



UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2007

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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 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 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 2007



Of the 91 complaints received in FY 2007, 84 have been dismissed, one resulted in a recommendation for a censure, and six are still under investigation.

Complaints Received in FY 2007

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	71	46	35
Juvenile	28	19	13
Justice Court	111	19	17
Pro Tempore	118	6	5
Total	340	91	71

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.

FY 2007 – Sanctions and Other Resolutions

Sanctions Implemented by the Utah Supreme Court



Reprimand. On April 29, 2007, the Utah Supreme Court reprimanded former Third District Judge Leslie Lewis. Michael Jacobson was charged with a felony wildlife offense. His brother Kent attended court with him on February 24, 2006. At the beginning of the hearing, Judge Lewis informed counsel that she had strong feelings about people who kill deer, and that she was going to recuse from Michael's case. While the clerk was reassigning the case to another judge, Judge Lewis questioned Michael about his experiences shooting deer. Kent, whose identity was unknown to Judge Lewis at the time, was sitting in the back of the courtroom. During the exchange between Judge Lewis and Michael, Kent sighed loudly, stood up, and left the courtroom. Judge Lewis instructed her bailiff to return Kent to the courtroom. Judge Lewis then engaged in a conversation with Kent, saying such things as, "You have no business chastising me, sir," "I do not want to hear a word from you," "You and I are not in the same position," and "We are not having a dialogue." Judge Lewis then ordered her bailiff to "Take him back [to the holding cell] – I don't want to look at him." Kent was detained in the holding cell for approximately three minutes before Judge Lewis released him. The Supreme Court agreed with the JCC's finding that Judge Lewis had failed to treat Kent with patience, dignity and courtesy, and that her actions constituted conduct prejudicial to the administration of justice which brought her judicial office into disrepute. In November 2006, Judge Lewis was not retained by voters in the Third Judicial District.

Censure. On June 13, 2007, the Utah Supreme Court censured former Grand County Justice Court Judge Paul Cox. Justice court judges are required to complete 30 hours of continuing education each year and to report those hours to the Administrative Office of the Courts. Judge Cox did not submit the required form for calendar year 2003. He later submitted the form, claiming that he had satisfied the 30-hour

requirement, when in fact, he had not. For calendar year 2005, Judge Cox submitted a form claiming that he had attended the 2005 Winter Workshop, when in fact, he had not. In 2002 and 2003, the Department of Workforce Services obtained three judgments (for failure to pay unemployment compensation insurance premiums) against a company owned by Judge Cox. The Supreme Court agreed with the JCC's findings that Judge Cox failed to personally observe required high standards of conduct, failed to avoid impropriety and the appearance of impropriety in all activities, failed to respect and comply with the law, and failed to conduct his extra-judicial activities so they did not demean the judicial office, and that such actions constituted conduct prejudicial to the administration of justice which brought his judicial office into disrepute. In November 2006, Judge Cox was not retained by voters in Grand County.

Other Sanctions Recommended by JCC



Censure. On May 8, 2007, the JCC recommended that former Third District Judge Leslie Lewis be censured. In February 2006, James Scott appeared with his attorney, Roger Kraft, for sentencing before Judge Lewis. After the sentencing, Kraft sent a letter to Judge Lewis indicating his belief that Scott's sentence had been adversely affected by Kraft's presentation at the sentencing hearing. Kraft invited Judge Lewis to contact him with suggestions for future appearances before her. Judge Lewis telephoned Kraft and discussed the sentence. She told Kraft that she would consider changing Scott's sentence, and asked Kraft not to tell the prosecutor about the phone call. Judge Lewis later reduced Scott's sentence. In November 2006, Judge Lewis was not retained by voters in the Third Judicial District.

Note: After the fiscal year ended, the Supreme Court imposed the recommended censure.

FY 2007 – Administrative Affairs

Administrative Rules



The JCC's administrative rules are available 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 in Salt Lake City. The JCC met ten times during FY 2007.

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.

Model Code of Judicial Conduct



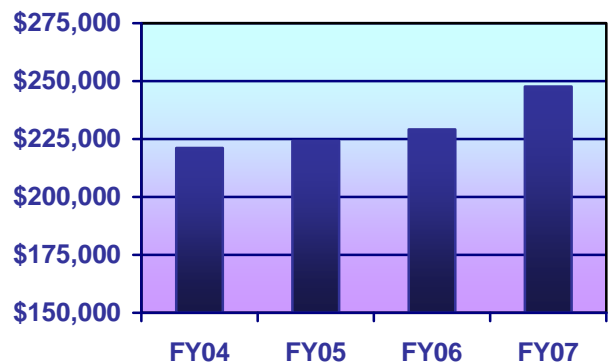
In 2003, the American Bar Association created a joint commission to evaluate and recommend changes to the Model Code of Judicial Conduct. That commission's work was approved by the ABA House of Delegates in February 2007. The Utah Supreme Court has established a committee to review the 2007 Model Code of Judicial Conduct and to make recommendations regarding its implementation in Utah. The committee is chaired by Justice Matthew Durrant and is staffed by AOC General Counsel Brent Johnson. Committee members include Judges Russell Bench, Constandinos Himonas, Claudia Laycock, Hans Chamberlain, Kimberly Hornak and John Sandberg, University of Utah Law Professor Leslie Francis, and JCC Executive Director Colin Winchester. The committee meets monthly, and will present its recommendations to the Supreme Court upon completion. Interested persons may contact Mr. Johnson at (801) 578-3800.

Budget



Most of the JCC's budget is appropriated annually by the Legislature. Additional funding comes from non-lapsing agency savings. For FY 2007, the legislative appropriation was \$247,600.

Annual Funding



Commissioners and Staff



JCC Members

Ruth Lybbert, Chair	Rod Orton, Vice-Chair
Rep. Gordon Snow	Sen. Gene Davis
Rep. Neal Hendrickson	Sen. Gregory Bell
Hon. Russell Bench	Ronald Russell
Hon. Darwin Hansen	Flora Ogan
Elaine Englehardt, PhD	

Staff

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

