

1996 ANNUAL REPORT

The **Commission on Judicial Conduct** received 252 complaints against judges and other judicial officers in 1996. This is the highest number of complaints filed in a single year since the commission began in 1971.

Although the total number of complaints increased by 31 percent over the previous year, the increase is less than two percent when compared with the complaints filed in 1994. Thus, the increase appears to be more consistent with long-term trends than the raw numbers might suggest.

Disciplinary actions were taken in about 10 percent of the cases. The commission issued 13 admonitions and 11 reprimands, and adjusted one complaint with an advisory letter. The informal sanctions are described in the next section of the *Bulletin*.

The commission filed formal charges in three major cases and conducted one formal hearing during the year. All of the judges against whom formal charges were brought resigned from office at various stages of the proceedings. Two judges resigned prior to their hearings; one judge resigned after the commission filed its recommendations with the supreme court.

The Arizona Supreme Court's **Judicial Ethics Advisory Committee** issued 17 formal opinions last year. This is consistent with prior years: the committee has published 17 opinions in three of the last five years. The record high was set in 1995 with 21 opinions, but only five opinions were issued in 1994.

This year's opinions involved a variety of issues ranging from the propriety of signing overtime records for the police to whether a judge can serve on the board of directors of a nonprofit corporation that provides mental health services to the court on which the judge sits. The opinions are summarized on the back page.

Disciplinary Highlights

Although the details of its investigations are confidential, the Commission on Judicial Conduct publishes brief descriptions of informal sanctions to give the judiciary and the public a better understanding of the type of conduct involved in confidential proceedings. These are samples of complaints that resulted in informal sanctions for judicial misconduct in 1996.

Admonitions

The commission issues private admonitions to remind judges about their ethical responsibilities and warn them to avoid inappropriate conduct. Last year, judges were admonished for the following conduct:

- A superior court judge held an informal hearing in chambers in which the parties were his cousins.
- A superior court judge failed to review several motions properly before denying them, including a motion that the judge did not have discretion to dismiss.
- A superior court judge made insensitive remarks to a litigant during a court proceeding.
- A superior court judge delayed ruling on a case when the

judge's secretary put a file in her desk drawer.

Reprimands

Private reprimands are issued to judges for unacceptable conduct that does not rise to the level of formal proceedings. Last year, judges were reprimanded for the following conduct.

- A municipal court judge wrote an editorial for a local newspaper encouraging readers to donate money to a boys and girls club.
- A court of appeals judge allowed an attorney to talk to him about the court's decision before realizing that the time to file an appeal had not yet passed.
- After reading an irritating letter from a witness, a justice of the peace responded with a threatening letter.
- A superior court judge lacked impartiality and was too aggressive in settling a case.
- A superior court judge threw an attorney's motion on the floor, yelled, cursed and threatened to hold the attorney in contempt.
- A superior court judge socialized with a juror during smoking breaks in a criminal trial and later appointed the juror as jury foreman.
- Following an arrest on a domestic violence charge, a defendant called a justice of the peace at home. The judge subsequently ordered the police to release the defendant without a hearing.
- A superior court judge solicited signatures from court employees for a nominating petition for a political candidate.
- A superior court judge was argumentative and impatient with

New Advisory Opinions

The opinions issued by the Judicial Ethics Advisory Committee last year are summarized below. Copies of the full opinions were distributed to all judges with this issue of the *Bulletin*. The opinions should be retained in the *Judicial Conduct and Ethics Manual* along with the new indices included in the mailing.

Ethics Manual Update

Along with this issue of the *Bulletin*, all judges will receive a major update of the judicial ethics manual which is published by the Commission on Judicial Conduct and the Judicial Ethics Advisory Committee. The material includes a new title page, revised membership lists, copies of all new advisory opinions, and revised canon and subject indices.

The loose-leaf manual is provided free to all full-time judges and judicial officers, including commissioners and referees. Additional copies are distributed to appellate and superior court clerks, court administrators, key public officials and major law libraries. Copies of individual opinions can be obtained at no cost by calling the commission's office.

Opinion 96-1 (February 23, 1996)

It is improper for a municipal court magistrate, bailiff or judicial assistant to sign overtime verifications for the police department.

Opinion 96-2 (March 11, 1996)

A judge may not serve as president of the Arizona Association of Counties.

Opinion 96-3 (March 12, 1996)

A judge may review and approve a guardian's annual report, even if the guardian is also a judge on the same court, if the matter is uncontested, routine and involves no extraordinary requests or expenditures.

Opinion 96-4 (March 26, 1996)

A judge may not be a member of the National Lawyers Guild.

Opinion 96-5 (April 19, 1996)

A judge may be a member of the board of directors of a non-profit corporation which operates a charter school, as long as the organization will not be involved in proceedings before the judge nor regularly engaged in any judicial proceedings.

Opinion 96-6 (June 18, 1996)

A judge may contribute money to the campaign of a candidate for judicial office, but a judge may not write a letter to a newspaper editorial board regarding the qualifications of a judicial candidate, even if the letter is considered a private communication.

Opinion 96-7 (June 19, 1996)

A judge may sign a petition to place a candidate on the primary election ballot, but should not sign a petition if the judge's signature could be misused later as an endorsement.

Opinion 96-8 (August 15, 1996)

Depending on the forum, a judge may participate in campaigns for or against initiatives concerning judicial reform. A judge may not participate in campaigns for or against political candidates who take positions affecting the administration of justice but may appear at partisan events to speak for or against proposals that affect the administration of justice as long as the judge's participation does not constitute an endorsement of a candidate or political organization. Judges may assist in raising funds but may not solicit contributions or speak at fund-raising events. Judges and judicial staff may contribute to initiative, candidate or media campaigns to support or oppose such proposals.

Opinion 96-9 (August 15, 1996)

A judge may not appear in a television advertisement endorsing a ballot proposition the judge was involved in drafting.

Opinion 96-10 (September 27, 1996)

A judge may accept a position on the board of directors of the Arizona Historical Society or a related geographical subdivision.

Opinion 96-11 (October 3, 1996)

A candidate for judicial office may not respond to questionnaires that seek the candidate's views on disputed political and legal issues.

Opinion 96-12 (October 4, 1996)

While an incumbent candidate may accept or obtain support from public officials or groups, the candidate should avoid any statement or implication that he or she is hand-picked by the endorsing individual or group.

Opinion 96-13 (November 8, 1996)

A judge may pass a collection basket while serving as an usher during a church service.

Opinion 96-14 (November 21, 1996)

A judge is not required to disqualify himself or herself when a litigant files a lawsuit against the judge as a tactical maneuver or in an effort to intimidate the judge. A judge may be disqualified, however, when the litigant is a court employee, depending on the extent and nature of judge's relationship - with the employee and whether a disinterested observer would reasonably fear injustice.

Opinion 96-15 (December 4, 1996)

A police officer may serve as a volunteer hearing officer in the justice court for small claims cases but not in criminal or civil traffic cases.

Opinion 96-16 (December 6, 1996)

A judge may not assign the collection of fines to court employees whose performance ratings are tied to the amount of payments collected regardless of a defendant's ability to pay.

Opinion 96-17 (December 12, 1996)

A judge or court administrator may serve on the board of directors of a nonprofit corporation that contracts its services with the court upon which the judge sits if the judge is isolated from the process of reviewing and awarding contracts. Under the same circumstances, the judge or court administrator's spouse may serve on the board of directors or be employed by the corporation.

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