



To promote  
the effective  
administration  
of justice

# JUDICIAL CONDUCT REPORTER

A publication of the American Judicature Society  
Vol 21, No 2 Summer 1999

## Ex Parte Communications: Recent Discipline

### Allowing *ex parte* communications

By agreement, the Indiana Commission on Judicial Qualifications publicly admonished a judge who allowed one of the parties to a case to communicate *ex parte* with the judge assigned to the case. *Public Admonition of Funke* (July 8, 1999).

Judge Funke had been disqualified from a case based on his acquaintance with the defendants. When Judge Norman Curry, who had been appointed special judge, met with Judge Funke in the latter's private office just before the case was scheduled to be

heard, the county Republican Party chair, Melvin Speer, came into the office. After a few minutes of general conversation, Speer's son and daughter-in-law entered the office and were identified as the defendants in the dispute Judge Curry was about to hear. While Judge Funke was present, the party chair told Judge Curry that they wanted to discuss the case with him before entering the courtroom. Judge Curry refused.

Judge Funke stated to the Commission that he had had no doubt that the party chair came to his office to make every effort to talk with Judge Curry.

The judge defended his conduct by asserting that he felt he could not "kick" the party chair out of his office.

The Commission held Judge Funke responsible for the meeting between Speer and Judge Curry and the inappropriate course it took. The Commission said the judge's first priority should have been his responsibility to his colleague and the integrity of the system—not his relationship with a political ally. Noting that judges are frequently the targets of attempts to engage in *ex parte* conversations, the Commission stated that a judge should

*(continued on page 2)*

## Anonymous Complaints Accepted by Most Judicial Conduct Organizations

By Nancy E. Rix

**M**ost judicial conduct organizations, with some variation in treatment, accept anonymous complaints about judicial misconduct and proceed to investigate those that contain independently verifiable facts.

When the subject of anonymous complaints is raised in a group of judges or persons involved in judicial administration, their initial reaction is often that the practice of acting on

such complaints is unfair to the judge whose conduct has been called into question. This objection stems from the belief that the judge should be entitled to confront his or her accuser. Judges are quick to note their suspicion that anonymous complainants are disgruntled litigants, political adversaries, or persons having ill motives, including racial or gender bias. Given that ulterior motives undoubtedly spark some anonymous complaints,

the question is whether this reality justifies ignoring the reported allegations of unethical judicial behavior.

A survey about the treatment of anonymous complaints was recently conducted by the Judiciary Commission of Louisiana. The Commission contacted judicial conduct organizations in 39 states; 33 responded. The replies show that only two of the replying states—Montana and Wyo-

*(continued on page 5)*

## Ex Parte Communications: Recent Discipline *(continued)*

refuse to engage in the conversation, make a record of the attempt, and disclose to other parties the substance of the conversation.

### E-mail ex parte communications

The California Commission on Judicial Performance publicly admonished a judge for communicating by e-mail with an attorney appearing in a pending juvenile dependency matter. *Public Admonishment of Caskey* (July 6, 1998). The judge had sent a message by electronic mail to the attorney that read in part:

I am considering summarily rejecting [the father's attorney's] requests. Do you want me to let [the father's attorney] have a hearing on this, or do we cut [the attorney] off summarily and run the risk the third DCA reverses? ...I say screw [the father] and let's cut [the attorney] off without a hearing. O.K.? By the way, this will self-destruct in five seconds....

The attorney replied by e-mail, "Your honor, I don't feel comfortable responding ex-parte on how you should rule on a pending case." The judge sent a response that read: "chicken."

Several days later, the judge sent the attorney another e-mail message in which he solicited the attorney's views on the advisability of allowing children in court. The attorney provided a lengthy response.

The Commission found that the judge's first message suggested pre-judgment of a matter before him and that his use of the words "we" and "let's" and his solicitation of the attorney's advice on how to handle the matter suggested that he had aligned himself with one side in the proceeding. The Commission also found that the language used in reference to the father gave the appearance of bias and animus and was entirely inconsistent with a judge's obligations to be impartial and to maintain the dignity of the

court. The Commission stated that by responding "chicken" to the attorney's refusal to communicate about a pending case, the judge displayed a joking attitude toward the attorney's ethical concerns. The Commission found that the judge's second ex parte communication with the attorney about the perceived shortcomings of other attorneys appearing before the judge on dependency cases and about procedural aspects of other cases were also problematic and contributed to an impression that the judge was aligned with one side in matters before him.

### Ex parte communications after a case is re-assigned

Pursuant to the recommendation of the Judicial Conduct Commission, the Utah Supreme Court publicly reprimanded a judge for an ex parte communication with an attorney in a pending case that had been re-assigned to another judge. *In re Young*, No. 970032 (August 27, 1999).

In early 1994, a school district in Summit County had expelled a student for the remainder of the school year for bringing a gun to school. The student and his parents filed suit seeking reinstatement and damages. Judge Young, normally stationed elsewhere, was fulfilling a rotational assignment in the county and entered a temporary restraining order against the school district, reinstating the student.

When the case came before Judge Young again on a motion for a preliminary injunction, the judge dismissed the case as moot because the school year had ended. Before the parties were able to agree upon a written order reflecting the ruling, the attorney for the student filed a motion requesting approximately \$24,000 in fees and costs. Before that motion had been fully briefed or submitted for decision, Judge Young's assignment in

Summit County ended, he resumed his usual post, and a different judge took over the responsibilities in the county and the case.

Later that summer, the judge read an article in a newspaper stating that a final ruling had not been entered in the case and indicating that the student would be disciplined the following school year for the same gun-carrying incident. The judge then called the attorney who had represented the school district; the attorney for the student was not part of the conversation.

The Commission found that, during the call, the judge expressed his disapproval of the district's plan to re-discipline the student and gave his views on the fee request by the plaintiff's attorney. The Commission also found that the judge placed the call to the school's attorney, "to satisfy his personal passions of annoyance and dismay for a litigant's reported intention to pursue a disputed matter which the Judge had been adjudicating." However, the Commission expressly did "not conclude that Judge Young extorted or attempted to extort a settlement from the School District," as the school superintendent had asserted in his complaint.

Several weeks after the phone call, the case against the school district was re-assigned to Judge Young, which occasionally occurs so that the judge most familiar with a Summit County case can rule on final issues. At a status conference, the judge discussed the pending motion for attorney fees, indicating that while he thought the plaintiff's attorney was entitled to some fees, he would prefer that the parties settle the matter. Judge Young did not disclose to the plaintiff's attorney his earlier telephone call with the defendant's attorney. The parties stipulated to a settlement concluding the case under which the plaintiff's at-

torney received \$6,000 in attorney fees from the school district.

The court found that the evidence supported the Commission's findings about what took place during the judge's call to the school district's attorney. The court also stated that, even though Judge Young was not actually presiding over the case at the time of the call, he should not have commented on his view of the fee issue to the attorney because he had presided over prior proceedings in the case. Moreover, the court noted, the judge admitted he was aware that it is common for judges whose Summit County assignments have ended to rule on issues remaining in the cases over which they presided, and, therefore, there was a substantial likelihood that he would be re-assigned to the case.

The court also found that, regardless whether the school district was able to capitalize on the information gained in the call from the judge, Judge Young jeopardized the integrity of the court system by creating the risk that the school district would exploit its knowledge of his views during settlement negotiations. The court stated that the Commission's finding that Judge Young's conduct "foster[ed] a disrespect for the judicial office by many of those who were involved in the controversy" was supported by the record.

However, the court rejected the Commission's finding that the judge was required, after initiating the ex parte call, to disqualify from the case when it was re-assigned to him. The court noted that the judge's conduct, although wrongful, was not motivated by any personal or extra-judicial bias or prejudice. The court also concluded that, although an ex parte conversation may indicate partiality in that, by definition, only one party is involved to the exclusion of another, it would not adopt a categorical rule that a judge is deemed to be partial, biased,

or prejudiced and, therefore, disqualified following an ex parte conversation.

### Temporary restraining orders

Approving a statement of circumstances and conditional agreement for discipline jointly tendered by the Commission on Judicial Qualifications and a judge, the Indiana Supreme Court suspended the judge for three days without pay for entering an ex parte temporary restraining order without requiring the attorney who filed the petition to certify either that notice had been given to the other side, what efforts the attorney had made to give notice, or why notice was not required. *In the Matter of Jacobi*, 715 N.E. 2d 873 (1999). The court also assessed costs against the judge.

Pursuant to an inter-local agreement, a county and six cities or towns within the county had created a reuse authority board to share governmental and management functions over 4,600 acres of excess federal property that had been transferred to the reuse authority by the Army. Two of the towns appointed James Witten to the reuse authority board. Four months later, the county commissioners removed Witten, creating a dispute with the cities and towns who were parties to the inter-local agreement.

Larry Wilder was the attorney for one of the towns and also the son of the judge's bailiff. After filing a petition for a temporary restraining order in the clerk's office at 4:28 p.m. (court offices generally close at 4:30), Wilder took it to the judge's chambers. Wilder and the town board president then met with the judge in the judge's private office for approximately one hour and discussed the need for the temporary restraining order. The judge granted the temporary restraining order that day.

Contrary to the court rule pertain-

ing to temporary restraining orders, the judge granted the ex parte relief without a written certification from Wilder indicating that he had given notice to the commissioners or their counsel, the efforts he had made to serve them, or the reasons why notice should not be required. Despite the absence of that certification, the judge stated in his order, "[T]he Court finds that the Clark Commissioners, by its attorney, Daniel Moore, has been served with notice of this petition by same being provided to him in person." The judge made no independent effort to contact the office of the attorney for the county commissioners to determine whether he was available to meet with the judge and the town attorney about the petition.

The judge was and had been for many years a close personal friend of Wilder, the attorney who filed the petition on behalf of the town, and a close personal friend of the town board president. He had also had significant contacts with the attorney and the town board president the day before the TRO petition was filed while the petition was being planned, although the judge claimed the contacts were not related to the dispute. He subsequently disqualified himself from the case because he felt no judge in the county should be involved in the merits of the political dispute.

The Commission and the judge agreed that the judge's failure to obtain the required certification from the attorney—along with the judge's failure to make a simple inquiry to determine whether the county's attorney was available to meet with the judge and Wilder about the petition and the judge's close personal relationship with Wilder and the town president—created a significant appearance of impropriety and potentially threatened the public's confidence in the judicial system.

(continued on page 6)

# Ex Parte Communications: Recent Advisory Opinions

## Instructions to draft an order

A judge may not notify only one party of the judge's decision in a contested matter and instruct the attorney for that party to prepare an order conforming to the decision without giving notice to the other party. *Indiana Advisory Opinion 1-98*.

- The conversation would give one party's lawyer the opportunity to argue ex parte on the merits.
- Even if the judge's decision was already firm, the "party whose lawyer was not asked to participate justifiably would question the fairness of the conduct and might question whether the conversation...went beyond a simple announcement and might have involved further argument or comment on the merits."
- After the conversation, the party privy to the outcome would have the opportunity to exploit the information about the outcome until the order was entered.
- Even if the information was not exploited, the "negative impact on the other party's perception of the judge's neutrality and impartiality is rightfully compromised."

## Reviewing law enforcement files

- A judge may not review and consider information in a police report that has been placed in the court file in a pending or prospective DUI criminal or civil traffic case if the report has not been admitted into evidence. If a defendant is furnished a copy of a police report and given reasonable opportunity to respond, a judge may consider the information for aggravation or mitigation purposes in sentencing. *Arizona Advisory Opinion 97-11*.
- A judge may refer to a police re-

port at an initial appearance or arraignment for the limited purpose of determining conditions of release, amount of bail, and appointment of counsel where a statute expressly requires a judge to consider "any available information" in making release and bail determinations. *Arizona Advisory Opinion 99-3*.

- A judge may not review unsworn comments of a law enforcement officer attached to traffic tickets when the comments are not disclosed to the defendant even though the defendant could review them in the court file. *Florida Advisory Opinion 99-19*.
- A judge may not consider confidential information about parents available through the state child support enforcement computer system without all parties being present and given the right to be heard. *Tennessee Advisory Opinion 97-1*.
- A judge may not request a local law enforcement agency to provide the criminal history of the petitioner and respondent prior to a hearing on a petition for an order of protection. *Tennessee Ad-*

*visory Opinion 97-5*.

## Other issues

- An ex parte communication between a judge and the applicant for a protection order authorized by the domestic abuse act does not disqualify the judge unless the judge feels that he or she cannot be impartial. *Nebraska Advisory Opinion 98-1*.
- A judge should not consider a letter written to the judge from a bar association concerning a conviction while a motion to vacate is pending and should send the letter to the defendant's lawyer, the district attorney, and the presiding judge. The letter expressed concern that "a miscarriage of justice may well have been occurring." *New York Advisory Opinion 96-95*.
- A judge may not discuss with a law guardian the guardian's position in regard to the interests of the child outside of the presence of the parties, the parents, or the attorneys, unless all parties consent. *New York Advisory Opinion 95-29*. 

## Advisory Opinions on the Web

**L**inks to the advisory opinions of 12 judicial ethics committees have been added to the judicial conduct and ethics section of the AJS web-site ([www.ajs.org](http://www.ajs.org)). The opinions on the committees' sites can be searched either through a subject index or by searching for a key word. The committees included are the Alabama Judicial Inquiry Commission, Alaska Commission on Judicial Conduct, Arizona Commission on Judicial

Conduct, Florida Judicial Ethics Advisory Committee, Georgia Judicial Qualifications Commission, Indiana Commission on Judicial Qualifications, Michigan State Bar Standing Committee on Judicial Ethics, Tennessee Judicial Ethics Committee, Texas Committee on Judicial Ethics, Utah Judicial Conduct Committee, Washington Ethics Advisory Committee, and Wisconsin Supreme Court Judicial Conduct Advisory Committee.

## Anonymous Complaints Accepted by Most Judicial Conduct Organizations *(continued)*

ming—do not accept or act on anonymous complaints in any manner.

Only the Washington Commission on Judicial Conduct reported having a specific provision permitting the investigation of allegations submitted anonymously. The Washington rule provides: “Any named or anonymous organization, association, or person, including a member of the commission or staff, may make a complaint of judicial misconduct or incapacity to the commission.”

The other 30 states accept anonymous complaints based on general authority.

- Some commissions investigate anonymous complaints pursuant to the commission’s authority to begin an investigation based on its “own motion.” This means that the disciplinary body can act on its own volition to investigate information that comes to its members’ attention. The words “anonymous complaints” are not contained in rules governing operation of the disciplinary body.
- Some states reported that their authority to investigate anonymous complaints derives from statutory or rule language permitting the disciplinary body to “consider information from any source.” This rule was part of the 1979 Standards Relating to Judicial Discipline and Disability Retirement published by the American Bar Association. The commentary to those standards stated that “complaints submitted anonymously should not be disregarded.”

The commissions do not proceed to investigate anonymous complaints without applying certain standards or limitations. Gerald Stern, Administrator for the New York Commission on Judicial Conduct, explained that the

Commission is mindful that anonymous complaints are “the easiest way to destroy a judge’s reputation. So we would inquire with greater skepticism than when a complainant is available to be interviewed.”

Survey respondents cited the following considerations:

- The Louisiana Commission scrutinizes anonymous complaints to assure that the complainant alleges facts that, if proven true, would constitute misconduct. The Minnesota Board on Judicial Standards takes a similar position.
- While the Missouri Commission on Retirement, Removal, and Discipline does not accept “anonymous complaints” *per se*, its Administrator and Counsel, James M. Smith, pointed out that “the subject matter of the anonymous complaint may be known to the general public or may be concerning an issue that has been the subject of prior written complaints and as a result the Commission may, on its own motion, authorize an investigation.”
- The Arizona Commission on Judicial Conduct often rejects anonymous complaints because the “allegations are nothing more than ‘speculative assertions.’” The unwritten rule in Arizona “is that we must be able to verify, with a minimum of investigation and without asking the judge for a response, one or more of the allegations in the complaint,” according to Executive Director E. Keith Stott.
- The Alaska Commission on Judicial Conduct and the Wisconsin Judicial Commission reported that the complaints must be specific enough to allow for a meaningful investigation. Simi-

larly, the Florida Judicial Qualifications Commission processes anonymous complaints “ONLY if there is sufficient information contained in the complaint on which to make inquiry, i.e., names, dates, etc.”

- The Indiana Commission on Judicial Qualifications replied that it investigates only anonymous complaints that allege facts that can be verified through objective sources such as court documents.
- The Virginia Judicial Inquiry and Review Commission only investigates an anonymous complaint if it contains “sufficient information to be credible.”
- New York requires “something to corroborate the allegation.” Stern commented, “we accept anonymous complaints for review, but investigate a small percentage of them since they cannot be clarified by an interview with the complainant.... If [the complaint] is investigated, it would be done with great care and sensitivity; perhaps just an attempt to confirm the allegation.”

A frequent justification for accepting anonymous complaints is that anonymity encourages court employees, who are in the best position to witness egregious judicial behavior, to report that misconduct. Alaska noted this justification, as did Arizona, which stated, “We know that some anonymous complaints come from ‘insiders’ who are unwilling to put their careers on the line.” Stern commented:

An anonymous complainant sent us copies of documents showing that one judge was appointing another judge’s brother for fees and the other judge was appointing the first judge’s son. The enclosures with the anonymous complaint established the trade-off; and it was obviously sent by a

*(continued on page 6)*

## Anonymous Complaints Accepted by Most Judicial Conduct Organizations *(continued)*

court person who understandably did not want to be identified. [The disciplinary proceeding] led to the removal of a judge and the resignation of the other judge.... Whenever judges would complain that we accept anonymous complaints, we would refer to that case and ask what we should have done with the information. We did not need the complainant to establish the case of misconduct.

If a court employee is aware of, or suffers from, a judge's misconduct, to force that employee to identify himself or herself and risk retribution is asking a lot. It can be expected that, without anonymity, many instances of unethical judicial acts known to court employees would never be reported.

Stern noted:

when judges complain that we are depriving them of their right to face their accus-

ers, we remind them that without solid evidence [in addition to the anonymous complaint] we could not proceed.... [W]e cannot discipline a judge unless we have established evidence of his or her guilt [presented] in a due process setting.

He further pointed out that a policy of ignoring information submitted anonymously would mean that press reports of scandalous judicial behavior based on unnamed, but easily identifiable, sources could not be pursued. Or, if a call were received alerting disciplinary counsel to currently occurring misconduct on the bench, which would be easily verifiable by monitoring the courtroom, the caller's failure to identify himself or herself would prevent pursuit of the report.

While the concept of anonymity prompts automatic negative reactions,

the motive of the complaining individual has been given undue emphasis by some judges. Although no judicial disciplinary body wishes to be manipulated by an individual acting on political or other suspect reasons, if an ill-motivated person reports verifiable facts supporting a claim of judicial misconduct, how can the misconduct be ignored—especially in the case of serious and clearly sanctionable unethical acts? The public interests served by accepting anonymous complaints will continue to justify the practice, as long as investigating bodies continue to be careful about what they pursue. 

*Nancy Rix is Commission Legal Counsel for the Judiciary Commission of Louisiana.*

## Ex Parte Communications: Recent Discipline *(continued)*

### Petitions for protection

The West Virginia Supreme Court of Appeals publicly reprimanded a magistrate for delaying the filing of a domestic violence protective order by screening the facts through an ex parte communication and deterring the individuals who sought the order from coming to the courthouse on a Saturday to file a petition. *In the Matter of McCormick*, No. 23971 (July 15, 1999).

One Saturday, Shelby M. and her new boyfriend broke into the trailer where her estranged husband William M. and his mother Cheryl M. resided, allegedly to retrieve some of her personal belongings. Magistrate McCormick was not at the courthouse that Saturday but was the "on-call" magistrate. Cheryl spoke with the magistrate on the telephone about filing a petition for a protective order to keep Shelby away from their residence. The magistrate advised Cheryl her allega-

tions would not support issuance of a protective order. Cheryl testified that the magistrate also advised her that if they did come in on Saturday, the order would probably not be served until Monday.

The court concluded that once Cheryl and William informed the magistrate that they wanted to file a domestic violence petition, she should have immediately gone to the courthouse to have a hearing on the petition and that it was not proper for the mag-

istrate to decide whether to issue the petition before the petition was even filed by screening the situation over the telephone. The court noted that the magistrate may have had substantive ex parte communications during her telephone conversation with Cheryl. The court also concluded that the magistrate deterred Cheryl and William from filing the domestic violence petition on Saturday by telling them that the protective order would not be served until Monday. 

### Judicial Conduct Reporter

Summer 1999

**Sandra Ratcliff Daffron**  
*Executive Vice President*  
*American Judicature*  
*Society*

**Cynthia Gray**  
*Director, Center for*  
*Judicial Conduct*  
*Organizations*

**American Judicature**  
**Society**  
180 N. Michigan Ave.  
Suite 600  
Chicago, IL 60601

Phone: 312-558-6900  
Fax: 312-558-9175  
E-mail: cgray@ajs.org

World Wide Web:  
www.ajs.org

Published quarterly,  
\$28 per year; single copy \$8

© 1999  
American Judicature Society  
ISSN: 0193-7367

# Disclosure of Voting on Discipline Decisions

**T**he California Court of Appeal has held that the provision in the California constitution requiring that all “proceedings” of the Commission on Judicial Performance subsequent to the filing of formal disciplinary charges “shall be open to the public” requires the Commission either to vote in public or to disclose the full results of its vote, including how each Commission member voted on the imposition of discipline. *Recorder v. Commission on Judicial Performance*, 85 Cal. Rptr. 2d 56 (1999). A newspaper had challenged the Commission’s practice of not revealing how individual Commission members voted. The Commission has decided not to appeal the decision.

In 1994, California voters passed

Proposition 190 to amend the California constitution to provide that “[w]hen the commission institutes formal proceedings, the notice of charges, the answer, and all subsequent papers and proceedings shall be open to the public....” The law prior to Proposition 190 permitted open “hearings” only in certain circumstances. The court concluded that the broader term “proceedings” was purposely chosen to maximize the openness of formal disciplinary proceedings.

The court concluded that the Commission members’ votes “are the object and culmination of formal disciplinary proceedings against a judge,” “essential to a valid exercise of the commission’s authority, which requires the concurrence of a majority

of its members.” The court stated “it would not dignify with any extended discussion” the Commission’s suggestion that its members would be subject to retaliation by judges if the voting were not secret. The court also stated that allowing the public to see how individual members vote will indicate “what, if any, political pressure might be at work.” The court concluded that public officials judging other public officials on charges of official misconduct should not “hide behind a veil of secrecy when making the ‘tough calls’ necessary to any adjudicatory regime.” Commission deliberations, the court emphasized, do not have to be public. 

# Charges Dismissed Against Appellate Judge

**T**he California Commission on Judicial Performance has dismissed formal proceedings against an appellate judge who refused to follow California Supreme Court precedent. *Inquiry Concerning Kline*, Decision and Order of Dismissal (August 19, 1999).

In *Morrow v. Hood Communications*, the majority of a panel of the Court of Appeal had granted a stipulated reversal as required by the California Supreme Court decision in *Nearby v. Regents of University of California*. The third member of the panel, Judge Kline, acknowledged that *Nearby* required that the motion be granted but stated in a dissent, that “as a matter of conscience” he could not apply the rule. Explaining why he felt the doctrine of stipulated reversal was “destructive of judicial institutions,” Judge Kline concluded that this was one of the “rare instances” in which a

judge could refuse to follow the precedent of a court of superior jurisdiction.” He did state he would comply with a supreme court order to grant a particular request for stipulated reversal.

In July 1998, the Commission had filed a notice of formal proceedings stating that Judge Kline’s “refusal to follow the law as established by the California Supreme Court was in violation of the Code of Judicial Ethics, canons 2A and 3B(2),” which require judges to respect, comply with, and be faithful to the law.

After considering briefs filed by the judge, the Commission’s trial counsel, and the California Judges Association as amicus curiae, the Commission concluded the matter should be dismissed, citing the confluence of three factors. The first factor was the judge’s tenable belief that the precedent was destructive of judicial institutions, although the Commission ac-

knowledged that sincerity does not necessarily justify a failure to follow precedent. Second, events subsequent to *Nearby* provided good cause to urge reconsideration, although the Commission recognized that these events were not clearly persuasive. Third, the supreme court would have no opportunity to reconsider *Nearby* unless a panel of the court of appeals declined to apply the decision, although the Commission stated whether there was a vehicle for review was debatable.

The Commission found it could not conclude that Judge Kline’s argument for a narrow exception to the stare decisis principle was so far-fetched as to be untenable. The Commission stated “we appreciate the critical need for California judicial officers to act independently and in conformity with the laws of the State, and we are sensitive to the substantial issues that arise when these principles clash.” 



180 N. Michigan Ave.  
Suite 600  
Chicago, Ill. 60601

Nonprofit Org.  
U.S. POSTAGE  
PAID  
Chicago, Illinois  
Permit No. 2482

## JUDICIAL CONDUCT REPORTER

### Recent AJS judicial ethics publications

#### ***Ethical Standards for Judges* by Cynthia Gray (1999)**

*Ethical Standards for Judges* discusses the standards for both on- and off-the-bench behavior for judges, defines relevant terms, and gives examples of misconduct that has resulted in discipline. *Ethical Standards for Judges* is part of the *Handbook for Members of Judicial Conduct Commissions*, developed under a grant from the State Justice Institute

*Ethical Standards for Judges* is \$18, plus \$5 shipping and handling (Order #971).

#### ***How Judicial Conduct Commissions Work* by Cynthia Gray (1999)**

*How Judicial Conduct Commissions Work*, part of the *Handbook for Members of Judicial Conduct Commissions* developed under a grant from the State Justice Institute, describes the judicial discipline process, from the filing of a complaint against a judge to the imposition of a sanction. It explains the purposes of judicial conduct commissions and examines the distinction between appealable error and judicial misconduct. It discusses confidentiality of judicial discipline proceedings, reviews the criteria for determining sanctions, and analyzes the role of the state supreme courts. Finally, it discusses ethical guidelines for commission members. *How Judicial Conduct Commissions Work* reflects the variety of procedures among the 50 states and

contains tables about membership and confidentiality.

*How Judicial Conduct Commissions Work* is \$18, plus \$5 shipping and handling (Order #98X).

#### ***An Ethics Guide for Part-Time Lawyer Judges* by Cynthia Gray and Nancy Biro (1999)**

*An Ethics Guide for Part-Time Lawyer Judges* covers key issues in judicial ethics for part-time judges who also practice law. Developed under a grant from the State Justice Institute, the *Guide* discusses the provisions of the code of judicial conduct, reviews cases in which part-time judges have been disciplined, and relies on judicial ethics advisory opinions. The *Guide* has sections on misuse of office; when a part-time lawyer judge's law practice requires disqualification; how being a part-time judge affects a lawyer's practice; serving as an arbitrator or mediator; serving as a fiduciary; business and financial activities; community involvement; and political activities. For each section, there is a checklist that a part-time judge can use to ensure compliance with the code.

The *Guide* is \$25, plus \$5 shipping and handling (Order #939).

**To order, and to request a full list of AJS publications and videos, call (312) 558-6900 x147, e-mail: [rwilson@ajs.org](mailto:rwilson@ajs.org).**