



UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2009

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Creation and Authority of the Judicial Conduct Commission



Although it had existed previously as a legislatively created body, Utah's Judicial Conduct Commission (JCC) was constitutionally established in 1984. Constitution of Utah, Article VIII, Section 13. The constitution authorizes the Legislature to statutorily establish the composition and procedures of the JCC. Those provisions are found in Utah Code Ann., Title 78A, Chapter 11.

The JCC is empowered to investigate and conduct confidential hearings regarding complaints against state, county and municipal judges throughout the state. The JCC may recommend the reprimand, censure, suspension, removal, or involuntary retirement of a judge for any of the following reasons:

- action which constitutes willful misconduct in office;
- final conviction of a crime punishable as a felony under state or federal law;
- willful and persistent failure to perform judicial duties;
- disability that seriously interferes with the performance of judicial duties; or
- conduct prejudicial to the administration of justice which brings a judicial office into disrepute.

Prior to the implementation of any such JCC recommendation, the Utah Supreme Court reviews the JCC's proceedings as to both law and fact. The Supreme Court then issues an order implementing, rejecting, or modifying the JCC's recommendation.

Number of Complaints Received in FY 2009



Of the 85 complaints received in FY 2009, 74 have been investigated and dismissed and 11 are still pending.

Complaints Received in FY 2009

Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints
Supreme Court	5	1	5
Court of Appeals	7	0	0
District	71	48	34
Juvenile	28	12	10
Justice Court	108	20	20
Pro Tempore	109	4	4
Total	328	85	73

Confidentiality of JCC Records and Proceedings



Except in certain limited circumstances specified by statute, all complaints, papers and testimony received or maintained by the JCC, and the record of any confidential hearings conducted by the JCC, are confidential, and cannot be disclosed.

Sanctions and Other Resolutions

There were no sanctions imposed by the Supreme Court, and no sanctions recommended by the JCC, during FY09.

Administrative Affairs

Meetings

The JCC meets as needed on the second Tuesday of each month at the Utah Law & Justice Center in Salt Lake City. The JCC met seven times during FY 2009.

Administrative Rules

The JCC's administrative rules are available on-line at www.rules.utah.gov.

JCC Commissioners

Ronald Russell, Chair	Rod Orton, Vice-Chair
Rep. Douglas Aagard	Sen. Gene Davis
Rep. Neal Hendrickson	Sen. Gregory Bell
Hon. Russell Bench	Constance Lundberg
Hon. Royal Hansen	Lois Richins
Elaine Englehardt, PhD	

Long-time JCC Chair Ruth Lybbert resigned in May 2009 to assist her husband with his ecclesiastical responsibilities to the Church of Jesus Christ of Latter-day Saints.

JCC Staff

Colin Winchester, Executive Director
Susan Hunt, Investigative Counsel
Charles Smalley, Contract Investigator
Madison Howard, Office Technician

Website

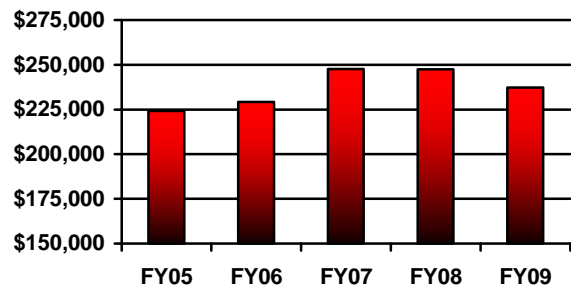
The JCC's website, containing in-depth information, links to related sites, and a downloadable complaint form, can be accessed at www.jcc.utah.gov.

JCC Statutes

The statutes governing the JCC are located in Utah Code Ann., Title 78A, Chapter 11.

Budget

Most of the JCC's budget is appropriated annually by the Legislature. Additional funding comes from non-lapsing agency savings. For FY 2009, the initial legislative appropriation was \$256,400, but that amount was later reduced to \$237,200 due to fiscal concerns.



UTAH JUDICIAL CONDUCT COMMISSION – COMPLAINT RESOLUTION PROCESS

INITIAL SCREENING	PRELIMINARY INVESTIGATION	FULL INVESTIGATION	FORMAL PROCEEDINGS	SUPREME COURT
<p>Executive Director reviews each “complaint” to determine whether it is a complaint within the JCC’s jurisdiction.</p> <p>Staff returns non-JCC complaints (i.e., complaints against bar members or court employees) to complainant with appropriate instructions.</p> <p>For JCC complaints, staff prepares electronic and hard-copy files, sends acknowledgment letter to complainant, and returns hard-copy file to Executive Director.</p> <p>Executive Director assigns investigator.</p> <p><i>Note: Information received in any form other than a written complaint is submitted directly to JCC members, who review and discuss the information and vote to either take no action or to have staff conduct a preliminary investigation.</i></p>	<p>Investigator conducts preliminary investigation, writes preliminary investigation report, and recommends whether to dismiss or to proceed to full investigation as to some or all allegations.</p> <p>Executive Director reviews preliminary investigation report and recommendation, and may revise either.</p> <p>Staff distributes preliminary investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses preliminary investigation report and recommendation, and votes to dismiss, to have staff conduct additional preliminary investigation, or to proceed to full investigation as to some or all allegations.</p>	<p>Staff provides judge with pertinent materials and asks judge to respond in writing to identified allegations.</p> <p>Investigator conducts additional investigation, if necessary, as to issues raised in judge’s response. Investigator may write supplemental investigation report and may make recommendation whether to dismiss or to proceed to formal proceedings.</p> <p>Staff distributes judge’s response and any supplemental investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses judge’s response and any supplemental investigation report and recommendation, and votes to dismiss, to have staff conduct additional investigation, or to proceed to formal proceedings as to some or all allegations.</p>	<p>Staff prepares formal complaint and serves same upon judge via certified mail.</p> <p>Judge may file written response.</p> <p>Matter may be resolved by dismissal, stipulated resolution or confidential hearing.</p> <p>A stipulated resolution may recommend: Reprimand Censure Suspension Removal from Office Involuntary Retirement</p> <p>After a confidential hearing, the JCC may dismiss the matter or may recommend: Reprimand Censure Suspension Removal from Office Involuntary Retirement</p>	<p>Staff files JCC’s recommendation and statutorily required materials with Supreme Court.</p> <p>JCC’s recommendation becomes public upon filing. All other materials become public only upon Supreme Court order.</p> <p>Supreme Court reviews JCC’s proceedings as to both law and fact, and implements, modifies or rejects JCC’s recommendation.</p> <p><i>Note: JCC dismissals are not reviewed by the Supreme Court.</i></p>