



UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2020

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Creation and Authority of the Judicial Conduct Commission

Although it 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 2020

Of the 51 complaints received in FY 2020, 49 have been resolved and 2 are pending.

Complaints Received in FY 2020			
Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints*
Appellate Courts	12	2	1
District	72	34	28
Juvenile	31	2	2
Justice Court	98	11	10
Pro Tempore	67	2	1
Active Senior	38	0	0
Total	318	51	42

(*Starting in FY19 and going forward, the JCC counts each judge once even though they may have been named in multiple complaints)

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

Sanctions Implemented by the Utah Supreme Court

On September 13, 2019, the Utah Supreme Court reprimanded Tooele Justice Court Judge John M. Dow. Judge Dow had distributed a graphic video showing a man's scrotum via text to the Tooele Justice Court clerks. Judge Dow regretted sending the video and apologized to the clerks the next day. During the JCC investigation, current and former Tooele Justice Court clerks described an unprofessional work environment that was improved after the JCC investigation. Judge Dow engaged in conduct prejudicial to the administration of justice which brings a judicial office into disrepute. Judge Dow accepted responsibility for his actions and expressed sincere remorse for any harm his actions may have caused. The judge's actions violated Code of Judicial Conduct Rules 1.2, 2.3 and 2.8(B).

Dismissals with Warnings Issued by the Judicial Conduct Commission

On November 19, 2019, the Judicial Conduct Commission dismissed complaints with a warning against a District Court Judge as to the following Rule violations: Rule 2.8(B) violation by impatient and discourteous behavior towards certain subordinates, and Rule 1.3 violation that the Judge abused the prestige of the judicial office. The Judge acknowledged that certain subordinates complained of the judge's treatment of them as indecorous and that employees were offended by the judge's behavior. The Judge only became aware of these complaints during the JCC investigation. In addition, the Judge used judicial funds to purchase certain items which might create an appearance of a direct financial and personal benefit to the judge. However, the JCC found that the behavior and misconduct were troubling, but relatively minor for which no public sanction was warranted.

Administrative Affairs

Meetings

The JCC meets as needed on the third Tuesday of each month at the offices of the JCC. The JCC met ten (10) times during FY 2020.

Administrative Rules

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

FY20 JCC Commissioners

Neal Cox, Public Member
Mark Raymond, Public Member
Georgia Beth Thompson, Public Member
Terry Welch, Attorney Member (term exp.)
Cheyllynn Hayman, Attorney Member (new)
James Jardine, Chair, Attorney Member (term exp.)
Michelle Ballantyne, Attorney Member (new)
Rep. Elizabeth Weight
Rep. Craig Hall, Chair
Sen. Jani Iwamoto
Sen. Lyle Hillyard
Hon. David Mortensen
Hon. Todd Shaughnessy

Website

The JCC's website, www.jcc.utah.gov, contains in-depth information, links to related sites, annual reports, copies of public discipline documents, and downloadable complaint forms.

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. For FY 2020, the legislative appropriation was \$289,200. The JCC had non-lapsing savings from FY 2019 in the amount of \$42,893. The JCC had total available funds of \$332,093. JCC expenses for FY 2020 were \$271,646, leaving a balance of \$60,448.

JCC Staff

Alex G. Peterson, Executive Director
Aimee Thoman, Investigative Counsel

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: Anonymous complaints are submitted directly to JCC members, who review and discuss the complaint 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 copy of complaint and other 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 findings of fact, recommendation and other 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>