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and integrity

of the judiciary



Judicial Conduct Board

2004 ANNUAL REPORT



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PENNSYLVANIA JUDICIAL CONDUCT BOARD

Pennsylvania Place, 301 Chestnut Street, Suite 403, Harrisburg, Pennsylvania 17101
(717) 234-7911 FAX (717) 234-9307

Website: jcbpa.org

Joseph A. Massa Jr., Chief Counsel

May 2005

MEMORANDUM

TO: Honorable Ralph J. Cappy
Chief Justice, Pennsylvania Supreme Court
One Oxford Center, Suite 3130
Grant Street
Pittsburgh, PA 15219

Honorable Robert C. Jubelirer
President Pro Tempore
Senate of Pennsylvania
292 Capitol Building
Harrisburg, PA 17120

William P. Carlucci
President
Pennsylvania Bar Association
100 South Street
P.O. Box 186
Harrisburg, PA 17108-0186

Honorable Edward G. Rendell
Governor of Pennsylvania
225 Capitol Building
Harrisburg, PA 17120

Honorable John M. Perzel
Speaker
Pennsylvania House of Representatives
139 Capitol Building
Harrisburg, PA 17120

FROM: Joseph A. Massa Jr., Chief Counsel

RE: 2004 Annual Report

The attached annual report outlines the activities of the Judicial Conduct Board during the calendar year 2004. It is provided to you as required by Article V, §18(a)(6) of the Pennsylvania Constitution, and §2104 of Title 42, Judiciary and Judicial Procedures.

It is hoped that the information included in this report will assist the Judiciary and the public in understanding the operation of the Judicial Conduct Board and the nature of issues which come before the Board.



Back row, left to right: Charlene McAbee, Leo Bigley, Judge Thomas Wallitsch, Thomas Black II, Raven Rudnitsky, Judge John Musmanno, John Cellucci, and G. Craig Lord

Front row, left to right: Mark Schultz, Judge Samuel Magaro, and Patrick Judge Sr.

Not pictured: Judge Marilyn Horan, Christopher Lewis, Gary Lamont, Stanley Gumberg, and Richard Sprague

2004 BOARD MEMBERS

JUDGE MEMBERS

Honorable Samuel J. Magaro*
(Chairman)
(Sr. Magisterial District Justice)
(Term expires 8/16/05)

Honorable Marilyn J. Horan
Court of Common Pleas
Butler County
(Term expired 8/16/04)

Honorable John L. Musmanno
Superior Court of Pennsylvania
(Term expired 3/20/05)

Honorable Thomas A. Wallitsch*
Court of Common Pleas
Lehigh County
(Term expires 8/16/08)

ATTORNEY MEMBERS

Christopher A. Lewis, Esquire
(Chairman)
(Term expired 8/16/04)

G. Craig Lord, Esquire*
(Term expires 8/16/08)

Charlene R. McAbee, Esquire*
(Term expires 8/16/07)

Mark C. Schultz, Esquire*
(Vice-Chair)
(Term expires 8/16/06)

Richard A. Sprague, Esquire
(Served on Board until appointed
to Court of Judicial Discipline
on 8/16/04)

PUBLIC MEMBERS

Leo P. Bigley*
(Term expires 8/16/05)

Thomas C. Black II*
(Term expires 8/16/07)

John R. Cellucci*
(Term expires 8/16/05)

Stanley R. Gumberg
(Term expired 8/16/04)

Patrick Judge Sr.*
(Secretary)
(Term expires 8/16/07)

Gary Lamont
(Term expired 8/16/04)

Carolyn "Raven" Rudnitsky*
(Term expires 8/16/08)

BOARD STAFF

Joseph A. Massa, Jr., Esquire
Chief Counsel

Francis J. Puskas II, Esquire
Assistant Counsel

Douglas K. Miller
Investigator

Paula R. Caruso
Executive Secretary

Lisa D. McClain, Esquire
Assistant Counsel

George F. Delaney, Jr.
Investigator

Toni I. Schreffler
Paralegal

Alta M. Drayton-Brown
Legal Secretary

* Current member

BIOGRAPHIES OF BOARD MEMBERS AND CHIEF COUNSEL

LEO P. BIGLEY

Leo P. Bigley was a member of the Plumbers Local Union #27 for 50 years, 32 of which he had been a business representative and business manager. He was vice president of the Pittsburgh Building Trades Council, and vice president of the Pennsylvania Pipe Trades Association. Mr. Bigley is a native of Pittsburgh and resides in Crafton, Pennsylvania, Allegheny County. He is a father of five children. He retired December 10, 2002.

*Appointed by the Supreme Court:
Democrat*

THOMAS C. BLACK III

Thomas C. Black III is president and co-owner of Black, Davis & Shue Agency, Inc. With 27 years experience, Mr. Black specializes in off-shore Captive Programs and Commercial Accounts.

Mr. Black was born in Harrisburg. He served in the United States Naval Reserve from 1970-1972. He then attended Miami Dade Junior College and graduated from Thompson Business College.

In addition to his primary company, Mr. Black is an active owner of Pennsylvania Associated Agency (PAA), American Contractors Re-Insurance Company (ACRC), Mobility Independent Transportation Services (MITS), Pennsylvania Alliance Corporation (PAC), and AmericaneWarranty, Inc. He also serves on the boards of William Penn Insurance Company, Tri-County Aircraft Leasing Corporation, and the Congressional Business Commission.

Black, Davis & Shue Insurance Agency, Inc. received a Commercial Lines Agency Recognition Award in 1993 and a Performance Award for Alternative Markets in 1996.

Mr. Black contributed to his community as co-chair of the National Multiple Sclerosis Society and an event organizer for the Second Mile Program. Previously, Mr. Black was a Board of Education member of the Christian School of York.

Mr. Black currently resides in York with his wife of 26 years, Audrey F. Black. He is the father of a daughter, 24, a son, 22, and a son, 11.

*Appointed by the Governor:
Republican*

JOHN R. CELLUCCI

Mr. Cellucci is the president and owner of John R. Cellucci, Inc., a building, contracting, engineering, and land-development company. His experience as a builder, civil engineer, and general contractor has included constructing new homes, community housing developments, and shopping malls, and producing prestressed concrete bridges. In the late 1960s, Mr. Cellucci was the executive director of the Chester Housing Development Corporation.

Mr. Cellucci received a Bachelor of Science in Civil Engineering from Pennsylvania Military College (now Widener University) and also earned a Professional Engineering degree.

A former assistant professor of Civil Engineering at Pennsylvania Military College, Mr. Cellucci is very concerned with education and has been a Trustee of the Widener University Board and a member of the Board of Overseers of the Widener University School of Law.

He received the Outstanding Service Award (1999) and the Outstanding Alumnus Award (1989) from Widener University. He was also awarded the Outstanding Service Award (1987) and the Liberty Bell Award (1980) from the Widener University School of Law.

His experience as an officer and company commander in the Army Corps of Engineers in Korea during the Korean Conflict earned him a Battle Star for service.

Mr. Cellucci is an active member of the Widener Alumni Association and has been a past vice president on the Alumni Board of Widener University. He is also an active supporter of numerous non-profit organizations, most recently the Philadelphia Zoo-bilee, and The Friends of the Ocean City Pops, Inc. He is also a member of the Vesper Club of Philadelphia.

Mr. Cellucci resides in Berwyn with his wife, Dr. Edna H. Cellucci, and has two children, who are both attorneys: Kathleen C. Cellucci-Clemmensen, Esquire, and John H. Cellucci, Esquire.

*Appointed by the Governor:
Republican*

STANLEY R. GUMBERG

Stanley R. Gumberg is chairman of the Board for J.J. Gumberg Co., which is ranked as one of the nation's top developers and managers of shopping centers. In addition to its wholly-owned properties, J.J. Gumberg Co. operates and manages commercial real estate for various financial institutions.

Born in Pittsburgh on May 30, 1927, Mr. Gumberg received his Bachelor of Science degree from Duquesne University in 1950 and was awarded an Honorary Doctorate of Business degree from Duquesne's A.J. Palumbo School of Business in 1994.

He currently serves as an Emeritus Trustee and Executive Committee member of Carnegie-Mellon University, an Emeritus Trustee of Seton Hill College and Westminster College, and a Trustee of the Extra Mile Education Foundation, founded by Bishop Wuerl to financially aid inner-city elementary schools.

He is a former director of the Integra Financial Corp., the Grant Street National Bank, the Presbyterian Hospital, the University of Pittsburgh Medical Center, and chairman of Montefiore Hospital. He formerly served as Trustee and Executive Committee member of Duquesne University. He also formerly served on the Board of Directors for the Urban League of Pittsburgh, Inc. and as a member of the Judicial Conduct Board for the Commonwealth of Pennsylvania.

Mr. Gumberg married Marcia M. Gumberg in 1951. They have three sons and seven grandchildren.

*Appointed by the Governor:
Democrat*

HONORABLE MARILYN J. HORAN

Marilyn J. Horan was appointed judge of the Court of Common Pleas of Butler County in June 1996. She was then elected to a 10-year term on the bench, beginning that term in January 1998. Judge Horan has been an appointed member of the Juvenile Court Judges' Commission since 1997, and in August 2000, was appointed to the Judicial Conduct Board of the Commonwealth of Pennsylvania. She served as chair and vice chair of the Judicial Conduct Board. Her term on the Board ended August 2004.

From 1979 until her appointment to the bench, Judge Horan was a partner in the law firm of Murrin, Taylor, Flach & Horan in Butler. She graduated from Pennsylvania State University with a Bachelor of Science degree in 1976, and obtained her Juris Doctor degree from the University of Pittsburgh School of Law in 1979.

Judge Horan has been a member of the Butler County Bar Association, the Pennsylvania Bar Association, the Women's Bar Association of Western Pennsylvania, as well as the Pennsylvania Conference of State Trial Judges. During the time she

was a practicing attorney, she served as a faculty member for the Pennsylvania Bar Institute, lecturing and preparing course materials for Family Law Practice and Procedure in Western Pennsylvania. Judge Horan has been active over the years in many community organizations, including the American Cancer Society, the Community Health Assessment Policy Council, the Butler County Headstart Policy Council, the Center for Community Resources, and various other organizations.

Born and raised in Butler, Judge Horan, her husband, and their four children reside in the City of Butler.

*Appointed by the Governor:
Republican*

PATRICK JUDGE SR.

As executive vice president and secretary of Keystone Automotive Operations, Inc. and A&A Auto Stores, the nation's largest of its kind automotive accessory and parts distribution company, Patrick Judge Sr. is involved in all core business operations. Responsibilities include overseeing human resources for 1,800 employees, legal issues, taxes, company acquisitions, risk management, and developing corporate strategy, thus providing him with an understanding of all aspects of aftermarket from the manufacturer, distributor, jobber, and the consumer.

He was elected this past year to his second term of the Board of Directors of Specialty Equipment Market Association, the trade association of the industry, which began in 1930. SEMA's board represents four industry segments—manufacturers, WDs, retailers, and manufacturer representatives—and consists of 21 directors.

Mr. Judge is active in the community, being a member of the Selective Service Board of the U.S.; a board member and past president of the Greater Pittston Chamber of

Commerce; a board member of the Pittston Industrial Development Authority, the Wyoming Valley Sanitary Authority, and the N.E. Pennsylvania Convention Center Arena Authority, and as a member of the Federal Judicial Selection Committee. He belongs to a number of other business, civic, fraternal, and service groups.

Residing at Glenmaura, Moosie, Pennsylvania, he is married to Kimberly Ann Klimovitz and has two sons, Patrick Jr., who is a practicing attorney with Archer & Greiner, New Jersey, and Timothy, who is in his third year of law school at Widener School of Law.

*Appointed by the Supreme Court:
Republican*

GARY F. LAMONT

Gary F. Lamont is the principal of the Conyngham Pass Company, a management and development consulting firm. He is president of the CAN DO Foundation, and Executive Committee member and past chairman of CAN DO Inc. He is treasurer of the Sustainable Energy Fund of Central Eastern Pennsylvania, Hazleton Environmental, Inc., and Earth Conservancy; secretary/treasurer of the Luzerne County Industrial Development Authority; chairman of the Pennsylvania Bankers Public Affairs Committee; and a director and member of the Executive, Finance, Investment, and Audit Committees of the Hospital Service Association of Northeastern Pennsylvania.

Other organizations in which Mr. Lamont is active include board membership of the Security Savings Charitable Foundation, The Luzerne Foundation, Colleen Shea Children's Foundation, F.M. Kirby Center for Performing Arts, the Luzerne County Convention Center Authority, the Commission on Economic Opportunity, and Universal Managed Care, Inc. He is also a member of the Pennsylvania State University—

Hazleton Campus Advisory Board Executive Committee, the First Liberty Bank and Trust Company Advisory Board, the Pennsylvania Bankers Association, and a charter member of the Highacres Society.

He also served as past chairman of the Hazleton Healthcare Foundation, the Alliance to Revitalize Center City Hazleton, the Hazleton Community Development Corporation, and the Greater Hazleton Clearing House; was a board member of the United Way of Greater Hazleton Area; and served on the Planning Committee for the Greater Wilkes-Barre Chamber of Commerce Committee for Economic Growth and Luzerne 20/20.

Mr. Lamont received a Bachelor of Science degree from the Pennsylvania State University, and is a graduate of the Stonier Graduate School of Banking at the University of Delaware.

He resides in Conyngham with his wife, Letty, and daughter Elizabeth.

*Appointed by the Supreme Court:
Democrat*

CHRISTOPHER A. LEWIS, ESQUIRE

Mr. Lewis is a partner in the law firm of Blank Rome LLP, and concentrates his practice in the fields of commercial litigation, regulatory law, and non-profit law. He is chair of the Pennsylvania Bar Association's Gaming Law Committee.

Mr. Lewis served as Secretary of the Commonwealth of Pennsylvania from 1989-91. Under his direction, the Pennsylvania Department of State administered the work of the Bureau of Commissions, Elections and Legislation; the Corporation Bureau; the Bureau of Charitable Organizations; the Bureau of Professional and Occupational Affairs; and the State Athletic Commission. He also served as an ex-officio member of the Pennsylvania Board of Finance and Revenue, the Pennsylvania Board of Property, and the State Athletic Commission.

He also held the position of Executive Deputy General Counsel to the Governor of Pennsylvania where he provided legal advice to the Governor and his cabinet, while overseeing the work of all the attorneys in the executive agencies of state government. Mr. Lewis played a key role in structuring and creating the Commonwealth's minority and women's business enterprise programs.

He is a graduate of Harvard College and the University of Michigan Law School. Mr. Lewis is also an alumnus of the Senior Executives in State and Local Government Program, John F. Kennedy School of Government, Harvard University.

*Appointed by the Governor:
Democrat*

HONORABLE G. CRAIG LORD

G. Craig Lord is a partner in the law firm of Blank Rome LLP, Philadelphia, and concentrates his practice in the areas of real estate development, real estate lending, real estate sales and acquisitions, commercial litigation, and arbitration and mediation.

Mr. Lord served as a Judge for the Philadelphia Court of Common Pleas from 1988-97. He began his legal career as a law clerk to Justice Samuel J. Roberts of the Pennsylvania Supreme Court from 1971-72. He was a partner in the Real Estate Department of Blank Rome Comisky & McCauley LLP from 1972-86, and was general counsel to CoreManagement, Inc. from 1986-88. From 1997-99 he served as counsel to Raynes, McCarty, Binder, Ross & Mundy.

He is a *magna cum laude* graduate of Gettysburg College and of the University of Pennsylvania Law School, where he received his Juris Doctorate degree, and served as editor of the *Law Review*.

Mr. Lord was born in Boston, raised in Philadelphia, and now resides in the Chestnut Hill section of Philadel-

phia with his wife, Rosemary, and their three children.

*Appointed by the Governor:
Democrat*

HONORABLE SAMUEL J. MAGARO

Samuel J. Magaro was born November 3, 1932, in Steelton, the son of the late Giuseppe and Agnes Lappano Magaro. He attended Elizabethtown College, the Pennsylvania State University, and Shippensburg State College, 1975.

He has served as district justice, Lower Paxton Township, from 1975-present; served in the U.S. Air Force, 1951-54; was a probation and parole officer and chief inheritance tax officer for Dauphin County, and a research analyst at the Pennsylvania House of Representatives. District Justice Magaro also has served as the assistant to the chairman for the Republican State Committee and as owner of Magaro's. He is a member of the American Judicature Society, American Legion; Veterans of Foreign Wars; and Knights of Columbus, 4th Degree member. He is also a member of the Special Court Judges Association of Pennsylvania, and served as its president from 1999-2000. He was a member of the Minor Court Rules Committee from 1990-93.

In 1995 Mr. Magaro was the first recipient of the John J. Jeffers Memorial Award by the Special Court Judges Association of Pennsylvania "in recognition of dedicated and unselfish service." In August 1994 he was appointed Judge, Court of Judicial Discipline, and served until 1999. In 2002 he received the Pennsylvania Supreme Court Award for "Distinguished Service to Judicial System" and the Themis Award from the Special Court Judges Association of Pennsylvania. He was appointed a member of the Judicial Conduct Board in 2001, was elected as its chair from 2004-05, and chaired the sub-committee of Intergovernmental

Task Force. He is married to Mary Roberto and has five children: Natalie, Ninette, Anne Marie, Samuel J. Jr., Anthony, and 12 grandchildren.

*Appointed by the Supreme Court:
Republican*

CHARLENE R. McABEE, ESQUIRE

Charlene R. McAbee is a sole practitioner in her own law practice. She recently retired from the Commonwealth of Pennsylvania, Department of Labor & Industry after 36 years. She is also co-owner and chair of the Board of the River Development Corporation, which owns an inner-city abandoned shopping center and is transforming it into a major distribution center.

Ms. McAbee received her Bachelor of Arts degree from Seton Hill University, her Master's and Juris Doctorate degrees from Duquesne University, and her Doctorate degree (ABD) from the University of Pittsburgh.

She serves on the Legal Redress Committee and is a life member of the National Association for the Advancement of Colored People, and is a member of the Black Political Empowerment Project, the African American Chambers of Commerce, and the Amen Corner. She is a member and serves on the Gaming Committee of the Pennsylvania Bar Association; is a board member and serves on the Education and Human Resources Committees of the National Aviary; is a member and services on the Entertainment Committee of the Churchill Valley County Club; is on the rolls and a member of the Council of Three Rivers American Indian Center; and is a member and former board member of the Pennsylvania Trial Lawyers Association.

Born and raised in Westmoreland County, Ms. McAbee now resides in Churchill Borough in Allegheny County with her father and her sister, who is a practicing attorney.

*Appointed by the Governor:
Democrat*

HONORABLE JOHN L. MUSMANNO

Judge John L. Musmanno was born in McKees Rocks, Pennsylvania. He received a Bachelor of Arts degree from Washington & Jefferson College in 1963, graduating *magna cum laude* and Phi Beta Kappa. In 1966 he received his Juris Doctorate degree from Vanderbilt University School of Law, where he was an assistant editor of the *Vanderbilt Law Review*.

Judge Musmanno is a member of the American, Pennsylvania, and Allegheny County Bar Associations.

He received the President's Award from the Pennsylvania Trial Lawyers Association in 1991, and the Academy of Trial Lawyers of Allegheny County award in 1993.

He maintained a private law practice from 1966-81; was elected district justice, 1970-81; and elected judge, Allegheny County Court of Common Pleas, in 1981, where he served in the Family, Criminal, and Civil Divisions. He was re-elected in 1991; and was the administrative judge, Civil Division, Allegheny Court of Common Pleas, from 1990-97. In November 1997, he was elected to the Superior Court.

*Appointed by the Supreme Court:
Democrat*

CAROLYN "RAVEN" RUDNITSKY

Raven Rudnitsky is a family therapist in private practice specializing in couples and family therapy, women's issues, and stress and time management. She is also the Family Goals Facilitator for Rudnitsky and Hackman, LLP, a wealth strategies and estate planning firm.

Ms. Rudnitsky is a speaker and facilitator for the Pennsylvania Bar Association (PBA) and is a member of the PBA's Quality of Life/Balance Task Force. She was the first woman and first non-lawyer to serve as chair during her six-year membership on the Disciplinary Board of the

Supreme Court of Pennsylvania.

Ms. Rudnitsky has been active in several organizations in central Pennsylvania. She founded Valley Nursery School, a preschool program that has been in existence for more than 30 years. She has served as the past chair of the Professional Division of the United Way in Snyder County and is a past president of the Board of Directors at Hoffman Homes for Youth in Gettysburg. She recently completed three years as the president of the church council at St. Paul's United Church of Christ in her hometown.

Ms. Rudnitsky did her undergraduate work at the Pennsylvania State University, earning a Bachelor of Science degree in Secondary Education and English, and completed her graduate studies at Bucknell University in School Psychology and Counseling. She lives in Selinsgrove with her husband, Marv, who is an attorney. They are the parents of three grown daughters and grandparents of two boys and one girl.

*Appointed by the Supreme Court:
Democrat*

MARK SCHULTZ, ESQUIRE

Mark C. Schultz joined the Cozen O'Connor Law Firm in February 1998 and is a resident in the Philadelphia office where he concentrates his practice in subrogation and recovery.

Since 1998, Mr. Schultz has headed the workers' compensation recovery group at Cozen O'Connor. In this capacity, he has handled many complex product liability, construction, and general liability cases, in addition to managing a national recovery program for Cozen O'Connor clients.

Mr. Schultz is a member of the Montgomery County, Pennsylvania, and American Bar Associations, the Montgomery County and Pennsylvania Trial Lawyers Associations, and the Association of Trial Lawyers of

America. He served as president of the Montgomery County Trial Lawyers Association in 1994, and past president of the Montgomery County Bar Association in 2000 and the Montgomery County Bar Foundation in 2001. Mr. Schultz also served on the Pennsylvania Supreme Court Disciplinary Board. He is a lecturer for the Pennsylvania Bar Institute.

From 1975-77, Mr. Schultz was the Assistant District Attorney for Montgomery County. He earned his Bachelor of Arts degree at Clark University in 1971 and his law degree at Villanova University in 1975. He was admitted to practice in Pennsylvania in 1975.

*Appointed by the Supreme Court:
Republican*

RICHARD A. SPRAGUE, ESQUIRE

As a senior partner at Sprague & Sprague, Philadelphia, Richard A. Sprague engages in general, civil, and criminal practice; state and federal litigation; antitrust and corporate litigation; and trial and appellate practice. He is also counsel to Berger & Montague, P.C. in Philadelphia.

Mr. Sprague was chief counsel and director of the House of Representatives Select Committee on Assassinations investigating the murders of President John F. Kennedy and Dr. Martin Luther King, Jr.

He served as a voluntary defender in the Defender Association of Philadelphia for more than 2½ years before being appointed to the Philadelphia County District Attorney's Office in 1958, where he was chief assistant District Attorney, chief of the Prosecution Division, and chief of the Trial Division of the Homicide Division. He represented the Commonwealth as prosecuting attorney in over 10,000 criminal trials, including hundreds of murder cases, over 60 of which were first-degree murder cases, and has

obtained the death penalty over 20 times. He was first assistant District Attorney from June 1966 until December 1974.

Mr. Sprague also served as special prosecutor for Washington County for the prosecution of the Yablonski murder cases from 1970 to 1985; for Delaware County from 1971 to 1974 to investigate allegations corruption; for the Allegheny County District Attorney's Office in 1999; and for the Philadelphia County District Attorney's Office in 2000. He also served as special assistant to the Attorney General of the United States for the federal prosecution of W.A. "Tony" Boyle, and as special counsel to the Pennsylvania Supreme Court Judicial Inquiry and Review Board from 1981 to 1983.

Mr. Sprague is a former lecturer on Trial Tactics in Criminal Trials and lecturer on Advanced Criminal Procedure at Temple University School of Law.

*Appointed by the Governor:
Democrat*

HONORABLE THOMAS A. WALLITSCH

Judge Thomas A. Wallitsch graduated from Dickinson College in 1970 and earned a Juris Doctor in 1973 from Duquesne University School of Law, where he served on the *Law Review*. In 1993, Judge Wallitsch received his Master's degree in Governmental Administration from the University of Pennsylvania.

He served Lehigh County as the solicitor to the county controller from 1984-87, as assistant county solicitor in 1976, and as chief public defender from 1976-81. Since 1994, Judge Wallitsch has an appointment as adjunct professor in Political Science at Muhlenberg College, teaching courses in "The American Judiciary" and "Public Administration."

Judge Wallitsch was certified as a civil trial specialist by the National Board of Trial Advocacy and has

served on the Board of Examiners for that organization. He serves as co-chair of the Education Committee of the Pennsylvania Conference of State Trial Judges and is a member of the Advisory Committee of the Pennsylvania Supreme Court on Continuing Judicial Education. Judge Wallitsch currently serves as vice-chair of the Pennsylvania Supreme Court's Appellate Rules Committee, of which he has been a member since 2001. He also serves as a member of the STOP Violence Against Women Planning Committee of the Pennsylvania Commission on Crime and Delinquency. He was the first president of the Donald E. Wied, Sr. American Inn of Court. He has been active in various community service organizations, including the Allentown Liberty Bell Rotary Club where he served as president and Foundation president.

He was appointed Judge of the Court of Common Pleas for Lehigh County in April 1991 and elected to his first full term in November of that year. In 2001, Judge Wallitsch was retained for another 10-year term.

*Appointed by the Governor:
Democrat*

CHIEF COUNSEL JOSEPH A. MASSA JR.

Joseph A. Massa Jr. became Chief Counsel of the Judicial Conduct Board on March 4, 2002.

Mr. Massa's professional career has been diverse. Admitted to the Bar on May 1, 1969, Mr. Massa opened a private law practice and was engaged in the general practice of law with a high concentration in family, civil, and criminal litigation. In addition to his private practice, Mr. Massa served as Warren/Forest County Public Defender from 1969 to 1989; as a three-term District Attorney for Warren County from 1990 through 2001; and as solicitor for Youngsville Borough and the Warren County School District.

He is a graduate of the University of

Notre Dame with a Bachelor's degree in Economics and the Marshall School of Law of Cleveland State University. He is a member of the American, Pennsylvania, and Dauphin County Bar Associations, the Association of Trial Lawyers of America, and the Association of Judicial Disciplinary Counsel, and is a past president of the Warren County Bar Association. He has served on the Pennsylvania Attorney General's Task Force for the Protection of Older Pennsylvanians. He was an adjunct

instructor in criminal law at Pennsylvania State University, Indiana University of Pennsylvania, and Edinboro University of Pennsylvania.

As a native of Warren County where he lived and raised his children, Mr. Massa was involved not only in Northwestern Pennsylvania legal, business, and community enterprises, but also contributed his support to the educational, political, religious, and non-profit endeavors within his county.

Mr. Massa was co-founder of Warren County Students Against Drunk Driving and of the Warren County School District Law Enforcement Liaison Team. He received the Warren County Chamber of Commerce Award for Exemplary Service to the community.

He and his wife, Rosemarie, reside in New Cumberland and have three grown children and two grandchildren.



Judicial Conduct Board Commonwealth of Pennsylvania

301 Chestnut Street, Suite 403
Harrisburg, PA 17101

JUDGE SAMUEL J. MAGARO
CHAIRPERSON

(717) 234-7911

2005

To the Citizens of Pennsylvania:

On behalf of the Judicial Conduct Board, I am pleased to present this report summarizing the work of the Board. During 2004, the Board opened 556 complaints and disposed of 528. Of these 528, 497 were dismissed after preliminary investigation, 10 were dismissed after full investigation, and 12 were resolved upon the issuance of letters of caution, and three letters of counsel were issued. Formal charges and prosecutions were initiated in six matters.

During the past year, the Board has made numerous presentations to the judiciary throughout many counties across Pennsylvania. This outreach is designed to acquaint judicial officers with changes in Board processes, and to identify frequently occurring complaints that the Board receives. This outreach is ongoing in order to meet with judicial officers in all counties statewide. Further informational programs are being planned for outreach to the legal community and to the public. The Board believes that education about the mission and operations of the Board will improve public and judicial knowledge of and confidence in Pennsylvania's system for processing complaints alleging judicial ethical misconduct.

I am most grateful to the Board members for their dedicated and uncompensated service. It has been a privilege to serve as their chairman. Appreciation is also due to our equally talented and dedicated Chief Counsel and staff for all they have done to serve the Commonwealth with their uncompromising commitment to excellence.

Sincerely,

A handwritten signature in black ink, reading "Samuel J. Magaro".

Samuel J. Magaro
Chairman

May 2005

A MESSAGE FROM CHIEF COUNSEL:

I am pleased to present this Annual Report of the Judicial Conduct Board of Pennsylvania for Calendar Year 2004. This Report of a very busy and productive year provides a general reference document that reflects the hard work and dedicated service of the Board and staff as well as providing an overview of the Commonwealth's judicial discipline system.

Criminal conduct led to the removal of three former judges in 2004 by the Pennsylvania Court of Judicial Discipline, making them ineligible to hold judicial office in the future. *In re Jaffe*, 839 A.2d 491 (2004) (pled guilty to federal charges of soliciting money in the performance of judicial duties, soliciting money from a partner in a law firm that had a substantial number of cases before him, and soliciting financial support for his family and employment for himself after incarceration in exchange for concealing attorney's role in the payment to the judge); *In re Amati*, 849 A.2d 320 (2004) (convicted of operating illegal gambling business, conspiracy to defraud U.S., obstruction of state or local law enforcement, all felonies); *In re Pazuhanich*, 858 A.2d 2341 (2004) (pled *nolo contendere* to public drunkenness, indecent assault, endangering the welfare of children, corrupting the morals of a minor).

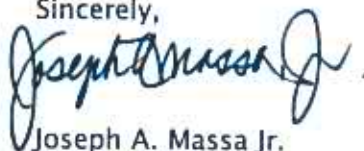
In reviewing the statistics contained in this Report, we are aware that each number represents a matter of considerable significance to a respondent judge and to the public. We are also mindful of the commitment each Board member makes to uphold the integrity and independence of the Judiciary, and, when needed, to take appropriate action. We are determined that there be a free and independent judiciary—with accountability; and, at the same time, we are sensitive to the individual judge's right to fairness and confidentiality.

I would also like to take this opportunity to recognize the dedication of our valued staff and the enthusiastic leadership of our distinguished volunteer Board members, who handle each matter with the utmost professionalism. Their individual and collective efforts are a considerable service to the Judiciary and the citizens of the Commonwealth of Pennsylvania. The driving force at the Judicial Conduct Board continues to be a *commitment to excellence*.

The staff of the Board extends its warmest wishes and bids a fond farewell to the following Board members whose terms expired during the year: Attorney Christopher Lewis (former Chair), Attorney Richard Sprague, Stanley Gumberg, and Gary Lamont.

It is my pleasure and honor to serve as Chief Counsel and as we look back on a year of achievement that we mark in these pages—we likewise look forward with anticipation to the challenges and rewards that lie ahead.

Sincerely,



Joseph A. Massa Jr.
Chief Counsel

I. JUDICIAL CONDUCT BOARD MISSION STATEMENT

The Judicial Conduct Board is the state agency responsible by constitutional mandate for investigating complaints of misconduct against judges of Pennsylvania's unified judicial system and, where appropriate, filing formal charges against those judges found to have engaged in unethical behavior.

The members and staff of the Judicial Conduct Board take their duties to the citizens and judiciary of Pennsylvania very seriously. The Board is committed to preserving the honor, dignity, independence, and integrity of Pennsylvania's judiciary. Political affiliation, race, color, age, national origin, sex, sexual orientation, ancestry, religious creed, disability, and the position or status of the complainant or judge, are not considerations in reviewing cases. The Board's duties to the public require the honesty, intelligence, professionalism and diligence of every Board and staff member.

The Board and its staff investigates every allegation made against a Pennsylvania judge. This procedure is an essential safeguard to the integrity of, and public confidence in, the judicial process. Judges are held to a high standard of ethical conduct as prescribed by the laws of Pennsylvania, including the Code of Judicial Conduct, and the Board and its employees strive to conduct themselves in a similar manner.

II. OVERVIEW OF THE BOARD

AUTHORITY OF THE BOARD

The Judicial Conduct Board (formerly the Judicial Inquiry and Review Board) was created by an amendment to the Pennsylvania Constitution adopted on May 18, 1993 and declared in effect by the Governor's Office on August 11, 1993. It is the independent state agency responsible for investigating allegations of judicial misconduct or disability or impairment.

The Board has jurisdiction over Pennsylvania Supreme Court Justices, Superior and Commonwealth Court Judges, Common Pleas Court Judges, Philadelphia Municipal and Traffic Court Judges, Pittsburgh Magistrate Court Judges, and District Justices. The Board has no jurisdiction over federal judges and magistrates, administrative hearing officers for state agencies, or private mediators, arbitrators, or masters.

THE BOARD'S UNIQUE ROLE

Under the Pennsylvania State Constitution, the Board is the only agency of state government with the authority to investigate judges for ethical misconduct. Its disciplinary role is unique. The Board's system has served Pennsylvania well since its inception in 1993. Some judges have been publicly disciplined for judicial misconduct, others have been confidentially cautioned, and a number have resigned while under inquiry. It is undoubtedly fair to state that the Pennsylvania Judiciary has become more sensitive to its ethical obligations, and that public confidence in the judiciary has consequently improved.

MEMBERS OF THE BOARD

There are 12 members of the Board, serving staggered four-year terms, as follows:

- Six citizen members who are neither attorneys nor judges;
- Three judges, one from each of the following court levels: appellate, common pleas and district magistrate, and
- Three attorneys who are not judges.

Members meet regularly to conduct Board business and receive no compensation for their service.

One of the critical features of the Board's system is its structural independence. The 12 board members are appointed to staggered four-year terms by various designating authorities—the Governor and the Pennsylvania Supreme Court—neither of whom controls a majority.

GOVERNING LEGISLATION

The Board is governed by Article V, Section 18 of the Pennsylvania Constitution, Chapter 21, Subchapter A of Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes (Appendix I herein). As part of the judiciary and as an independent entity having its own constitutional and statutory provisions regarding confidentiality of papers, records, and proceedings, the Board is not governed by the Pennsylvania Public Information Act, the Open Meetings Act, or the Pennsylvania Administrative Code.

DEFINING JUDICIAL MISCONDUCT

Article V, Section 18 of the Pennsylvania Constitution defines judicial misconduct as the "willful or persistent violation of rules promulgated by the Supreme Court of Pennsylvania, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon

the judiciary or administration of justice." The Code of Judicial Conduct appears herein at Appendix II.

Judicial misconduct could arise from a violation of the Pennsylvania Constitution, the Pennsylvania Penal Code, the Pennsylvania Code of Judicial Conduct, the Rules Governing Standards of Conduct of District Justices, or rules promulgated by the Supreme Court of Pennsylvania. It could occur through the judge's failure to cooperate with the Board.

Other examples of judicial misconduct include inappropriate or demeaning courtroom conduct, such as yelling, profanity, gender bias, or racial slurs. It could be improper *ex parte* communication with only one of the parties or attorneys in a case, a public comment regarding a pending case, or a failure to recuse or disqualify oneself in a case where the judge has an interest in the outcome. It could involve ruling in a case in which the parties, attorneys, or appointees are related within a prohibited degree of kinship to the judge. Judicial misconduct could occur through a judge's failure to cooperate with respect to his or her obligations arising from a Board's inquiry, or failure to abide by any provision of a voluntary agreement to resign in lieu of disciplinary action.

Judicial misconduct could also arise from out-of-court activities, including theft, driving while intoxicated, improper financial or business dealings, sexual harassment, or official oppression, and is subject to the same review by the Board.

SOURCES OF COMPLAINTS AND ALLEGATIONS

The Board has the duty to consider allegations from any source, including an individual, a news article, or information received in the course of an investigation. Although the Board does accept anonymous com-

plaints, they are much more difficult to fully investigate.

BOARD LIMITATIONS

The Board cannot exercise appellate review of a case or change the decision or ruling of any court, nor can the Board intervene in a pending case or proceeding. For example, if the Board finds a judge's actions to be misconduct, the Board can only file formal charges and seek appropriate sanctions against the judge, which could include the judge's removal from the bench. However, even removal would not change the judge's ruling in the underlying case. Only the appellate process is empowered to change the decision of a court.

Likewise, the Board cannot provide individual legal assistance or advice to a complainant. The Board cannot remove a judge from a case. The Board cannot award damages or provide monetary relief to complainants.

BOARD INVESTIGATIONS AND ACTIONS

Cases are reviewed, analyzed, and investigated by the Board staff. The first step in an investigation involves a preliminary inquiry, which may include interviews with the complainant, attorneys, and other witnesses, and the review of relevant documents. The full Board then considers the results of the investigation in reviewing the complaint. The Board has several options available when deciding whether to take action on a case. At this stage, the Board is most likely to make one of two choices:

- Dismiss the complaint because it is clear that the allegations do not warrant disciplinary actions against the accused judge; or
- Authorize a full investigation to determine if there is "clear

and convincing evidence" of misconduct.

After a full investigation is authorized and conducted, the Board makes one of two choices:

- Dismiss the complaint because there is not "clear and convincing evidence" of judicial misconduct; or
- File formal charges against the accused judge with the Court of Judicial Discipline following a determination that there is "clear and convincing evidence" of judicial misconduct.

The types of actions that could be taken by the Court of Judicial Discipline include dismissal, sanction, suspension, acceptance of a voluntary agreement to resign from judicial office in lieu of disciplinary action, and removal from the bench. A detailed discussion of the Board's procedures for analyzing complaints and allegations appears at Section II. The Complaint Process in this annual report is also presented in Section II. The number and types of action taken by the Board in fiscal year 2004 are presented in the summary of Board Activity in Section IV.

BOARD ORGANIZATION AND STAFF

The Board has eight staff positions, including the Chief Counsel, two attorneys, and five support staff. All Board staff members are full-time Commonwealth State employees.

The Board's legal staff, which consists of attorneys, a paralegal, and investigators, is responsible for the evaluation and investigation of complaints. The attorneys are primarily responsible for reviewing and evaluating new complaints. The investigators are primarily responsible for conducting in-house and on-site investigations. The paralegal is responsible for performing legal research.

The three attorneys serve as trial counsel during proceedings before

the Court of Judicial Discipline and are responsible for preparing cases and presenting the evidence that supports the charges before the Court of Judicial Discipline.

The Chief Counsel heads the staff and reports directly to the Board. The Chief Counsel is also the primary liaison between the Board and the judiciary, the public, and the media.

OUTREACH AND EDUCATION

In 2004, the Chief Counsel and Board members made numerous presentations at judicial training courses and court-staff conferences describing the Board and discussing various forms of judicial misconduct

BOARD WEBSITE

The Board's Website appears at www.jcbpa.org. The Website provides downloadable complaint forms. The Website also offers answers to frequently-asked questions regarding the Board, such as its composition, structure, and jurisdiction; the judicial complaint process; and a description of the range of decision the Court of Judicial Discipline can make, from dismissal to sanction. Further, the Website provides links of interest to other Websites dealing with judicial ethics.

Also included are the Board's governing provisions: Code of Judicial Conduct; Pennsylvania Constitution, Article V, Section 18, Rules Governing Standards of Conduct of District Justices; and other pertinent rules and codes.

PUBLIC INFORMATION

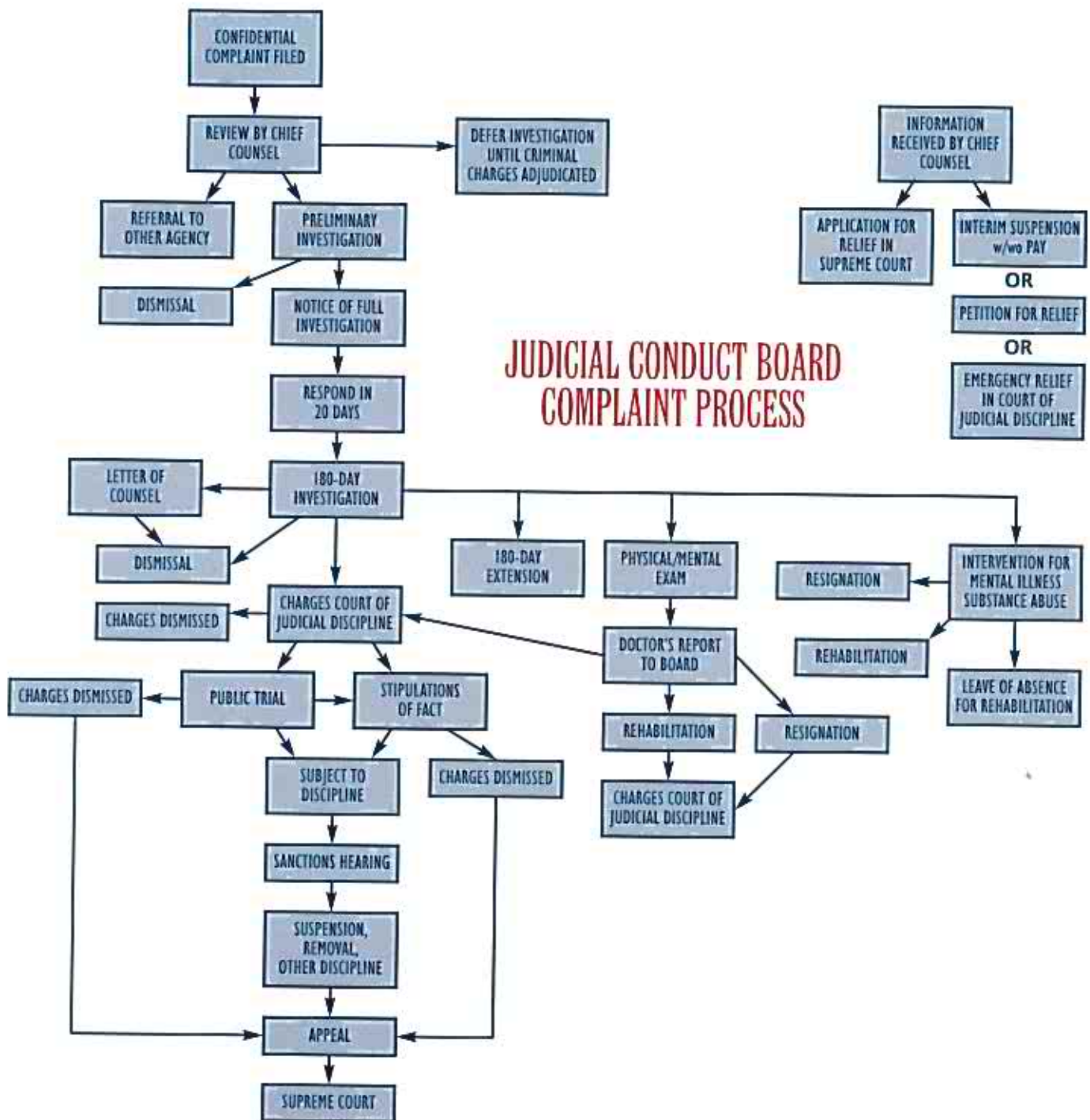
The availability of information and records maintained by the Board is governed by Article V, Section 18(a)(8) of the Pennsylvania Constitution.

Generally, Board records are confidential. All Board meetings and proceedings are closed to the public to protect complainants from

retaliation by accused judges and judges from the embarrassment of complaints that have no merit.

Once formal charges are filed with the Court of Judicial Discipline, the case is no longer confidential and

all pleadings and proceedings are open to the public.



III. CONFIDENTIALITY OF BOARD PROCEEDINGS

Board proceedings are strictly confidential, including the fact that there is a complaint or investigation, as provided in Article V, Section 18(a)(8) of the Constitution of the Commonwealth of Pennsylvania, and Rule 17 of the Judicial Conduct Board Rules of Procedure (J.C.B.R.P.)

IV. SUMMARY OF BOARD ACTIVITY AND STATISTICAL DATA FOR 2004

JUDICIAL POSITIONS

In 2004, there were 1,197 judge-
ships within the Board's jurisdiction.

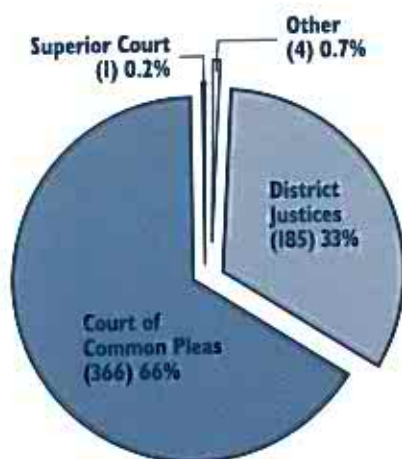
| | ACTIVE JUDGES | SENIOR JUDGES |
|---------------------------------|------------------|------------------|
| Supreme Court | 7 | 0 |
| Superior Court | 15 | 8 |
| Commonwealth | 9 | 6 |
| Common Pleas | 421 | 81 |
| District Justices | 555 | 65 |
| Philadelphia Municipal Court | 25 | 5 |
| TOTAL | 1,032 | 165 |

NEW COMPLAINTS—2004

The Board opened 556 cases in
2004.

The following graph shows the
breakdown of those cases by type of
judicial officer.

LEVEL OF JUDICIAL OFFICER



The Board also received complaints
concerning individuals that did not
come under Board jurisdiction: fed-
eral judges, former judges, workers'

compensation judges, other govern-
ment officials, and miscellaneous
individuals. Board staff responded
to each of these complaints and
when appropriate, the Board made
referrals. These complaints were not
opened as Board cases and are
therefore not included in the num-
ber of opened cases.

NOTICE OF FULL INVESTIGATION

If after a preliminary inquiry into a
case, the Board feels there is suffi-
cient evidence that judicial miscon-
duct may have occurred, it will issue
a Notice of Full Investigation to the
judicial officer. The judicial officer
will then have an opportunity to
respond to the allegations. In 2004,
the Board issued 18 Notices of Full
Investigation.

COMPLAINT DISPOSITIONS

The Board disposed of 528 cases in
2004.

DISMISSED AFTER LEGAL REVIEW

Some complainants alleged legal
error not involving misconduct, or
expressed dissatisfaction with a
judge's discretionary handling of
judicial duties. These types of com-
plaints are dismissed after legal
review.

DISMISSED AFTER PRELIMINARY INQUIRY

Of the 528 cases closed in 2004,
497 were dismissed after prelimi-
nary inquiry. These files had insuffi-
cient facts that, even if true, would
not constitute judicial misconduct.
Investigation showed that the allega-

tions were unfounded and not prov-
able, or the judge gave an adequate
explanation of the situation.

DISMISSED AFTER FULL INVESTIGATION

Of the 528 cases closed in 2004, 10
were dismissed after full investiga-
tion. In these cases there was
enough evidence after the prelimi-
nary inquiry to warrant a full investi-
gation, but after the full investiga-
tion there was not clear and con-
vincing evidence that the alleged
misconduct did occur.

LETTER OF CAUTION

The Board issued 12 Letters of
Caution in 2004. Letters of Caution
are issued as private warnings of
judicial misconduct. The judicial
officer is not required to sign or
accept a Letter of Caution.

LETTER OF COUNSEL

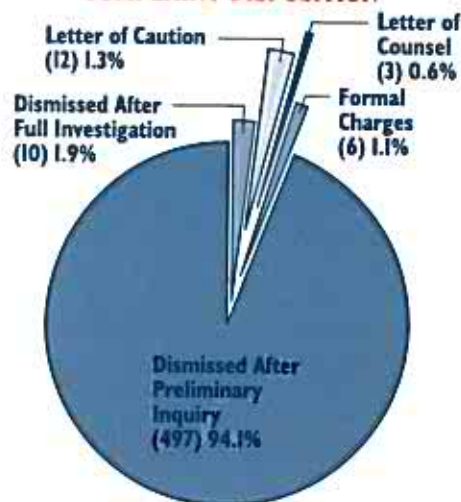
The Board issued three Letters of
Counsel in 2004. Letters of Counsel
are issued in cases where there is
sufficient evidence of judicial mis-
conduct, but the evidence suggests
that it was an isolated incident. The
Letter of Counsel is a private reprimand and is subject to the judicial
officer's acceptance.

FORMAL CHARGES

In six of the 528 closed cases in
2004, the Board filed formal
charges with the Court of Judicial
Discipline. In these cases, the Board
determined there was clear and con-
vincing evidence that judicial mis-
conduct had occurred.

BREAKDOWN OF CASE DISPOSITIONS

COMPLAINT DISPOSITION



FIVE-YEAR STATISTICAL SUMMARY

| Year | Complaints Received | Notices of Full Investigation Issued | Complaints Disposed | Formal Charges Filed |
|---------|---------------------|--------------------------------------|---------------------|----------------------|
| 2000 | 595 | 34 | 543 | 3 |
| 2001 | 556 | 23 | 612 | 4 |
| 2002 | 577 | 11 | 307 | 6 |
| 2003 | 564 | 15 | 303 | 4 |
| 2004 | 556 | 18 | 528 | 6 |
| Average | 562 | 21 | 462 | 4 |

SAMPLES OF JUDICIAL MISCONDUCT

- Impatient, undignified, discourteous behavior or demeanor (on bench)
- Bias; conflict of interest; failure to recuse
- Ex parte or other improper communication without all parties present
- Presiding while intoxicated/ drinking during court hours
- Public comment on pending or impending court matters
- Sexual harassment
- Failure to supervise court staff; administrative failures
- Use of court resources for personal gain
- Delay in performing judicial duties or rendering decisions
- Attempting to obtain favorable treatment; off-bench use of prestige of office
- Improper personal conduct; criminal conduct
- Campaign conduct
- Inappropriate political activity (not related to judge's campaign for judicial office)
- Failure to cooperate with board; lying to board; asking witness to lie

V. APPENDICES

SELECTED PROVISIONS OF

THE CONSTITUTION OF THE COMMONWEALTH OF PENNSYLVANIA

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ARTICLE V

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ARTICLE V

§1. UNIFIED JUDICIAL SYSTEM

The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal and traffic courts in the City of Philadelphia, such other courts as may be provided by law and justices of the peace. All courts and justices of the peace and their jurisdiction shall be in this unified judicial system.

Adopted April 23, 1968.

§2. SUPREME COURT

The Supreme Court

- (a) shall be the highest court of the Commonwealth and in this court shall be reposed the supreme judicial power of the Commonwealth;
- (b) shall consist of seven justices, one of whom shall be the Chief Justice; and
- (c) shall have such jurisdiction as shall be provided by law.

Adopted April 23, 1968.

§10. JUDICIAL ADMINISTRATION

- (a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts and justices of the peace, including authority to temporarily assign judges and justices of the peace from one court or district to another as it deems appropriate.
- (b) The Supreme Court shall appoint a court administrator and may appoint such subordinate administrators and staff as may be necessary and proper for the prompt and proper disposition of the business of all courts and justices of the peace.
- (c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts, justices of the peace and all officers serving process or enforcing orders, judgments or decrees of any court of justice of the peace, including the power to provide for assignment and reassignment

of classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for admission to the bar and to practice law, and the administration of all courts and supervision of all officers of the judicial branch, if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.

[text omitted here]

Adopted April 23, 1968.

§16. COMPENSATION AND RETIREMENT OF JUSTICES, JUDGES AND JUSTICES OF THE PEACE

[text omitted here]

- (b) Justices, judges and justices of the peace shall be retired upon attaining the age of 70 years. Former and retired justices, judges and justices of the peace shall receive such compensation as shall be provided by law. Except as provided by law, no salary, retirement benefit or other compensation, present or deferred, shall be paid to any justice, judge or justice of the peace who, under section 18 or under Article VI, is suspended, removed or barred from holding judicial office for conviction of a felony or misconduct in office or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute.

[text omitted here]

Adopted April 23, 1968.

Amended May 18, 1993.

§17. PROHIBITED ACTIVITIES

- (a) Justices and judges shall devote full time to their judicial duties, and shall not engage in the practice of law, hold office in a political party or political organization, or hold an office or position of profit in the government of the United States, the Commonwealth or any municipal corporation or political subdivision

thereof, except in the armed service of the United States or the Commonwealth.

- (b) Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court. Justices of the peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.
- (c) No justice, judge or justice of the peace shall be paid or accept for the performance of any judicial duty or for any service connected with his office, any fee, emolument or perquisite other than the salary and expenses provided by law.
- (d) No duties shall be imposed by law upon the Supreme Court or any of the justices thereof or the Superior Court or any of the judges thereof, except such as are judicial, nor shall any of them exercise any power of appointment except as provided in this Constitution.

Adopted April 23, 1968.

§18. SUSPENSION, REMOVAL, DISCIPLINE AND OTHER SANCTIONS

- (a) There shall be an independent board within the Judicial Branch, known as the Judicial Conduct Board, the composition, powers and duties of which shall be as follows:
 - (1) The board shall be composed of 12 members, as follows: two judges, other than senior judges, one from the courts of common pleas and the other from either the Superior Court or the Commonwealth Court, one justice of the peace who need not be a member of the bar of the Supreme Court, three non-judge members of the bar of the Supreme Court and six non-lawyer electors.
 - (2) The judge from either the Superior Court or the Commonwealth Court, the justice of the peace, one non-judge member of the bar of the Supreme Court and three non-lawyer electors shall be appointed to the board by the Supreme Court. The judge from the courts of common pleas, two non-judge members of the bar of the Supreme Court and three non-lawyer electors shall be appointed to the board by the Governor.
 - (3) Except for the initial appointees whose terms shall be provided by the schedule to this article, the members shall serve for terms of four years. All members must be residents of this Commonwealth. No more than three of the six members appointed by the Supreme Court may be registered in the same political party. No more than three of the six members appointed by the Governor may be registered in the same political party. Membership of a judge or justice of the peace shall terminate if the member ceases to hold the judicial position that qualified the member for the appointment. Membership shall terminate if a member attains a position that would have rendered the member ineligible for appointment at the time of the appointment. A vacancy shall be filled by the respective appointing authority for the remainder of the term to which the member was appointed. No member

may serve more than four consecutive years but may be reappointed after a lapse of one year. The Governor shall convene the board for its first meeting. At that meeting and annually thereafter, the members of the board shall elect a chairperson. The board shall act only with the concurrence of a majority of its members.

- (4) No member of the board, during the member's term, may hold office in a political party or political organization. Except for a judicial member, no member of the board, during the member's term, may hold a compensated public office or public appointment. All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.
- (5) The board shall prescribe general rules governing the conduct of members. A member may be removed by the board for a violation of the rules governing the conduct of members.
- (6) The board shall appoint a chief counsel and other staff, prepare and administer its own budget as provided by law, exercise supervisory and administrative authority over all board staff and board functions, establish and promulgate its own rules of procedure, prepare and disseminate an annual report and take other actions as are necessary to ensure its efficient operation. The budget request of the board shall be made by the board as a separate item in the request submitted by the Supreme Court on behalf of the Judicial Branch to the General Assembly.
- (7) The board shall receive and investigate complaints regarding judicial conduct filed by individuals or initiated by the board; issue subpoenas to compel testimony under oath of witnesses, including the subject of the investigation, and to compel the production of documents, books, accounts and other records relevant to the investigation; determine whether there is probable cause to file formal charges against a justice, judge or justice of the peace for conduct proscribed by this section; and present the case in support of the charges before the Court of Judicial Discipline.
- (8) Complaints filed with the board or initiated by the board shall not be public information. Statements, testimony, documents, records or other information or evidence acquired by the board in the conduct of an investigation shall not be public information. A justice, judge or justice of the peace who is the subject of a complaint filed with the board or initiated by the board or of an investigation conducted by the board shall be apprised of the nature and content of the complaint and afforded an opportunity to respond fully to the complaint prior to any probable cause determination by the board. All proceedings of the board shall be confidential except when the subject of the investigation waives confidentiality. If, independent of any action by the board, the fact that an investigation by the board is in progress becomes a matter of public record, the board may, at the direction of the subject of the investigation, issue a statement to confirm that the

investigation is in progress, to clarify the procedural aspects of the proceedings, to explain the rights of the subject of the investigation to a fair hearing without prejudgment or to provide the response of the subject of the investigation to the complaint. In acting to dismiss a complaint for lack of probable cause to file formal charges, the board may, at its discretion, issue a statement or report to the complainant or to the subject of the complaint, which may contain the identity of the complainant, the identity of the subject of the complaint, the contents and nature of the complaint, the actions taken in the conduct of the investigation and the results and conclusions of the investigation. The board may include with a report a copy of information or evidence acquired in the course of the investigation.

- (9) If the board finds probable cause to file formal charges concerning mental or physical disability against a justice, judge or justice of the peace, the board shall so notify the subject of the charges and provide the subject with an opportunity to resign from judicial office, or when appropriate, to enter a rehabilitation program prior to the filing of the formal charges with the Court of Judicial Discipline.
 - (10) Members of the board and its chief counsel and staff shall be absolutely immune from suit for all conduct in the course of their official duties. No civil action or disciplinary complaint predicated upon the filing of a complaint or other documents with the board or testimony before the board may be maintained against any complainant, witness or counsel.
- (b) There shall be a Court of Judicial Discipline, the composition, powers and duties of which shall be as follows:
- (1) The court shall be composed of a total of eight members as follows: three judges other than senior judges from the courts of common pleas, the Superior Court or the Commonwealth Court, one justice of the peace, two non-judge members of the bar of the Supreme Court and two non-lawyer electors. Two judges, the justice of the peace and one non-lawyer elector shall be appointed to the court by the Supreme Court. One judge, the two non-judge members of the bar of the Supreme Court and one non-lawyer elector shall be appointed to the court by the Governor.
 - (2) Except for the initial appointees whose terms shall be provided by the schedule to this article, each member shall serve for a term of four years; however, the member, rather than the member's successor, shall continue to participate in any hearing in progress at the end of the member's term. All members must be residents of this Commonwealth. No more than two of the members appointed by the Supreme Court may be registered in the same political party. No more than two of the members appointed by the Governor may be registered in the same political party. Membership of a judge or justice of the peace shall terminate if the judge or justice of the peace ceases to hold the judicial

position that qualified the judge or justice of the peace for appointment. Membership shall terminate if a member attains a position that would have rendered that person ineligible for appointment at the time of the appointment. A vacancy on the court shall be filled by the respective appointing authority for the remainder of the term to which the member was appointed in the same manner in which the original appointment occurred. No member of the court may serve more than four consecutive years but may be reappointed after a lapse of one year.

- (3) The court shall prescribe general rules governing the conduct of members. A member may be removed by the court for a violation of the rules of conduct prescribed by the court. No member, during the member's term of service, may hold office in any political party or political organization. Except for a judicial member no member of the court, during the member's term of service, may hold a compensated public office or public appointment. All members of the court shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.
- (4) The court shall appoint staff and prepare and administer its own budget as provided by law and undertake actions needed to ensure its efficient operation. All actions of the court, including disciplinary action, shall require approval by a majority vote of the members of the court. The budget request of the court shall be made as a separate item in the request by the Supreme Court on behalf of the Judicial Branch to the General Assembly. The court shall adopt rules to govern the conduct of proceedings before the court.
- (5) Upon the filing of formal charges with the court by the board, the court shall promptly schedule a hearing or hearings to determine whether a sanction should be imposed against a justice, judge or justice of the peace pursuant to the provisions of this section. The court shall be a court of record, with all the attendant duties and powers appropriate to its function. Formal charges filed with the court shall be a matter of public record. All hearings conducted by the court shall be public proceedings conducted pursuant to the rules adopted by the court and in accordance with the principles of due process and the law of evidence. Parties appearing before the court shall have a right to discovery pursuant to the rules adopted by the court and shall have the right to subpoena witnesses and to compel the production of documents, books, accounts and other records as relevant. The subject of the charges shall be presumed innocent in any proceeding before the court, and the board shall have the burden of proving the charges by clear and convincing evidence. All decisions of the court shall be in writing and shall contain findings of fact and conclusions of law. A decision of the court may order removal from office, suspension, censure or other discipline as authorized by this section and as warranted by the record.
- (6) Members of the court and the court's staff shall be

absolutely immune from suit for all conduct in the course of their official duties, and no civil action or disciplinary complaint predicated on testimony before the court may be maintained against any witness or counsel.

(c) Decisions of the court shall be subject to review as follows:

- (1) A justice, judge or justice of the peace shall have the right to appeal a final adverse order of discipline of the court. A judge or justice of the peace shall have the right to appeal to the Supreme Court in a manner consistent with rules adopted by the Supreme Court; a justice shall have the right to appeal to a special tribunal composed of seven judges, other than senior judges, chosen by lot from the judges of the Superior Court and Commonwealth Court who do not sit on the Court of Judicial Discipline or the board, in a manner consistent with rules adopted by the Supreme Court. The special tribunal shall hear and decide the appeal in the same manner in which the Supreme Court would hear and decide an appeal from an order of the court.
 - (2) On appeal, the Supreme Court or special tribunal shall review the record of the proceedings of the court as follows: on the law, the scope of review is plenary; on the facts, the scope of review is clearly erroneous; and, as to sanctions, the scope of review is whether the sanctions imposed were lawful. The Supreme Court or special tribunal may revise or reject an order of the court upon a determination that the order did not sustain this standard of review; otherwise, the Supreme Court or special tribunal shall affirm the order of the court.
 - (3) An order of the court which dismisses a complaint against a judge or justice of the peace may be appealed by the board to the supreme court, but the appeal shall be limited to questions of law. An order of the court which dismisses a complaint against a justice of the supreme Court may be appealed by the board to a special tribunal in accordance with paragraph (1), but the appeal shall be limited to questions of law.
 - (4) No justice, judge or justice of the peace may participate as a member of the board, the court, a special tribunal or the Supreme Court in any proceeding in which the justice, judge or justice of the peace is a complainant, the subject of a complaint, a party or a witness.
- (d) A justice, judge or justice of the peace shall be subject to disciplinary action pursuant to this section as follows:

- (1) A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for conviction of a felony; violation of section 17 of this article; misconduct in office; neglect or failure to perform the duties of office or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute, whether or not the conduct occurred while acting in a judicial capacity or is prohibited by law; or conduct in violation of a canon or rule prescribed by the Supreme Court. In the case of a mentally or physically disabled justice, judge or justice of the peace, the court may enter an order of removal from office, retirement, suspension or other limitations on the activities of the justice, judge or justice of the peace as warranted by the record. Upon a final order of the court for suspension without pay or removal, prior to any appeal, the justice, judge or justice of the peace shall be suspended or removed from office; and the salary of the justice, judge or justice of the peace shall cease from the date of the order.
- (2) Prior to a hearing, the court may issue an interim order directing the suspension, with or without pay, of any justice, judge or justice of the peace against whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph shall not be considered a final order from which an appeal may be taken.
- (3) A justice, judge or justice of the peace convicted of misbehavior in office by a court, disbarred as a member of the bar of the Supreme Court or removed under this section shall forfeit automatically his judicial office and thereafter be ineligible for judicial office.
- (4) A justice, judge or justice of the peace who files for nomination for or election to any public office other than a judicial office shall forfeit automatically his judicial office.
- (5) This section is in addition to and not in substitution for the provisions for impeachment for misbehavior in office contained in Article VI. No justice, judge or justice of the peace against whom impeachment proceedings are pending in the senate shall exercise any of the duties of office until acquittal.

*Adopted April 23, 1968.
Amended May 18, 1993.*

CODE OF JUDICIAL CONDUCT

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Canon 1. A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2. A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL HIS ACTIVITIES

- A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- A judge should not allow his family, social, or other relationships to influence his judicial conduct or judgment. He should not lend the prestige of his office to advance the private interests of others; nor should he convey or knowingly permit others to convey the impression that they are in a special position to influence him. He should not testify voluntarily as a character witness.

Commentary

Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges. A judge must avoid all impropriety and appearance of impropriety. He must expect to be the subject of constant public scrutiny. He must therefore accept restrictions on his conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of a judge as a character witness injects the prestige of his office into the proceeding in which he testifies and may be misunderstood to be an official testimonial. This Canon, however, does not afford him a privilege against testifying in response to an official summons.

Canon 3. A JUDGE SHOULD PERFORM THE DUTIES OF HIS OFFICE IMPARTIALLY AND DILIGENTLY

The judicial duties of a judge take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities

- (1) A judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism.
- (2) A judge should maintain order and decorum in proceedings before him.
- (3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he deals in his official capacity, and should require similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control.

Commentary

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.

- (4) A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, must not consider ex parte communication concerning a pending proceeding.
- (5) A judge should dispose promptly of the business of the court.

Commentary

Prompt disposition of the court's business requires a

judge to devote adequate time to his duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with him to that end.

- (6) A judge should abstain from public comment about a pending proceeding in any court, and should require similar abstention on the part of court personnel subject to his direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

Commentary

"Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by DR 7-107 of the Code of Professional Responsibility.

- (7) A judge should prohibit broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that a judge may authorize:
- (a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;
 - (b) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;
 - (c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:
 - (i) the means of recording will not distract participants or impair the dignity of the proceedings; and
 - (ii) the parties have consented, and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproductions; and
 - (iii) the reproduction will not be exhibited until after the proceedings has been concluded and all direct appeals have been exhausted; and
 - (iv) the reproduction will be exhibited only for instructional purposes in educational institutions.
 - (d) the use of electronic broadcasting televising, recording and taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions of any trial court non-jury civil proceeding, however, for the purposes of this subsection "civil proceedings" shall not be construed to mean a support, custody or divorce proceedings. Subsection (iii) and (iv) shall not apply to non-jury civil proceedings as heretofore defined. No witness or party who expresses any prior objection to the judge shall be photographed nor shall the testimony of such witness or party be broadcast or telecast. Permission for the broadcasting, televising, recording and photographing of any civil

non-jury proceeding shall have first been expressly granted by the judge, and under such conditions as the judge may prescribe in accordance with the guidelines contained in this Order.

Publisher's Note

Paragraph 2 of the order of the Supreme Court of Sept. 20, 1979, amending Canon 3(A)(7) of the Code of Judicial Conduct by adding paragraph (d), provided as follows:

"a. Officers of Court. The judge has the authority to direct whether broadcast equipment may be taken within the courtroom. The broadcast news person should advise the tipstaff prior to the start of a court session that he or she desires to electronically record and/or broadcast live from within the courtroom. The tipstaff may have prior instructions from the judge as to where the broadcast reporter and/or camera operator may position themselves. In the absence of any directions from the judge or tipstaff, the position should be behind the front row of spectator seats by the least used aisle way or other unobtrusive but viable location.

"b. Pooling. Unless the judge directs otherwise, no more than one TV camera should be taking pictures in the courtroom at any one time. Where coverage is by both radio and TV, the microphones used by TV should also serve for radio and radio should be permitted to feed from the TV sound system. Multiple radio feeds, if any, should be provided by a junction box outside of the courtroom, such as in the adjacent public hallway. It should be the responsibility of each broadcast news representative present at the opening of each session of court to achieve an understanding with all other broadcast representatives as to who will function at any given time, or, in the alternative, how they will pool their photo graphic coverage. This understanding should be reached outside the courtroom and without imposing on the judge or court personnel.

"Broadcast coverage outside the courtroom should be handled with care and discretion, but need not be pooled.

"c. Broadcast Equipment. All running wires used should be securely taped to the floor. All broadcasting equipment should be handled as inconspicuously and quietly as reasonably possible. Sufficient file and/or tape capacities should be provided to obviate film and/or tape changes except during court recess. No camera should give any indication of whether it is or is not operating, such as the red light on some studio cameras. No additional lights should be used without the specific approval of the presiding judge, and then only as he may specifically approve.

"d. Decorum. Broadcast representatives' dress should not set them apart unduly from other trial spectators. Camera operators should not move tripod-mounted cameras except during court recesses. All broadcast equipment should be in place and ready to function no less than five minutes before the beginning of each session of court."

Paragraph 3 of the order of Sept. 20, 1979, provided that at the expiration of the one year period during which such order is effective, "Canon 3(A)7 shall be reinstated, without further order of this court, in its form immediately prior to the entry of this Order."

Order of the Supreme Court of Oct. 1, 1980, provided that the order of Sept. 20, 1979, should remain in effect until further order of said court.

B. Administrative Responsibilities

- (1) A judge should diligently discharge his administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.
- (2) A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him.
- (3) A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

Commentary

Disciplinary measures may include reporting a judge's or lawyer's misconduct to an appropriate disciplinary body.

- (4) A judge should not make unnecessary appointments. He should exercise his power of appointment only on the basis of merit, avoiding favoritism. He should not approve compensation of appointees beyond the fair value of services rendered.

Commentary

Appointees of the judge include officials such as referees, commissioners, special masters, receivers, guardians and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by this subsection.

C. Disqualification

- (1) A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where:
 - (a) he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
 - (b) he served as lawyer in the matter of controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

Commentary

A lawyer in a governmental agency does not necessarily have an association with other lawyers employed by that agency within the meaning of this subsection; a judge formerly employed by a governmental agency, however, should disqualify himself in a proceeding if his impartiality might reasonably be questioned because of such association.

- (c) he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a substantial financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

- (d) he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

- (i) is a party to the proceeding, or an officer, director, or trustee of a party;
- (ii) is acting as a lawyer in the proceeding;

Commentary

The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer- relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "his impartiality might reasonably be questioned" under Canon 3C(1), or that the lawyer-relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Canon 3C(1)(d)(iii) may require his disqualification.

- (iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

- (iv) is to the judge's knowledge likely to be a material witness in the proceeding.

- (2) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

- (3) For the purposes of this section:

- (a) the degree of relationship is calculated according to the civil law system;

Commentary

According to the civil law system, the third degree of relationship test would, for example, disqualify the judge if his or his spouse's father, grandfather, uncle, brother, or niece's husband were a party or lawyer in the proceeding, but would not disqualify him if a cousin were a party or lawyer in the proceeding.

- (b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

- (c) "financial interest" means ownership of a legal or equitable interest, if substantial, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

- (i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

- (ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

- (iii) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a substantial "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

- (iv) ownership of securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of securities.

*Amended September 20, 1979, effective October 1, 1979;
amended effective October 1, 1980.*

Canon 4. A JUDGE MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE

A judge, subject to the proper performance of his judicial duties, may engage in the following quasi-judicial activities, if in doing so he does not cast doubt on his capacity to decide impartially any issue that may come before him:

- A. He may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.
- B. He may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and he may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.
- C. He may serve as a member, officer, or director of an organization or governmental agency developed to the improvement of the law, the legal system, or the administration of justice. He may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. He may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Commentary

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice. To the extent that his time permits, he is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of law.

Extra-judicial activities are governed by Canon 5.

Canon 5. A JUDGE SHOULD REGULATE HIS EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH HIS JUDICIAL DUTIES

A. Avocational Activities

A judge may write, lecture, teach, and speak on non-legal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of his office or interfere with the performance of his judicial duties.

Commentary

Complete separation of a judge from extra-judicial activities is neither possible nor wise; he should not become isolated from the society in which he lives.

B. Civic and Charitable Activities

A judge may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties. A

judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

- (1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.

Commentary

The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which he is affiliated to determine if it is proper for him to continue his relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

- (2) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director, or trustee of such an organization. He should not be a speaker or the guest of honor at an organization's fund raising events, but he may attend such events.
- (3) A judge should not give investment advice to such an organization, but he may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

Commentary

A judge's participation in an organization devoted to quasi-judicial activities is governed by Canon 4.

C. Financial Activities

- (1) A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves.
- (2) Subject to the requirement of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity including the operation of a family business.

Commentary

The Effective Date of Compliance provision of this Code qualifies this subsection with regard to a judge engaged in a family business at the time this Code becomes effective.

- (3) A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified. As soon as he can do so without serious financial detriment, he should divest himself of investments and other financial interests that might require frequent disqualification.

- (4) Information acquired by a judge in his judicial capacity should not be used or disclosed by him in financial dealings or for any other purpose not related to his judicial duties.

D. Fiduciary Activities

A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of his family, and then only if such service will not interfere with the proper performance of his judicial duties. "Member of his family" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As a family fiduciary a judge is subject to the following restrictions:

- (1) He should not serve if it is likely that as a fiduciary he will be engaged in proceedings that would ordinarily come before him, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which he serves or one under its appellate jurisdiction.

Commentary

The Effective Date of Compliance provision of this Code qualifies this subsection with regard to a judge who is an executor, administrator, trustee, or other fiduciary at the time this Code becomes effective.

- (2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to him on his personal capacity.

Commentary

A judge's obligation under this Canon and his obligation as a fiduciary may come into conflict. For example, a judge should resign as trustee if it would result in detriment to the trust to divest if of holdings whose retention would place the judge in violation of Canon 5C(3).

E. Arbitration

A judge should not act as an arbitrator or mediator.

F. Practice of Law

A judge should not practice law.

G. Extra-Judicial Appointments

A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

Commentary

Valuable services have been rendered in the past to the states and the nation by judges appointed by the executive to undertake important extra-judicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judicial manpower created by today's crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could

interfere with the effectiveness and independence of the judiciary.

Canon 6. COMPENSATION RECEIVED FOR QUASI-JUDICIAL AND EXTRA-JUDICIAL ACTIVITIES PERMITTED BY THIS CODE

A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge in his judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

A. Compensation

Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

B. Expense Reimbursement

Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge, and where appropriate to the occasion, by his spouse.

Canon 7. A JUDGE SHOULD REFRAIN FROM POLITICAL ACTIVITY INAPPROPRIATE TO HIS JUDICIAL OFFICE

A. Political Conduct in General

- (1) A judge or a candidate for election to judicial office should not:

- (a) act as a leader or hold any office in a political organization;
- (b) make speeches for a political organization or candidate or publicly endorse a candidate for public office, except as authorized in subsection A(2);

Commentary

A candidate does not publicly endorse another candidate for public office by having his name on the same ticket.

- (c) solicit funds for or pay an assessment or make a contribution to a political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions, except as authorized in subsection A(2);
- (2) A judge holding an office filled by public election between competing candidates, or a candidate for such office, may, only insofar as permitted by law, attend political gatherings, speak to such gatherings on his own behalf when he is a candidate for election or reelection, or speak on behalf of any judicial candidate for the same office, identify himself as a member of a political party, and contribute to a political party or organization.
- (3) A judge should resign his office when he becomes a candidate either in a party primary or in a general election for a non-judicial office, except that he may continue to hold his judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention, if he is otherwise permitted by law to do so.
- (4) A judge should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

B. Campaign Conduct

- (1) A candidate, including an incumbent judge, for a judicial office, that is filled either by public election between competing candidates or on the basis of a merit system election:
 - (a) should maintain the dignity appropriate to judicial office, and should encourage members of his family to adhere to the same standards of political conduct that apply to him;
 - (b) should prohibit public officials or employees subject to his direction or control from doing for him what he is prohibited from doing under this Canon; and except to the extent authorized under subsection B(2) or B(3), he should not allow any other person to do for him what he is prohibited from doing under this Canon;
 - (c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or misrepresent his identity, qualifications, present position, or other fact.
- (2) A candidate, including an incumbent judge, for a judicial office that is filled by public election between competing candidates should not himself solicit or accept campaign funds, or solicit publicly stated support, but he may establish committees of responsible persons to secure and manage the expenditure of funds for his campaign and to obtain public statements of support for his candidacy. Such committees are not prohibited from soliciting campaign contributions and public support from lawyers. A candidate's committees may solicit funds for his campaign no earlier than thirty (30) days prior to the first day for filing nominating petitions or the last day for filing a declaration of intention to seek reelection on a retention basis, and all fundraising activities in connection with such judicial campaign shall terminate no later than the last calendar day of the year in which the judicial election is held. A candidate should not use or permit the use of campaign contributions for the private benefit of himself or members of his family.
- (3) An incumbent judge who is a candidate for retention in or reelection to office without a competing candidate may campaign and may obtain publicly stated support and campaign funds in the manner provided in subsection B(2).

Amended November 9, 1998, effective January 1, 1999.

COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT

Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions, including an officer such as a referee in bankruptcy, special master, court commissioner, or magistrate is a judge for the purpose of this Code. All judges should comply with this Code except as provided below.

Senior Judge. A senior judge who receives the same compensation as a full-time judge on the court from which he retired and is eligible for recall to judicial service should comply with all the provisions of this Code except Canon 5G, but he should refrain from judicial service during the period of an extra-judicial appointment not sanctioned by Canon 5G. All other senior judges eligible for recall to judicial service should comply with the provisions of this Code.

This Code shall not apply to justices of the peace, police magistrates of the City of Pittsburgh and judges of the Traffic Court of the City of Philadelphia.

Note

Specific rules governing standards of conduct of justices of the peace, including police magistrates of the City of Pittsburgh and judges of the Traffic Court of the City of Philadelphia, are set forth in the Rules Governing Standards of Conduct of Justices of the Peace.

Amended effective January 22, 1974.

EFFECTIVE DATE OF COMPLIANCE

A person to whom this Code becomes applicable should arrange his affairs as soon as reasonably possible to comply with it. If, however, the demands on his time and the possibility of conflicts of interest are not substantial, a person who holds judicial office on the date this Code becomes effective may:

- (a) continue to act as an officer, director, or nonlegal advisor of a family business;
- (b) continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of his family.

The effective date of this Code shall be January 1, 1974.

RELIANCE ON ADVISORY OPINIONS

The Ethics Committee of the Pennsylvania Conference of State Trial Judges is designated as the approved body to render advisory opinions regarding ethical concerns involving judges, justices and other judicial officers subject to the Code of Judicial Conduct, and although such opinions are not per se binding upon either the Judicial Inquiry and Review Board or the Supreme Court of Pennsylvania, action taken in reliance thereupon and pursuant thereto shall be taken into account in determining whether discipline should be recommended or imposed.

Added September 9, 1991.

RULES GOVERNING STANDARDS OF CONDUCT OF DISTRICT JUSTICES

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RULE 1. INTEGRITY AND INDEPENDENCE OF JUDICIARY

An independent and honorable judiciary is indispensable to justice. A district justice should participate in establishing, maintaining and enforcing, and shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of these rules governing standards of conduct of district justices shall be construed and applied to further that objective.

Note

This rule is derived from Canon 1, American Bar Association Code of Judicial Conduct. This and the following rules governing standards of conduct of district justices provide a complete and exclusive code of conduct for justices of the peace in Pennsylvania. Those canons of the Code of Judicial Conduct of the American Bar Association

thought applicable to district justices have been paraphrased in these rules, and some of the former standards of conduct rules, which were thought to be more pertinent to district justices in Pennsylvania than counterpart canons of the American Bar Association Code of Judicial Conduct, have been retained. In determining the standards that apply to him, the district justice need now consult only these rules and will not be required to consult other sources as was the case heretofore.

When canons of the American Bar Association Code of Judicial Conduct have been paraphrased in these rules, pertinent official commentaries to those canons and those parts of the canons thought to be merely expository are set forth in the notes rather than in the rules.

Former Rule 1, relating to the priority of judicial business, revoked Feb. 1, 1973.

*New Rule 1 adopted effective Feb. 1, 1973.
Amended June 30, 1982, effective 30 days after July 17, 1982.*

RULE 2. IMPROPRIETY AND APPEARANCE OF IMPROPRIETY TO BE AVOIDED; VOLUNTARY APPEARANCE AS CHARACTER WITNESS PROHIBITED

- A. A district justice shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. A district justice shall not allow his family, social or other relationships to influence his judicial conduct or judgment. He shall not lend the prestige of his office to advance the private interest of others, nor shall he convey or permit others to convey the impression that they are in a special position to influence him.
- B. A district justice shall not testify voluntarily as a character witness.

Note

This rule is derived from Canon 2, American Bar Association Code of Judicial Conduct, and Pa.R.J.A. No. 1701. Public confidence in the judiciary is eroded by irresponsible or improper conduct by members of the judiciary. A district justice must avoid all impropriety and appearance of impropriety. He must expect to be the subject of constant public scrutiny. He must therefore accept restrictions on his conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of a district justice as a character witness injects the prestige of his office into the proceeding in which he testifies and may be misunderstood to be an official testimonial. Rule 2B, however, does not afford him a privilege against testifying as a character witness in response to a subpoena the issuance of which has been specifically allowed by the Supreme Court under Pa.R.J.A. No. 1701.

*Former Rule 2, relating to public office and political activity, revoked Feb. 1, 1973.
New Rule 2 adopted effective Feb. 1, 1973.*

Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 3. PRIORITY OF JUDICIAL BUSINESS

- A. A district justice shall devote the time necessary for the prompt and proper disposition of the business of his office, which shall be given priority over any other occupation, business, profession, pursuit or activity.
- B. A district justice shall not use or permit the use of the premises established for the disposition of his magisterial business for any other occupation, business, profession or gainful pursuit.

Note

This rule is derived from former Rule 1.

*Former Rule 3, relating to the prohibited practice of attorneys, revoked Feb. 1, 1973.
New Rule 3 adopted effective Feb. 1, 1973.*

Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 4. ADJUDICATIVE RESPONSIBILITIES

- A. A district justice shall be faithful to the law and maintain competence in it. He shall be unswayed by partisan interests, public clamor or fear of criticism.

- B. A district justice shall maintain order and decorum in the proceedings before him. He shall wear judicial robes while conducting hearings and trials.
- C. A district justice shall be patient, dignified and courteous to litigants, witnesses, lawyers and others with whom he deals in his official capacity, and shall require similar conduct of lawyers, of his staff and others subject to his direction and control.
- D. A district justice shall accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. A district justice, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before him if he gives notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunities to respond.

Note

This rule is derived in part from Canon 3A(1)-(4) of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct. District justices are to be provided with the judicial robes required by subdivision B as part of the expense of operating their offices (see Rule 101(3)). The proscription against communications in subdivision D includes communications from lawyers, law teachers and other persons who are not participants in the proceeding, except to the limited extent permitted. It does not preclude a district justice from consulting with other members of the judiciary or with court personnel whose function it is to aid the judiciary in carrying out adjudicative responsibilities.

Former Rule 4, relating to incompatible practices revoked Feb. 1, 1973.

New Rule 4 adopted effective Feb. 1, 1973.

Amended Oct. 17, 1975, effective in 90 days; June 30, 1982, effective 30 days after July 17, 1982.

RULE 5. ADMINISTRATIVE RESPONSIBILITIES

- A. A district justice shall diligently discharge his administrative responsibilities, maintain competence in judicial administration and facilitate the performance of the administrative responsibilities of his staff and of other members of the judiciary and court officials.
- B. A district justice shall require his staff to observe the standards of fidelity and diligence that apply to him.
- C. A district justice shall not make unnecessary appointments to his staff. He shall exercise any such power of appointment that he may have only on the basis of merit, avoiding nepotism and favoritism.

Note

This rule is derived from Canon 3B(1), (2) and (4), American Bar Association Code of Judicial Conduct.

Former Rule 5, relating to the canons of judicial ethics, revoked Feb. 1, 1973.

New Rule 5 adopted effective Feb. 1, 1973.

Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 6. PUBLIC COMMENT

A district justice shall abstain from public comment about a proceeding pending or impending in his office or in any

court, and shall require similar abstention on the part of his staff. This rule does not prohibit district justices from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

Note

This rule is derived from Canon 3A(6), the American Bar Association Code of Judicial Conduct.

Former Rule 6, relating to transfer of dockets and other papers, adopted effective May 1, 1970; renumbered as Rule 7 effective May 1, 1970; amended June 1, 1971; revoked Feb. 1, 1973. New Rule 6 adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 7. BROADCASTING, TELEVISING, RECORDING, PHOTOGRAPHY

A district justice shall prohibit broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions or recesses between sessions, except that a district justice may authorize:

- (1) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration; and
- (2) the broadcasting, televising, recording or photographing of investitive or ceremonial proceedings.

Note

This rule is derived from Canon 3A(7)(a), (b) of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct. With respect to proceedings before district justices, it did not seem desirable to include the authority for reproduction for educational purposes set forth in Canon 3A(7)(c). This rule is not intended to affect or limit Pa.R.Crim.P. 27.

Former Rule 6, relating to definitions, renumbered Rule 7 May 1, 1970; revoked Feb. 1, 1973.

New Rule 7 adopted effective Feb. 1, 1973.

Amended Oct. 17, 1975, effective in 90 days; June 30, 1982, effective 30 days after July 17, 1982.

RULE 8. DISQUALIFICATION

A. A district justice shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where:

- (1) he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings;
- (2) he served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the district justice or such lawyer has been a material witness concerning it;
- (3) he knows that he, individually or as a fiduciary, or his spouse or a minor child residing in his household has a financial interest in the subject matter in controversy or in a party to the proceeding or any other interest

that could be substantially affected by the outcome of the proceeding;

- (4) he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person;

(a) is a party to the proceeding, or an officer, director or trustee of a party;

(b) is acting as a lawyer in the proceeding;

(c) is known by the district justice to have an interest that could be substantially affected by the outcome of the proceeding;

(d) is to the knowledge of the district justice likely to be a material witness in the proceeding.

- B. A district justice shall inform himself about his personal and fiduciary financial interests and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

Note

This rule is derived from Canon 3C, American Bar Association Code of Judicial Conduct. For the purpose of this rule, "fiduciary" includes such relationships as executor, administrator, trustee and guardian, and "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor or other active participant in the affairs of a party, except that: (1) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the justice of the peace participates in the management of the fund; (2) an office in an educational, religious, charitable, fraternal or civic organization is not a "financial interest" in securities held by the organization; (3) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or a similar proprietary interest is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest; and (4) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities. "Degree of relationship" is calculated according to the civil law system. Thus, the third degree of relationship test would, for example, disqualify the district justice if his or his spouse's father, grandfather, uncle, brother or niece's husband were a party or a lawyer in the proceeding, but would not disqualify him if a cousin were a party or lawyer in the proceeding.

A lawyer in a governmental agency does not necessarily have an association with other lawyers employed by that agency within the meaning of subdivision A(2). A district justice formerly employed by a governmental agency, however, should disqualify himself in a proceeding if his impartiality might reasonably be questioned because of such association.

The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer relative of the district justice is affiliated does not of itself disqualify the justice of the peace. Under appropriate circumstances, the fact that "his impartiality might reasonably be questioned" under subdivision A, or that the lawyer-relative is known by the

district justice to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under subdivision A(4)(c) may require his disqualification.

Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 9. REMITTAL OF DISQUALIFICATION; MINIMIZING DISQUALIFICATION

- A. A district justice disqualified by Rule 8A(3) or (4) may, instead of withdrawing from the proceeding, disclose the basis of his disqualification. If, based on such disclosure, the parties and lawyers, independently of the participation of the district justice, all agree in writing that the relationship of the district justice is immaterial or that his financial interest is insubstantial, the district justice is no longer disqualified and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be attached to the record copy of the complaint form.
- B. A district justice shall manage his investments and other financial interests to minimize the number of cases in which he is disqualified. As soon as he can do so without serious financial detriment, he shall divest himself of investments and other financial interests that might require frequent disqualification.

Note

Subdivision A is derived from Canon 3D, American Bar Association Code of Judicial Conduct. The procedure in this subdivision is designed to minimize the chance that a party or lawyer will feel coerced into an agreement. When a party is not immediately available, the district justice may proceed on the written assurance of the lawyer that his party's consent will be subsequently filed.

Subdivision B is derived from Canon 5C(3), American Bar Association Code of Judicial Conduct.

Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 10. INFORMATION ACQUIRED IN JUDICIAL CAPACITY

Information acquired by a district justice in his judicial capacity shall not be used or disclosed by him in financial dealings or for any other purpose not related to his judicial duties.

Note

This rule is derived from Canon 5C(7), American Bar Association Code of Judicial Conduct.

Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 11. SOLICITATION OF FUNDS

A district justice shall not solicit funds for any educational, religious, charitable, fraternal or civic organization, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director or trustee of such an organization. He shall not be a speaker or the guest of honor at such an organization's public fund raising events, but he may attend such events.

Note

This rule is derived from Canon 5B(2), American Bar Association Code of Judicial Conduct.

Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 12. GIFTS AND LOANS

- A. A district justice may accept a gift incident to a public testimonial to him and books supplied by publishers on a complimentary basis for public use. A district justice or a member of his family residing in his household may accept ordinary social hospitality; a gift, bequest, favor or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not district justices; or a scholarship or fellowship awarded on the same terms applied to other applicants.
- B. A district justice or a member of his family residing in his household may accept any other gift, bequest, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before the district justice.

Note

This rule is derived from Canon 5C(4), American Bar Association Code of Judicial Conduct. For the purpose of this rule, "member of his family residing in his household" means any relative of the justice of the peace by blood or marriage, or a person treated by the district justice as a member of his family, who resides in his household.

Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 13. INCOMPATIBLE PRACTICES

District justices, constables and all employees assigned to or appointed by district justices shall not engage, directly or indirectly, in any activity or act incompatible with the expeditious, proper and impartial discharge of their duties, including, but not limited to, (1) in any activity prohibited by law; (2) in the collection business; or (3) in the acceptance of any premium or fee for any judicial bond. A district justice shall not exploit his judicial position for financial gain or for any business or professional advantage. A district justice shall not receive any fee or emolument for performing the duties of an arbitrator.

Note

The next to the last sentence of this rule is derived in part from Canon 5C(1) of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct.

Adopted effective Feb. 1, 1973. Amended April 25, 1979, effect in 30 days; June 30, 1982, effective 30 days after July 17, 1982.

RULE 14. PROHIBITED PRACTICE OF ATTORNEY DISTRICT JUSTICES

- A. An attorney who is a district justice shall not practice before any district justice in the Commonwealth, nor shall he act as a lawyer in a proceeding in which he has served as a district justice or in any other proceeding related thereto. Nor shall he practice criminal law in the county within which his magisterial district is located. An employer, employee, partner or office associate of such district justice shall not appear or practice before him.
- B. An attorney who is a district justice shall not practice before, or act as an attorney or solicitor for, any county

or local municipal, governmental or quasi governmental agency, board, authority or commission operating within the Commonwealth.

Note

Subdivision A of this rule is derived from former Rule 3A and Compliance Exception A(2), American Bar Association Code of Judicial Conduct. Subdivision B is derived from former Rule 3B. This rule contains all the prohibitions upon the practice of law by attorney district justices that were thought necessary.

Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982.

RULE 15. PUBLIC OFFICE AND POLITICAL ACTIVITY

- A. A district justice shall not hold another office or position of profit in the government of the United States, the Commonwealth or any political subdivision thereof, except in the armed services of the United States or the Commonwealth.
- B. A district justice or a candidate for such office shall not:
- (1) hold office in a political party or political organization or publicly endorse candidates for political office.
 - (2) engage in partisan political activity, deliver political speeches, make or solicit political contributions (including purchasing tickets for political party dinners or other functions) or attend political or party conventions or gatherings, except as authorized in subdivision C of this rule. Nothing herein shall prevent a district justice or a candidate for such office from making political contributions to a campaign of a member of his immediate family.
- C. A district justice or a candidate for such office may, in the year he runs for office, attend political or party conventions or gatherings, speak to such gatherings or conventions on his own behalf, identify himself as a member of a political party, and contribute to his own campaign, a political party or political organization (including purchasing tickets for political party dinners or other functions).
- D. With respect to his campaign conduct, a district justice or a candidate for such office shall:
- (1) maintain the dignity appropriate to judicial office, and shall encourage members of his family to adhere to the same standards of political conduct that apply to him.
 - (2) prohibit public officials or employees subject to his direction or control from doing for him what he is prohibited from doing under this rule; and except to the extent authorized under subdivision D(4) of this rule shall not allow any other person to do for him what he is prohibited from doing under this rule.
 - (3) not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or misrepresent his identity, qualifications, present position or other fact.
 - (4) not himself solicit or accept campaign funds, or solicit publicly stated support, but he may establish committees of responsible persons to secure and

manage the expenditure of funds for his campaign and to obtain public statements of support for his candidacy. Such committees are not prohibited from soliciting campaign contributions and public support from lawyers. A candidate's committees may solicit funds for his campaign no earlier than thirty (30) days prior to the first day for filing nominating petitions, and all fundraising activities in connection with such campaign shall terminate no later than the last calendar day of the year in which the election is held. A candidate should not use or permit the use of a campaign contribution for the private benefit of himself or members of his family.

Amended November 9, 1998, effective January 1, 1999.

- E. A district justice shall resign his office when he becomes a candidate either in a party primary or in a general election for a non-judicial office.

Note

This rule is derived from former Rule 15 and from Canon 7 of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct. It should be noted that this rule prohibits only political activity that is partisan in nature and consequently there is no objection to a district justice becoming engaged in political activity of a public service nature, such as, for example, political activity in behalf of measures to improve the law, the legal system or the administration of justice.

Adopted effective Feb. 1, 1973.

Amended Oct. 17, 1975, effective in 90 days; June 30, 1982, effective 30 days after July 17, 1982.

RULE 16. TRANSFER OF DOCKETS AND OTHER PAPERS

- A. Except for judges of the Pittsburgh Magistrates Court and of the traffic courts of Pittsburgh and Philadelphia, every district justice shall on the expiration of his term of office, or upon the effective date of his resignation or removal from office or upon his abandonment of his office or its duties, deliver all his dockets and other official or like papers to the magisterial office established for the magisterial district in which the former or inactive district justice maintained his residence.
- B. If a district justice dies while in office, his personal representative shall make any delivery required under subdivision A of this rule.

Note

Adopted effective Feb. 1, 1973.

Amended effective Jan. 22, 1974,

amended April 25, 1979, effective in 30 days,

June 30, 1982, effective 30 days after July 17, 1982.

RULE 17. SUPERVISION OF DISTRICT JUSTICES BY PRESIDENT JUDGES

The president judge of the court of common pleas of a judicial district shall exercise general supervision and administrative control over district justices within his judicial district.

Note

*The striking of constables from the heading and body of Rule 17 is pursuant to the Pennsylvania Supreme Court holding in *Rosenwald v. Barbieri*, 501 Pa. 563, 462 A.2d 644, 1983.*

*Adopted effective Feb. 1, 1973.
Amended effective April 3, 1973;
amended April 25, 1979, effective in 30 days;
June 30, 1982, effective 30 days after July 17, 1982;
amended effective June 20, 1985.*

RULE 18. APPLICABILITY TO JUDGES OF THE PITTSBURGH MAGISTRATES COURT AND OF THE TRAFFIC COURTS OF PITTSBURGH AND PHILADELPHIA

Except for Rule 16, the above rules governing standards of conduct for district justices also apply to, and "district justice" as used therein additionally includes, the judges of the Pittsburgh Magistrates Court and of the traffic courts of Pittsburgh and Philadelphia.

Note

*Adopted effective Feb. 1, 1973.
Amended effective Jan. 22, 1974;
amended April 25, 1979, effective in 30 days;
June 30, 1982, effective 30 days after July 17, 1982.*

RULE 19. CERTIFICATION REQUIREMENTS OF INTERESTED PERSONS

District justices, bail commissioners and judges who are not members of the bar of this Commonwealth shall complete a course of training and instruction in the duties of their respective offices and pass an examination and be certified by the Administrative Office of Pennsylvania Courts prior to assuming office. In addition to those required to complete the course of training and instruction, any interested person may apply to the Administrative Office to be enrolled in the course of instruction and take the examination.

Any person successfully completing the course of training and instruction and examination, who has not served as a district justice, bail commissioner or judge within two years, will be required to update his certification by taking a review course as defined by the Minor Judiciary Education Board and passing an examination, prior to being certified by the Administrative Office of Pennsylvania Courts as qualified to perform his or her duties as required by the Constitution of Pennsylvania. Individuals who have completed the continuing education course every year since being certified are exempt from this provision.

Adopted effective Nov. 14, 1990.

RULE 20. CONTINUING EDUCATION REQUIREMENT

Every district justice shall complete a continuing education program each year equivalent to not less than 32 hours per year in such courses or programs as are approved by the Minor Judiciary Education Board. If a district justice fails to meet these continuing education requirements, he or she shall be subject to suspension by the Supreme Court until such time as evidence of compliance with such requirements is submitted by the board, but in no event longer than six months at which time the failure to meet the continuing education requirements shall be grounds for the Supreme Court, after a hearing, to declare a vacancy in that district.

The Minor Judiciary Education Board shall conduct at least one continuing education practicum course, consisting of

not less than 32 hours, which each District Justice or Senior District Justice, whether law trained or non law trained, within twelve months of first assuming office, shall be required to attend. The Board shall approve the length of the program, and the course of instruction. Practicum exercises will be a part of the course of instruction. Senior district justices may petition the Board for a waiver of this requirement.

Adopted effective Nov. 14, 1990.

RULE 21. ADMISSION OF SENIOR DISTRICT JUSTICES AND THOSE PERSONS WHO HAVE SUCCESSFULLY COMPLETED THE COURSE OF TRAINING AND INSTRUCTION AND EXAMINATION AND WHO HAVE NOT SERVED AS A DISTRICT JUSTICE, BAIL COMMISSIONER OR JUDGE

Any district justice who has left that Judicial Office for any good reason and who has been certified by the Administrative Office of Pennsylvania Courts as eligible to serve as Senior District Justice shall be admitted to the continuing education program sponsored by the Minor Judiciary Education board every year as required by 42 Pa.C.S.A., Section 3118. Any person successfully completing the course of training and instruction and examination and who has not served as a district justice, bail commissioner or judge may apply to the Administrative Office of Pennsylvania Courts to be enrolled in the continuing education course based on the availability of space. Such enrollment will be at the expense of the party.

In the event that the Court Administrator of Pennsylvania notifies the Minor Judiciary Education Board that a Senior District Justice has not accepted an assignment for a continuous period of two (2) years, the Minor Judiciary Education Board may refuse enrollment in the continuing education course.

*Adopted effective Nov. 14, 1990.
Amended effective April 12, 1995.*

RULE 22. CONTINUING EDUCATION REQUIREMENT: PHILADELPHIA TRAFFIC COURT

Every Philadelphia Traffic Court judge shall complete a continuing education program each year equivalent to not less than twenty (20) hours per year in such courses or programs as are approved by the Minor Judiciary Education Board. If a Philadelphia Traffic Court judge fails to meet these continuing education requirements he or she shall be subject to suspension until such time as evidence of compliance with such requirements is submitted by the Minor Judiciary Education Board, but in no event for longer than six months at which time the failure to meet the continuing education requirements shall be grounds for removal and the declaration of a vacancy in the Philadelphia Traffic Court.

Adopted effective Sept. 4, 1991.

RULE 81. ACTS OF ASSEMBLY SUSPENDED

All acts of Assembly or parts thereof inconsistent with the Rules Governing Standards of Conduct of District Justices are suspended to the extent of such inconsistency.

*Adopted June 1, 1971.
Amended April 25, 1979, effective in 30 days;
June 30, 1982, effective 30 days after July 17, 1982.*

**COMMONWEALTH OF
PENNSYLVANIA**

JUDICIAL CONDUCT BOARD
Pennsylvania Place
301 Chestnut Street, Suite 403
Harrisburg, PA 17101

(717)-234-7911



OFFICIAL USE ONLY

Rec'd: _____

JCB No: _____

County: _____

CONFIDENTIAL REQUEST FOR INVESTIGATION

INSTRUCTIONS: Please type or print. If you wish to provide documents to support your allegations, please attach copies of those documents. We cannot return documents. The Board's jurisdiction extends only to Pennsylvania Supreme Court Justices, Superior and Commonwealth Court Judges, Common Pleas Court Judges, Philadelphia Municipal and Traffic Court Judges and Magisterial District Judges. Once completed, you must sign and return this form to the address above.

NOTICE: The Judicial Conduct Board has no authority to change a Judge's decisions or rulings. Our jurisdiction extends only to conduct that violates the Code of Judicial Conduct or the Rules Governing Standards of Conduct of District Justices, which may be found at our website at www.lcbpa.org.

Your Information:

Name: _____

Address: _____

Telephone: _____

()

City: _____

State: _____

Zip: _____

()

Judicial Officer's Information:

Name: _____

Type of Judicial Officer:

☐ Magisterial District Judge

County: _____

☐ Judge

Case Information: (If misconduct allegations relate to Court Proceedings.)

☐ Case Has Been Appealed

Case Name: _____

Case Docket Number: _____

Your Attorney:

Opposing Attorney:

Witness:

Name: _____

Name: _____

Name: _____

Address: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Phone: _____

I certify that I have read the information concerning the Judicial Conduct Board's function, jurisdiction, and procedures included in the accompanying brochure. I further swear (or affirm) that the above information is true and accurate. The statements in this complaint are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities.)

Date

Your Signature

Please explain your complaint on the reverse of this form.

**Please use this page to explain your complaint, providing as much detail as possible.
Attach additional pages if needed.**

Please note, it is not required that you present your grievance to the Board in person. Personal interviews are not required and are not usually necessary for our preliminary review, investigation, and understanding of grievances. If we need further information relative to your grievances, you will be contacted by phone or letter and arrangements will be made for an interview if deemed necessary.

Revised: 08/10/2004