

**STATE JUDICIAL NOMINATION COMMISSION
AND OFFICE OF THE GOVERNOR
JOINT JUDICIAL APPLICATION**

Please complete this application by placing your responses in normal type, immediately beneath each request for information. Requested documents should be attached at the end of the application or in separate PDF files, clearly identifying the numbered request to which each document is responsive. Completed applications are public records. If you cannot fully respond to a question without disclosing information that is confidential under state or federal law, please submit that portion of your answer separately, along with your legal basis for considering the information confidential. Do not submit opinions or other writing samples containing confidential information unless you are able to appropriately redact the document to avoid disclosing the identity of the parties or other confidential information.

PERSONAL INFORMATION

- 1. State your full name.**

Alan Roger Ostergren

- 2. State your current occupation or title. (Lawyers: identify name of firm, organization, or government agency; judicial officers: identify title and judicial election district.)**

Muscatine County Attorney

- 3. State your date of birth (to determine statutory eligibility).**

July 5, 1972

- 4. State your current city and county of residence.**

Letts (rural Muscatine County)

PROFESSIONAL AND EDUCATIONAL HISTORY

- 5. List in reverse chronological order each college and law school you attended including the dates of attendance, the degree awarded, and your reason for leaving each school if no degree from that institution was awarded.**

Drake University School of Law, Des Moines, Iowa
Attended August 1994 to May 1997
Doctor of Jurisprudence (with honors)

Grinnell College, Grinnell, Iowa
Attended August 1990 to May 1994
Bachelor of Arts

- 6. Describe in reverse chronological order all of your work experience since graduating from college, including:**
- a. Your position, dates (beginning and end) of your employment, addresses of law firms or offices, companies, or governmental agencies with which you have been connected, and the name of your supervisor or a knowledgeable colleague if possible.**
 - b. Your periods of military service, if any, including active duty, reserves or other status. Give the date, branch of service, your rank or rating, and present status or discharge status.**

Muscatine County Attorney (January 1, 2011 to present)
420 E. Third St.
Muscatine, Iowa 52761

I am the elected official and therefore do not have a direct supervisor. I have listed Judge Korie Shippee below as a knowledgeable colleague. She served as my first assistant county attorney from January 2011 until being appointed to the bench in October 2018.

Director of Operations: Schwarz Forensic Enterprises (2010-2017)
2310 SE Delaware Ave.
Ste. G, #233
Ankeny, Iowa 50021
Supervisor: Matt Schwarz

Note: I spent very little time in this endeavor. I performed some technical writing for a friend's company and helped with the development of some business concepts that, as of today's date, have not borne fruit.

Assistant Muscatine County Attorney (October 13, 1997 to December 31, 2010)
420 E. Third St.
Muscatine, Iowa 52761
Supervisors: Richard Phillips (October 13, 1997 to December 31, 2002); Gary Allison (January 1, 2003 to December 31, 2010)

Law Clerk: Hansen, McClintock, and Riley (June, 1996 to August, 1997)
520 Walnut St., Ste. 520
Des Moines, Iowa 50309
Supervisor: David Brown

Law Clerk: Lombardi Law Firm (Summer 1995)
5000 Westown Parkway, Ste. 440
West Des Moines, Iowa 50266
Supervisor: Stephen Lombardi

During my second year of law school (1995-1996) I worked at Borders Bookstore in West Des Moines as a salesclerk. The company is now out of business. I do not recall the name of the store manager.

Desk attendant: Drake University Law Library (Winter 1995 to Spring 1995)
27th & Carpenter
Des Moines, Iowa
Supervisor: John Edwards

Obituary writer: Des Moines Register (Summer 1994 to Spring 1995)
400 Locust Street
Des Moines, Iowa 50309
Supervisor: Randy Evans

Laborer: Monarch Manufacturing (Summer 1994)
28972 R. Ave.
Adel, Iowa 50003

I worked in this window factory through a temp agency. I do not recall the name of my supervisor.

7. List the dates you were admitted to the bar of any state and any lapses or terminations of membership. Please explain the reason for any lapse or termination of membership.

I was admitted to the Iowa bar in 1997. I have had no lapses in admission or being in good standing.

I am also admitted to practice before the U.S. District Courts for the Northern and Southern Districts of Iowa and the Central District of Illinois. My status in NDIA is inactive because I do not have any cases pending in that district. I obtained admission there and in the CDIL in connection with my cross-designation as a Special Assistant U.S. Attorney.

I am also admitted to practice before the U.S. Courts of Appeal for the Seventh and Eighth Circuits and the U.S. Supreme Court.

8. Describe the general character of your legal experience, dividing it into periods with dates if its character has changed over the years, including:

- a. A description of your typical clients and the areas of the law in which you have focused, including the approximate percentage of time spent in each area of practice.**
- b. The approximate percentage of your practice that has been in areas other than appearance before courts or other tribunals and a description of the nature of that practice.**
- c. The approximate percentage of your practice that involved litigation in court or other tribunals.**

- d. The approximate percentage of your litigation that was: Administrative, Civil, and Criminal.**
- e. The approximate number of cases or contested matters you tried (rather than settled) in the last 10 years, indicating whether you were sole counsel, chief counsel, or associate counsel, and whether the matter was tried to a jury or directly to the court or other tribunal. If desired, you may also provide separate data for experience beyond the last 10 years.**
- f. The approximate number of appeals in which you participated within the last 10 years, indicating whether you were sole counsel, chief counsel, or associate counsel. If desired, you may also provide separate data for experience beyond the last 10 years.**

When I was first hired as an assistant county attorney I was assigned to prosecute drug cases under a grant. My caseload was misdemeanor drug possession offenses and felony drug trafficking and manufacturing offenses. At that time methamphetamine was a growing scourge. Muscatine County was a source location for drug trafficking organizations throughout the upper Midwest. I worked closely with our drug task force on complex investigations and prosecutions.

In 1999 I was cross-designated as a Special Assistant U.S. Attorney for the Southern District of Iowa. I prosecuted cases in federal court that had a Muscatine connection. This culminated in the prosecution of a 13-defendant methamphetamine trafficking conspiracy case where we used an undercover police officer to disrupt an organization responsible for trafficking hundreds of pounds of methamphetamine. I was the primary prosecutor on the case and handled the matters in both state and federal court. All defendants were convicted of serious drug trafficking felonies. The two lead defendants received 240-month prison sentences in federal court.

During this three-year detail, I maintained a full caseload in state court. I had three jury trials in federal court, an oral argument before the Eighth Circuit, and participated in approximately six other appellate matters.

After my detail ended, I continued to prosecute drug cases. I also had four successful murder prosecutions and became the office's point person for vehicular homicide investigations and prosecutions. In September 2009 I changed my docket to the prosecution of all felony crimes of violence committed by adults. I maintained this docket through being elected as county attorney in November 2010 and into my time as county attorney.

As county attorney my criminal case load is almost exclusively the prosecution of felony crimes of violence committed by adults. Criminal law matters (including my own cases and the supervision of my assistants) consumes approximately 60% of my time. Supervision of juvenile law matters consumes approximately 5% of my time. Civil law matters (such as public records, tax assessment appeals, etc.) takes approximately 10% of my time. The remaining time (25%) is expended on administrative tasks such as budget, general office supervision, or participation in professional organizations.

As a prosecutor my client has been the State of Iowa. When I was cross-designated my client was the United States of America. As county attorney I also represent Muscatine County as a corporate entity.

Nearly all of my litigation experience is in the trial courts. I will describe separately below my appellate experience through the Iowa County Attorneys Association amicus curiae committee. I have additionally handled a tax assessment appeal hearing before the Property Assessment Appeal Board.

During the past 10 years, I have personally prosecuted as sole counsel approximately 45 jury trials. I have prosecuted an additional five jury trials as lead counsel. In total during my career, I have been sole counsel in over 100 felony jury trials, over 30 misdemeanor jury trials, and over 50 criminal and civil bench trials. My trial record includes a total of six cases where the offender was convicted of a class "A" felony.

- 9. Describe your pro bono work over at least the past 10 years, including:**
- a. Approximate number of pro bono cases you've handled.**
 - b. Average number of hours of pro bono service per year.**
 - c. Types of pro bono cases.**

I have not had pro bono clients. As a full-time county attorney, Iowa Code § 331.752(1) prohibits me from engaging in the private practice of law.

- 10. If you have ever held judicial office or served in a quasi-judicial position:**
- a. Describe the details, including the title of the position, the courts or other tribunals involved, the method of selection, the periods of service, and a description of the jurisdiction of each of court or tribunal.**

 - b. List any cases in which your decision was reversed by a court or other reviewing entity. For each case, include a citation for your reversed opinion and the reviewing entity's or court's opinion and attach a copy of each opinion.**

 - c. List any case in which you wrote a significant opinion on federal or state constitutional issues. For each case, include a citation for your opinion and any reviewing entity's or court's opinion and attach a copy of each opinion.**

Not applicable.

- 11. If you have been subject to the reporting requirements of Court Rule 22.10:**

- a. **State the number of times you have failed to file timely rule 22.10 reports.**

- b. **State the number of matters, along with an explanation of the delay, that you have taken under advisement for longer than:**
 - i. **120 days.**

 - ii. **180 days.**

 - iii. **240 days.**

 - iv. **One year.**

Not applicable.

12. **Describe at least three of the most significant legal matters in which you have participated as an attorney or presided over as a judge or other impartial decision maker. If they were litigated matters, give the citation if available. For each matter please state the following:**
- a. **Title of the case and venue,**
 - b. **A brief summary of the substance of each matter,**
 - c. **A succinct statement of what you believe to be the significance of it,**
 - d. **The name of the party you represented, if applicable,**
 - e. **The nature of your participation in the case,**
 - f. **Dates of your involvement,**
 - g. **The outcome of the case,**
 - h. **Name(s) and address(es) [city, state] of co-counsel (if any),**
 - i. **Name(s) of counsel for opposing parties in the case, and**
 - j. **Name of the judge before whom you tried the case, if applicable.**

#1: *State of Iowa v. Annette Cahill*, Iowa District Court for Muscatine County.

Corey Wieneke was beaten to death in his residence in October 1992. Despite vigorous efforts, the initial investigation produced no suspects. Law enforcement received information in late 2017 that caused us to reopen the investigation. I worked closely with the investigators on our strategy to develop a prosecutable case. This resulted in the arrest of the defendant, Annette Cahill, in May 2018. I was the lead prosecutor on the case.

This case initially came to trial in March 2019. The jury was unable to reach a verdict and the court declared a mistrial. Shortly after the trial, my co-counsel, Assistant Attorney General Coleman McCallister, was appointed to the district court bench in Polk County. I handled this case alone from that point through the retrial in September 2019. The jury found the defendant guilty of second-degree murder after a ten-day jury trial. She was sentenced to an indeterminate prison sentence not to exceed 50 years.

The greatest significance of this case was to the family of the victim. They had lived for over 25 years without knowing who had killed their only child. The case was also significant for the substantial difficulty the prosecution had in overcoming the passage of time. I was unable to call certain witnesses due to death or faded memories. Despite these challenges, the case the jury ultimately heard was able to recreate the events of October 1992 that led to the victim's death. This case was, by far, the most difficult of my career.

I was involved in the prosecution from December 2017 until the defendant's sentencing in November 2019. My co-counsel (until his withdrawal) was Coleman McCallister, Des Moines, Iowa. Opposing counsel were Clemens Erdahl and Liz Araguas, Cedar Rapids and Muscatine, Iowa. Tragically, Mr. Erdahl passed away shortly after the trial. The presiding judge was the Hon. Patrick McElyea.

The case is currently pending on appeal. The district court case number is FECR059164. The case number on appeal is 19-1981.

#2: *Griffin v. Pate*, Iowa Supreme Court.

A convicted felon sued the Iowa Secretary of State mounting a state constitutional challenge to the prohibition against all felons voting. The Iowa Constitution prohibits persons convicted of an "infamous crime" from voting. The Code of Iowa, based on this clause, states that anyone convicted of a felony offense cannot vote. The case presented the question of whether all felonies were infamous or merely those that impact the democratic process.

The case was the logical follow-up to a case from the prior year called *Chiodo v. Section 42.34 Panel*, 846 N.W.2d 845 (Iowa 2014). In *Chiodo* there was no majority decision. A plurality suggested that "infamous crime" only included certain felony offenses. Two concurring justices ruled that it meant all felonies but did not include aggravated misdemeanors. The dissenting justice held that the term included aggravated misdemeanor offenses. Because the conviction at issue in *Chiodo* was an aggravated misdemeanor conviction for second offense operation of a motor vehicle while intoxicated, there were five justices who determined that the conviction at issue was not disqualifying. Although *Chiodo* answered that narrow question, it invited the broader question as to whether all or merely some felonies were disqualifying. Griffin, convicted of a felony drug trafficking offense, sought a determination that the legislative provision was over inclusive and that only a narrow range of felony offenses should disqualify a person from voting.

The case presented a substantial question of constitutional interpretation. As chair of the amicus curiae committee for the Iowa County Attorneys Association, I was the sole author of an amicus brief that argued that the original meaning of “infamous crime” included all felony offenses. I was faced with the delicate task of arguing that both the plurality and concurring justices in *Chiodo* had made errors in their analysis. (In fairness to those justices, *Chiodo* was briefed, argued, and decided on a highly expedited basis.) My brief argued a point not made by either the Iowa Attorney General in representing the Secretary of State or by the ACLU of Iowa on behalf of Griffin. Namely, I articulated a basis by which the Iowa Supreme Court could allow the Iowa Legislature to redefine which crimes inflicted infamy on the convicted person. In other words, rather than an all-or-nothing constitutional decision, I advocated for a path that would allow the proponents of ending the prohibition against felon voting to take their argument to the legislature.

This case was also notable because the Iowa Supreme Court permitted ICAA and other amici to participate in oral argument with the consent of the parties. The oral argument video is available at <https://youtu.be/WdopboyGbEM>. My argument starts at 32:47.

The Iowa Supreme Court’s decision, authored by Chief Justice Cady, largely accepted the constitutional analysis I had in my brief. The majority ultimately decided the case on the original meaning of the term “infamous crime.” I was also pleased to see that the court directly left room for the legislature to respond to the issue by statutorily removing infamy from certain felony offenses.

The counsel for Secretary of State Paul Pate was Jeffrey Thompson, Des Moines, Iowa. The counsel for Kelli Griffin was Rita Bettis, Des Moines, Iowa. The case was pending before the Iowa Supreme Court from September 29, 2015, to July 22, 2016. The citation on appeal is *Griffin v. Pate*, 884 N.W.2d 182, 184 (Iowa 2016).

#3: *State of Iowa v. Joshua Corwin*, Iowa District Court for Muscatine County.

This was a prosecution for sexual abuse in the first degree, willful injury, and theft in the second degree. Corwin had been involved in a relationship with his adult victim. The victim ended the relationship. About two weeks later the victim sent Corwin a text message reiterating that she was done with him. Enraged by this, he stole a car in Davenport and traveled to rural Muscatine County where the victim lived in a trailer in a remote location. Corwin forced his way into her home, administered a vicious beating, and then sexually abused her. The victim was able to flee to get help at a nearby residence.

Corwin first went to trial approximately 11 months after his arrest. Although I had been extensively involved in the pretrial litigation of the case, I was not able to participate in the trial due to an unavoidable scheduling conflict with another law enforcement matter. The first trial ended in a mistrial after a juror’s family member had a medical emergency during deliberations. I was able to participate in his second trial held approximately two months later.

We learned that the first jury had not been receptive to the prosecution's case. Before the mistrial was declared the jury was on the verge of finding the defendant guilty of misdemeanor offenses. I decided that the prosecution needed to change its strategy significantly for the retrial. We changed the witness order, cut some unnecessary evidence from our case, and took a different approach in jury selection.

Corwin's trial strategy was to admit that he had assaulted the victim but to claim that she had consented to the sexual contact. He testified on his own behalf. I cross-examined him extensively and was able to confront him with his callous and violent behavior during the incident. Several jurors later told me that the cross-examination was critical to their guilty verdict on all charges. In addition to the cross-examination of the defendant, I questioned numerous prosecution witnesses, cross-examined several defense witnesses, and presented the closing arguments. Corwin is currently serving a sentence of life imprisonment without the possibility of parole.

The significance of this case is largely the benefit to public safety of having this offender incarcerated. Corwin had a lengthy criminal history for violent offenses. His history included two prior sexual assault arrests that had resulted in dismissals when the victims had refused to cooperate. There is no doubt in my mind that this successful prosecution prevented many violent crimes from being committed by him in the future.

I was assisted in the prosecution by Assistant County Attorney Kevin McKeever. He is now an Iowa District Court Judge in the Sixth Judicial District. Opposing counsel was Phil Ramirez, Davenport, Iowa. He has since passed away. The presiding judge was the Hon. Mary Howes.

The district court case number is FECR049336. The case was pending from May 21, 2013, to October 1, 2014. The citation on appeal is *State v. Corwin*, 876 N.W.2d 813 (Iowa Ct. App. 2015) (unpublished).

#4: *State of Iowa v. Hiram Serrano, Sr.*, Iowa District Court for Muscatine County

This was, in many ways, the most unusual case I have prosecuted in my career. Serrano had assaulted the mother of two of his children in a vicious attack in 1990. The attack left the victim a quadriplegic. Serrano was prosecuted for attempted murder and willful injury and sentenced to a 35-year prison sentence. This all happened before I had even graduated from college (or heard of Muscatine).

The victim died in 2012. I became aware of this and made contact with the medical examiner. He had not yet made a determination as to cause and manner of death. I conducted extensive legal and factual research. I quickly determined that my office did not still have a copy of any prosecution file. The clerk of court had lost the original court file and jury trial transcript when the courthouse basement flooded. The police department had disposed of the physical evidence. I fortunately was able to get a copy of the trial transcript from the Iowa Attorney General's Office. Complicating matters further

was the fact that the victim had, after the original criminal trial, collected a substantial medical malpractice judgment against the local hospital and several physicians claiming that their negligent care had caused her paralysis.

Armed with a full understanding of the injuries she had suffered in 1990, the medical examiner ruled that the victim's death was a homicide. I decided to move forward with a murder charge. This charge was unpopular with many members of the victim's family. The two adult children she had with the victim were adamant that their father should not be prosecuted and that their mother had forgiven him before she died.

I engaged in considerable pretrial litigation in this case. We litigated whether the new prosecution violated double jeopardy protections (it did not), whether the medical malpractice determination was an intervening cause (it was not), and whether the prosecution could invoke issue preclusion with the prior verdict (we could not). There was also substantial investigation into the medical care the victim had received after the original trial and whether there were any competing explanations for her cause of death.

In the end, I decided to negotiate a plea agreement where the defendant pleaded guilty to voluntary manslaughter and burglary in the second degree. The defendant was sentenced to an indeterminate term of not to exceed 20 years. I believe this resolution was appropriate because it balanced the wishes of the victim's family, the fact that the defendant had lived a crime-free life after parole, and the harm caused to the victim. It should be noted that despite having pleaded guilty Serrano appealed the imposition of consecutive sentences. The Iowa Court of Appeals affirmed the district court's sentence.

Opposing counsel was Phil Ramirez, Davenport, Iowa 52801. The presiding judge was the Hon. Nancy Tabor. The case was pending in the district court from February 21, 2013, to April 21, 2016. The case number in the district court is FECR048871. The citation on appeal is *State v. Serrano*, 900 N.W.2d 617 (Iowa Ct. App. 2017) (unpublished).

13. Describe how your non-litigation legal experience, if any, would enhance your ability to serve as a judge.

As referenced elsewhere in this application, I have been heavily involved in public policy matters as a member of the Iowa County Attorneys Association (ICAA) and the National District Attorneys Association (NDAA). I have served on the ICAA legislative committee for nearly 20 years. I also serve on the board of directors of the organization as an active past-president. ICAA is an active participant in the legislative process. We are regularly called upon by lawmakers to provide input on pending bills. I have testified numerous times in subcommittee hearings on criminal justice issues. During my year as president I led a successful effort to reform the process for collection of delinquent court debt. This involved attendance at the legislature nearly every week of the session.

I became the Iowa board member to NDAA in 2016. I was quickly asked to join its legislative committee as well. The committee's primary task is to provide advice to the

executive leadership of NDAA on policy questions. This involves many emails and the review of bill drafts, committee reports, and similar materials.

The policy work I have done with my state and national associations has given me an insight into the legislative process that would enhance my service as a justice. It is one thing to consider legislative intent or history in the abstract. It is another to have been directly involved in the give-and-take over language in a bill. I can point to several sections of the Iowa Code that started as a word processing document on my computer.

I am a member of an advisory committee tasked with reviewing the Iowa Rules of Criminal Procedure. The committee's mandate from the Iowa Supreme Court is to review the rules to eliminate unnecessary language, conform the rules to interpretations provided by court cases, and to propose updated language. Justice Edward Mansfield chairs the committee. The other committee members are a variety of trial court judges, practitioners, and two law professors. The committee has completed a first draft of the revised rules and is in the process of incorporating feedback from the Court.

I was recently appointed by Governor Kim Reynolds to the Juvenile Justice Advisory Council. The council's mission is to provide oversight in the administration of federal grant funds in the area of juvenile justice and delinquency prevention. The council members represent a variety of disciplines concerned with youth welfare.

- 14. If you have ever held public office or have you ever been a candidate for public office, describe the public office held or sought, the location of the public office, and the dates of service.**

See above for service as Muscatine County Attorney. In addition, I served on the City of Blue Grass Planning and Zoning Commission from 2006-1010.

- 15. If you are currently an officer, director, partner, sole proprietor, or otherwise engaged in the management of any business enterprise or nonprofit organization other than a law practice, provide the following information about your position(s) and title(s):**

- a. Name of business / organization.**
- b. Your title.**
- c. Your duties.**
- d. Dates of involvement.**

Not applicable.

- 16. List all bar associations and legal- or judicial-related committees or groups of which you are or have been a member and give the titles and dates of any offices that you held in those groups.**

Iowa Bar Association
Criminal Law Section Council (2017 to present. CLE committee 2018 to present)

Iowa County Attorneys Association
President (November 2015 to November 2016)
President-elect (November 2014 to November 2015)
Vice-president (November 2013 to November 2014)
Secretary/Treasurer (February 2013 to November 2014)
Director at large (November 2012 to February 2013)
Chair, Amicus Curiae committee (February 2014 to present)
Legislative Committee (2000 to present)

National District Attorneys Association
Board member (January 2016 to present)
Legislative, Policy, and Public Relations Committee (March 2016 to present)

Iowa Supreme Court
Iowa Rules of Criminal Procedure Review Task Force (April 2018 to present)

Iowa Juvenile Justice Advisory Council (September 2019 to present)

- 17. List all other professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed above, to which you have participated, since graduation from law school. Provide dates of membership or participation and indicate any office you held. "Participation" means consistent or repeated involvement in a given organization, membership, or regular attendance at events or meetings.**

Rotary Club of Muscatine (October, 2015 to present)

Kiwanis Club of Muscatine (2010 to 2013)

Fight Crime, Invest in Kids (August, 2014 to present)

Federalist Society (2009 to present)

Iowa Lawyers Chapter, Federalist Society (2009 to present, member of steering committee)

- 18. If you have held judicial office, list at least three opinions that best reflect your approach to writing and deciding cases. For each case, include a brief explanation as to why you selected the opinion and a citation for your opinion and any reviewing entity's or court's opinion. If either opinion is not publicly available (i.e., available on Westlaw or a public website other than the court's electronic filing system), please attach a copy of the opinion.**

Not applicable.

- 19. If you have not held judicial office or served in a quasi-judicial position, provide at least three writing samples (brief, article, book, etc.) that reflect your work.**

I have attached three writing samples:

#1: Amicus brief in *Griffin v. Pate*. This case is described further in response to question 12 above.

#2: Amicus brief in *Venckus v. City of Iowa City, et al.* This case is described further in response to question 27 below.

#3: Resistance to motion to dismiss in *State of Iowa v. McNeal, et al.* I filed an action against a local drainage district challenging its attempt to annex land into the district. Because the drainage district owned and operated a pumping station, Iowa law required the district to obtain consent from one-third of the landowners to be annexed. The district did not obtain consent before beginning the annexation process. Muscatine County was a party, along with numerous other landowners, which contested the annexation process. I filed this quo warranto action to directly challenge the district's action. The appealing landowners prevailed in the appeal and the district abandoned the annexation.

OTHER INFORMATION

- 20. If any member of the State Judicial Nominating Commission is your spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister, state the Commissioner's name and his or her familial relationship with you.**

Not applicable.

- 21. If any member of the State Judicial Nominating Commission is a current law partner or business partner, state the Commissioner's name and describe his or her professional relationship with you.**

Not applicable.

- 22. List the titles, publishers, and dates of books, articles, blog posts, letters to the editor, editorial pieces, or other published material you have written or edited.**

Blog posts:

I regularly post press releases on my office blog:

muscatinecountyattorney.blogspot.com

There is a total of 258 entries on this blog. I have not deleted any entries since I began using this resource to distribute press releases. Please see the attached document for a list of the titles.

Letters to the editor:

The following are the letters to the editor that I have been able to locate in my files and with an internet search:

Atty. General candidate Gregg would work for all Iowans
Muscatine Journal, 10/17/2014

Bonebrake cares about Muscatine County's future
Muscatine Journal, 10/20/2014

Senate not wrong to deny judicial hearing
Muscatine Journal, 3/22/2016

Email act reform must balance law enforcement needs
Des Moines Register, 5/31/2016

Trafficking legislation will help victims
Des Moines Register, 1/20/2017

AG Miller's finding smacks of partisanship
Quad City Times, 5/4/2017

Legislature should pass Marsy's Law for Iowa
Sioux City Journal, 2/20/2018

District Court Judge controversy isn't really controversial
Des Moines Register, 10/16/2018

Other published material:

I participated briefly in the editing of a trial advocacy manual that is forthcoming from the National District Attorneys Association. My involvement was limited to editing the first round of drafts of some chapters.

- 23. List all speeches, talks, or other public presentations that you have delivered for at least the last ten years, including the title of the presentation or a brief summary of the subject matter of the presentation, the group to whom the presentation was delivered, and the date of the presentation.**

| | | | |
|---|---------------------|--|-------|
| Search of Motor Vehicles Incident to Arrest | Coralville, IA | Prosecuting Attorneys Training Coordinator | 11/09 |
| Custody for Purposes of Interrogation, Communication by Arrested Persons, and Right to Speedy Indictment | Arnolds Park, IA | Prosecuting Attorneys Training Coordinator | 6/10 |
| Forfeiture of Surety Bonds | West Des Moines, IA | Prosecuting Attorneys Training Coordinator | 9/10 |
| Prosecutor and Investigator Working Relationships | Johnston, IA | Iowa Law Enforcement Intelligence Network | 10/10 |
| Basic Training for New County Attorneys - gave lectures on interrogation and principles of drug prosecution | West Des Moines, IA | Prosecuting Attorneys Training Coordinator | 1/11 |
| Prosecutor and Investigator Working Relationships | Guthrie Center, IA | Iowa Department of Natural Resources | 3/11 |
| Search Warrants for Forensic Evidence | Ankeny, IA | Iowa Chapter, International Association for Identification | 5/11 |
| Major Case Analysis: <i>State v. Serrato</i> | Arnolds Park, IA | Prosecuting Attorneys Training Coordinator | 6/12 |
| Panel Discussion on Admissibility of Scientific Evidence | Cedar Falls, IA | Iowa Chapter, International Association for Identification | 5/12 |
| 2014 Iowa Supreme Court Review | Des Moines, IA | Iowa Lawyers Chapter - Federalist Society | 8/14 |
| Basic Training for New County Attorneys - gave lecture on interrogation | West Des Moines, IA | Prosecuting Attorneys Training Coordinator | 1/14 |
| 2015 Iowa Supreme Court Review | Des Moines, IA | Iowa Lawyers Chapter - Federalist Society | 9/15 |
| OWI Trial Advocacy for Prosecutors - gave lecture on ethics of jury selection and evaluated students in all phases of trial | Des Moines, IA | Prosecuting Attorneys Training Coordinator | 4/16 |
| Jury Selection | Arnolds Park, IA | Prosecuting Attorneys Training Coordinator | 6/16 |
| Forensic Interviews at Trial: Preparation and Presentation - participated in | Huntsville, AL | National Children's Advocacy Center | 11/16 |

| | | | |
|--|---------------------|---|-------|
| evaluations of students and performed demonstration of cross-examination of forensic interviewer | | | |
| Role of the County Attorney | Des Moines, IA | Iowa State Association of Counties | 1/17 |
| Panel Discussion on Trafficking Victims Relief Act | Washington, DC | Office of Rep. Ann Wagner | 1/17 |
| Rural Justice Issues | Mitchellville, IA | Iowa Department of Corrections | 6/18 |
| Role of the County Attorney | Des Moines, IA | Iowa State Association of Counties | 1/19 |
| Basic Training for New County Attorneys - lecture on interrogation and use of visual evidence at trial | West Des Moines, IA | Prosecuting Attorneys Training Coordinator | 1/19 |
| Actual Innocence Claims and Successive PCR Applications | Des Moines, IA | Iowa State Bar Association – Criminal Law Section | 4/19 |
| Major Case Analysis: <i>State v. Corwin</i> | Arnolds Park, IA | Prosecuting Attorneys Training Coordinator | 6/19 |
| Cross-examination and Impeachment | Davenport, IA | District 7 Judges – Lunch ‘n Learn series | 10/19 |

24. List all the social media applications (e.g., Facebook, Twitter, Snapchat, Instagram, LinkedIn) that you have used in the past five years and your account name or other identifying information (excluding passwords) for each account.

Facebook:

alan.ostergren (personal account)

Alan R. Ostergren for Muscatine County Attorney (campaign account)

Muscatine County Attorney (office account)

Twitter:

@AlanOstergren (personal account)

Instagram:

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Other:

Muscatinecountyattorney.blogspot.com (office account)

- 25. List any honors, prizes, awards or other forms of recognition which you have received (including any indication of academic distinction in college or law school) other than those mentioned in answers to the foregoing questions.**

National Institute for Trial Advocacy: Master Advocate (January 2018)

I was one of several persons recognized for my work in a multi-defendant and multi-jurisdictional narcotics investigation by the Muscatine County Drug Task Force. In 2001 we were recognized by the Midwest High Intensity Drug Trafficking Area for the outstanding investigation of the year. This investigation is described further above.

I received recognition from the Iowa County Attorneys Association for my services as president of the organization from November 2015 to November 2016.

As a law school student, I was selected to the Order of the Barristers for excellence in advocacy skills. I received recognition for receiving the highest grade in the Winter 1997 semester for trial advocacy and federal jurisdiction. I was a finalist as both a 2L and 3L for Drake Law School's Supreme Court Day competition. Also, as both a 2L and 3L I was a member of Drake's ATLA Mock Trial Team. Each year the team qualified for the national competition. As a 3L I was a member of Drake's Insurance Law Moot Court Team.

- 26. Provide the names and telephone numbers of at least five people who would be able to comment on your qualifications to serve in judicial office. Briefly state the nature of your relationship with each person.**

1. Justice Thomas Waterman
Iowa Supreme Court
(563) 326-8783

Justice Waterman can speak to my legal writing and appellate advocacy skills through my efforts on the Iowa County Attorneys Association amicus curiae committee.

2. Judge Thomas Reidel
District Judge, Seventh Judicial District of Iowa
(563) 263-6634

Judge Reidel has presided over numerous jury trials that I have prosecuted. He is also familiar with the general quality of my legal work.

3. Judge Patrick McElyea

District Judge, Seventh Judicial District of Iowa
(563) 326-8783

Judge McElyea presided over *State v. Cahill* – a case I have selected as one of the most significant in my legal career.

4. Judge Korie Shippee
District Associate Judge, Seventh Judicial District of Iowa
(563) 326-8783

Judge Shippee was my first assistant before being appointed to the bench in October 2018. She and I worked together for 17 years before her appointment. She is familiar with the general quality of my legal work.

5. Nelson Bunn
Executive Director, National District Attorneys Association
(703) 549-9222

Mr. Bunn is familiar with my work as a board member for NDAA. He can speak to my involvement with the association and in particular my work on the Legislative, Policy, and Public Relations committee.

6. Thomas Ferguson
Executive Director, Iowa County Attorneys Association
(563) 284-5428

Mr. Ferguson is familiar with my work as a past-president and board member of ICAA. He is familiar with my work on the association's legislative committee as well as being the chair of the amicus curiae committee.

27. Explain why you are seeking this judicial position.

I have been committed to public service throughout my career as a lawyer. As a prosecutor I am committed to the neutral and fair administration of justice. Done properly, the function of the prosecutor is very similar to the function of a judge. Although we are advocates for a position in court, our advocacy only occurs after we have screened the case and decided prosecution is appropriate. One of the most difficult - but necessary - decisions I make as a prosecutor is to decline charges in a case where I believe the crime happened but that there is not sufficient evidence to sustain a prosecution. I do so because of my belief in the importance of objective decision-making. As prosecutors we have an obligation to be sparing in the use of our powers.

I have always had an interest in appellate litigation. I applied for vacancies in the Iowa Court of Appeals in 2011 and 2013. Although I felt my applications were well received by the judicial nominating commission, I recognized that my lack of appellate practice was likely a weakness for me. As a county attorney I do not get the opportunity to

practice in front of the appellate courts as much as I would like. My appellate experience before that time was a handful of civil cases where the county had been involved - primarily taxation matters and cases where the county's community services department was guardian or conservator for an indigent person.

In 2014 I took the initiative to form an amicus curiae committee within the Iowa County Attorneys Association. Since its inception I have served as the chair of this committee and have been the sole author of amicus briefs in 15 cases before the Iowa Supreme Court and Court of Appeals. In 2016 I was permitted to appear at oral argument in *Griffin v. Pate* - an important case interpreting a provision of the Iowa Constitution which states that persons convicted of an "infamous crime" are not eligible to vote. This case is explained in more detail above as one of the significant legal matters in my career.

Most of the amicus briefs I have filed deal with questions of criminal law and procedure. For example, I filed a brief in *State v. Washington*, *State v. Williams*, and *State v. Smith* on the question of what constitutes an arrest for purposes of the speedy indictment rule in the Iowa Rules of Criminal Procedure. These were three co-defendants who had been prosecuted for a brutal sexual assault and kidnapping of a minor. The trial court ruled that the defendants had not been arrested but this determination was reversed by the Court of Appeals. Upon the grant of further review by the Supreme Court, I filed a brief in these cases arguing that the Court's recent speedy indictment precedent *State v. Wing* was inconsistent with the statutory definition of an arrest and was beyond the delegated power of the court to amend the rules of procedure. The opinion by Chief Justice Cady overruled the *Wing* precedent and brought needed clarity to this aspect of criminal procedure.

I have also filed amicus briefs in cases affecting counties as organizations. For example, I have filed briefs concerning the interpretation of open meetings and public records laws. Several of these briefs were joined by the Iowa State Association of Counties. I also filed a brief in *Venckus v. City of Iowa City, et al.*, concerning the scope of civil liabilities for prosecutors for an action brought under the Iowa Constitution. I have included my brief as one of my writing samples. The commission should note that the Court's decision ultimately adopted the phraseology suggested in my brief: judicial *process* immunity to describe why prosecutors could not be sued for decisions on who to charge and their actions in prosecuting a case.

To enhance my understanding of the appellate process I attended the 2018 Appellate Judges Education Institute in Atlanta, Georgia. The AJEI is an educational program sponsored by Duke University School of Law and the American Bar Association Judicial Division. The program was attended by state, federal, and military judges and practitioners from around the country.

28. Explain how your appointment would enhance the court.

One of the chief benefits of a multi-member court is the variety of experiences each member brings to it. My experience as a county attorney is excellent preparation for the

Court's work. As an example, in calendar year 2018 the Court decided 102 cases. Slightly less than half (48) were originally litigated in a county attorney's office.

I would also bring an appreciation for rural practice to the Court. The Court must always be attentive to the needs of rural and micropolitan Iowans. It is always worth remembering that 75% of Iowans live outside of the greater Des Moines metropolitan area.

My experience as an elected official would also be an asset to the Court. The Court has significant administrative responsibilities. I have run a governmental agency, including being responsible for a budget, hiring and firing, and planning for the future. I also have substantial experience with the legislative process having been on the Iowa County Attorneys Association legislative committee and serving as president of the organization. I have testified in subcommittee hearings on numerous occasions.

29. Provide any additional information that you believe the Commission or the Governor should know in considering your application.

I was one of three individuals recommended in early 2017 by Senator Charles Grassley and Senator Joni Ernst for nomination to the position of U.S. Attorney for the Southern District of Iowa. This recommendation came after an extensive vetting process conducted by a committee which assists both senators with judicial and DOJ nominations. Although I was not selected for nomination by the President, I was honored to have received the recommendation of my two senators for this important position.