

1998 ANNUAL REPORT

The **Commission on Judicial Conduct** received 291 complaints against judges and other judicial officers in 1998. It issued 16 informal sanctions and adjusted six complaints with informal advisory letters. This year the commission recommended public censure for one judge, suspension without pay for two judges, and accepted the voluntary resignation of one judge after formal charges were filed.

During the year, the Administrative Office of the Courts worked with the commission to develop a home page on the Arizona Judicial Department's Web site. The home page, which was recently upgraded contains the commission's handbooks and forms, the complete Code of Judicial Conduct, the commission's rules of procedure, summaries of formal cases, and recent press releases. Internet users can access these materials at www.supreme.state.az.us/cjc. Judges are encouraged to visit the site to obtain the most current information about the commission.

The Arizona Supreme Court's **Judicial Ethics Advisory Committee** issued six formal opinions in 1998. The opinions covered a variety of issues ranging from the application of the Code of Judicial Conduct to candidates for merit selection positions to the propriety of pro tem judges serving as private mediators in the same case. The committee staff also responded to more than 160 inquiries involving ethical questions, many of which related to campaign practices.

By year end, the committee was well along on a project to prepare advisory opinions for distribution in an electronic judicial bench book being developed by the Education Services Division of the Administrative Office of the Courts. In fact, the 1998 opinions were published in a new format as part of the project. Older opinions and indices will be reformatted and scanned into the database for the project in early 1999.

Since its inception, the committee has issued more than 116 opinions, all of which are fully reported and indexed in the judicial ethics manual. All of the opinions will eventually be available over the Internet.

Ethics Manual Update

This issue of the *Bulletin* accompanies an update of the judicial ethics manual published by the Commission on Judicial Conduct and the Judicial Ethics Advisory Committee. The loose-leaf manual is provided at no charge to all full-time judges and judicial officers, including commissioners and referees. Additional copies are distributed for reference purposes to appellate and superior court clerks, court administrators, key public officials and major law libraries. Those who need copies should send a request on official stationery to the commission's office.

Disciplinary Highlights

While the details of investigations are confidential, the Commission on Judicial Conduct periodically publishes brief descriptions of informal sanctions to give the judiciary and the public a better understanding of why discipline is imposed

on judges. The commission may refer to prior informal sanctions when a judge persists in inappropriate conduct.

Admonitions

Private admonitions remind judges of their ethical responsibilities and warn them about inappropriate conduct. The following are examples of admonitions that were issued in 1998.

- A municipal judge was routinely late for court.
- A superior court judge allowed his name and photograph to be used for fund-raising purposes.
- A justice of the peace mailed registration materials to voters who signed an opponent's petition.
- A municipal judge personally contacted the hearing officer assigned to handle this judge's civil traffic citation to discuss the case.
- A justice of the peace made comments during a hearing concerning a pending action that had been filed by one of the parties in another matter, giving the appearance that the judge was trying to influence the outcome of the action.
- A justice of the peace, who had a prior relationship with the parties involved in a petition for an injunction, failed to disqualify himself in the case.

Reprimands

Private reprimands are issued to judges for unacceptable conduct that does not rise to the level of formal proceedings. The following are examples of the reprimands issued in 1998.

- A municipal court judge improperly used his judicial position to force a change in the jail release policy and issued a summons knowing that no complaint had been filed.
- A justice of the peace improperly denied a complainant the right to cross-examine a witness.
- A municipal judge continued practicing law after he was appointed to the bench beyond the normal time allowed to wind down his law practice.
- A municipal judge lost his temper and used profanities in an incident that occurred in his chambers.
- A municipal judge dismissed parking tickets for city employees.

The commission also resolved several cases with informal letters instructing judges, among other things, to avoid making comments about pending matters; to insure that court staff complies with proper procedures; and to disclose relationships with attorneys who may be representing family members in other cases.

New Advisory Opinions

The Judicial Ethics Advisory Committee issued six opinions in 1998, summaries of which appear below. The full text of the opinions and indices covering all opinions were mailed to judges with this issue of the *Bulletin*. This information should be retained in the Judicial Conduct and Ethics Manual distributed to all judges and other court officials.

Opinion 98-1 (March 6, 1998)

Applicants for appointed positions are “candidates” for judicial office subject to the Code of Judicial Conduct and may not host political fund-raising events.

Opinion 98-2 (March 24, 1999)

Judges are not automatically obligated to disqualify themselves when litigants file complaints against them with the Commission on Judicial Conduct.

Opinion 98-3 (April 17, 1998)

A candidate for judicial office who serves as a part-time, pro tem judge, may not use the title “judge” in campaign literature without explaining the limited nature of the pro tem position. A candidate seeking election to a vacant judicial position may seek appointment as a pro tem judge and still run for office. The candidate will still be subject to all of the restrictions on political and campaign conduct contained in Canon 5.

Opinion 98-4 (June 8, 1998)

The Arizona Judges Association may contribute toward a campaign in support of a ballot proposition to give state legislators a pay increase and a campaign that would change the way salaries are set for elected officials and judges. A judge, as an “executive officer” of the Arizona Judges Association, may write and sign an “argument” for publication in an official publicity pamphlet in support of legislative salary increases.

Opinion 98-5 (August 26, 1998)

A city magistrate may not cast the tie-breaking vote in a city council election for a replacement member.

Opinion 98-6 (December 30, 1998)

A pro tem part-time superior court judge may serve as a mediator under certain specified conditions.

Membership Changes

The Supreme Court appointed new members to the **Commission on Judicial Conduct** in December: **Barbara Mundell**, a superior court judge in Mesa, and **Robert Brutinel**, a superior court judge in Prescott. They replaced Maurice Portley, a superior court judge in Mesa, and Bernardo P. Velasco, a superior court judge in Tucson. In addition, the State Bar’s Board of Governors appointed **Nancy Greenlee**, a Phoenix attorney, to succeed Stephen Villarreal, a Tucson attorney who was recently appointed to the superior court.

Judge Velasco, who was appointed to commission in 1987, was recognized for 11 years of service, seven as chair of the commission. Judge Portley served a full term of six years with three years as vice-chair. Steven Villarreal was appointed to complete the term of a member who resigned.

The commission elects its own officers, and the recent changes in membership coincided with the election of new officers. **Gerald Strick**, an attorney and former superior court judge, was elected to a two-year term as chair. **Judge Louraine Arkfeld** was elected as vice-chair, and **Thomas Bowen** as secretary.

In January, the Chief Justice appointed judge **Barry Schneider** of the superior court in Phoenix to replace **Allen Minker**, a superior court judge in Clifton, on the **Judicial Ethics Advisory Committee**. Judge Minker served on the committee for three years before he retired from the bench in December.

COMMISSION ON JUDICIAL CONDUCT

Gerald J. Strick Attorney Member Chair December 31, 2000	Philip Espinosa Court of Appeals Judge December 31, 2002
Louraine Arkfeld Municipal Judge Vice-chair December 31, 2000	Vicki Cox Golder Public Member December 31, 2002
Thomas Bowen Public Member Secretary December 31, 2002	Nancy Greenlee Attorney Member December 31, 2005
Gary Arend Justice of the Peace December 31, 2000	Margaret Kenski Public Member December 31, 2001
Robert Brutinel Superior Court Judge December 31, 2005	Barbara Mundell Superior Court December 31, 2005
	Philip Toci Court of Appeals Judge December 31, 2002

JUDICIAL ETHICS ADVISORY COMMITTEE

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Barry C. Schneider Superior Court Judge April 30, 2002	M. Byron Lewis Attorney Member April 30, 2000
Jose Luis Castillo, Jr. Justice of the Peace April 30, 2000	Roxanne Song Ong Municipal Judge April 30, 2000
Stephen A. Gerst Superior Court Judge April 30, 2001	

The *Bulletin* is published periodically by the Commission on Judicial Conduct and the Judicial Ethics Committee as a service to the Arizona Judiciary. For more information write the commission or committee staff at 1501 W. Washington, Suite 229, Phoenix, AZ 85007; or call (602) 542-5200.
