



IDAHO JUDICIAL COUNCIL

Annual Report

FY 2003

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.

Vacancy	No. of Applicants	No. of Nominees	Individual Appointed
Supreme Court Justice Jesse R. Walters	14	4	Roger S. Burdick
Fifth Judicial District Nathan W. Higer	5	3	John K. Butler
Sixth Judicial District William H. Woodland	10	4	Ronald E. Bush
Fifth Judicial District Roger S. Burdick	8	2	G. Richard Bevan

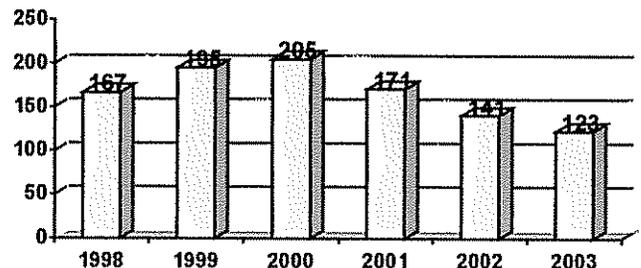
Members of the Judicial Council serve without salaried compensation for their services. Members, other than judges, receive only a daily honorarium for each day the Council meets and reimbursement for their actual expenses, pursuant to Idaho Code Section 1-2104. The Judicial Council utilizes the services 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 four (4) vacancies in the 2003 calendar year. The following table summarizes the screening process in those cases.

DISCIPLINARY ACTIVITIES:



Of the 123 complaints received in 2003, fifty-six (56) 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-seven (67) verified complaints, forty-five (45) complaints were dismissed after having been reviewed and discussed by the Judicial Council and a determination made that there was no factual basis for the complaint or the facts did not constitute a violation of the Code of Judicial Conduct, sixteen (16) initial inquiries and six (6) preliminary investigations were conducted. 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-two (22) cases in which there were initial inquiries or preliminary investigations, the

Judicial Council took remedial action in two (2) 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 one case a judge was admonished to avoid conduct which, while acceptable in an ordinary work environment, had the potential to detract from public confidence in the judiciary. In the other case a judge was issued a private reprimand for violating the provisions of the Code of Judicial Conduct relating to fundraising for charitable events. The judges in both cases took the concerns very seriously and committed to avoid such conduct in the future. There were no formal charges filed. Fourteen (14) of the above-mentioned cases are still pending.

Nature of Complaints	Occurrences
Appearance of Impropriety	0
Bias/Prejudice/Discrimination	25
◆ Conduct Prejudicial to Administration of Justice	5
Conflict of Interest	5
Conspiracy	2
◆◆ Erroneous Decision/Error of Law	46
Ex Parte Communication	4
Excessive Use of Alcohol/Drugs	0
Failure to Disqualify	7
Failure to Perform Duties	3
Improper/Unreasonable Delay	4
Improper Sentence	6
Abuse of Power	0
Refused to Hear Entire Case	0
Rude and Discourteous Treatment/Lack of Judicial Temperament	12
Violation of Code of Judicial Conduct	2
Violation of Fourth Amendment	1
Violation of Idaho Code 59-502	0
◆◆◆ Unknown or General Dissatisfaction	48

** 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.

Type of Judge	No. of Complaints
Idaho District Judges	30
Idaho Magistrate Judges	69
Idaho Appellate Court Judges	1
Idaho Supreme Court Justices	0
Retired/Senior Judges	3
Judge Not Identified or Other Entities Not Under Judicial Council Jurisdiction	48

** Some complaints have more than one judge named

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 Judicial Performance Evaluation Pilot Project has been extended indefinitely. Eighteen (18) judges are currently participating. The judges are very positive about the Pilot Project and the feedback that they receive.

Members of the Idaho Judicial Council:
Honorable Linda Copple Trout
Chief Justice and Ex-Officio Chairman

Dennis M. Davis
Vice-Chairman

Sherry Krulitz
Secretary

Hon. N. Randy Smith
District Judge

Helen McKinney

William Parsons

J. Philip Reberger

Hon. Thomas Borresen
Ad hoc Magistrate Member

Robert G. Hamlin
Executive Director