

# King County Democrats

## 2019 Candidate Questionnaire

### Judicial Level



<b>Candidate Name</b>	Judge Marshall Ferguson	
<b>Position Sought</b>	Judge, King County Superior Court, Position 31	
Home County and Legislative District	King; 1 <sup>st</sup> Legislative District	
<b>Campaign Contact Information</b>	Mailing address: PO Box 27113 Seattle, WA 98165	Phone: Campaign: 425.466.0619 Personal cell:(206) 909-3447 Fax:
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Campaign manager or point of contact	Mary Ann Ottinger; 425.466.0619	
Consultant(s)	Same	

### Part I – Candidate Background

*Please limit your answer to **no more than 250 words***

Please briefly summarize and highlight your qualifications, education, employment, community and civic activity, union affiliation, and other relevant experience.

I have been serving as a judge on the King County Superior Court since Governor Inslee appointed me in July 2018. Previously, I practiced law in state and federal courts throughout Washington for nineteen years. As a partner at the law firm of Williams Kastner & Gibbs, I was the firm's Chief Ethics Counsel and the chair of its Ethics and Loss Prevention Committee. I served regularly as a judge pro tempore in the Edmonds Municipal Court. In 2017, the Washington Supreme Court appointed me as a Disciplinary Hearing Officer for the Washington State Bar Association. I presented regularly at conferences and continuing legal education events on the subjects of legal ethics, real estate law, and aviation law. I obtained a bachelor of arts degree in political science from Johns Hopkins University and my law degree from the University of Washington School of Law. I do not have any past union affiliation.

A copy of my resume is attached.

Describe your history of political involvement, if any, in the Democratic Party, particularly in Washington state politics. In what offices have you served or previously sought to be elected or appointed?

I do not have any history of involvement in Washington state politics. I have not previously held elected office. I have not worked on any campaigns.

What prompted you to run for this office? What priorities are you seeking to address with your campaign?

I'd always been interested in a judicial career, but the election of 2016 compelled me to seek a position as a judge sooner rather than later. In the months after that election, it became clear that certain things I cherish were under threat -- things such as the rule of law, an independent press and judiciary, and civil rights. I also perceived another obvious danger: that the tenor of the public conversation regarding gender, race, and immigration had veered sharply toward violent rhetoric and contempt for the civil and voting rights gains of the past six decades. Having resided throughout the United States, I know that Washington is exceptional in its commitment to those rights and values. King County is unique as the state's most populated and diverse county. The County's government, while not flawless, has been consistently dedicated to the rule of law, voting rights, and access to justice.

The rule of law does not just happen. Civil rights do not protect themselves. An equitable and accessible justice system does not arise out of goodwill alone. It takes many dedicated people, including judges, to make that happen. As a practicing lawyer, my clients and I had benefitted directly from the fairness of King County's court system and from the hard work of its judges and court staff. After the 2016 election, I decided to leave private practice, pitch in, and devote my career to serving King County and our great state of Washington, which have given me so much.

Please describe your campaign strategy - provide in writing your campaign goals and present progress towards them to your KCDCC endorsement interview.

I have retained a campaign consultant and campaign committee officers, and have obtained (and continue to obtain) endorsements and judicial evaluation ratings. I have been speaking to the members of all of King County's Democratic district organizations and seeking each of those endorsements. I currently have no known or rumored opponent, but am taking nothing for granted.

Should I get an opponent, my main objective will be simply to raise awareness about the election and my qualifications as a candidate. Public awareness regarding Superior Court elections is often very low. I will also begin an aggressive fundraising effort and believe I will have the resources to be competitive.

<b>Please answer the following questions.</b> Your answers will not disqualify you from consideration for endorsement by KCDCC.		<b>Yes*</b>	<b>No</b>
1	Have you ever failed to pay any taxes or failed to comply with court ordered judgments?		No
2	Have you ever been convicted of a felony or misdemeanor?		No
3	Have you ever been found in violation of a Public Disclosure Commission, Federal Election Commission or Seattle Ethics and Elections Commission regulation?		No

\* If you answered "Yes" to any of the above, please explain your answer:

## Part II – Ratings and endorsements

What endorsements and ratings from bar associations have you received to date?

Bar Association ratings:	King County Bar Association – Exceptionally Well Qualified Loren Miller Bar Association – Well Qualified Joint Asian Judicial Evaluation Committee – Well Qualified QLaw – Well Qualified Latino/a Bar Association of Washington – Exceptionally Well Qualified
Endorsements:	See attached list which is current as of the date of this submission

If you have previously sought elected office, what notable endorsements did you receive?

Not applicable.

From what other organizations are you planning to ask for an endorsement?

MLK County Labor Council  
All King County Democratic Legislative District organizations  
If I draw and opponent, I will expand my endorsement requests.

## Part III – Legal experience, technology, and court costs

*Please limit your answers to **no more than** 250 words*

Please describe your pro bono activities over the last five years.

I have not participated in any pro bono activities in the last five years.

Have you served as a prosecutor or a public defender? Please include dates and title for each position that you have held, as well as areas of law practiced.

During my third year of law school, I was a Ryle 9 intern at the San Juan County Prosecutor's Office located in Friday Harbor, Washington. On a weekly basis, I handled criminal proceedings in San Juan County District Court including arraignments, probation review hearings, motions, and sentencings.

Have you ever served as a mediator or arbitrator? (If so, please describe your experiences.) If you are an incumbent, do you perform settlement conferences?

I have not served as a mediator or arbitrator. As a judge, I do perform settlement conferences.

What do you believe are the most important qualifications for a judge or justice?

1. A genuine desire to see that justice is done in every case;
2. Prior experience as a judge pro tempore or other neutral decision-maker;
3. The ability to calmly prioritize and make decisions while under pressure;
4. A reputation for empathy and compassion;
5. Critical and strategic thinking, in particular the ability to hypothesize regarding the potential, likely downstream consequences of court orders;
6. Patience, especially the ability to deal with difficult personalities; and
7. Attention to detail and a track record of handling complex matters to completion.

Have you been a judge pro-tem? If so, what was that experience like, and what did you learn from it?

Prior to my appointment to the Superior Court, I served as a Judge Pro Tempore in the Edmonds Municipal Court for Judge Linda Coburn. I enjoyed my experiences serving a small community, and I benefited immensely from Judge Coburn's mentorship. I learned the critical necessity of time management while handling a high-volume docket. I reacquainted myself with criminal procedures such as arraignments, probation reviews, and sentencing. All proceedings were video and audio recorded, so I was able to fine tune certain aspects of my judicial demeanor. I began to develop a judicial philosophy in criminal law that balances accountability for violations of the law with leaving the door open to redemption and restorative justice. Most importantly, I observed first-hand how a community's sense of justice can be impacted by a single person leaving the courthouse satisfied that, whether she won or lost, she was heard.

Do you support making it easier for Washingtonians who are not members of the bar to access public records, particularly at the Superior/District court levels, where per-page fees are charged?

Yes, provided that sufficient safeguards are in place to prevent frivolous/vexatious requests, or abuse by organizations or individuals who make high volume copy requests and who possess the means to pay for such copies. Just as access to a public defender is means-based, I would favor means-based free access to public records.

Do you have any thoughts on how our courts should address the growing use of smartphones during court proceedings, particularly by jurors?

Smartphones can be a useful tool for lawyers, parties, and the public during legal proceedings, so long as they are not disruptive. Generally, I do not allow any photos or video in the courtroom without the Court's permission, but I often allow use of smartphones by counsel for legal research, finding a document, or even presenting evidence such as texts or photos in certain circumstances. Smartphone use by jurors must be treated with far more caution, however. In order to ensure that the parties to an action receive a fair trial, it is of vital importance that the only information that jurors see and hear about the case come from the evidence presented by the parties. Jurors should not use smartphones to try to research the facts or the law applicable to a case. Nor should they post information about the case on social media. I could be persuaded that smartphone technology could somehow enhance in-trial jury service, but I have yet to come across such technology.

Is Washington relying too much on court fees to cover the cost of operating our judicial system? How do you believe our courts should be funded?

Ideally, courts would always be funded solely from general budgets, not from court-generated fees. Like police and fire departments, courts should not be treated as financially self-sustaining revenue generators, let alone profit centers. They should never be funded based solely or primarily upon internally generated revenues. That being said, many Washington municipalities and governments utilize court fees to fund or supplement the cost of court operations. Fees can also be a useful method of curtailing abusive or excessive court filings. Many court fees can be waived based upon indigency, and I would favor examining ways in which fees might be reduced, waived, or eliminated in situations where they create a barrier to justice for persons of limited means.

What improvements to the current bail system could be made so accused people of limited income are not left in jail, causing loss of jobs, housing, and family stability?

In February 2019, a task force headed by Washington Supreme Court Justice Mary Yu issued a set of nineteen recommendations concerning bail reform. The list includes using risk assessment tools, providing pretrial services (such as text message reminders regarding court dates), and the collection of data relevant both to current bail systems and proposed reforms. I agree with the task force that government should bear the cost of pretrial services like electronic home monitoring of indigent accused persons, drug/alcohol monitoring, mental health treatment, and court date reminders. Free or subsidized transportation to court appointments could help low-income people and people with disabilities avoid penalties for failures to appear. I also agree that Washington needs concrete data to drive its reform efforts and direct its practices.

## Part IV – Access to justice

*Please limit your answers to **no more than 250 words***

If elected, how will you work to improve access to justice, particularly for **those** that do not understand the American legal system?

It starts on an individual scale, by asking people who come before the Court whether they understand what is happening today. If they are pro se, have they sought an attorney? Do they need an interpreter and can an interpreter be found?

I speak to students at elementary schools throughout King County as a participant in the Judges In The Classroom program provided by Washington's Administrative Office of the Courts.

If elected, how would you ensure racial equity in your courtroom?

In my courtroom, I pay particular attention to the guilty plea deals offered to defendants. I scrutinize whether, for example, a favorable offer is made on the basis of subjective traits of the defendant (congeniality, trustworthiness, being a "good kid", etc.), traits that could instead be proxies for a favored ethnicity/race, class, gender, religion, and the like.

Criminal justice outcomes for individuals with black or brown skin have historically been (and still are) adversely impacted by explicit and implicit biases held by judges, juries, attorneys, law enforcement officials, and others. It is crucial that judges learn how to honestly interrogate their assumptions about other people and permit others to point out our prejudicial blind spots. We all have them. I do not assume that, simply because I am African-American, I am therefore free of ethnic/racial bias.

What ideas can you offer to make our judicial system more open, transparent, and responsive?

The Court should provide online, multi-language videos for navigating the court system. The videos would generally explain what to expect when you show up for one kind of activity or another; where to go, what you will see, what floor(s) to visit, how long things might take, and where to find assistance. Too often, visitors to the downtown Seattle courthouse, whether jurors, witnesses, or parties, are confused and stressed as they navigate security, unfamiliar signage, windowless corridors, and offices tucked away in odd places. Having videos available beforehand and on smartphones could greatly ease that confusion and stress.

## Part V

*Please limit your answers to **no more than 250 words***

Do you believe elected officials have a responsibility to bring up the next generation of leadership? And how do you plan on doing so?

A major difference-maker for my career was the willingness of an unexpected ally to take a chance. One very successful partner at my past law firm took a chance on me, mentored me, offered intense but constructive criticism, and shared with me his most valuable inside knowledge regarding real estate problem-solving, litigation strategy, working and communicating with sophisticated clients, and thriving in a large law firm. He volunteered generous amounts of his time toward my professional development and provided meaningful opportunities, not just to excel, but also to fail and learn from failing.

Such mentoring is crucial to addressing diversity in the judiciary and the legal profession. As a partner at my firm, I mentored younger attorneys of diverse backgrounds to promote their success. I will continue to do so as a judge, by working with and mentoring judicial externs (law students) of diverse backgrounds.

What is your definition of diversity? What experience do you have promoting diversity?


Diversity means inclusion of different types of people in a group or organization, based upon the premise that such inclusion will improve the group. What diversity looks like in any given group or context will vary, depending on which types of people are predominant within the group and which types are not. Generally, diversity in the United States means the inclusion of women and minority groups who have been historically excluded from roles in society that provide access to status, power, or wealth.

When I was a partner at my law firm, I mentored younger attorneys of diverse backgrounds to promote their success. As a judge, I make it a point to praise good lawyering by diverse attorneys. Compliments made by judges in front of colleagues and (more importantly) clients can have a significant positive impact, especially for female attorneys and attorneys of color, who often face difficulty gaining recognition from clients even when they win.

I also volunteer for The Judicial Institute, a collaboration project between several minority bar associations, the judiciary, bar associations, law schools, and the Washington Initiative for Diversity. The goal of the Institute is to identify and cultivate candidates from diverse backgrounds for the judiciary. I attended the Institute's 2016 program prior to my appointment to the bench and hope to give back to that organization.

**I affirm that all the information provided in response to this questionnaire is true, complete and correct, to the best of my ability, and that no relevant matter has been omitted.**

Signature

A handwritten signature in blue ink, appearing to read "M. Ferguson", written in a cursive style.

Date: April 3, 2019

Printed Name

Judge Marshall Ferguson