

**The Florida Judicial Qualifications Commission:  
Its Purpose, Powers, Processes, and Public Responsibility  
By: Dr. Steven Maxwell**

In 1966, the Florida Judicial Qualifications Commission (JQC) was created by an amendment to the Florida Constitution, as set forth in Article V. The JQC is an independent agency of the State of Florida. It is not affiliated with the Florida Supreme Court or the Florida system of state courts. The JQC establishes and operates under rules that it creates for itself.

The JQC's purpose is to investigate allegations of judicial misconduct filed by individuals. The JQC investigates issues concerning only whether Judges have violated any one or more of the seven Canons the (the "Canons") found in the Code of Judicial Conduct for the State of Florida (the "Code").

**Who are the members of the JQC?**

According to Article V, section 12, of the Florida Constitution, the JQC is comprised of fifteen members. Six of the fifteen members are Judges that are selected by Judges of the District Courts of Appeal, the Circuit Courts, and the County Courts. The Governor appoints five laypersons, and the four remaining members are lawyers who are appointed by The Florida Bar. All fifteen members serve six-year terms.

Dr. Larry Tyree, is one of five lay persons members who currently serve on the JQC. He was appointed to the Commission in November 2019. According to Commissioner Tyree, "service on the JQC seemed like the next logical step" for him.<sup>1</sup> Prior to his appointment to the JQC, he had served as a public member of The Florida Bar's Board of Governors and worked as the interim executive director of The Florida Bar Foundation. Commissioner Tyree served on The Florida Bar's Citizens Advisory Committee and served as Chair for one year. His experience also includes serving as a member of a local bar grievance committee and as a governor's appointee on two judicial nominating commissions.

Commissioner Tyree explained his impressions from serving on the JQC: "I am very pleased that Florida, my native state, has a vehicle such as the JQC to deal with ethical allegations made against judges. I am enormously impressed with the JQC staff, especially Alex and Blan."<sup>2</sup> He says "citizens of Florida should be proud that there is a JQC so complaints against judges can be lodged and considered and that the members of the JQC take so very seriously their responsibilities."<sup>3</sup>

Lawyer member and former President of The Florida Bar, Michael J. Higer, has been serving on the JQC for less than a year. Mr. Higer also serves as a Trustee on the Florida Supreme Court Historical Society Board of Trustees. Commissioner Higer says serving on the JQC "is a

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<sup>1</sup> Email responses from Larry Tyree (Mar. 20, 2021) (on file with author).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

very sobering experience.”<sup>4</sup> For the public’s benefit, he offers the following: “The people who make up the JQC are dedicated, intelligent, experienced knowledgeable and passionate professionals who are all committed to serving the highest ideals of justice.”<sup>5</sup>

### **What Does the JQC Do?**

[The JQC website reports that, in 1990, the JQC “was divided into an Investigative Panel and a Hearing Panel.” The Investigative Panel (IP) acts like a Grand Jury, reviewing and investigating complaints containing allegations of Judicial Misconduct. “The IP determines whether probable cause is found and formal charges are filed. The Hearing Panel (HP) acts as a special master. The HP is charged with making findings of fact and recommendations to the Florida Supreme Court as to the appropriate discipline.”<sup>[MK1]</sup> The IP and HP normally meet eight times each year, are confidential, and are not open to the public.

The JQC is authorized to investigate a Complaint regarding a Judge’s actions anytime while serving on the bench or for one year after the Judge leaves office. It is important to emphasize that the JQC has no authority to investigate, reverse, or change any decision or ruling made by a judge or court. The JQC also does not have the authority to investigate Judges in other states. Nor can it investigate the actions of federal judges and magistrates. Finally, the JQC lacks jurisdiction and/or authority to investigate complaints filed against lawyers, law enforcement personnel, court employees, or state attorneys.

The JQC is not empowered to impose any sanction and or disciplinary action against a judge—*i.e.*, removal. If the JQC finds that a Judge has violated any of the Canons, the JQC is authorized to file its recommendation(s) for action to the Florida Supreme Court (the “Court”). The Court is then charged with reviewing the JQC’s recommendation(s) and determining if it is legally correct. The Court can also impose its own form of discipline.

The JQC can also recommend to the Court that certain Judges be required to retire involuntarily if a serious health issue(s) interferes with and prevents a Judge from performing their duties. It should be noted that a recommendation for involuntary resignation by the JQC and its acceptance by the Court does not constitute misconduct. All involuntary retirement filings concerning a Judge are and will remain confidential, in accordance with state laws that shield state employees’ medical records.

Note the only other governmental body that can discipline a Judge by impeachment proceedings is the Florida’s Legislative Branch’s House of Representatives and Senate.

A Judge may receive one or more of the following forms of Discipline: “No discipline, A public reprimand, A fine, Suspension from office, Removal from office or Involuntary retirement due to serious illness.” In some instances, the Judge’s actions may not rise to the level of receiving a recorded formal disciplinary action—*i.e.*, public reprimand.<sup>6</sup> [Instead, the Judge receives

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<sup>4</sup> Email responses from Michael Higer (Apr. 11, 2021) (on file with author).

<sup>5</sup> *Id.*

<sup>6</sup> Email responses from Miles McGrane (Mar. 2, 2021) (on file with author).

“charitable understanding” through a “Dim View” visit by one or more members of the JQC to offer advice and counsel to the judge. These “Dim View” visits are generally given to a Judge who has an “impeccable career” but did “something dumb” and was an “isolated incident” that did not cause any harm to the public or the administration of justice.<sup>[MK2]</sup>

On average, the JQC, “disposes of nearly 700 cases a year. Commission members are volunteers and receive no form of compensation other than reimbursement for travel, meals and lodging if required.”<sup>7</sup>

## **The JQC’s Executive Directors**

The JQC is authorized to hire and compensate an executive director and staff to carry out the administration of the JQC’s prescribed duties and responsibilities. Since the JQC was created in 1966, it has employed three Executive Directors.

### **1. JQC Executive Director Brooke S. Kennerly**

Brooke S. Kennerly was the JQC’s first Executive Director. She served as an Administrative Assistant starting in 1966 and assumed the title of Executive Director in 1980. She retired in 2014, after serving 34 years in that position. According to Mrs. Kennerly, she served as Executive Director through 16 Chairs (judges, lawyers and laypersons).

Mrs. Kennerly explains that the greatest challenge, “(then and now) is explaining to Florida’s citizenry that the Commission does not have jurisdiction over a judicially incompetent judge that is, over a judge’s legal ability. Many of the complaints the Commission receives relate to judicial rulings and it falls to the Commission to attempt to explain the distinction between unethical conduct and bad rulings.”

### **2. JQC Executive Director Michael L. Schneider**

Michael L. Schneider began his service as the JQC’s General Counsel in 2006, after serving 16 years as a prosecutor in the Second Judicial Circuit. Mr. Schneider became the second Executive Director in 2014, following Brooke Kennerly’s retirement. From 2014, until his retirement in June 2019, Mr. Schneider served as the General Counsel and Executive Director of the JQC<sup>[MK3]</sup>. Sadly, Michael L. Schneider passed away on December 18, 2019.

Miles McGrane, former President of The Florida Bar (2003) and a past Chair (2008-2012) and lawyer member of the JQC, describes Mr. Schneider as being a person who exhibited an uncanny “level of calmness, wisdom and who also possessed a great sense of humor along with that infectious sly smile of his.”

The current Chair of the JQC, the Honorable Judge Michelle Morley, recalls Mr. Schneider also having “a wonderful sense of humor and a Tennessee phrase for every situation. I think my favorite was . . . ‘The wagon of love collapsed under the luggage of [life]<sup>[MK4]</sup>.’ ”

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<sup>7</sup> Email responses from Blan Teagle (Mar. 19, 2020 and Apr. 21, 2021) (on file with author).

Michael Schneider will always be remembered as being “a friend, mentor, advisor, and a perpetual voice of reason. He exhibited wisdom and kindness in all that he did.”<sup>8</sup><sub>[MK5]</sub>

### 3. JQC Executive Director Blan Teagle

On February 20, 2020, Blan Teagle became the third Executive Director of the JQC. He worked for 27 years in the Office of the State Courts Administrator (OSCA), ultimately serving as the Deputy State Courts Administrator. He assisted in starting the College of Advanced Judicial Studies as well as a mentor judge program.

Reflecting on his time with OSCA and his current position with the JQC, Teagle provides very insightful comments: “Both OSCA and the JQC share a commitment to the preservation of courts as a fair, impartial, independent branch of government where the public can turn with confidence for the peaceful resolution of disputes they are unable to resolve themselves.”<sup>9</sup>

As to what Chief Justice Canady recently spoke about in his annual judicial branch State-of-the-State address, Mr. Teagle said:

{“Relying on reason and facts, courts apply the Rule of Law without fear or favor. The stark truth is in absence of a strong and independent system of courts, the Rule of Law would die and our nation would soon succumb to the rule of mobs. Likewise, without an independent judicial disciplinary body constitutionally established for the purpose of investigating and prosecuting alleged misconduct, public trust and confidence in the ability of a co-equal judicial branch to do its independent work, would be seriously compromised.”<sub>[MK6]</sub><sup>10</sup>

After serving just a year on the job, Mr. Teagle says it is clearly apparent to him “how devoted the 15 members of the Commission—composed entirely of volunteer judges, lawyers and lay members—truly are fulfilling the JQC’s constitutional charge.”<sup>11</sup> The staff is quite small. “In fact, among judicial discipline organizations around the country we are one of the smallest, despite being in the nation’s third largest state. It was pointed out to me when I first arrived in 2020, and I have now witnessed, that a large part of why the Commission is able to succeed in its important work is because of the seriousness and dedication of the Commission members.”<sup>12</sup>

The most immediate challenge(s), that Executive Director, Teagle was confronted with after being hired was “confront[ing] the major public health crisis [of] the COVID-19 pandemic.” He explained:

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<sup>8</sup> Michael L. Schneider, 1954-2019 [Obituary] (Dec. 18, 2019), [legacy.com](https://www.legacy.com).

<sup>9</sup> Blan Teagle, *supra* note 7.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

We had to protect our workforce, our commissioners and those with whom we come in and get our mission critical work done in an effective and efficient manner with as little interruption and as much continuity as possible. We responded to that challenge with a technology modernization project to allow our important efforts to continue unimpeded in a safe, secure, largely remote working environment. Out of the adversity created by this pandemic came practical and expedient adaptation and useful invention.<sup>13</sup>

Mr. Teagle provides the following important information for the public to consider about the role and the scope of the JQC's work.

We exist to investigate allegations against judges who may have violated the Code of Judicial Conduct. We do not have the authority to intervene in individual cases, order judges removed from the cases they are currently adjudicating, or serve as a court of last resort where litigants—quite frequently our complainants—view us, incorrectly, as an alternative to appeal. In short, the appellate process, not the judicial disciplinary process is the appropriate avenue for people who disagree with the legal rulings of the judges assigned to their cases.<sup>14</sup>

### **JQC Chair Michelle Morley Reflects on the Role of the JQC**

The current Chair of the JQC is the Honorable Michelle Morley, Circuit Court Judge of the 5th Judicial Circuit. Judge Morley has served on the JQC since 2014. She served as Vice Chair and became Chair of the JQC in January 2021.

Chair Morley offers the following insights she has gained while serving on the JQC: “[E]veryone has a bad day. Accept personal responsibility for it when it happens to you and apologize to people you have hurt or offended.”<sup>15</sup>

As to guidance for Judges, she adds: “If you have a question in your gut about whether you should recuse, you should recuse. If you have a question in your gut about whether you should disclose a relationship with an attorney, witness or party don’t hesitate! Disclose.” She also shared some important words of wisdom from her mother: “The less one says, the less one has to take back.”

From her service with the JQC so far, Judge Morley has learned that “[t]he Commission strives to do the right thing regardless of political or other outside influences, and the seriousness with which they take their responsibility.” According to Chair Morley the “biggest challenge” that she faced while serving a Vice Chair was finding a new Executive Director to replace Mr. Schneider when he passed away, as she was asked to serve as Chair of the Search Committee.

Replacing Mike Schneider was a tall order to fill, she says:

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Email response from Michelle Morley (Mar. 9, 2021) (on file with author).

Mike had lengthy historical knowledge of the Commission and so many cases. He had a beautiful personality so very well suited to the position. It was a tough mission to find someone who could step into his shoes. Our General, Alex Williams, was doing his job as well as the job of Executive Director while we searched. How he managed it all is a mystery but he held the office and the Commission together until we found just the right fit.

Chair Morley, leaves the reader with this important information about the JQC:

We have an outstanding General Counsel, Executive Director and staff. Those who serve as Commissioners are committed to preserving the integrity of the judicial branch. They are kind. They are empathic. They are realistic and reasonable. The composition of the Commission—county judges, circuit judges, district judges, lay people and lawyer—is well designed and proportioned as each Commissioner brings an important perspective to the discussion of grievances and charges.

### **The Court’s Efforts to Improve the JQC**

In August 2018, the Florida Supreme Court ruled that Judges who are under investigation by the JQC can no longer be shielded from public disclosure laws.<sup>16</sup> The Court determined in its decision that the JQC’s confidentiality rule(s) and proposed amendments thereto, preventing public disclosure of “medical and personal information” about judges under investigation, were “inconsistent with state judicial administration laws regarding public access to, and protection of, judicial records are beyond the [JQC’s] authority under the Florida Constitution.”<sup>17</sup>

The Court’s ruling also stated: “A filing in this or any other state court is not confidential simply because it contains sensitive personal information.”<sup>18</sup> The Court’s decision allows for Judges under investigation to be shielded from public disclosure “until probable cause is found.”<sup>19</sup> The Court’s decision states further that “after an investigative panel finds probable cause and files formal charges with the Clerk of this court any further proceedings . . . are public, and the records created in connection with or filed in those proceedings are public.”<sup>20</sup>

### **Growth in Florida Since the JQC Was Founded**

According to the U.S. Census Bureau, in 1966, Florida’s population was 6.1 million people when the JQC was established. As of 2021, the State’s estimated population is over 22.2 million. The State of Florida is the third most populous state in the country, behind California and Texas.

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<sup>16</sup> John Haughey, *Supreme Court Nixes Panel’s Attempt to Shield Judges Under Investigation from Public Disclosure*, WATCHDOG.ORG (Aug. 31, 2018).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

In 1972, six years after the JQC was founded, the Florida State Court system was created “with the adoption of Article V of the Florida Constitution.” It resulted in the development of a four-tiered court system.

Nearly fifty years ago, there was a total of 416 Florida statewide judgeships<sup>21</sup>—[MK7]20 District Court of Appeal Judges, 261 Circuit Court Judges, and 135 County Court Judges. As of 2020-2021, OSCA reports that the number of Judgeships in Florida totaled 999 judgeships—64 District Court of Appeal Judges, 605 Circuit Court Judges and 330 County Court Judges. The seven Justices of the Court are not included in these total numbers.

The growth in the State’s number of judgeships has had a major impact on the JQC. However, the JQC continues to keep pace with the growth in the number of judges by ensuring the public that Judges will be held accountable and responsible if they fail to remain bound to follow and adhere to the Canons.

## **Conclusion**

The JQC’s primary public responsibility since its establishment fifty-five years ago has been and will continue to be protecting the public from unscrupulous and incompetent Judges who preside over court rooms in the State of Florida. Furthermore, the Court and the JQC remain steadfast in fulfilling their constitutional duty by protecting the public and taking the necessary action to ensure that Judges are honest, fair, and do not impede the judicial process.

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<sup>21</sup> Historic Statewide Judgeships, OSCA (1972-2021).

## References

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