

1997 ANNUAL REPORT

The **Commission on Judicial Conduct** received 254 complaints against judges and other judicial officers in 1997. It issued 28 informal sanctions and adjusted 5 complaints with an informal advisory letter. This year the commission filed recommendations for the removal of one judge, suspension without pay for another judge, and public censure for two judges.

During the 1997 legislative session, the legislature approved funding for the commission's first full-time staff attorney. After recruiting statewide for the position, the commission hired Paula O. Burgess, a former assistant attorney, in September. In just a few months, the addition of an attorney to the staff has improved the commission's internal operations and reduced the amount of information requested from judges during investigations. The staff now examines court files and other records more extensively before asking judges to respond to complaints. The time it takes to investigate and respond to complaints has also been significantly reduced.

The Arizona Supreme Court's **Judicial Ethics Advisory Committee** issued 11 formal opinions in 1997. The opinions covered a variety of issues ranging from disqualification when attorney members of judicial merit selection commissions appear before judges to using police reports prior to admission into evidence.

Since its inception, the Advisory Committee has issued more than 110 opinions, all of which are fully reported and indexed in the judicial ethics manual. Each year, the committee and its staff responds to numerous questions with informal opinions that are not published nor distributed to other judges.

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 are used to remind judges about their ethical responsibilities and warn them to avoid inappropriate conduct. The following admonitions were issued in 1997.

- A superior court judge was extremely impatient toward an attorney.
- A justice of the peace threatened to throw a deputy sheriff in jail the next time he left his court without permission.
- A justice of the peace was photographed performing

weddings at a restaurant's drive up window as part of a promotion for a local radio station.

- A superior court judge failed to rule on a petition within 60 days.
- A justice of the peace failed to complete educational requirements.
- A superior court judge inadvertently allowed his name to be used by a legal publication to solicit subscribers.
- A justice of the peace gave the appearance of interfering with a commission investigation when he met with the complainant's supervisor to discuss the complaint filed against the judge.

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 1997.

- A municipal court judge sent a letter in which he used his judicial title to the sentencing judge on behalf of his son.
- A hearing officer made an independent investigation of the facts in a lawsuit which he used in making his ruling.
- A superior court judge failed to decide a series of motions within 60 days.
- A superior court judge threw a pen at the complainant and called her a liar during a court proceeding.
- A municipal court judge sent a letter on court stationery to the sentencing judge on behalf of another judge's son.
- A superior court judge threatened to terminate the contracts of several attorneys for noticing the judge too often.
- A superior court judge used excessive force to control his son while he was in custody.
- A hearing officer met with the complainant's employees without all of the parties to the case being present.
- A justice of the peace was cited for failing to register her vehicle and for lack of proof of insurance.
- A municipal court judge was cited for driving under the influence of alcohol.

Ethics Manual Update

This issue of the *Bulletin* accompanies the annual update of *Judicial Conduct and Ethics Manual* published by the Commission on Judicial Conduct and the Judicial Ethics Advisory Committee. The update includes a new title page, copies of all the opinions issued last year and new indices.

The loose-leaf manual is provided free 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.

New Advisory Opinions

The Judicial Ethics Advisory Committee issued eleven opinions in 1997, summaries of which appear below. The full text of the opinions and revised 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* previously distributed to judges and other court officials.

Opinion 97-1 (February 7, 1997)

A judge or court administrator may write a letter to government agencies or private foundations in support of a court seeking grants for court-related projects, and may do the same for a non-profit organization if the proposed projects involve the administration of justice but not political or business interests.

Opinion 97-2 (February 13, 1997)

It is not appropriate for municipal judges to hear cases in which a party is represented by an attorney who sits on the local judicial selection commission; however, remittal of disqualification after disclosure is permissible in such circumstances.

Opinion 97-3 (March 13, 1997)

A judge may not serve as a member of a city or county domestic violence commission that espouses a particular point of view and is not concerned solely with the "improvement of the law, the legal system or the administration of justice" as required by the Code of Judicial Conduct.

Opinion 97-4 (April 22, 1997)

A judge may not be a director or officer of a company that invests in real estate when the only other shareholder is not a

member of the judge's family.

Opinion 97-5 (May 12, 1997)

Candidates for judicial office may participate in continuing legal education seminars where opinions of disputed legal and political issues may be solicited, but they should avoid taking specific positions on the issues.

Opinion 97-6 (May 28, 1997)

This opinion reinforces and elaborates on Opinion 97-3 by concluding that a judge may not serve as a member of a local domestic violence commission even in a limited capacity if it is involved in areas of public policy outside of the legal system. The opinion does not prohibit a judge from providing information about the judicial system to such a body or from speaking on subjects relating to the improvement of justice in a forum provided by the commission.

Opinion 97-7 (June 16, 1997)

A judicial officer who borrows money from a law firm's employee profit sharing plan is disqualified from ruling on matters involving members of the law firm.

Opinion 97-8 (June 17, 1997)

A judge may not use members of his or her staff to perform personal errands.

Opinion 97-9 (July 30, 1997)

A judge who sits on the board of a non-profit organization cannot sign a grant application to another charitable organization but may respond to fact-finding questions from a prospective grantor about the organization's activities.

Opinion 97-10 (August 8, 1997)

Although juvenile court judges, probation officers, administrative staff and members of the court's advisory board may not directly solicit gifts and other donations for a victims' restitution fund, they may participate in educating or assisting appropriate organizations in efforts to obtain funding from public or private sources.

Opinion 97-11 (September 24, 1997)

A court may serve as a repository of sealed police reports that might be used in pending or prospective DUI criminal and civil traffic cases; however, judges may not, except under certain circumstances, consider information in police reports that have not been admitted into evidence.

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.
