

Report on Judicial Salaries and Turnover

For Fiscal Years 2004 and 2005



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November 2006

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Executive Summary

To provide the legislature with information to facilitate legislation that ensures that the compensation of state judges is adequate and appropriate, the 79th Texas Legislature charged the Office of Court Administration (OCA) with collecting information relating to state judicial turnover and salaries.

Extent of and Reasons for Judicial Turnover

From September 1, 2003 through August 31, 2005, 7.6 percent of the 523 judges that served in the state's appellate and district courts left the state judiciary. Of the 40 judges that left the state judiciary, 19 (almost half) left involuntarily, primarily due to defeat in a primary or general election. Other reasons for involuntary separation included death, mandatory retirement, and removal from office.

Fifteen of the 21 judges who voluntarily left the state judiciary responded to OCA's survey. Respondents were asked to indicate which factor(s) influenced their decision to leave the state judiciary. The most common factor that strongly influenced respondents' decision to leave was *retirement* (40 percent). In addition, one-third of respondents named *inadequate salary*, and an equal percentage named *personal reasons*, as large contributors to their departures.

When taking into account factors that contributed "to some extent" to the judges' decision, inadequate salary became the primary reason for turnover, with 60 percent of respondents indicating that *salary* was a relatively significant factor. While the percentage of respondents naming *retirement* and *personal reasons* remained constant, the percentage of judges indicating that inadequate *benefits* were a contributing factor rose to 33.3 percent.

Judicial Salaries

In 2006, the State Bar of Texas conducted a survey of the salaries received by full-time attorneys in the state during the previous year. Results of the survey showed the average income of private practitioners to be \$183,790. The average salary of a private practitioner was 18.4 percent higher than the salary of a justice or judge on the state's two courts of last resort, 21.3 percent higher than a justice of an intermediate court of appeals, and 26.7 percent higher than a district judge.

According to data obtained from the National Center for State Courts, the salaries of state judges in Texas ranked last when compared to the salaries of judges at corresponding levels in the five states closest to Texas in population—California, New York, Florida, Illinois and Pennsylvania. The state salary for a district judge in Texas was 8.6 percent lower than the salary of a general jurisdiction trial court judge in New York—the state with the next lowest salary. When supplements paid by Texas counties were included, the average salary of a district judge in Texas was still 1.5 percent lower than the salary of a similar judge in New York. State salaries for Texas appellate court judges were also 0.8 percent to 4.9 percent lower than salaries for similar judges in New York, which had the lowest salaries among the five other states.

Introduction

Purpose

To provide the legislature with information to facilitate legislation that ensures that the compensation of state judges is adequate and appropriate, the 79th Texas Legislature charged the Office of Court Administration (OCA) with collecting information relating to state judicial turnover. Section 72.030 of the Texas Government Code¹ requires OCA to: 1) obtain data on the rate at which state judges resign from office or do not seek re-election, as well as the reason for these actions; and 2) file a report containing this data for the preceding state fiscal biennium with the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary or appropriations. The report must also include the following findings: 1) whether the compensation of state judges exceeds, is equal to, or is less than the compensation of judges at corresponding levels in the five states in population to Texas; and 2) whether the compensation of state judges exceeds, is equal to, or is less than the average salary of lawyers engaged in the private practice of law.

Methodology

OCA does not receive formal notification when a judge leaves office. As a result, data for general turnover in the state judiciary from September 1, 2003 through August 31, 2005 were compiled from OCA's judicial directory database, notices of appointment from the Governor's Office, election results from the Secretary of State's website, resolutions passed by the Texas Legislature honoring certain judges for their service, and newspaper articles concerning the departure of judges.

The findings on reasons for voluntary turnover presented in this report are based on the survey responses of state appellate and district judges who left the state judiciary voluntarily during the period. Designed by OCA staff and reviewed and approved by the Chief Justice of the Supreme Court, the survey instrument asked respondents to indicate: 1) to what extent certain factors influenced their decision to leave their current positions; and 2) what they did immediately after leaving office.

Surveys were mailed on February 1, 2006 to each of the 21 appellate and district judges that left the state judiciary voluntarily during the biennium. Follow-up letters, along with another copy of the questionnaire, were mailed on March 8 to those judges who had not yet responded, and were faxed or emailed again on March 30 to those judges for whom this contact information was available. Fifteen responses were received, for a response rate of 71.4 percent.

Data on the average salaries of Texas appellate and district judges, including supplements paid by counties, were obtained from the State Comptroller of Public Accounts for the fiscal year beginning September 1, 2006. Data on salaries of private practitioners in Texas were obtained from the 2005 survey on the income of attorneys conducted by the State Bar of Texas. Data on salaries of state judges in other states were obtained from the July 2006 survey of state judicial salaries conducted by the National Center for State Courts.²

¹ Added by H.B. 11, 79th Legislature, 2nd Called Session.

² Draft results of the July 2006 survey were obtained directly from the Knowledge and Information Services Division of the National Center for State Courts. The survey results had not yet been published.

Judicial Turnover

Extent of Turnover in the Judiciary

In fiscal years 2004 and 2005, 523 judges served in the state’s appellate and district courts.³ During this period, 50 judges left their current positions, representing a turnover rate of 9.6 percent. However, 10 of these judges were appointed to a higher-level state court, making the turnover rate for judges leaving the state judiciary less than eight percent. When taking into account whether judges left the state judiciary voluntarily, the turnover rate fell to four percent—2.3 percent of judges resigned, and 1.7 percent did not seek re-election. (See Tables 1 and 2.)

**Table 1: Turnover of State Appellate and District Judges
September 1, 2003 through August 31, 2005**

	Number of Judges	Percentage of All Judges
Total Number of Appellate and District Judge Positions	523	100.0 %
Judges Leaving Current Office	50	9.6 %
Judges Leaving State Judiciary	40	7.6 %
Judges Leaving State Judiciary Voluntarily	21	4.0 %

**Table 2: Manner in Which State Appellate and District Judges Left Office
September 1, 2003 through August 31, 2005**

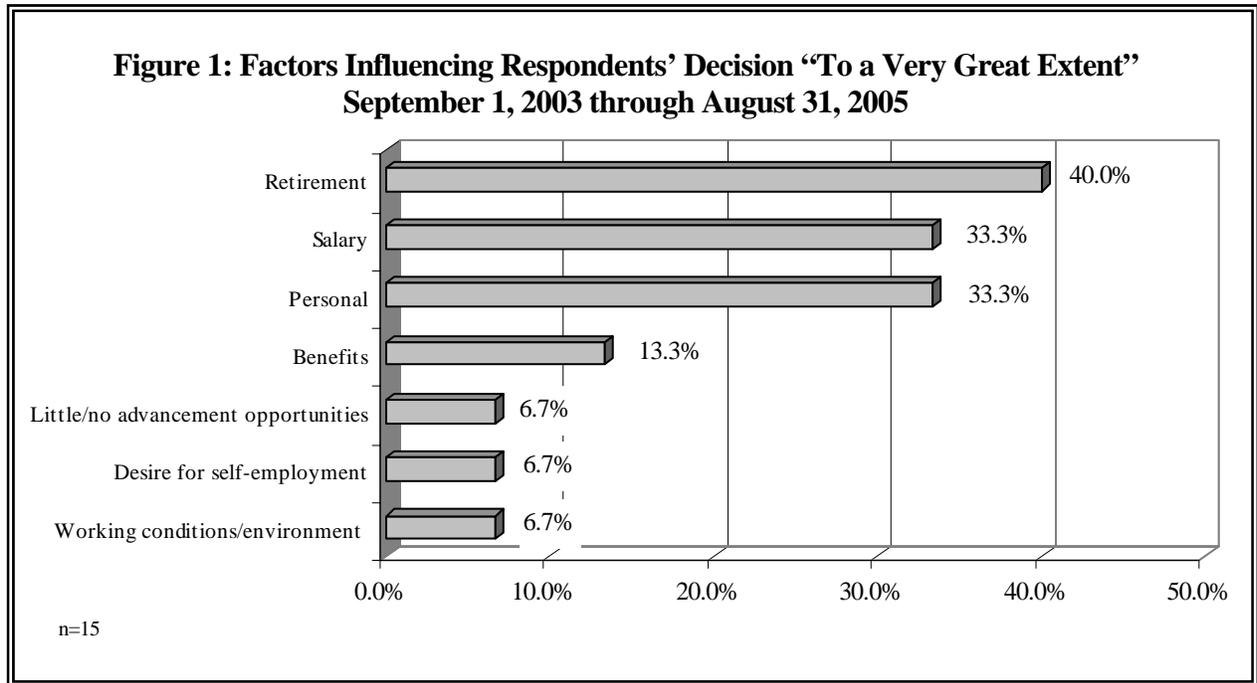
	Number	Percentage of All Judges Leaving Office	Percentage of All Judges
Resigned	12	24.0 %	2.3 %
Appointed to higher state court	10	20.0 %	1.9 %
Defeated in election	10	20.0 %	1.9 %
Did not seek reelection	9	18.0 %	1.7 %
Deceased	4	8.0 %	0.8 %
Reached mandatory retirement age	3	6.0 %	0.6 %
Not eligible for re-election	1	2.0 %	0.2 %
Removed from office	1	2.0 %	0.2 %
Total	50	100.0 %	9.6 %

Of the 40 judges leaving the state judiciary during the biennium, nearly half (47.5 percent) left involuntarily, primarily due to defeat in a primary or general election. Other reasons for involuntary separation included death, mandatory retirement, and removal from office.

³ One judge served on each of the state’s 425 district courts, and 98 judges served on the state’s 16 appellate courts.

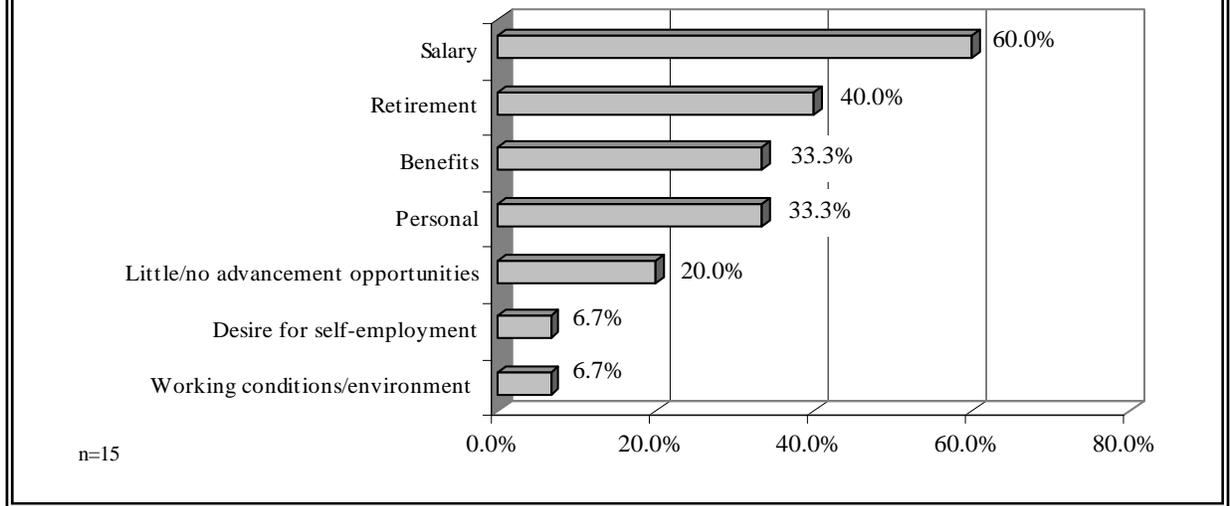
Reasons for Voluntary Turnover

Fifteen of the 21 judges who voluntarily left the state judiciary responded to OCA’s survey. Respondents were asked to indicate which factor(s) influenced their decision to leave the state judiciary. Forty percent of these respondents indicated that retirement played a large role in their decision to leave. In addition, one-third of respondents named inadequate salary, and an equal percentage named personal reasons, as large contributors to their departures. (See Figure 1.)



When taking into account factors that contributed “to some extent” to the judges’ decision, inadequate salary became the primary reason for turnover, with 60 percent of respondents indicating that salary was a relatively significant factor. While the percentage of respondents naming retirement and personal reasons remained constant, the percentage of judges indicating that inadequate benefits were a contributing factor rose to 33.3 percent. (See Figure 2.)

Figure 2: Factors Influencing Respondents' Decision "To Some or a Very Great Extent" September 1, 2003 through August 31, 2005



The survey form also allowed respondents to note other factors that contributed to their decision. Respondents identified the following additional factors:

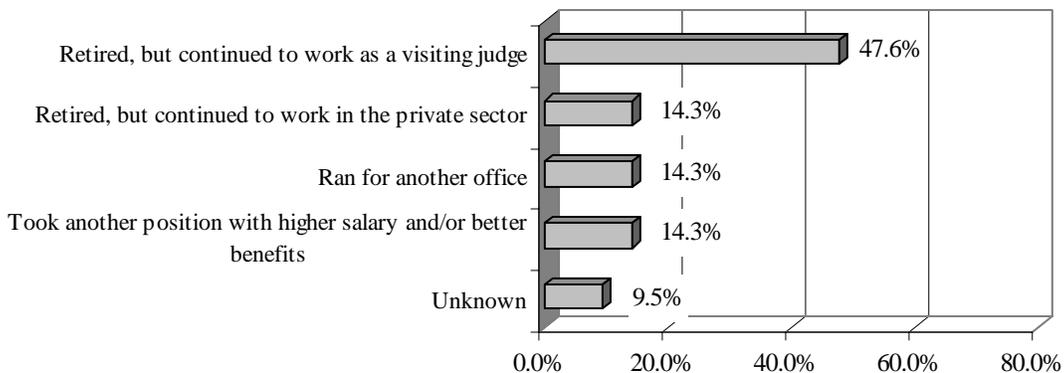
- Appointment to a federal bench (13.3 percent of all respondents);
- High campaign expenditure requirements (6.7 percent);
- Lack of respect from the Legislature (6.7 percent);
- Having to solicit funds from attorneys during campaigns (6.7 percent); and
- Campaign for United States Congress (6.7 percent).

Every judge who noted "other" factors in his or her response indicated that the factor contributed to his or her departure to a very great extent.

Next Steps for Judges after Resigning or Finishing Out Their Terms

After resigning or finishing out their terms, nearly half (10, or 47.6 percent) of the 21 judges that voluntarily left office retired but continued to work as a visiting judge. Three judges (14.3 percent) retired from the judiciary but continued to work in the private sector, three (14.3 percent) ran for another office, and three (14.3 percent) took another position with higher salary and/or better benefits. The outcome for two of the judges was unknown. (See Figure 3.)

Figure 3: Next Steps after Judges Resigned or Finished out Their Terms



n=21

Judicial Salaries

Salaries of Elected State Judges as of December 1, 2005

In August 2005, the 79th Legislature amended statutes relating to the compensation of state judges (79th Legislature, Second Called Session, H.B. 11).

Effective December 1, 2005, the annual state salary of a district judge increased to \$125,000. While Chapter 32 of the Government Code authorizes the state salaries of district court judges to be supplemented from county funds, amendments made to Section 659.012 of the Government Code limited the total annual salary for a district judge to a combined sum from state and county sources of \$5,000 less than the state salary provided for a justice of a court of appeals. Effective December 1, 2005, special provisions created in Chapter 32 during the 78th Legislature allowing unrestricted payment by certain counties of an annual supplemental salary to district judges were eliminated.

The annual state salary of a justice of a court of appeals increased to 110 percent of the annual state salary of a district judge. In addition, the chief justice of an appellate court receives \$2,500 more than the other justices of the court. While Chapter 31 of the Government Code authorizes the counties in each court of appeals district to pay each justice of the court of appeals for that district for judicial and administrative services rendered, amendments made to Section 659.012 of the Government Code limit the total salary for a justice of a court of appeals to a combined sum from state and county sources of \$5,000 less than the state salary paid to a justice of the Texas Supreme Court. This same provision limits the chief justices of the courts of appeals to receive a combined salary of \$2,500 less than the state salary paid to justices of the Supreme Court. Finally, the annual state salary of a justice of the Supreme Court or a judge of the Court of Criminal Appeals increased to 120 percent of the annual state salary of a district judge. Moreover, the chief justice or presiding judge of these courts receives \$2,500 more than the other justices or judges on the courts.

Table 3: Salary Summary for Elected State Judges as of December 1, 2005

Judge	State Salary	Additional Compensation ¹	Other	Total
Supreme Court - Chief Justice	\$152,500	N/A		\$152,500
Supreme Court - Justice	\$150,000	N/A		\$150,000
Ct. of Criminal Appeals - Presiding Judge	\$152,500	N/A		\$152,500
Ct. of Criminal Appeals - Judge	\$150,000	N/A		\$150,000
Court of Appeals - Chief	\$140,000	up to \$7,500 ³		\$147,500
Court of Appeals - Justice	\$137,500	up to \$7,500 ³		\$145,000
Presiding Judge - Admin. Judicial Region (Active District Judge)	\$125,000	up to \$15,000 ³	not to exceed \$33,000 ⁴	up to \$173,000
Presiding Judge - Admin. Judicial Region (Retired or Former Judge)	N/A	N/A	\$35,000 - 50,000 ⁵	up to \$50,000
District Judge - Local Admin. Judge who serves in county with more than 5 dist. cts.	\$130,000 ²	up to \$15,000 ³		\$145,000 ^{2,3}
District Judge	\$125,000	up to \$15,000 ³		\$140,000 ³

Notes:

1. Additional compensation provided by counties in judicial and appellate districts for extra judicial service performed by judges and justices. Tex. Gov't Code Secs. 31.001 and 32.001.
2. Includes \$5,000 state supplement. Tex. Gov't Code Sec. 659.012(d).
3. The state salary of a district judge whose county supplement exceeds \$15,000, or appellate justice whose county supplement exceeds \$7,500, will be reduced by the amount of the excess so that the maximum salary the judge or justice receives from state and county sources is \$140,000 (district judge), \$145,000 (appellate justice), or \$147,500 (appellate chief justice). Tex. Gov't Code Secs. 659.012, 31.001 and 32.001.
4. Presiding judges' salary set by Texas Judicial Council. Tex. Gov't Code 74.051(b). Paid by counties in administrative judicial region on a pro rata basis based on population.
5. Presiding judges' salary based on number of courts and judges in region. Tex. Gov't Code Sec. 74.051(c). Paid by counties in administrative judicial region on a pro rata basis based on population.

Judicial Salaries Compared with Salaries of Private Practitioners

In 2006, the State Bar of Texas conducted a survey of the salaries received by full-time attorneys in the state during the previous year. Results of the survey showed the average income of private practitioners to be \$183,790. The average salary of a private practitioner was 18.4 percent higher than the salary of a justice or judge on the state's two courts of last resort, 21.3 percent higher than a justice of an intermediate court of appeals, and 26.7 percent higher than a district judge. (See Table 4.)

Table 4: Comparison of Salaries of Elected State Judges to Salaries of Private Practitioners in Texas

	Average Salary	Difference from Average Salary of Private Practitioners
Private Practitioner	\$183,790 ^{1,2}	-----
Chief Justice/Presiding Judge of Highest Court of Appeals	\$152,500	-17.0 %
Justice/Judge of Highest Court of Appeals	\$150,000	-18.4 %
Chief Justice of Intermediate Court of Appeals	\$146,795 ³	-20.1 %
Justice of Intermediate Court of Appeals	\$144,597 ³	-21.3 %
District Court Judge	\$134,700 ³	-26.7 %

Notes:

1. State Bar of Texas, *Private Practitioner 2005 Income Report* (Austin: Department of Research and Analysis, State Bar of Texas, 2006).
2. The overall average salary including bonuses for private practitioners was \$192,339.
3. Includes supplements paid by counties as of October 1, 2006. Data on supplemental compensation are from affidavits filed with the State Comptroller of Public Accounts.

Salaries of State Judges in the Six Most Populous States

According to data obtained from the National Center for State Courts, the salaries of state judges in Texas lagged behind the salaries of judges at corresponding levels in the five states closest to Texas in population. (See Table 5.)

Table 5: Salaries of State Judges in the Six Most Populous States as of July 1, 2006¹ Listed in Population Order

Judge	California	Texas	New York	Florida	Illinois	Pennsylvania
Chief Justice - Court of Last Resort	\$200,613	\$152,500	\$156,000	\$161,200 ⁴	\$182,739	\$160,009
Associate Justice - Court of Last Resort	\$183,946	\$150,000	\$151,200	\$161,200 ⁴	\$182,739	\$155,783
Chief - Intermediate Court of Appeals	\$179,350	\$140,000 ² \$146,795 ³	\$148,000	\$153,140 ⁴	\$171,991	\$152,903
Justice - Intermediate Court of Appeals	\$172,452	\$137,500 ² \$144,597 ³	\$144,000	\$153,140 ⁴	\$171,991	\$150,903
Judge - General Jurisdiction Trial Courts	\$150,696	\$125,000 ² \$134,700 ³	\$136,700	\$145,080 ⁴	\$157,824	\$149,132

Notes:

1. Source: Knowledge and Information Services Division, National Center for State Courts, survey of judicial salaries as of July 1, 2006. Survey results have not yet been published. The National Center for State Courts attempts to use actual salaries whenever possible. Thus, the data for each state will include local supplements whenever relevant and feasible.
2. Basic state salary. Does not include supplements paid by counties.
3. Average salary statewide, including supplements paid by counties.
4. Effective October 1, 2006.

The state salary for a district judge in Texas was 8.6 percent lower than the salary of a general jurisdiction trial court judge in New York—the state with the next lowest salary—and was 20.8 percent lower than the salary of a similar judge in Illinois—the state with the highest level of compensation (see Table 6). When supplements paid by Texas counties were included, the average salary of a district judge in Texas was still 1.5 percent lower than the salary of a similar judge in New York and was 14.7 percent lower than the salary of a judge in Illinois.

State salaries for Texas appellate court judges were also 0.8 percent to 4.9 percent lower than salaries for similar judges in New York, which had the lowest salaries among the five other states, and were 20.3 to 24.0 percent lower than salaries for similar judges in California, the state with the highest levels of compensation for appellate court judges.

Table 6: Percentage Difference Between the State Salary of Texas Judges and the Salaries of State Judges in the Five States Closest to Texas in Population

Judge	California	New York	Florida	Illinois	Pennsylvania
Chief Justice - Court of Last Resort	24.0%	2.2%	5.4%	16.6%	4.7%
Associate Justice - Court of Last Resort	18.5%	0.8%	7.0%	17.9%	3.7%
Chief - Intermediate Court of Appeals	21.9%	5.4%	8.6%	18.6%	8.4%
Justice - Intermediate Court of Appeals	20.3%	4.5%	10.2%	20.1%	8.9%
Judge - General Jurisdiction Trial Courts	17.1%	8.6%	13.8%	20.8%	16.2%

APPENDICES

Results of Judicial Turnover Survey For Fiscal Years 2004 and 2005

A. Please indicate to what extent each of the following factors contributed to your decision to leave the Texas state judiciary. (n=15)		To Very Great Extent	To Some Extent	To a Small Extent	Not At All	No Answer
1	Salary	33.3%	26.7%	20.0%	6.7%	13.3%
2	Benefits	13.3%	20.0%	6.7%	40.0%	20.0%
3	Little or no career advancement opportunities	6.7%	13.3%	6.7%	46.7%	26.7%
4	Desire for self-employment	6.7%	0.0%	0.0%	60.0%	33.3%
5	Working conditions/environment (e.g., safety, work-related stress, and/or workload issues)	6.7%	0.0%	20.0%	40.0%	33.3%
6	Retirement	40.0%	0.0%	6.7%	33.3%	20.0%
7	Personal	33.3%	0.0%	6.7%	33.3%	26.7%
8	Other: <i>Appointed to federal bench</i>	13.3%	0.0%	0.0%	0.0%	86.7%
9	Other: <i>High campaign expenditure requirements</i>	6.7%	0.0%	0.0%	0.0%	93.3%
10	Other: <i>Lack of respect from Legislature</i>	6.7%	0.0%	0.0%	0.0%	93.3%
11	Other: <i>Ran for Congress</i>	6.7%	0.0%	0.0%	0.0%	93.3%
12	Other: <i>Having to solicit funds from attorneys during campaigns</i>	6.7%	0.0%	0.0%	0.0%	93.3%

B. After resigning or finishing out the term, judges:		(n=21)
1	Took another position with higher salary and/or better benefits	14.3%
2	Took another position with comparable salary and/or benefits	0.0%
3	Became self-employed	0.0%
4	Ran for another office	14.3%
5	Sought other employment (<i>Did not have another position when left office</i>)	0.0%
6	Retired and did not continue to work	0.0%
7	Retired, but continued to work as a visiting judge	47.6%
8	Retired, but continued to work in the private sector	14.3%
9	Retired, but continued to work in state government	0.0%
10	Unknown	9.5%

Comments from Respondents

1. Although I enjoyed my public service, it was time to give something back to my family.
2. Stress.
3. I loved my job but the pay was ridiculous. There should have been an automatic cost of living each year! No pay raise since 1996!
4. The turnover on the Supreme Court has been extremely high. I am concerned about continuity, institutional memory, and ability to decide cases. Each time a new judge goes onto the Court, it delays the pending cases. But the greater problem, from my perspective, is the time it takes for some to become familiar with precedent, substantive areas of the law, and judicial decision-making principles.
5. I think that the manner in which Texas selects (elects) its judges is a DISGRACE. At the very least we should not be subject to STRAIGHT TICKET VOTING.



OFFICE OF COURT ADMINISTRATION

CARL REYNOLDS
Administrative Director

February 1, 2006

The Honorable
Address
City, TX ZIP

Dear Judge :

The Office of Court Administration (OCA) has recently been charged with collecting information relating to state judicial turnover. Section 72.030 of the Texas Government Code requires OCA to obtain data on the rate at which state judges resign from office or do not seek re-election, as well as the reason for these actions.

Please complete the enclosed survey and return it to our office at your earliest convenience. We greatly appreciate your assistance. The valuable information you provide will be included in a report to the governor, lieutenant governor, and members of the legislature to provide them better information about judicial compensation and turnover.

If you have any questions about the survey or the report, please contact Angela Garcia, Judicial Information Manager, at (512) 936-1358.

Sincerely,

Carl Reynolds



Office of Court Administration Survey on Judicial Turnover

Section 72.030 of the Texas Government Code requires OCA to obtain data on the rate at which state judges resign from office or do not seek re-election, as well as the reason for these actions. **The valuable information you provide will be included in a report to the governor, lieutenant governor, and members of the legislature assist them in ensuring that the compensation of state judges is adequate and appropriate.**

Name: _____

Court: _____ Last Date of Service: _____

A. Please indicate to what extent each of the following factors contributed to your decision to leave the Texas state judiciary.		To Very Great Extent	To Some Extent	To a Small Extent	Not At All
1	Salary				
2	Benefits				
3	Little or no career advancement opportunities				
4	Desire for self-employment				
5	Working conditions/environment (e.g., safety, work-related stress, and/or workload issues)				
6	Retirement				
7	Personal				
8	Other (<i>please specify</i>): _____				
9	Other (<i>please specify</i>): _____				

B. Please indicate (✓) what you did immediately after resigning or finishing out your term. (✓)

1	Took another position with higher salary and/or better benefits	
2	Took another position with comparable salary and/or benefits	
3	Became self-employed	
4	Ran for another office	
5	Sought other employment (<i>Did not have another position when left office</i>)	
6	Retired and did not continue to work	
7	Retired, but continued to work as a visiting judge	
8	Retired, but continued to work in the private sector	
9	Retired, but continued to work in state government	

C. Please share with us any additional comments you may have regarding the topic in this survey.

Please return your survey in the pre-addressed, stamped envelope provided.

Return
Address:

**Office of Court Administration
Attn: Angela Garcia
P O Box 12066
Austin, TX 78711-2066**

For questions regarding this survey,
please contact:
Angela Garcia - (512) 936-1358
e-mail: Angela.Garcia@courts.state.tx.us