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## Court Review: Volume 43, Issue 2 – Editor's Note

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# Court Review

THE JOURNAL OF THE AMERICAN JUDGES ASSOCIATION

Volume 43, Issue 2

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## EDITOR'S NOTE

**M**y inaugural issue of *Court Review* contains articles examining judicial selection, retention, and independence. Public scrutiny of the courts is especially complicated. On the one hand, democratic theory supports a role for the citizenry in judging judges: Governmental transparency, accountability, and public input into governmental policymaking are important principles for strong, democratic public institutions. On the other hand, it seems counterproductive to have the third branch undergo the same kinds of inspections that officials elected to the executive and legislative branches of government undergo. Judges are supposed to operate independently and impartially, not looking over their shoulder when they rule on motions, render decisions, accept/reject cases for appellate review, and so on. Some argue the election of judges undermines public trust and confidence in courts. According to this line of analysis, it is no surprise that opinion polls reveal there is greater trust and confidence in members of the judiciary than those they elect to legislatures or state/federal executive positions. Interestingly, there is little empirical evidence examining the impact of judicial elections on public trust and confidence. The research that has been conducted reveals the issue is nuanced, not cut and dried. For example, a review of the literature concluded it is not the case that politics are absent when nominating commissions are involved, there is little evidence that accountability values are fulfilled by retention elections, and merit-selected judges do not appear to differ from elected judges (though there is some evidence that merit systems result in fewer minorities on the bench than election systems). Malia Reddick, *Merit Selection: A Review of the Social Scientific Literature*, 106 DICK. L. REV. 729 (2002) (available at <http://www.ajs.org/js/LitReview.pdf>). An experimental survey found that whereas business campaign contributions and use of attack ads undermine the public's perceptions of government (both the judiciary and the legislature) it was also the case that judicial candidates' policy debates do not adversely impact trust and confidence in the courts. James L. Gibson, *Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and "New-Style" Judicial Campaigns*, \_\_\_ AM. POL. SCI. REV. \_\_\_ (2008, forthcoming) (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=996302](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=996302)). The articles in this issue on judicial selection, retention, and independence provide timely and insightful perspectives to the debates about the best ways to select and retain judges, who should be allowed to serve as a judge in our system, and potential encroachments on the independence of judges. In addition, we introduce a new feature for *Court Review*, "Social Science Research for (and in) the Courts," that will appear periodically in the journal. In this issue, Professor Brian Bornstein focuses on the correspondences between judges' and juries' decisions. Finally, effective this issue, *Court Review* will use continuous pagination. — Alan Tomkins



*Court Review*, the quarterly journal of the American Judges Association, invites the submission of unsolicited, original articles, essays, and book reviews. *Court Review* seeks to provide practical, useful information to the working judges of the United States and Canada. In each issue, we hope to provide information that will be of use to judges in their everyday work, whether in highlighting new procedures or methods of trial, court, or case management, providing substantive information regarding an area of law likely to be encountered by many judges, or by providing background information (such as psychology or other social science research) that can be used by judges in their work. Guidelines for the submission of manuscripts for *Court Review* are set forth on page 79. *Court Review* reserves the right to edit, condense, or reject material submitted for publication.

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Letters to the Editor, intended for publication, are welcome. Please send such letters to one of *Court Review's* editors: Judge Steve Leben, 301 S.W. 10th Ave., Suite 278, Topeka, Kansas 66612, email address: [sleben@ix.netcom.com](mailto:sleben@ix.netcom.com); or Professor Alan Tomkins, 215 Centennial Mall South, Suite 401, PO Box 880228, Lincoln, Nebraska 68588-0228, email address: [atomkins@nebraska.edu](mailto:atomkins@nebraska.edu). Comments and suggestions for the publication, not intended for publication, also are welcome.

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