



**MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE**

**5-YEAR STRATEGIC PLAN**

**FY2020-2025**

**096-00**

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## **5-YEAR STRATEGIC PLAN**

### **1. Comprehensive Mission Statement**

The mission of the Mississippi Commission on Judicial Performance (hereinafter “Commission”) is to enforce the standards of judicial conduct, inquire into judicial disability and conduct, protect the public from judicial misconduct, and protect the judiciary from unfounded allegations. The purpose of the Commission is to be rehabilitative and educational as well as disciplinary. The Commission was created in 1979 by the Mississippi Legislature and the voters of the State of Mississippi by constitutional amendment, Section 177A of the Mississippi Constitution of 1890, as amended.

### **2. Philosophy**

The Commission is dedicated to preserving the integrity of the judiciary while balancing a judge’s ability to make findings of fact and reach legal conclusions without disrupting their independence and efficiency. The Code of Judicial Conduct sets out the minimum ethical requirements judges are expected to abide by. Failure to do so triggers the Commission’s responsibility to investigate allegations of misconduct and, in some cases, recommend sanctions to the Supreme Court of Mississippi. Such actions are taken to restore the public’s confidence in the judiciary as well as serving as a deterrent to the recurrence of similar behavior by other judges in the future. The Commission strives to serve the public with the highest standards of professionalism and to provide a quality service to the citizens of the State of Mississippi.

### **3. Relevant Statewide Goals and Benchmarks**

Statewide Goal #1 Public Safety and Order: To protect the public’s safety, including providing timely and appropriate responses to emergencies and disasters and to operate a fair and effective system of justice.

Relevant benchmarks:

- Case clearance rates (the number of outgoing cases as a percentage of the number of incoming cases)

On average over the past 5 calendar years, the Commission completed consideration of approximately 83% of the cases presented within the year the complaint was initiated. The percentage would be closer to 100%, however budget constraints resulted in the Commission only being able to meet every other month, thus slowing the processing of complaints.

- Time to case disposition (percentage of cases disposed within the time standard set for each case type)

It is a goal of the Office to be able to reduce the time between the date a complaint is received until disposition, whether that be through the hearing process or otherwise; however, this will depend on being fully funded.

- Age of active pending caseload (number of days from case filing to the date of measurement of the pending caseload)

It is a goal of the Office to be able to reduce the time associated with processing complaints on judicial misconduct; however, this will also depend on being fully funded.

- Collection of monetary penalties (percentage of monetary penalties collected and distributed within established timelines)

The Commission recommends the imposition of fines and penalties; however, the Supreme Court performs the appellate function and determines whether to impose such. Once such fines or costs are assessed by the Court, the Commission begins execution on the judgment. All fines and costs ordered have been collected to date, except for those recently decided by the Court.

- Average cost of processing a single case, by case type

The Commission has not been able to fully investigate complaints in a timely manner due to budget constraints. When the Commission is able to hold hearings, the rising costs for court reporters and witness fees are initially borne by the Commission. The costs may be recouped, but in most cases it is at least 12-15 months from the time the cost is incurred before the Commission is actually reimbursed.

Statewide Goal #2 Government: To create an efficient government and an informed and engaged citizenry that helps to address social problems through the payment of taxes, the election of capable leaders at all levels of government, and participation in charitable organizations through contributions and volunteerism.

#### Relevant benchmarks – Cost of Government

- Individual tax burden (state and local taxes as a percentage of personal income)

The Office operations rely on limited funds, some of which are assessed to individuals utilizing the courts thereby reducing the burden on all citizens.

- Total state spending per capita

The total requested appropriation of the Commission is \$661,718

- Number of government employees per 10,000 population (broken out by federal, state, and local)

The Commission has only five employees although the staff is responsible for policing over 700 judges.

#### Relevant benchmarks – Government Efficiency

- Administrative efficiency: Expenditures on state government administrative activities as a percentage of the total operational expenditures

All state expense is associated with the mission of the Commission. The majority of the administrative expense is handled through a third-party consultant at a much lower rate than having these activities performed by a full-time employee.

- Average wait time for state government services

It is a goal of the Office to be able to reduce the time to process complaints, complete investigations and conduct hearings on cases involving judicial misconduct; however, this will depend on being fully funded.

- Regulatory efficiency: average length of time to resolution of documented complaints  
85% of the complaints received are resolved within the year they are received. Resolution includes the hearing process, if warranted.
- Percentage of state employees leaving state services within five years of employment.  
The Commission has lost employees due to retirement or lack of funds to pay the position. However, the Commission will be able to have a lower percentage of employees leaving government when its salaries are realigned to that of other agencies and the Commission is fully funded.

#### **Relevant benchmarks- Engaged citizenry**

- Civic Engagement (voting)

Pursuant to Canon 5F, the Commission provides administrative support to the Special Committee on Judicial Election Campaign Intervention during the judicial elections. This requires additional expenditures to meet the Commission's obligations imposed by Canon 5F. The Commission staff works closely with the Mississippi Judicial College to provide ethics instruction during seminars and training for new judges and other court personnel.

#### **4. Overview of the Agency 5-Year Strategic Plan**

The Commission on Judicial Performance will continue to investigate and prosecute complaints of judicial misconduct and disability. Over the past several years, the number and/or complexity of complaints received by the Commission has slightly increased. In calendar year 2018, the number of complaints received, with a little more than 5 months remaining, has remained on par with 2017.

The Commission seeks to be fully funded in FY2020. We believe this is extremely important to enable us to continue our mission. In the 2017-2018 calendar years, the Commission did not hold any hearings, however formal proceedings were initiated in 14 different cases. These formal proceedings resulted in 2 Memorandums of Understanding, 2 Private Admonishments and one recommendation to the Supreme Court for a Public Reprimand. The recommendation was accepted by the Supreme Court on July 26, 2018. There are still nine (9) Formal Complaints still pending before the Commission. It is anticipated that hearings will be required in some of these pending cases. The costs of hearings are escalating. The statutory witness fees increased recently and court reporter fees are continually rising. Even though the costs incurred at hearings may be assessed against the respondent judge, it may take months or even years to recoup those costs.

In addition, several judges are retiring at the conclusion of 2018 resulting in numerous candidates

seeking the open judicial seats. The Commission has provided administrative support to the Special Committee on Judicial Election Campaign Intervention, a committee created by the Code of Judicial Conduct. This committee is tasked with several responsibilities during judicial campaigns, including numerous mailings, seminars and meetings; the costs being borne by the Commission.

In FY 16 the Commission on Judicial Performance was fully funded for the first time in approximately ten years due to receiving a .50 assessment from Traffic Violations under Mississippi Code Annotated, §99-19-73. With the passage of SB2362 the agencies receiving assessments were told that their General Fund appropriation would be based on their assessment revenue. This was not true for our agency as the assessment revenue was based on FY15, at which time the agency only received Other Misdemeanor fines pursuant to the criminal assessment statute. The additional Traffic Violation revenue should have been included in the calculation for the Commission's FY17 General Fund appropriation since there was not an end date included on the additional assessment.

Based on the FY16 assessments and the prior General Fund appropriation the Commission's FY17 budget should have been:

Other Misdemeanor Assessments \$ 123,258

Traffic Violation Assessments \$ 143,648

General Fund Appropriation \$ 339,665

TOTAL \$ 606,571

The FY17 appropriation was only \$447,674 which included \$50,000 as a transfer from the Supreme Court. Thus the Commission received \$158,897 less than it would have received if the assessment revenue had still been in place. After removing the inter-agency fees of \$44,777, the Commission's FY17 appropriation should have totaled \$561,794. Due to this miscalculation, the Commission was again in the position of being woefully underfunded in FY17. A deficit appropriation of \$62,722.00 was awarded to defray the expenses of the Commission through the fiscal year ending June 30, 2018. The FY18 appropriation is in the sum of \$525,054.00 which includes a one-time transfer of \$31,000.00 from the Mississippi Supreme Court.

Our FY19 budget is much closer to what was projected as needed to fund the agency as \$585,118 was appropriated. We have recently learned that when we updated all the outdated equipment in the office the old complaint tracking software is no longer supported by these newer computers. This is critical in that the staff heavily depends on the database for records and information. At current, the staff is having to run from office to office to check records when necessary. The first estimate we received to replace the software and update the system was \$16,000. This is not in the budget, so we will be requesting funding to replace the system at the earliest possible date. In addition to increasing the information technology budget, we will be requesting additional funding in FY20 to hire experts, court reporters, and expand all line items concerning Commission disciplinary hearings.

## **5. Agency's External/Internal Assessment**

The past few years the Commission has reviewed its fiscal policies and made the following changes:

The Commission meets every other month instead of every month. This results in a savings of approximately \$9,000.00 annually. The biggest drawback to this plan is that the complaints filed against judges are not reviewed by the Commission as often resulting in issues regarding the Commission procedural aspects, i.e. a backlog of review of new

complaints received, investigations and/or hearings being delayed. These delays prevent the Commission from fulfilling the statewide goal for reducing waiting time for services.

Despite these limitations, the Commission continues to review its fiscal policies to determine how we can improve our services to the citizens of this state. These reviews include performing an internal control assessment annually. However, budget constraints are a serious concern in our ability to provide the best product possible.

#### 6. **Agency Goals, Objectives, Strategies and Measures by Program**

The agency's sole program is investigation and prosecution of judicial complaints.

Goal A.1 - The goal of the Commission is to provide the citizens of this state with a fair, impartial, ethical and competent judiciary by processing complaints, conducting proper investigations and when necessary, holding hearings to gather the facts and make recommendations for disciplinary sanctions; by participating in judicial seminars and conferences to educate judges on current laws and to rehabilitate them when a minor violation has occurred; and to protect the judiciary from unfounded complaints.

Objective A.1 - The objective is to attempt resolution of complaints in a quicker, more efficient manner by scheduling Commission meetings more frequently and being able to fully investigate claims and hold hearings in cases without first having to determine if other obligations can be met if hearing costs are incurred.

*Outcome:* Fully Funded Office

*Outcome:* Competent Judiciary

*Outcome:* Protected Judiciary

Strategies A.1 - In the past, the Commission has requested an increase in the General Fund appropriation with less reliance on criminal assessment fees. Now that the Commission does not receive criminal assessment fees, the goal is to be fully funded through the General Fund in order to improve services to the citizens of this state.

The Commission, a staff of 5, is tasked with the obligation to oversee 9 Supreme Court Justices, 10 Court of Appeals judges, 57 Circuit Court judges, 52 Chancery Court Judges, 30 County Court judges, 197 Justice Court Judges, about 250 Municipal Court Judges, and over 100 other special judges, i.e. Youth Court Referees, Senior Status Judges, Family Masters; a total of over 700 judges.

*Output:* Reallocation of Revenue

*Efficiency:* Enable the Commission to place less reliance on cost factors and focus on its mission.

*Efficiency:* Reduce the completion time for case resolution from 12 months to 9 months.

Goal B.1 – Protect the public from judicial misconduct or incapacitated judges

Objective B.1 - Enforce the standards of judicial conduct thereby creating equal opportunity for justice to all.

*Outcome:* Fair and effective system of justice.

Strategies B.1 – Review all complaints received for validity and conduct investigations on valid complaints.

*Output:* Conduct investigations and hold hearings

*Output:* Hold monthly hearings held to establish facts and a recommendation regarding sanctions

*Efficiency:* Reduce the number of valid complaints based on the number of judges versus number of complaints received

*Efficiency:* Number of investigations conducted based upon complaints received – investigate 100% of all valid complaints

*Efficiency:* Improve case clearance rates by 50%.

*Efficiency:* Reduce the number of days to hold a hearing on judicial misconduct.

Goal C.1: Protect Judges from unfounded complaints

Objective C.1: To allow judges the freedom to make decisions and interpret the law without fear of reprisal.

*Outcome:* Fair and effective system of justice.

Strategies C.1 – Review all complaints received for validity.

*Output:* Dismiss unfounded complaints

*Efficiency:* Number of investigations conducted based upon complaints received – dismiss 100% of all unfounded complaints

*Efficiency:* Reduce the total number of complaints received versus investigations ordered

*Efficiency:* Track the total number of investigations ordered versus those in which misconduct is a factor

Goal D.1: Rehabilitate and educate the judiciary so that all Mississippians may enjoy a better quality of life.

Objective D.1 Fair and effective system of justice.

Strategies D.1 Attend and participate at judicial seminars and conferences

*Output:* Keep judges abreast of potential changes in the Code of Judicial Conduct and/or new case law issued by the Mississippi Supreme Court regarding judicial disciplinary cases.

*Efficiency:* Reduce the number of complaints resulting in public sanctions but do result in cautionary letters advising judges of potential violations of the Code of Judicial Conduct.