



UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2010

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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 2010



Of the 95 complaints received in FY 2010, 79 have been resolved and 16 are still pending.

Complaints Received in FY 2010			
Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints
Supreme Court	5	2	5
Court of Appeals	7	1	3
District	71	52	43
Juvenile	29	9	7
Justice Court	109	30	23
Pro Tempore	92	1	1
Total	313	95	82

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

Reprimand. On December 17, 2009, the Utah Supreme Court reprimanded Lehi Justice Court Judge Garry Sampson. Judge Sampson was in his courtroom with the court clerk, bailiff and victim advocate. When the bailiff threatened to throw water on the judge, the judge removed his firearm from its holster and briefly pointed it at the bailiff. The judge was joking – he did not intend to threaten or cause alarm to anyone. However, his conduct alarmed the bailiff and the victim advocate, both of whom were concerned that the weapon might accidentally discharge.

Dismissal with a Warning. On December 8, 2009, the JCC dismissed a complaint against a justice court judge who failed to forward an appealed case to the district court. The JCC found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

Reprimand. On May 12, 2010, the Utah Supreme Court reprimanded Utah County Justice Court Judge Stevan Ridge. After the judge sentenced a defendant for a traffic offense, the defendant stated that he intended to appeal. The judge, intending to provide sentencing discretion to the district court, increased the sentence to the maximum sentence allowed by law. The defendant perceived that he was being punished for exercising his constitutional right to appeal.

Dismissal with a Warning. On August 4, 2009, the JCC dismissed a complaint against a justice court judge who had written, but not delivered, a romantic poem about a female court employee. The employee later found the poem in the judge's chambers. Later still, the judge had a dream about the employee in which the employee appeared partially nude. The judge told the employee about the dream. The JCC found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

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 ten times during FY 2010.

Administrative Rules

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

JCC Commissioners

Ronald Russell, Chair	Robert Behunin
Rep. Douglas Aagard	Sen. Stephen Urquhart
Rep. Brian King	Sen. Karen Mayne
Hon. Carolyn McHugh	Constance Lundberg
Hon. Royal Hansen	Lois Richins
Elaine Englehardt, Vice-Chair	

JCC Staff

Colin Winchester, Executive Director
Susan Hunt, Investigative Counsel
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 agency savings in prior years. For FY 2010, the initial legislative appropriation was \$228,000, but that amount was later reduced to \$216,800 due to fiscal concerns. Because of reductions to the JCC's initial appropriation during FY 2010, the JCC was required to utilize some of its savings from prior years.

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>