



UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2005

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www.utahbar.org/uljc/judicial_conduct_commission.html

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. See Constitution of Utah, Article VIII, Section 13. The constitution authorizes the Legislature to statutorily establish the composition and procedures of the JCC, and those provisions are found in Utah Code, Title 78, Chapter 8.

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 must review 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.

Confidentiality of JCC Records and Proceedings



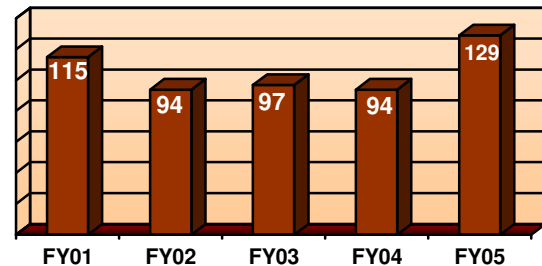
Except in certain limited circumstances specified by statute, all complaints, papers and testimony received or maintained by the JCC, and the record of any confidential hearings conducted by the JCC, are confidential, and cannot be disclosed.

Number of Complaints Received in FY 2005



The JCC receives and investigates about 100 complaints each year. Of that total, approximately 85% are dismissed at the conclusion of the preliminary investigation, either because the basis of the complaint is an appealable issue beyond the JCC's jurisdiction, or because the preliminary investigation fails to produce sufficient facts upon which to warrant additional proceedings.

Complaints Received Per Year



Complaints Received in FY 2005

| Judge Type | Number of Judges | Number of Complaints Received | Number of Judges Named in Complaints |
|------------------|------------------|-------------------------------|--------------------------------------|
| Supreme Court | 5 | 1 | 1 |
| Court of Appeals | 7 | 0 | 0 |
| District | 70 | 70 | 47 |
| Juvenile | 27 | 15 | 7 |
| Justice Court | 106 | 37 | 24 |
| Pro Tempore | 136 | 6 | 4 |
| Total | 351 | 129 | 83 |

FY 2005 – Sanctions and Other Resolutions

Sanctions Implemented by the Utah Supreme Court



Reprimand. On May 19, 2005, the Utah Supreme Court reprimanded Small Claims Judge Pro Tempore Shawn T. Farris. Judge Farris is a practicing attorney who volunteers to hear small claims cases approximately one afternoon every other month. In February 2004, Judge Farris took a small claims case under advisement. He reviewed the case in April 2004, and shortly thereafter, drafted a decision. He later learned that the decision had neither been received at nor distributed by the court. He re-issued his decision in September 2004, after the small claims plaintiffs had filed a complaint with the JCC. Judge Farris's ability to timely issue the decision had been hampered by personal tragedies. Utah law requires trial judges to decide all matters submitted for final determination within two months of submission, and Canon 3B(8) of the Code of Judicial Conduct requires judges to dispose of all matters promptly. Judge Farris has taken appropriate measures to ensure against future delays.

Additional Sanctions Recommended by the Judicial Conduct Commission



Removal. On February 8, 2005, the Judicial Conduct Commission recommended that Hildale Justice Court Judge Walter K. Steed be removed from office for engaging in the practice of plural marriage. The JCC's recommendation is pending before the Utah Supreme Court.

Judge Steed has served as a part-time justice court judge continually since 1980. He is legally married to one woman, and has been sealed in religious ceremonies to two other women. He is a member of the Fundamentalist Church of Jesus Christ of Latter-day Saints, and engages in plural marriage as a practicing member of that faith. All of the participants were adults at the time they entered into the respective marriage relationships, and all entered into those relationships consensually.

The JCC found that Judge Steed willfully engaged in bigamy, in violation of Utah law, and that by so doing, violated Canons 1 and 2A of the Code of Judicial Conduct, which respectively require judges to personally observe high standards of conduct and to respect and comply with the law.

Dismissals with Warnings Issued by the Judicial Conduct Commission



A judge contacted a defendant's employer to verify the accuracy of a letter submitted by the defendant for sentencing purposes. The JCC found that the judge violated Canon 3B(7), which prohibits judges from initiating or considering ex parte communications concerning pending or impending proceedings, but that the judge's conduct constituted only troubling but relatively minor misbehavior for which no public sanction was warranted.

A relatively new judge, without considering the ethical ramifications, allowed his name to be included on a list of persons who publicly supported a certain political issue. When the ethical issue was brought to the judge's attention, the judge immediately recognized his error and vowed to avoid future violations. The JCC found that the judge's conduct violated Canon 5B(4) of the Code of Judicial Conduct, which prohibits judges from taking a public position on non-partisan political issues, but that the judge's conduct constituted only troubling but relatively minor misbehavior for which no public sanction was warranted.

A judge inadvertently allowed the registration on his farm vehicle to expire for an extended period of time. When the judge was cited for expired registration, he immediately paid the fine in full and brought the registration current. The JCC found that the judge's conduct violated Canons 1, 2A and 4A of the Code of Judicial Conduct, which respectively require judges to personally observe high standards of conduct, respect and comply with the law, and conduct their extra-judicial activities so that they do not demean the judicial office. The JCC found that the judge's conduct constituted only troubling but relatively minor misbehavior for which no public sanction was warranted.



Of the 129 complaints received in FY 2005, 114 have been dismissed, one resulted in the reprimand summarized in this report, two resulted in dismissals with warnings summarized in this report, and 12 are the subject of ongoing investigations. The other dismissal with a warning summarized in this report was received during FY 2004.

FY 2005 – Administrative Affairs

Legislative Changes



There were no legislative changes during FY 2005.

Administrative Rules



Completing a task nearly two years in the making, the JCC adopted comprehensive amendments to its administrative rules in February 2005. The text of the new rules can be found on-line at www.rules.utah.gov.

Meetings



The JCC meets as needed on the second Tuesday of each month at the Utah Law & Justice Center. The JCC met ten times during FY 2005.

Website



The JCC's website, containing in-depth information, links to related sites, and a downloadable complaint form, can be accessed at: www.utahbar.org/uljc/judicial_conduct_commission.html.

Commissioners and Staff



JCC Members

| | |
|-----------------------|-----------------------|
| Ruth Lybbert, Chair | Rod Orton, Vice-Chair |
| Rep. Gordon Snow | Sen. Gene Davis |
| Rep. Neal Hendrickson | Sen. Michael Waddoups |
| Hon. Russell Bench | Ronald Russell |
| Hon. Darwin Hansen | Flora Ogan |
| Joe Judd | |

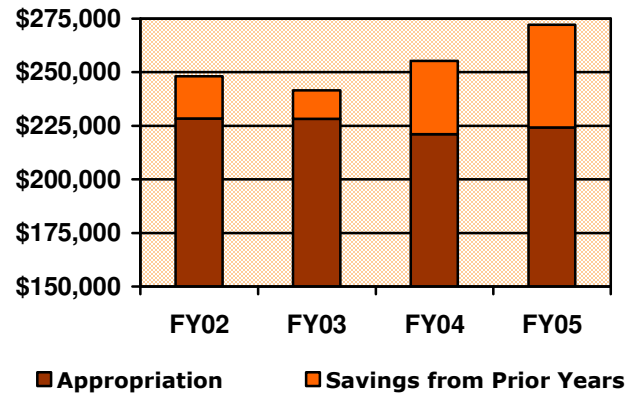
Staff

Colin Winchester, Executive Director
 Susan Hunt, Investigator
 Charles Smalley, Contract Investigator
 Justine Dimick, Office Technician

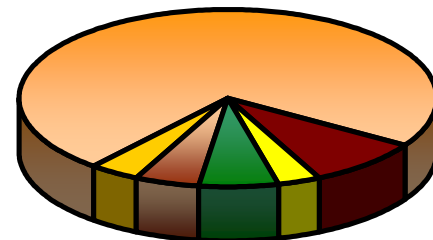
Budget



Most of the JCC's budget is appropriated annually by the Legislature. Additional funding comes from non-lapsing agency savings. For FY 2005, the legislative appropriation was \$224,200, and savings from previous years totaled \$47,996, for a total of \$272,196. The JCC spent only \$230,552, saving approximately \$41,600.



Of the \$230,552 spent in FY 2005, nearly 73% was expended for employees' salaries and benefits. Other expenditures are also shown below:



- Salaries & Benefits
- Professional Services
- Equipment & Supplies
- Travel
- Rent
- Office Expense