

Florida Constitution Revision Commission
<http://flcrc.gov/Commissioners>

OPEN LETTER TO THE FLORIDA CONSTITUTION REVISION COMMISSION

Dear Commissioners:

I submit – based on today’s (10-17-2017) encouragement during your hearing / meeting – the following addition (or modification) to Article V Section 12 subsection 4 of the Florida Constitution. I notice that others have recommended changes to Article V of the Constitution.

My suggestion involves how the Florida Judicial Qualifications Commission operates.

Currently – should a citizen file a complaint on a judge – the complaint remains “confidential” FOREVER . The complaint ONLY becomes PUBLIC SHOULD the JQC file formal charges on the suspect judge.

I submit for your consideration– that the confidentiality of a judicial complaint should ONLY remain confidential during the JQC review process. Once the JQC review is complete – the complaint should become PUBLIC information – regardless if the JQC opted to file formal charges against the suspect judge.

The rationale for the amendment to the Constitution:

While the JQC may argue that complaints that don’t rise to the level of FORMAL CHARGES should remain confidential in order to protect the credibility of the judiciary - I submit the opposing side of that logic coin. I submit that by not lifting the “confidentiality” seal off of judicial complaints that did not rise to the level of formal charges – that the credibility of the JQC could easily be called into question. Further – without correction - the Constitutionality of our own State Constitution will REMAIN in question (more on this later).

According to a December 2015 report by the Office Of Program Policy Analysis & Government Accountability (OPPAGA) – the Florida Supreme Court has found several of the JQC disciplinary recommendations to be too lenient – given the charged judicial misconduct. This OPPAGA report also tends to support that only about 1% of the complaints filed have formal JQC charges filed against the suspect judge.

<http://volusiaexposed.com/jqc/jqccorruption92017/oppaga2015.pdf>

I submit the concern - that there is an appearance that the JQC is not filing formal charges on viable judicial complaints (being too lenient) – and using (manipulating) the current confidentiality mandates of the Florida Constitution to HIDE these acts of judicial misconduct / corruption from the public eye.

Please see a recent article by <http://VolusiaExposed.Com> that further explains my concerns.

<http://volusiaexposed.com/jqc/jqccorruption92017.html>

In 1990 – the local United States District Court ruled that the perpetual confidentiality mandate of Article V - regarding JQC complaints is a violation of the United States Constitution – particular attention given to the first amendment – freedom of speech.

DOE v. FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

748 F. Supp. 1520 (S.D. Fla. 1990)

<https://www.leagle.com/decision/19902268748fsupp152012078>

In 1996 - the JQC found it necessary to file formal disciplinary action against Judge Richard H. Frank. Judge Frank was also a JQC commissioner. During their (JQC) prosecution against Judge Frank – Frank alleged that the JQC had violated the confidentiality mandate. Judge Frank was demanding that these alleged confidentiality violations be prosecuted by the JQC and Supreme Court.

In a legal brief to the Florida Supreme Court (see page 80 of the below linked document) – the JQC argued that they did not think that the Florida Constitutional confidentiality mandate would survive a U.S. Constitutional review.

http://www.floridasupremecourt.org/pub_info/summaries/briefs/out/92630a.pdf

[PAGE 80 - 35 The Commission is mindful from past experience that any attempt to punish Mr. Weber for violating its confidentiality rules would face a serious constitutional attack. See Doe v. State of Fla. Judicial Qualifications Comm'n, 748 F. Supp. 1520 (S.D. Fla. 1990) (holding Florida constitution's confidentiality provisions regarding witnesses violate the United States Constitution).]

Based on the JQC's own legal brief and argument – it is fairly clear that Article V Section 12 (4) has been a known violation of the U.S. Constitution for the last twenty to thirty years. I submit for your consideration that it is more than appropriate to bring our State Constitution into compliance with our U.S. Constitution while at the same time instilling some credibility into our JQC.

Judiciary – Confidentiality Of Complaints Filed To The Judicial Qualifications Commission

Article V Section 12

(4) The commission shall adopt rules regulating its proceedings, the filling of vacancies by the appointing authorities, the disqualification of members, the rotation of members between the panels, and the temporary replacement of disqualified or incapacitated members. The commission's rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. The commission shall have power to issue subpoenas. Until formal charges **(OR UPON THE DISMISSAL OF THE COMPLAINT)** against a justice or judge are filed by the investigative panel with the clerk of the supreme court of Florida all proceedings by or before the commission shall be confidential; provided, however, upon a finding of probable cause and the filing by the investigative panel with said clerk of such formal charges against a justice or judge such charges and all further proceedings before the commission shall be public.

Regards,

J. Bandorf
Volusia County, Florida