

IVI-IPO 2012 Supreme Court Questionnaire

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Name: Aurelia Marie Pucinski

Voting Address: 5934 N. East Circle, Chicago, Illinois 60631

Home Phone: omitted Business Phone: 312 793 5410

Email: Web Site:

campaign address: 5477 N. Nagle, Chicago, Illinois 60646

campaign phone: 773 763 4141 Fax: 773 631 9935

Campaign manager: contact Aurelia Pucinski 312 545 7223

Elective or appointive offices and/or party offices previously held and dates:

1980: Carter Delegate

1984: Metropolitan Water Reclamation District Commissioner

1988: Delegate to the Democratic Convention

1988 – 2000: Clerk of the Court of Cook County

1996 Delegate to the Democratic Convention

2004: Judge of the Circuit Court, 10th Sub circuit

2006: Judge of the Circuit Court, countywide

2010: Judge of the Appellate Court

Other elective offices for which you have been a candidate:

1986: Secretary of State

1994: President of the County Board

1998: President of the County Board

2002: Appellate Court

Principal business, educational, professional and civic activities of the past ten years:

see above.

Please detail your prior political activity.

see above.

Bar Association Ratings:

See attachment

1. What do you believe are the major strengths and weaknesses of the Supreme Court? Would you change the manner in which the Supreme Court functions.

I think it would be incredibly presumptuous of me to state what I would do to change the Supreme Court – since it would, after all, be something that my colleagues would have to agree with! I do have some things I would work on changing, primarily, taking more cases and some transparency when a judge recuses him or herself. I would also work to add to the canons a requirement that judges recuse themselves if their own attorney is appearing in a case; and I think some serious discussion is called for to modify the canons to recuse in certain circumstances surrounding endorsements for office.

2. What would be the reasons for not publishing an opinion? I wish they were all published.

3. What is the role of dissent in a court? Under what conditions would you write a dissenting or concurring opinion? Dissent is proper when one or more judge does not agree with the majority for a significant reason and that fact can assist in the understanding of the law. This is particularly important when a law is ambiguous and judges have different opinions about how to interpret it, or if they all agree on the law and how to apply it but do not agree on the application to the specific facts in a case. Dissent and concurring opinion can help form the analysis of the legislature in correcting laws, and can be helpful to litigants and attorneys in moving forward with similar cases. In general, however, I work hard to get all of my opinions to be unanimous because I think that is better and more helpful to the litigants, attorneys and judges if they have a sense that there has been clarity in the analysis of the case and some clear direction about its outcome.

4. The Lockstep Doctrine that the protections of the Illinois Constitution's Bill of rights must be interpreted in lockstep with the U.S. Supreme Court's interpretation of parallel provision of the Federal Bill of Rights: please comment.

I believe that the Federal Bill of Rights should be the foundation for our protections, and that state's within their state's rights have the option of expanding but not contracting those federal protections.

5. What is the appropriate role of economic analysis and particularly cost benefit analysis in jurisprudence?

I don't think economic analysis per se should have a part in judicial decision making, except in those cases, like child support, where it is necessary. There may be some very unusual cases where the complexity of unraveling some problem would be so costly that some less burdensome alternative must be considered.

6. What are the pros and cons of an elected, an appointed, or a hybrid system for the judiciary? How might the Illinois courts benefit or suffer from a change?

I believe in electing judges in non-partisan elections. I believe we are better judges when we have to get out and meet people from all communities – especially when we are the trier of fact and have to decide on the credibility of witnesses. It is very, very helpful if the judge has some knowledge of the community when weighing that credibility. Then, once the facts have been established, the law should be applied evenly throughout our community. I wonder if we had appointed judges if the system would be significantly better than what we see happening with the associate judges who are in a process that is more political than most people realize. And, of course, it is fair to ask who would be doing the

appointing? The governor? The Chief Judge? Some select blue ribbon committee of prestige, big money law firms? I don't think any of those alternatives would result in better judges or more robust diversity.

7. How has mandatory sentencing affected the criminal justice system in Illinois?

It has resulted in overcrowded jails, and a reduced ability of judges to use their best judgment in sentencing. I wish we could explore a more focused process: crimes with guns and violence – strong sentencing guidelines; juvenile crime, if non-violent – spend more money and resources on education and rehabilitation; non violent crime: more restrictive probation and home monitoring. The problem with restorative justice in the juvenile system is that it is significantly underfunded because it we spend so much to prosecute and jail offenders who are non-violent. Crime should have a price, but jail and prison cost us all an enormous amount.

8. How has automatic transfer of juveniles affected the criminal justice system in Illinois? How has it affected the recidivism rate of juveniles?

My colleagues in the Juvenile Justice Division have told me that they believe the automatic transfer of juveniles to adult court has not really helped reduce juvenile crime or recidivism. While I have never been on that call and have no personal experience other than what is reported in the media, I think we should all be spending much more time on education and job development to get kids out of gangs and away from the temptations they pose. The whole purpose of juvenile court was to codify our belief that kids sometimes make really dumb mistakes that shouldn't follow them through their adult life. Of course, there are predatory, violent juveniles. I believe that well informed and trained juvenile justice judges are in the best position to determine how to proceed in those cases.

9. Do you think the juvenile justice system should focus on rehabilitation or punishment?

If a child is incorrigible and violent, has had some LEGITIMATE chances to change his or her life and hasn't then the only thing left would be punishment.

However, I started the **Youth Peer Juries** in about 30 suburbs and some of the Chicago police districts because I believe that if you can get a child's attention in a meaningful and constructive way when the first sign of trouble comes up you have a great chance to change his or her decision making. The Peer Juries work because for the first and maybe second non-violent offense the youth is interviewed and "sentenced" by other young people from his or her own community. This is a terrific benefit to the offender, who by completing the process avoids a juvenile record, and equally important, for the "jurors" who get actual experience evaluating evidence, weighing fairness, and helping to set community standards. I would like to see Peer Juries in every school and community.

10. How do you account for the disproportionate number of minorities prosecuted and incarcerated? What can the courts do to correct the disparity?

I do not think that the courts acting alone can solve this macro problem – it will take the community at large to recognize the problem and think of specific solutions. Courts and judges can only deal with the cases in front of them. Our community at large has a lot of work to do on education, employment, housing, parenting and opportunity, and police training – if we are to ever solve this problem.

11. What do you consider the important aspects of a judge's decision in handing a petition by a minor for a waiver of parental notice with the intent to have an abortion?

Whether the young woman has the capacity to understand all of her options and make an informed decision, and whether the facts support the Petition to the court, whether it is in the best interest of the young woman to grant the petition.

12. What options available to a judge under Illinois law do you consider most effective in sentencing perpetrators of hate crimes?

Each judge in each case will properly and appropriately weigh the facts, the law and the options. No one can second guess that process. Hate crimes are unacceptable.

13. What changes would you suggest for the workings of the Illinois Supreme Court?

Hear more cases.

14. Would you appoint a screening committee for appointments? Would you ignore it?

Yes. And, no.

15. What changes should be made to the appointive process to make it more collaborative?

One could make the argument that leaving the appointment of judges to the Supreme Court for the short term – i.e., until the next election, is actually a good way to make sure that there is diversity on the bench. I believe that those who are appointed should stand for election and if not elected then should not be recalled – with this important reservation: those who have been appointed without the “get elected or you are out” mandate should be grandfathered because they were asked to give up their jobs or practices to join the bench and could reasonably rely on recall: I think the link to the election should have a specific starting date for all those who are appointed thereafter.

Prior Bar evaluations

2002 Appellate Court, Rakowski vacancy

AABA	NQ
BWLA	NR
CCL	NQ
CCBA	NR
HLAI/PRBA	R
LAGBAC	NR
WBAI	R
ISBA	R

2004 10th Subcircuit, Fleming vacancy

AABA	Q
BWLA	R
CCL	NQ
CCBA	R
DSL	NR
HLAI/PRBA	R
ISBA	NQ
LAGBAC	NR
WBAI	R

2006 Circuit Court, Burr Vacancy

AABA	Q
BWLA	R
CCL	NQ
CCBA	R
DSL	NR
HLAI	R
ISBA	Q
LAGBAC	NR
PRBA	R
WBAI	R

2010 Appellate Court, O'Malley vacancy

AABA	NR
BWLA	R
CCL	NQ
CCBA	NR
DSL	NR
HBA	R
ISBA	NQ
LAGBAC	NR
PRBA	NQ
WBAI	NR
CBA	NR