directly handled as a prosecutor. The recusals would only affect approximately 60 pending criminal cases in total. I have discussed this potential conflict issue with several judges, the prosecutor's office, and the Court Administrator's Office. I am confident that my potential recusals would have minimal impact on the Superior Court's case management capacity. I have also taken the remedial steps of removing myself as a consultant on uncharged investigations or prosecutions not assigned to me so as to minimize potential future conflicts.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

42. Have you published any books or articles in the field of law? If so, please list them, giving the citations and dates. Also, please give the dates and forums of any Continuing Legal Education presentations that you have made.

As President of the Spokane County Bar, I am responsible for a bi-monthly column in the bar's newsletter (Calendar Call). These articles were not intended to be scholarly and have not been included in the application packet. However, these articles were published on the Spokane County Bar's website under Calendar Call.

As Chairman of the Spokane County Bar's Continuing Legal Education Committee in 2013, I was responsible for administering and overseeing all of the Spokane County Bar's CLEs in several forums.

-Washington Laws of Firearms Carry & The Use of Deadly Force - Tony Hazel, County Prosecutor's Office. (November 18, 2010).

-I am scheduled to present a CLE on Prosecutorial Media Ethics on November 21st, 2014 for the Spokane County Prosecutor's Office.

-I am an annual instructor at the Spokane Police Academy (formerly training center) where I teach criminal procedure and in-service legal training to law enforcement officers. I have taught these classes annually for the last four years.

43. Please list any honors, prizes, awards or other forms of recognition that you have received and whether they were professional or civic in nature.

"All-American Attorney" (1999), a national award earned for Mock Trial competition.

"Making Spokane Better" (2012), award from the Salvation Army for civic work conducted relating to administration of a "Back to School" clothing and supply drive on behalf of all Spokane County Employees.

44. Are you aware of anything in your background or any event you anticipate in the future that might be considered to conflict with the Code of Judicial Conduct? Yes/No. If you answered "yes", please explain.

No. Please see stated conflict(s) and the solution(s) outlined in question #41.

45. Please provide a writing sample of your work (between five and 10 pages long), written and edited solely by you, within the last four years.

Sample has been provided in application packet

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

Access to Justice

46. Please describe activities that you have engaged in to eliminate bias or improve access to the judicial system for indigent populations and ethnic, racial and sexual minorities. As a member of the bench, what, if any, role do you believe a judge has to enhance equal access to justice?

A judge has an important, fundamental, and pivotal role in enhancing equal access to justice. Inherent in the concept of “justice” is the notion that all people are entitled to equal protection and treatment under the law. See U.S. CONST. AMEND. XIV, §1. The inherent benefits of living in a society governed by laws cannot be fully realized without having a practical and efficient system to guarantee that legal requirements have their intended affect. Similarly, the constitutional and societal values placed on individual human rights are meaningless without a judicial system that provides an accessible venue to preserve those same rights.

It is necessary for a judge, entrusted with an oath-bound duty to uphold the law and Constitution, to ensure all people have access to the particular branch of government designed to support law and provide justice for the people. A judge is a public servant and should have the mindset to serve the public and be inclusive of all people. To further enhance equal access to justice, a judge must have a strong work ethic, be accommodating towards pro se litigants, and have the leadership ability to promote these principals in both the judiciary and the community. The bench as a whole must strive to improve efficiencies in order to increase the courts availability to the public. Finally, a judge must have the principled intrapersonal discipline to follow the law and the introspective self-awareness to apply the law fairly and equally to all litigants. I possess all these qualities and have demonstrated these principals, abilities, and commitments throughout my career.

My career and actions as a prosecutor have shown this commitment to eliminating bias and promoting access to justice. I regularly scrutinize my cases for potential witness-bias. For example, I have refused to charge cases out of concern that witnesses' statements were racially motivated or prejudiced. Conversely, I have charged and prosecuted several cases of Malicious Harassment(s), otherwise known as “hate crimes” (Malicious Harassment is an assault or threat motivated because of race, gender, sexual orientation, and or religion). I have prosecuted several members of white supremacy groups who perpetrated crimes against racial minorities and law enforcement officers.

When selecting juries, I am mindful and deliberate to eliminate jurors who display legally improper biases and likewise act to ensure that certain jurors are never excluded for inappropriate criteria. For example, I regularly object to excusing jurors with disabilities that can otherwise serve on a jury with court provided assistance. Similarly, I routinely safeguard against the elimination of jurors based on the criteria protected in *Batson* or derivative cases (race, gender, religion, age, etc.). I also routinely arrange interpreters for defendants and witnesses who do not speak English to ensure that due process rights are protected and that all litigants have meaningful participation in the court process.

In my leadership roles, I have similarly demonstrated a commitment to eliminate biases and improve access to justice. As President of the Spokane County Bar Association, I proposed changes to our current board's by-laws to promote diversity within our legal community. For the last two years, I have served on the Trustee Nomination Committee and each year I have nominated people with different cultural/gender backgrounds to run for the trustee position(s). All of our trustee positions are by election from the membership. I am cognizant of the fact that Spokane lacks a depth of diverse demographics. After becoming President, I suggested that the board of trustees form a permanent at-large board position that would be by appointment only. This was done for the specific purpose of ensuring diverse representation on the board at all times. Last year I worked with the State Bar and local Young Lawyers Division to help create a mentorship program that was specifically designed to address and promote issues of diversity. In addition to being the Spokane County Bar President, I currently serve as the board's liaison to the Diversity Section of the Spokane County Bar. I have helped to arrange guest speakers on the topic of diversity. As President with committee appointment powers, I worked closely with the Diversity Section to ensure that their section had representation on the local Judicial Evaluation Committee per their long standing request. This particular goal of securing representation on the Judicial Evaluation Committee had been included in the Diversity Section's founding mission statement since the time the Diversity bar section was first created.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

47. Please describe the frequency, time commitment and substantive nature of your direct participation of free legal services to indigent populations, and ethnic, racial and sexual minorities.

The Volunteer Lawyers Program is the primary pro bono legal service provider in the Spokane area and coordinates hundreds of lawyers to provide pro bono service. In my capacity as President, I devote significant time every month towards the administration of this organization which includes activities such as strategic planning, fundraisers, conducting board meetings, reviewing grant applications, publications, and advertising. In addition, I recruit lawyers from the community to volunteer their time and professional legal services so those in need have access to justice. Our organization conducts semi-annual auctions and monthly meetings to supplement this charitable effort. Due to the generous participation of our bar members and dedicated staff, over a thousand low-income clients from diverse backgrounds have quality legal services at no cost. I also currently serve as President of the Spokane County Bar Association. The Spokane County Bar ensures that the Volunteer Lawyers Program have all the necessary documents and preprinted court orders required for providing free legal services. Both organizations are nonprofit. My direct role in pro bono service is limited to administration, as my position prohibits me from “practicing law” outside my prosecutorial duties by a combination of statute, county policy, and Rules of Professional Conduct for prosecutors (In short, state laws such as *RCW 36.27.60* in conjunction with county policy, restrict a prosecutor's ability to engage in private practice). My personal efforts must be limited to the administration and promotion of the Volunteer Lawyers Program. All of the works I perform in my role as President(s) for both the Spokane County Bar and Volunteer Lawyers Program are unpaid and 100% volunteer work. Both organizations are separate and distinct legal entities.

Diversity in the Legal Profession

48. Please briefly describe your understanding of the issue of “diversity within the legal profession.”

Although all professions provide unique social utility, further examination to the legal profession's specific societal functions reveals that the value of diversity is interconnected to the functionality of society itself. By promoting diversity, our legal profession further enables lawyers to perform their traditional roles in society. Inherent to the basic concepts of a “profession” are notions that unique job and skill sets are combined within a sub-community to promote the internal ethics, self-regulate, and serve a greater societal function or good. The legal profession is distinguished with broad duties that affect all facets of society. For example, the medical profession obviously serves the important societal function of promoting and maintaining human health. Without this important societal function, our life spans and quality of life would inevitably suffer. On the other hand, the legal profession's more significant societal functions are to problem-solve on behalf of society and ensure that society's validly adopted rules (i.e. laws) are enforced or otherwise given affect.

Given these important social roles that lawyers perform, it is particularly important for our profession to be in touch with the society we serve. The society our profession provides these essential services to is undoubtedly made up of very diverse human beings. Our society itself will only increase in diversity via globalization. In order to continually fulfill our societal functions effectively, we must adapt to serve a diverse society by ensuring that our profession is reflective and inclusive of that same society we serve. Since attorneys play such a critical role in how society interacts with itself, it is of the utmost importance that our legal profession promotes and role models the particular values that will enhance society's own ability to interrelate.

The underlying value associated with the cause of diversity is directly aimed at enhancing society's ability to interrelate. Accordingly, respect for human dignity and a commitment to the equal treatment and inclusion of all people is the foundation for a just, peaceful, and prosperous society. Similarly, the concept of American justice encompasses the notion that all people are entitled to equal protection and treatment under the law. *See U.S. CONST. AMEND. XIV, §1.* By promoting these principles, we also influence and encourage the greater community to adopt these same values.

The inherent tasks of our legal profession uniquely transcend and touch upon all aspects of society and also help to regulate all other professions and government. Our legal profession is truly distinctive in that we are collectively tasked to regulate society itself. Our society's system of rulemaking is that of a constitutional-democracy, therefore, all people who live in our society are fundamentally affected by laws. Moreover, our society itself originates from law via the Constitution. In order to fulfill our societal functions, we must serve a diverse public, and we must be comprised of a diverse profession that is reflective of that same society we serve. If the legal community fails to address diversity issues, we also cease to function as a real profession as we would no longer effectively provide our fundamental societal functions. Because the very society we serve was formed by law and continues to exist under the premise of the law, the need to resolve issues regarding societal inclusion are not just limited to the legal profession itself. Undoubtedly, the high stakes involved with the “issues of diversity within the legal profession” is no less a matter of whether society itself will continue to function.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

References

It is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. One or more participants in the evaluation process may contact each of your references. All telephone numbers should be current and legible. If a reference is unreachable, your rating/evaluation may be delayed. **Please use a separate piece of paper for each list.** You may contact references in advance if you so desire. Individuals not listed by you as a reference may be contacted to obtain information about you.

49. If you have been in practice within the past 15 years, list the names and phone numbers of 10 opposing counsels who know you best, including at least three opposing counsels on cases that went to trial.
50. If you have been a judge or otherwise have served as a neutral decision-maker within the past 15 years, please list the names and phone numbers of the last 10 attorneys who have appeared before you.
51. List the names and phone numbers of up to six non-attorney references whose opinions or observations – particularly with respect to your commitment to improving access to the judicial system for indigent populations, people of color, and disenfranchised communities – would assist in the consideration of your application.
52. For the last five trials in which you participated (whether as trial lawyer or decision-maker), list as appropriate the following for each: case name, subject matter, court, judge (w/ phone number), and opposing counsel or counsel appearing before you (w/ phone number).
53. List the names and phone numbers of 10 additional attorneys familiar with your professional qualifications, skills, experience or attributes.

The Governor's Office's
Uniform Judicial Evaluation Questionnaire

NOTE: The Governor's Office requires individuals seeking judicial appointment to utilize, to the fullest extent possible, the ratings processes from state, county, and minority bar organizations. To facilitate the process, many of these organizations accept this questionnaire as the principal application in their evaluation process and may also require completion of a supplement questionnaire.

- The Washington State Bar Association (WSBA) Judicial Recommendation Committee screens and interviews candidates for state Court of Appeals and Supreme Court positions. Recommendations are reviewed by the WSBA Board of Governors and referred to the Governor for consideration when making judicial appointments. Committee information can be found on the WSBA website at <http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Judicial-Recommendation-Committee>.
- Contact minority bar associations to determine whether an evaluation process will be conducted. Contact information can be found on the Washington State Bar Association's website at <http://www.wsba.org/Legal-Community/Minority-Bar-Associations>. This webpage contains a link to the list of Judicial Evaluation Committee Representatives for those associations who participate in standing judicial evaluation committees. Note that some of the minority bar associations may conduct judicial evaluations when judicial vacancies occur, even if committee representatives are not listed on the webpage.
- Contact the relevant county bar associations to determine whether an evaluation process will be conducted. Contact information for county bar associations can be found on the WSBA website at <http://www.wsba.org/Legal-Community/County-Bar-Associations>

It is the applicant's responsibility to obtain these evaluations in a timely manner, and to forward evaluations received to the Governor's Office. To that end, all applicants are strongly encouraged to commence the evaluation process with the various bar associations as soon as possible.

As of the date of your certification below and submission of this questionnaire to the Governor's Office, please list each of the above organizations you have contacted to evaluate you for the position you seek.

Washington Women Lawyers Association, Loren Miller Association, Asian Bar (JA JEC), Latina/Latino Bar, Q-Law, Washington Attorney's with Disabilities Association, Spokane County Bar local evaluation, Northwest Indian Bar Association, Spokane County Women Lawyer Section.

Certification

54.

By signing below, I declare under penalty of perjury under the laws of the State of Washington that the information provided by me in responding to this questionnaire is true and correct to the best of my knowledge.

Date: 11-13-14

Signature: (original was signed, Electronic Signature by and from Tony Hazel, WSBA #34083)