

ETHICS WITH THE COMMISSION

Judge Robin Ramsay
Presiding Judge
Denton, TX





Objectives

- Provide an overview of the Commission, its processes, and how they impact judges
- Highlight key provisions from the Commission's FY 2009 Annual Report
- Identify cases from FY 2009 that may have an impact on Municipal Judges

Public Confidence

- Commission's Role
- Judge's Role
- Attorney's Role
- Court Staff's Role


Role of the State Commission
on Judicial Conduct



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The Commission

- Created in 1965
- Constitutional Amendment
- Part of the Judicial Branch of State Government



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Mission Statement

- To protect the public
- To promote public confidence in the integrity, independence and impartiality of the judiciary
- To encourage judges to maintain high standards of conduct, on and off the bench

Commission Authority



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Commission Authority

- Texas Constitution, Article V, Section 1-a
- Texas Government Code, Chapter 33
- Texas Code of Judicial Conduct (written by the Texas Supreme Court)
- Texas Procedural Rules for the Removal or Retirement of Judges

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Commission Jurisdiction



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Commission on Judicial Conduct

Commission Jurisdiction

- Appellate Judges
- District Judges
- Associate Judges
- Probate Judges
- County Court at Law Judges
- County Judges
- Justices of the Peace
- Municipal Court Judges
- Retired, Senior and Former Judges Sitting by Assignment

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Commission Jurisdiction

The Commission has **no jurisdiction** over:

- Federal Judges
- Federal Magistrates
- State Administrative Law Judges
- Other Hearing Officers for State Agencies

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Commission Jurisdiction

A former judge may be disciplined for willful or persistent misconduct that occurred while he/she was a sitting judge.

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Commission Jurisdiction

The Commission has **no authority** to sanction a judge for:

- Acts that occurred *before* a judge took the bench
- Acts that occur *after* a judge has left the bench, unless the judge is eligible and qualified to sit by assignment

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Commission Jurisdiction

The Commission has **no authority** to sanction a judge for mere legal error, unless:

- Bad faith
- Legal error is egregious
- Persistent pattern

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Commission Members



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Commission on Judicial Conduct

Commission Members

13 members

- Six-year staggered terms
- Voluntary Service
- Confirmed by the Texas Senate

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Commission Members

Six judges members, appointed by the Texas Supreme Court:

- Appellate
- District
- County Court-at-Law
- Constitutional County
- Justice of the Peace
- Municipal Court

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Commission Members

Five public members:

- Appointed by the Governor
- Not judges or lawyers

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Commission Members

Two lawyer members:

- Appointed by the State Bar of Texas
- Not judges

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Commission Staff



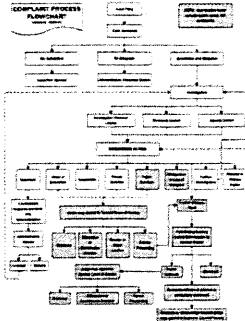
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Commission Staff

- Executive Director
- General Counsel
- 3 Staff Attorneys
- 3 Investigators
- 2 Legal Assistants
- Support Staff

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Complaint Process



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Judicial Discipline



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Purpose of Discipline

The purpose of sanctions in cases of judicial discipline is to preserve the **integrity** and **independence** of the judiciary and to restore and reaffirm **public confidence** in the administration of justice.

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Purpose of Discipline

Judicial Discipline must:

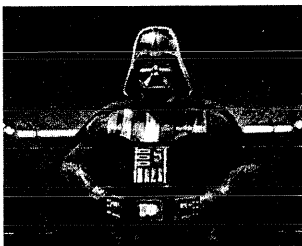
- Announce publicly the Commission's recognition that there has been misconduct;
- Be of sufficient severity to deter the judge from engaging in such conduct; and
- Discourage other judges from engaging in similar conduct in the future.

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Purpose of Discipline

Judicial Discipline must not be used for purposes of:

- Vengeance
- Punishment, or
- Retribution.



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MUNICIPAL COURT JUDGES

- FY '09 Report:
- 1458 Municipal Court Judges = 38% of Texas Judges
- 78 Cases filed on Municipal Court Judges = 6% cases filed
- 7 Disciplinary Actions taken vs. Municipal Court Judges = 10%

Recent Sanctions

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Lending Prestige of Office

After her mother-in-law received a traffic citation, the judge wrote a letter to and telephoned another court in an attempt to resolve the case and obtain favorable treatment for her relative. [Violation of Canon 2B of the Texas Code of Judicial Conduct.] *Private Warning of a Municipal Court Judge. (12/18/08)*

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Lending Prestige of Office

A judge allowed his name and judicial title to be used to solicit funds on behalf of a scholarship program. [Violation of Canons 2B and 4C(2) of the Texas Code of Judicial Conduct.] *Private Warning of a Justice of the Peace (09/22/08).*

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Professional Competence

The judge failed to follow the law and demonstrated a lack of professional competence in the law when he summoned individuals to his court to attempt to mediate a dispute between the individuals when no case was pending in his court. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Municipal Judge. (04/06/09)*

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Professional Competence

The judge failed to obtain the mandatory judicial education hours. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition of a Municipal Court Judge. (05/26/09).*

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Failure to Follow Law

The judge relinquished his judicial duties to officers in the police department and allowed them to accept pleas and collect fines and court costs from criminal defendants arrested on Class C misdemeanor or "sight" offenses and/or arrested on outstanding warrants and capiases. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition of a Municipal Court Judge. (04/28/09)*

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Failure to Follow Law

The judge failed to comply with the law and failed to maintain professional competence in the law when he:

- (a) failed to conduct a trial prior to finding the traffic defendant guilty and assessing a fine against him,
- (b) changed the defendant's plea from "not guilty" to "guilty," and
- (c) failed to enter a written judgment reflecting the decision in the case.

[Canons 2A and 3B(2).] *Public Warning of a Municipal Court Judge (02/12/09)*

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Failure to Follow Law

The judge, without notice to the defendant or his attorney, contacted the defendant's employer to alert them to the fact that criminal charges were pending against the defendant.

[Violation of Canon 2A of the Texas Code of Judicial Conduct.] *Private Admonition of a County Court at Law Judge (09/22/08).*

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Failure to Maintain Proper Decorum

The judge exceeded his authority by providing parents and the School District with a "safe haven" for the administration of corporal punishment. While acknowledging that the Legislature had not provided the courts with any legal authority to impose corporal punishment as a sanction under the Texas Education Code or the Texas Code of Criminal Procedure, the judge routinely facilitated and permitted the paddling of juveniles in his courtroom thereby clothing the practice with an improper judicial blessing. This court-sanctioned paddling, which subjected the students and their parents to public embarrassment, humiliation, fear and pain, failed to maintain proper order and decorum in the courtroom. [Canons 2A and 3B(3)]. *Public Warning of a Justice of the Peace. (03/09/09)*

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Poor Demeanor

The judge was angry after a driver allegedly ran his car off the road. In response to this action, the judge (a) followed the driver, a local college student, to her apartment complex, (b) identified himself as a judge, (c) "requested" that she appear in his court, (d) admonished her from the bench while wearing judicial robes (no case was pending), and then (e) directed the bailiff to issue a citation to the student after becoming annoyed with the argumentative behavior her father, who questioned the judge's authority and demeanor. [Canons 2A, 2B, and 3B(4)]. *Public Admonition of a Justice of the Peace.* (12/18/08)

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Poor Demeanor

Because of prior dealings with a member of a local defense firm, the judge criticized an attorney from that firm who had asked for a continuance in his client's traffic case, questioning his professionalism, integrity and decency. [Violation of Canon 3B(4) of the Texas Code of Judicial Conduct.] *Private Admonition of a Justice of the Peace.* (12/18/08)

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Poor Demeanor

The judge chastised and directed profanity toward a constable on two separate occasions – one relating to service of process on a small claims defendant and one relating to service of an arrest warrant. [Violation of Canon 3B(4) of the Texas Code of Judicial Conduct.] *Private Warning of a Justice of the Peace.* (12/02/08)

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Access to Records

The judge failed to provide a citizen reasonable access to inquest records as required by law. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Justice of the Peace (09/22/08).*

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Follow the Law/Professional Competence

- Granted deferred disposition to Commercial Driver's License holders
- Waived alcohol awareness/comm service
- Deferred disposition over 180 days
- Dismiss traffic citations without prosecutor motion or defendants being on deferred disposition
- Failed to reduce deferred disp. orders and final judgments to writing [Canon 2A and 3B(2)] *Priv. Adm and order of add. educ. Mun. Judge (4/1/10)*

Follow the Law/Prestige/Bias/Competence

- Finding numerous individuals in contempt without legal authority and improperly
- Post "cash only" bonds
- Dismissing cases without prosecutor motion
- Orders/judgments not in writing
- Ordering arrest of defendants age 16
- Deferred disposition orders without legal authority
- Bias/sloppy recordkeeping [Canons 2A, 2B, 3B(1)(2)(5), Art. V, Sec. 1-a(6)A Tex. Const.] *Public Reprimand and Order of Add. Educ. Mun. Judge (3/30/10)*

Public Statement

Re: Judges Serving as Active Law
Enforcement Officers

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PS-2000-1
(03/24/2000)

"As a result of recent complaints concerning judges who also serve as active law enforcement officers, the State Commission on Judicial Conduct believes that the interests of the judiciary and the public would be best served by issuing this public statement clarifying its position on the issue of whether a judicial officer may serve concurrently as a judge and law enforcement officer. In expressing its condemnation of the practice, the Commission wishes to communicate to all members of the Texas judiciary its view that, by attempting to fulfill the requirements of both offices, a judge severely compromises the impartiality and independence of the judicial office."

"In issuing this Public Statement, the Commission recognizes the existence of Attorney General Letter Opinion No. 92-35 (1992), which discusses the legality of serving in both roles. However, the Commission notes that an act that is legal is not necessarily an act that is ethical. Judges are members of the judicial branch of our government. Law enforcement officers are part of the executive branch. Each branch is separate from, but co-equal with, the other. Therefore, the Commission concludes that any judge who attempts to serve both branches cannot accomplish the task without impairing the effectiveness of one or both positions."

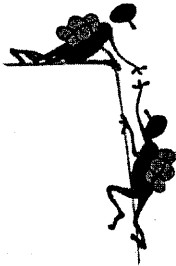
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PS-2000-1
(03/24/2000)

"What remains the guiding factor in this analysis is the public's trust in the ability of a judge to remain impartial and fair while conducting judicial business. It is the opinion of this Commission that anyone who tries to serve the public as both judge and law enforcement irrevocably undermines the public's confidence in an impartial and independent judiciary. The Commission adopts this position without regard for whether an individual performs the dual roles in the same county or in two separate counties."

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Helpful Information



Ethics Advice

- **State Commission on Judicial Conduct**
 - Seana Willing, Executive Director
 - Toll Free: (877) 228-5750
 - Fax: (512) 463-0511
 - seana.willing@scjc.state.tx.us
- **Committee on Judicial Ethics**
 - Judge Kelly Moore, Chair
 - Terry County Courthouse, Brownfield, TX 79316
 - Phone: (806) 637-7742
 - Fax: (806) 637-8918
 - kmoore@terrycounty.org

More Helpful Information

- **Website:** www.scjc.state.tx.us
- **Annual Reports available on-line**
- **Public sanctions, private sanction summaries, Review Tribunal Opinions available on-line**

Amicus Curiae



Amicus Curiae

- Are you a judge struggling with a serious illness, depression, alcoholism, drug addiction, or other impairment?
- Do you know a judge who is suffering from such an impairment?
- For more information about our *confidential* program designed to assist judges with impairment issues, contact:
 - Elaine Thompson, Program Manager
 - (512) 463-8138

Final Thoughts...

"We judge ourselves by our best intentions, our most noble acts, and our most virtuous habits... We are judged by our last, worst act."

Michael Josephson
