

IDAHO JUDICIAL COUNCIL

Annual Report

FY 2002

**State of Idaho
Judicial Council**
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INTRODUCTION:

The Idaho Judicial Council, by enactment of Title I, Chapter 21, of the Idaho Code, was created in 1967. Drawing from the experiences of other states, the legislature provided in Idaho Code Section 1-2102 a broad range of functions.

Today the Judicial Council is charged to:

- Conduct studies for the improvement of the administration of justice;
- Make reports to the Supreme Court and Legislature at intervals of not more than two years;
- Submit to the Governor the names of not less than two nor more than four qualified persons for each vacancy in the office of Justice of the Supreme Court, Judge of the Court of Appeals, or District Judge, one of whom shall be appointed by the Governor;
- Recommend the removal, discipline and retirement of judicial officers (including members of the Industrial Commission);
- Perform such other duties as might be assigned by law.

Members of the Judicial Council serve without salaried compensation for their services. Members, other than judges, receive only a daily honorarium for each day the Council meets and reimbursement for their actual expenses, pursuant to Idaho Code Section 1-2104. The Judicial Council utilizes the services of a part-time Executive Director, but retains no permanent or full-time staff.

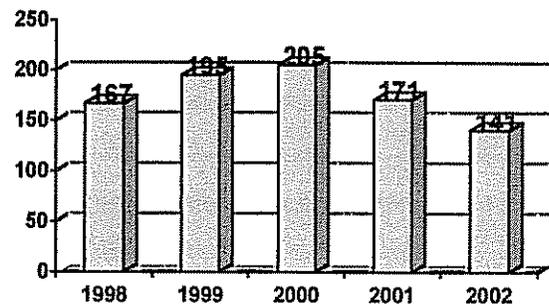
Ordinarily, the Council meets approximately three to four times per year or, as needs arise. In an effort to operate within the Council's budgetary allowance, many matters are disposed of by telephone conference call or by mail and meetings scheduled in conjunction with interviews for judicial vacancies.

JUDICIAL NOMINATIONS:

There were no vacancies in the 2002 calendar year. In March, 2003, the Judicial Council began the process

of selecting nominees for a Supreme Court justice and a District Court Judge.

DISCIPLINARY ACTIVITIES:



Type of Judge	No. of Complaints
Idaho Magistrate Judges	86
Idaho District Judges	31
Idaho Appellate Court Judges	0
Idaho Supreme Court Justices	2
Retired/Senior Judges	4
Judge Not Identified or Other Entities Not Under Judicial Council Jurisdiction	28

** Some complaints have more than one judge named

Of the 141 complaints received in 2002, seventy-nine (79) were not verified as required by Idaho law. When a complaint is not verified, the Judicial Council contacts the complainant to explain verification and offers to assist in the verification process. Of the sixty-two (62) verified complaints, thirty-three (33) complaints were dismissed after having been reviewed and discussed by the Judicial Council, nineteen (19) initial inquiries and five (5) preliminary investigations were conducted, and five (5) are pending. An initial inquiry consists of obtaining more facts on the complaint and receiving a response from the judge. A preliminary investigation is a full investigation, which includes a review of the court record or transcripts and interviewing witnesses.

In the twenty-four (24) cases in which there were initial inquiries or preliminary investigations, the Judicial Council took remedial action in five (5) of the cases pursuant to Judicial Council Rule 28(c) which permits the Judicial Council to remedy issues with a judge without filing formal charges. In the five cases, it personally met with three (3) judges to discuss allegations that they treated a litigant, attorney or witness rudely or discourteously. It met with one (1) judge to discuss insensitive comments that were made in court. It met with one (1) judge to discuss the perception of bias or prejudice and lack of impartiality that the judge's comments created. The judges in all cases took the concerns very seriously and committed to avoid such conduct in the future. There were no formal charges filed.

Nature of Complaints	Occurrences
Appearance of Impropriety	1
Bias/Prejudice/Discrimination	39
◆ Conduct Prejudicial to Administration of Justice	13
Conflict of Interest	3
Conspiracy	1
◆◆ Erroneous Decision/Error of Law	41
Ex Parte Communication	8
Excessive Use of Alcohol/Drugs	0
Failure to Disqualify	11
Failure to Perform Duties	4
Improper/Unreasonable Delay	2
Improper Sentence	12
Abuse of Power	4
Refused to Hear Entire Case	3
Rude and Discourteous Treatment/Lack of Judicial Temperament	11
Violation of Fourth Amendment	0
Violation of Idaho Code 59-502	1
◆◆◆ Unknown or General Dissatisfaction	62

** Many complaints have more than one allegation made against the judge or judges.

◆ Examples of complaints alleging Conduct Prejudicial to the Administration of Justice include matters such as: misplacing files by the clerk's office, allowing an attorney to enter into a stipulation without the approval of his client, allowing an in-court demonstration of a battery on the victim, making insensitive comments, alleging that a decision of another judge was politically motivated.

◆◆ Many of the complaints allege that the judge committed errors of law such as ruling in favor of one of the parties, or erroneously allowing or disallowing the admission of evidence, or erroneously granting or

denying a continuance. Reviewing or correcting an error of law is not within the jurisdiction of the Judicial Council. In those situations, complainants are notified that their complaint must be pursued through the appellate court process.

◆◆◆ Some complainants allege general dissatisfaction with the handling of a case or the legal system but fail to provide sufficient information to enable the Judicial Council to determine the exact nature of the complaint or whether the complaint is against a judge. Many times the complaint is actually about the police, conduct of the prosecutor's office or the public defender's office.

PERFORMANCE EVALUATIONS:

The Judicial Council has found that when individuals are appointed to the bench, they become somewhat isolated and do not receive feedback on their performance as a judge.

Judicial Performance Evaluations provide the opportunity to receive feedback on the way judges perform their judicial duties. That information is provided to the judges in order to assist them in improving their judicial skills and abilities.

The Judicial Council initiated and completed a two (2) year Judicial Performance Evaluation Pilot Project. The project consisted of five (5) volunteer District judges and six (6) volunteer Magistrate judges. The first set of questionnaires was distributed to attorneys, litigants, court clerks, and jurors in May 2000 with additional sets of questionnaires being sent in June and December 2001 and the last set being sent in June of 2002. Participating judges were very positive about the Pilot Project and the feedback that they received.

The Pilot Project has been extended for one additional year with the participation of additional judges.

Members of the Idaho Judicial Council:

Honorable Linda Cople Trout
Chief Justice and Ex-Officio Chairman

Darrel W. Aherin
Vice-Chairman

Sherry Krulitz
Secretary

G. Nicholas Ifft

Dennis M. Davis

Hon. N. Randy Smith
District Judge

Helen McKinney

Robert G. Hamlin
Executive Director