

# 2010 Annual Report

COMMONWEALTH OF PENNSYLVANIA

**JUDICIAL CONDUCT BOARD**  
**601 Commonwealth Avenue, Suite 3500**  
**P.O. Box 62525**  
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<http://www.jcbpa.org>

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# Pennsylvania Judicial Conduct Board

<http://www.jcbpa.org>

August, 2011

TO: The Honorable Ronald D. Castille  
Chief Justice  
Supreme Court of Pennsylvania  
1818 Market Street, Suite 3730  
Philadelphia, Pennsylvania 19103

The Honorable Thomas Corbett  
Governor  
Commonwealth of Pennsylvania  
225 Main Capitol  
Harrisburg, Pennsylvania 17120

The Honorable Joseph B. Scarnati III  
President Pro Tempore  
Senate of Pennsylvania  
292 Main Capitol  
Harrisburg, Pennsylvania 17120-3025

The Honorable Samuel H. Smith  
Speaker of the House  
Pennsylvania House of Representatives  
139 Main Capitol  
Harrisburg, Pennsylvania 17120-2066

Matthew J. Creme, Jr., Esquire  
President, Pennsylvania Bar Association  
212 North Queen Street  
Lancaster, Pennsylvania 17603

Pursuant to Article V, Section 18(a)(6) of the Pennsylvania Constitution, and Section 2104 of Title 42, Judiciary and Judicial Procedures, the Judicial Conduct Board of Pennsylvania respectfully submits this Annual Report covering the period from January 1 through December 31, 2010.

This Annual Report is available to the general public on the Board's web site at <http://www.jcbpa.org>.

Respectfully submitted,

On Behalf of the Judicial Conduct Board

  
Joseph A. Massa, Jr., Esquire  
Chief Counsel

## INTRODUCTION

The Pennsylvania Judicial Conduct Board is committed to preserving the honor, dignity, independence, and integrity of Pennsylvania's judiciary on behalf of both the citizens of this Commonwealth and their court system. It is the independent state agency created by the Pennsylvania Constitution to both receive and investigate complaints against Pennsylvania jurists accused of unethical actions. Where appropriate, these complaints are prosecuted in the Court of Judicial Discipline. The successful prosecution of a complaint by the Board can result in the public admonishment, suspension (with or without pay), or removal of an accused judicial officer.

The Board's objective is to enforce high standards of ethical conduct for judges, who must be free to act independently on the merits and in good faith, but who also must be held accountable to the public should they commit misconduct.

During 2010, the Board received 649 complaints – this number of complaints conforms to nationwide statistics reflecting greater scrutiny of judicial conduct. During 2010, the Board filed formal charges against three jurists, and the Board issued 23 notices of full investigation. The Board dismissed 566 complaints as unfounded after preliminary inquiry, and the Board dismissed 24 pending cases following further investigation. Of the 24 cases dismissed after investigation, the Board dismissed 10 by a letter of caution, which is the Board's private "warning" procedure, and the Board dismissed 7 by a letter of counsel. A letter of counsel constitutes a private rebuke by the Board of conduct by a judicial officer that would normally result in the Board's filing of charges before the Court of Judicial Discipline; letters of counsel are issued only in circumstances where the subject judicial officer shows genuine remorse or other mitigating factors are present. This dismissal rate is consistent with Judicial Conduct Boards from our sister states, which dismiss 90% of complaints.

A complaint is not necessarily closed in the year in which it is received. This report covers Board activity in the calendar year 2010.

## 2010 BOARD MEMBERS

<u>JUDGE MEMBERS</u>	<u>ATTORNEY MEMBERS</u>
Honorable James P. Bradley* Court of Common Pleas, Delaware County (Replaced Judge Cunningham) (Term expiration 08/16/2014)	Mark A. Aronchick, Esquire* (Former Vice Chair of Judicial Conduct Board) (Term expiration 08/16/2012)
Honorable Charles J. Cunningham III Court of Common Pleas, Philadelphia County (Term expired 09/14/2010)	Edwin L. Klett, Esquire (Term expired 08/16/2010)
Honorable Christine L. Donohue Superior Court of Pennsylvania (Former Chair of Judicial Conduct Board) (Resigned from the Board 06/21/2011)	James E. McErlane, Esquire* (Term Expiration 08/16/2014)
Honorable Thomas A. Placey* Magisterial District Judge (Term expiration 08/16/2013)	Ayanna M. Lee, Esquire* ( <b>Secretary</b> of Judicial Conduct Board) (Term expiration 08/16/2012)

<u>PUBLIC MEMBERS</u>	
Hank Abate* ( <b>Chair</b> of Judicial Conduct Board) (Term expiration 08/16/2012)	Francis E. Bianconi* (Term expiration 08/16/2014) (Replaced Cynthia N. McCormick)
Peter Capolino* (Term expiration 08/16/2013)	Honorable Samuel J. Magaro* (Retired Magisterial District Judge) ( <b>Vice Chair</b> of Judicial Conduct Board) (Term expiration 8/16/2011)
John R. Cellucci (Term expired 08/16/2010)	
Cecilia Griffin Golden, Ph.D. ( <b>Secretary</b> of Judicial Conduct Board) (Term expired 08/16/2010)	Cynthia N. McCormick (Term expired 09/14/2010)
C. Eugene McLaughlin* (Term expiration 08/16/2014)	Philip P. Ripepi, M.D.* (Term expiration 08/16/2014) (Replaced John R. Cellucci)

<u>BOARD STAFF</u>		
Joseph A. Massa, Jr., Esquire Chief Counsel	Francis J. Puskas II, Esquire Deputy Chief Counsel	Daniel T. Reimer, Esquire Assistant Counsel
George F. Delaney, Jr. Investigator (Harrisburg )	Douglas K. Miller Investigator (Pittsburgh )	Alfred J. Ventura Investigator (Philadelphia)
Paula R. Caruso Executive Secretary	Toni I. Schreffler Legal Assistant	Sandra K. Re Legal Secretary

\* **Current members through August 1, 2011**

Board Member biographies may be found on the Judicial Conduct Board's web site, <http://www.jcbpa.org>

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## MISSION STATEMENT

The Judicial Conduct Board is the state agency mandated by the Pennsylvania state Constitution to investigate complaints of ethical misconduct against judges of Pennsylvania's unified judicial system and, where appropriate, to file formal charges against those judges found to have engaged in unethical behavior.

The Board, through its staff, is required to investigate every allegation made against Pennsylvania state court judges. 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. This standard is set forth both in the Code of Judicial Conduct and in the Rules Governing the Standards of Conduct of Magisterial District Judges.

The members and staff of the Judicial Conduct Board are 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.

# 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, and Magisterial District Judges. 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. **It is not a criminal investigative agency.** 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. Board Members serve staggered four (4) year terms. The Board is comprised of the following individuals:

- Six citizen members who are neither attorneys nor judges;
- Three judges, one from each of the following court levels: an appellate court judge, a common pleas court judge and a magisterial district judge, 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 two appointing authorities - the Governor and the Pennsylvania Supreme Court - neither of whom controls a majority of the appointees to the Board.

## 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 (available on web site <http://www.jcbpa.org>). 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.

# OVERVIEW OF THE BOARD

## Defining Judicial Misconduct

Judicial misconduct is ultimately defined as conduct that violates the Pennsylvania Code of Judicial Conduct or the Rules Governing the Standards of Conduct of Magisterial District Judges. The conduct forming the basis of a judicial misconduct complaint could arise from the judge's in-court violation of the law, meaning the Pennsylvania Crimes Code, or the rules promulgated by the Supreme Court of Pennsylvania. Other examples of in-court or court-related judicial misconduct include inappropriate or demeaning courtroom conduct by a judge, such as yelling, profanity, gender bias, or racial slurs; a judge's improper ex parte communication with only one of the parties or attorneys in a case; a public comment regarding a pending case; or from the judge's failure to recuse or disqualify in a case where the judge has an interest in the outcome. Further, judicial conduct could result from a judge 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 also arise from out-of-court criminal activities, such as theft, driving while intoxicated, improper financial or business dealings, sexual harassment or official oppression. Lastly, 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.

Importantly, however, the Board cannot and does not act as a criminal investigation agency; it has no authority to arrest and imprison a judge. Likewise, the Board cannot intervene in a case pending before a judge.

## Sources of Complaints and Allegations

The Board has the duty to consider allegations from any source, including an individual report to the Board, public news sources, or from information received in the course of an investigation that forms the basis for new allegations. The Board also accepts anonymous complaints, but they are much more difficult to investigate fully and properly.

## Board Limitations

The Board **does not have the authority** to review the correctness of the legal decisions of **any** judge for any possible errors or to change the decision or ruling of any judge, and the Board cannot intervene in a pending case or proceeding. For example, if the Board finds that a judge's actions constitute any form of 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 an appellate court can review and reverse a particular court decision.

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, get prisoners out of jail, or jail a judge who violates the Crimes Code or criminal law.

## 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 Board then considers the results of the investigation in reviewing the complaint. The Board

# OVERVIEW OF 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 because no provisions of the Code of Judicial Conduct or the Rules Governing the Standards of Conduct of Magisterial District Judges have been violated; 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 will:

- Dismiss the complaint because there is no probable cause of judicial misconduct. Typically, the allegations are not within the Board’s jurisdiction, involve legal error, are time barred by the four (4) year statute of limitations, or cannot be corroborated; or
- Issue a Letter of Caution to the accused judge where the conduct did not arise to a violation of the Code or Rules of Conduct but the conduct may lead to judicial misconduct if not corrected; or
- Issue a Letter of Counsel to the accused judge where the evidence suggests that a violation of the Code or Rules was an isolated incident or the result of inadvertence; or
- File formal charges against the accused judge with the Court of Judicial Discipline following a determination that there is probable cause of judicial misconduct.

The types of actions that could be taken by the Court of Judicial Discipline include dismissal of the complaint, public reprimand, suspension with or without pay, and removal from the bench and prohibition from future judicial service. A detailed discussion of the Board’s procedures for analyzing complaints and allegations and an overview of the complaint process is further discussed under the standards for evaluating judicial discipline cases. The number and types of action taken by the Board in calendar year 2010 are presented in the non-public proceedings, private sanction summaries section of this report.

## Board Organization and Staff

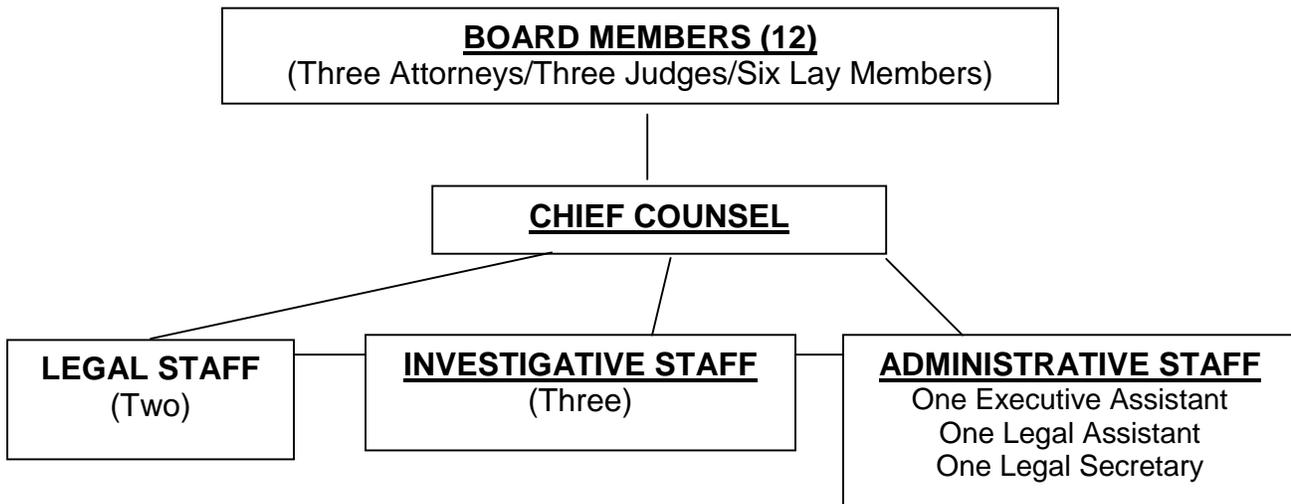
The Board has nine staff positions, including the Chief Counsel, two assistant attorneys, three field investigators, and three support staff. All Board staff members are full-time employees of the Commonwealth of Pennsylvania.

The Board appoints a Chief Counsel, whose general duties include managing and supervising the administrative activities of the Board’s office, its assistant attorneys, investigators, and support staff. The Chief Counsel’s specific responsibilities include the following: reviewing and processing complaints; developing statistics concerning Board activities; preparing the proposed annual budget; administering the funds of the Board; and keeping the Board informed of all developments potentially affecting the work of the Board.

# OVERVIEW OF THE BOARD

The Board's legal staff, which consists of Chief Counsel, two assistant attorneys, a legal assistant and investigators, is responsible for the evaluation and investigation of complaints. The attorneys are primarily responsible for reviewing and evaluating new complaints. The investigators conduct on-site investigations and investigations from the Board's offices. The legal assistant performs legal research.

The Chief Counsel and two assistant 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. When necessary, these attorneys prepare appeals to the Supreme Court of Pennsylvania from rulings in the Court of Judicial Discipline.



## BUDGET

The Judicial Conduct Board's budget is included in the appropriation allotted to the Pennsylvania Judiciary. For the 2009-2010 fiscal year (July 1, 2009 — June 30, 2010), the Board's allocation was \$1,182,000. This appropriation provides funding for salaries and benefits for the staff of the Judicial Conduct Board, as well as annuitant benefits, operational expenses and fixed assets. The Board continues to exercise financial restraint in recognition of the Commonwealth's general budget crisis.

2006-2010 Budgets  
(In Thousands)

Fiscal Year*	Requested Amount	Amount Received	Difference (\$)=shortage
2006-2007	\$1,220	\$1,202	(\$18)
2007-2008	\$1,381	\$1,226	(\$155)
2008-2009	\$1,435	\$1,257	(\$178)
2009-2010	\$1,445	\$1,182	(\$263)
2010-2011	\$1,522	\$1,182	(\$340)

\* The Commonwealth of Pennsylvania operates on a fiscal year basis, July 1 through June 30.

The Judicial Conduct Board's budget is approximately .4% (four tenths of a percent) of the overall Pennsylvania Judiciary's budget.

# OVERVIEW OF THE BOARD

## Outreach and Education

In 2010, the Chief Counsel and Board members issued numerous press releases regarding cases pending in the Court of Judicial Discipline and noting important Board activities. The Board has resolved to expand the functionality of its web site and, resources permitting, to resume its participation in speaking engagements to the bar, the judiciary, and the general public.

## Board Web Site

The Board's web site appears at <http://www.jcbpa.org>. The web site provides downloadable complaint forms. The web site also offers answers to frequently asked questions regarding the Board, such as its composition, structure, and jurisdiction; the judicial complaint process; a description of the range of decisions the Court of Judicial Discipline can make, from dismissal to sanction; and links of interest to other web sites dealing with judicial ethics.

Also included in the web site's information are the Board's governing provisions: Code of Judicial Conduct, Pennsylvania Constitution, Article V, Section 18, Rules Governing Standards of Conduct of Magisterial District Judges, 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 in order to protect complainants from retaliation by accused judges and to protect judges from the embarrassment resulting from the public release of allegations 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.

## Confidentiality of Board Proceedings

Judicial Conduct Board proceedings are strictly confidential by mandate of the Pennsylvania Constitution, Article V, Section 18(a)(8) of the Constitution of the Commonwealth of Pennsylvania, and as restated in Rule 17 of the Judicial Conduct Board Rules of Procedures (J.C.B.R.P.). Also, this Constitutional provision mandates the confidentiality of the fact that a complaint has been filed and is pending before the Board.

## STANDARDS FOR EVALUATING JUDICIAL DISCIPLINE CASES (Non-Exclusive)

The following non-exclusive factors may be considered by the Board in evaluating judicial discipline cases. The Board's thorough focus and evaluation of the nature and extent of the misconduct helps clarify its decision-making process.

### The Nature of the Misconduct

- Whether the misconduct occurred in the judge's official capacity or in the judge's private life

# OVERVIEW OF THE BOARD

- Whether the misconduct occurred in the courtroom or in the judge's administrative role
- Whether the judge exploited the judicial position to satisfy personal desires
- Whether the misconduct constituted a crime, particularly one of a type over which the judge's court has jurisdiction
- Whether the misconduct involved dishonest acts or moral turpitude
- Whether the judge acted in bad faith, good faith, or negligently
- Whether the judge's act was spontaneous, premeditated or deliberate
- Whether the judge was motivated by compassion for others or for personal profit, vindictiveness, ill-will, or other dishonest and selfish motives
- Whether the conduct involved the appearance of impropriety or an actual impropriety
- Whether the misconduct affected or appeared to affect the administration of justice
- Whether the misconduct undermined the ability of the justice system to discover the truth or to reach the most just result or merely delayed the result
- Whether the judge's conduct was contrary to a public policy to which the state has made a commitment
- Whether the misconduct involved the unequal application of justice on the basis of such considerations as race, color, ethnic background, gender, or religion
- Whether the misconduct evidenced lack of independence or impartiality

## The Extent of the Misconduct

- Whether the misconduct was an isolated instance or part of a pattern or course of conduct
- The actual or potential for harm to the court system, to litigants, and to the public's perception of the fairness of the judicial system
  - ✓ The number of victims
  - ✓ The vulnerability of the victims
  - ✓ Whether there was indirect economic detriment to the public

## The Judge's Culpability

- Whether the judge was suffering from personal or emotional problems
- Whether the judge was suffering from physical or mental disability
- Whether the judge was impaired by alcoholism or drug abuse
- Whether the judge's problems were due to stress
- Whether there was judicial precedent that the judge's conduct was unethical
- Whether other judges have been disciplined for similar misconduct
- Whether the judge asked for and complied with a judicial ethics advisory opinion

# OVERVIEW OF THE BOARD

- Whether the judge ignored others' efforts to persuade the judge to change his or her behavior

## The Judge's Conduct in Response to the Board's Inquiry

- Whether the judge acknowledged the misconduct, took responsibility, or showed remorse
- Whether the judge made an effort to change his or her conduct
- Whether the judge attempted to blame his or her conduct on others
- Whether the judge failed to respond to the Board's inquiry
- Whether the judge advanced an unlikely defense
- Whether the judge attempted to interfere with witnesses
- Whether the judge was candid or less than forthcoming with Board counsel or Board Investigator
- Whether the judge presented false evidence or gave false testimony to Board counsel
- Whether the judge gave evasive testimony
- Whether the judge showed a contemptuous attitude toward Board proceedings

## The Judge's Record

- The length of time the judge has served
  - ✓ Whether the judge was experienced and should have been familiar with the high standards for judicial behavior
- Inexperience in the practice of law
- Whether the judge had previous NOFI's or Letters of Counsel
  - ✓ The remoteness of any previous Board action
  - ✓ The similarity between the previous conduct and the current conduct
  - ✓ Whether the judge complied with prior Board recommendations
- The judge's reputation
  - ✓ Positive contributions made by the judge to the court and community
  - ✓ The judge's commitment to fairness and innovated procedural reform
  - ✓ The judge's ability to fairly, effectively and efficiently run a court with a heavy caseload

# PROCEDURE—THE COMPLAINT PROCESS

## Judicial Conduct Board of Pennsylvania – Complaint Resolution Process

INITIAL SCREENING	PRELIMINARY INQUIRY	FULL INVESTIGATION	FORMAL PROCEEDINGS	SUPREME COURT
<p>Chief Counsel reviews each “complaint” to determine whether it is a complaint within the Judicial Conduct Board’s (JCB) jurisdiction.</p> <p>Staff returns non-JCB complaints (i.e., complaints against attorneys or federal judges) to complainant with appropriate instructions.</p> <p>For JCB complaints, staff prepares electronic and paper-copy file, sends acknowledgment letter to complainant, and returns paper-copy file to Chief Counsel.</p> <p>Chief Counsel assigns a staff attorney.</p>	<p>Judicial Conduct Board (JCB) attorney and/or investigator conducts preliminary inquiry, writes preliminary investigation report, and recommends whether to dismiss or to proceed to full investigation as to some or all allegations.</p> <p>Staff distributes preliminary inquiry report and recommendation, along with pertinent materials, to JCB members.</p> <p>JCB meets, reviews and discusses preliminary investigation report and recommendation, and votes to dismiss, to have staff conduct additional preliminary inquiry, or to proceed to full investigation as to some or all allegations.</p>	<p>Staff provides judge with pertinent materials and asks judge to respond in writing to identified allegations.</p> <p>Attorney and/or investigator conduct additional investigation, if necessary, as to issues raised in judge’s response. Investigator may write supplemental investigation report.</p> <p>Staff distributes judge’s response and any supplemental investigation report and recommendation, along with pertinent materials, to JCB members.</p> <p>JCB meets, reviews and discusses judge’s response, and any supplemental investigation report and recommendation, and votes to dismiss, to have staff conduct additional investigation, to issue Letter of Caution or Letter of Counsel, or to proceed to file formal charges before the Court of Judicial Discipline.</p>	<p>Staff prepares formal complaint, files complaint with the Court of Judicial Discipline, and serves same upon judge via certified mail. Matter becomes public upon filing.</p> <p>Judge may file written response.</p> <p>Matter may be resolved by stipulated resolution or public hearing.</p> <p>After a public hearing, the Court of Judicial Discipline may dismiss the matter or may issue a sanction of:</p> <ul style="list-style-type: none"> <li>- Reprimand;</li> <li>- Suspension (with/without pay);</li> <li>- Removal from Office;</li> <li>- Permanent bar from Bench.</li> </ul>	<p>Either the Judicial Conduct Board or the respondent judge may appeal the order of the Court of Judicial Discipline directly to the Supreme Court of Pennsylvania.</p> <p>If the respondent judge is a justice of the Pennsylvania Supreme Court, the appeal is heard by a special tribunal as provided in Act 18(c)(1) of the Pennsylvania Constitution.</p>

# 2010 STATISTICS

## Classification of Allegations

There were 649 complaints received during the 2010 calendar year. The Board classified each complaint received into one of the following categories: (The Board on average received 57 complaints each month.) ***After staff and Board review, 87% of filed complaints were “deemed ‘unfounded’ or without merit.”***

Abuse of Discretion/Office/Power .....	79.....	12.2%
Administrative .....	21.....	3.2%
Bias.....	91.....	14.0%
Conflict of Interest.....	30.....	4.6%
Criminal.....	6.....	.9%
Delay.....	27.....	4.2%
Demeanor.....	43.....	6.6%
Ex Parte .....	4.....	.6%
Impropriety.....	1.....	.2%
Legal.....	326.....	50.2%
Miscellaneous (Nepotism, Mental Health) .....	4.....	.6%
Multiple Issues .....	9.....	1.4%
Neglect.....	1.....	.2%
Perjury .....	1.....	.2%
Political .....	4.....	.6%
Recusal.....	1.....	.2%
Statement of Financial Interest .....	1.....	.2%
 Total.....	 649.....	 100%



## JUDICIAL COMPLEMENT

In 2010, there were 1,221 jurists within the Board’s jurisdiction.

	2010 Jurists	Senior Jurists
Supreme Court	7	0
Superior Court	15	5
Commonwealth	9	5
Common Pleas	426	91
Magisterial District Judges	529	98
Philadelphia Municipal Court	25	2
Philadelphia Traffic Court	7	2
<b>TOTAL</b>	<b>1018</b>	<b>203</b>

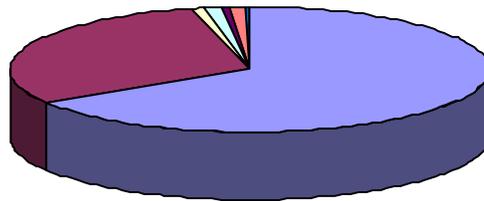


# 2010 STATISTICS

## COMPLAINTS CATEGORIZED BY JUDICIAL OFFICE

In addition to complaints filed properly with the Board, the Board also received complaints concerning individuals who did not fall within the Board's jurisdiction such as attorneys, federal judges, former judges, workers' compensation judges, other government officials and miscellaneous individuals. The Judicial Conduct Board staff responded to each of these complaints and where appropriate, made referrals to complainants of the appropriate disciplinary authority. Complaints received outside of the Board's jurisdiction were not opened as Board cases and are, therefore, not included in the number of opened cases.

LEVEL OF JUDICIAL OFFICE  
(Cases opened during 2010 calendar year)



■ Common Pleas (429)	■ MDJs (194)
□ Supreme Court (6)	□ Superior Court (8)
■ Commonwealth Court (3)	■ Phila. Traffic Court (8)
■ Judicial Candidates (1)	

Complaint Dispositions -- The Board disposed of 596 cases in 2010.

Dismissed After Preliminary Inquiry: Of the 596 cases closed in 2010, 566 were dismissed after preliminary inquiry. These complaints had facts that, even if true, would not constitute judicial misconduct. Investigation showed the allegations were unfounded, were supported by insufficient facts, were not provable, or, when questioned, the judge gave an adequate explanation of the situation. Additionally, not all cases are dismissed in the year in which they are received by the Board.

Letter of Inquiry: The Board typically considers a Letter of Inquiry to be a less serious mode of inquiry to a judicial officer than a Notice of Full Investigation. Letters of inquiry are issued generally when the matter under investigation may constitute misconduct by the judge, but the conduct would not be likely to form the basis of a Court of Judicial Discipline case. The scope of Letters of Inquiry may be broad, although their most common use is with allegations of judicial delay. Ordinarily, a Letter of Inquiry requests only information and does not reference specific violations of the Canons or Constitution. As such, it represents a moderately formal means of seeking information from the respondent judicial officer concerning the alleged events or circumstances. Letters of Inquiry may be sent either formally from a Board directive or sent informally from Chief Counsel. During 2010, the Board and Chief Counsel issued 50 Letters of Inquiry to judicial officers within the Board's jurisdiction.

## 2010 STATISTICS

An important consideration is that with a Letter of Inquiry, the respondent judicial officer is not apprised of any right to counsel as with a Notice of Full Investigation.

After a Letter of Inquiry is issued, staff counsel may determine that subsequent interviews are required either to corroborate or to contradict the respondent judicial officer's written response. Information obtained by the Board through a Letter of Inquiry could lead ultimately to the issuance of a Notice of Full Investigation.

Notice of Full Investigation: If, after a preliminary inquiry into a case, the Board determines that sufficient evidence of judicial misconduct exists such that the case may result in the filing of formal charges in the Court of Judicial Discipline, it will issue a Notice of Full Investigation to the judicial officer. In certain circumstances, the Board may elect to issue a Notice of Full Investigation (i.e. without a formal Letter of Inquiry of the Board or Letter of Inquiry of Chief Counsel) based upon substantiated media reports of criminal misconduct, media reports of a federal or state indictment, or from information of a similar nature from a reliable source. After the Board issues the Notice of Full Investigation, the judicial officer has an opportunity to respond to the allegations in writing. In 2010, the Board issued 23 Notices of Full Investigation. It must also be noted that one Notice of Full Investigation may be inclusive of multiple case numbers.

Dismissed After Full Investigation: Of the cases closed in 2010, the Board dismissed seven (7) dismissed after full investigation, *i.e.*, after it issued a Notice of Full Investigation. In these cases, the Board lacked sufficient evidence after conducting the formal full investigation to continue investigating the matter and/or there was not clear and convincing evidence the alleged misconduct did occur.

Letter of Caution: The Board issued 10 Letters of Caution in 2010. The Board issues Letters of Caution when the judicial officer's conduct constitutes an aberration or an oversight or other minor error in judicial comportment. The purpose of a Letter of Caution is to constitute a "wake-up call" or private warning about conduct that could lead to a finding of judicial misconduct if not corrected promptly by the judicial officer. The judicial officer is not required to sign or accept a letter of caution.

Letter of Counsel: The Board issued seven (7) Letters of Counsel in 2010. The Board issues Letters of Counsel in cases where there is sufficient evidence of judicial misconduct to warrant the filing of formal charges in the Court of Judicial Discipline, but the evidence suggests that it was an isolated incident or first-time infraction by a judicial officer. The Letter of Counsel is a private reprimand and is subject to the judicial officer's acceptance, and evidence of genuine remorse on the part of a judicial officer is weighed heavily by the Board in its decision whether to issue a Letter of Counsel or to file formal charges. The conduct at issue in a Letter of Counsel can be used as evidence against the judicial officer in a complaint before the Court of Judicial Discipline if the judicial officer is charged with a new charge.

Formal Charges: In only three (3) of the 596 closed cases in 2010, the Board filed formal charges with the Court of Judicial Discipline. In these cases, the Board determined there was clear and convincing evidence that judicial misconduct had occurred. Additionally, two judges resigned before the Board filed formal charges against them.



## OPEN COMPLAINTS AS OF DECEMBER 31, 2010

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
43	2010-018	PI
44	2010-021	PI
45	2010-042	PI
46	2010-084	PI
47	2010-087	PI
48	2010-096	PI
49	2010-113	PI
50	2010-116	PI
51	2010-121	PI
52	2010-124	PI
53	2010-125	PI
54	2010-129	PI
55	2010-131	PI
56	2010-139	PI
57	2010-146	PI
58	2010-147	PI
59	2010-151	PI
60	2010-158	PI
61	2010-159	PI
62	2010-165	PI
63	2010-169	PI
64	2010-177	PI
65	2010-178	PI
66	2010-181	PI
67	2010-184	PI
68	2010-174	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
69	2010-190	PI
70	2010-192	PI
71	2010-200	PI
72	2010-201	PI
73	2010-202	PI
74	2010-203	PI
75	2010-204	PI
76	2010-205	PI
77	2010-208	PI
78	2010-209	PI
79	2010-212	PI
80	2010-215	PI
81	2010-216	PI
82	2010-222	PI
83	2010-224	PI
84	2010-226	PI
85	2010-228	PI
86	2010-229	PI
87	2010-230	PI
88	2010-219	PI
89	2010-231	PI
90	2010-233	PI
91	2010-235	PI
92	2010-236	PI
93	2010-237	PI
94	2010-238	PI

## OPEN COMPLAINTS AS OF DECEMBER 31, 2010

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
95	2010-240	PI
96	2010-242	PI
97	2010-244	PI
98	2010-245	PI
99	2010-248	PI
100	2010-250	PI
101	2010-251	PI
102	2010-254	PI
103	2010-256	PI
104	2010-257	PI
105	2010-258	PI
106	2010-260	PI
107	2010-261	PI
108	2010-262	PI
109	2010-264	PI
110	2010-265	PI
111	2010-266	PI
112	2010-259	PI
113	2010-270	PI
114	2010-272	PI
115	2010-277	PI
116	2010-278	PI
117	2010-280	PI
118	2010-281	PI
119	2010-282	PI
120	2010-283	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
121	2010-284	PI
122	2010-285	PI
123	2010-286	PI
124	2010-287	PI
125	2010-288	PI
126	2010-290	PI
127	2010-291	PI
128	2010-292	PI
129	2010-294	PI
130	2010-296	PI
131	2010-297	PI
132	2010-298	PI
133	2010-301	PI
134	2010-302	PI
135	2010-303	PI
136	2010-304	PI
137	2010-305	PI
138	2010-306	PI
139	2010-307	PI
140	2010-309	PI
141	2010-311	PI
142	2010-314	PI
143	2010-315	PI
144	2010-317	PI
145	2010-318	PI
146	2010-319	PI

## OPEN COMPLAINTS AS OF DECEMBER 31, 2010

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
147	2010-322	PI
148	2010-323	PI
149	2010-331	PI
150	2010-333	PI
151	2010-334	PI
152	2010-335	PI
153	2010-337	PI
154	2010-338	PI
155	2010-342	PI
156	2010-343	PI
157	2010-344	PI
158	2010-347	PI
159	2010-348	PI
160	2010-349	PI
161	2010-351	PI
162	2010-352	PI
163	2010-353	PI
164	2010-355	PI
165	2010-358	PI
166	2010-359	PI
167	2010-362	PI
168	2010-363	PI
169	2010-365	PI
170	2010-366	PI
171	2010-368	PI
172	2010-369	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
173	2010-370	PI
174	2010-371	PI
175	2010-373	PI
176	2010-375	PI
177	2010-377	PI
178	2010-380	PI
179	2010-381	PI
180	2010-382	PI
181	2010-385	PI
182	2010-394	PI
183	2010-395	PI
184	2010-396	PI
185	2010-397	PI
186	2010-389	PI
187	2010-391	PI
188	2010-392	PI
189	2010-400	PI
190	2010-401	PI
191	2010-404	PI
192	2010-410	PI
193	2010-411	PI
194	2010-412	PI
195	2010-414	PI
196	2010-415	PI
197	2010-417	PI
198	2010-418	PI

## OPEN COMPLAINTS AS OF DECEMBER 31, 2010

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
199	2010-408	PI
200	2010-409	PI
201	2010-422	PI
202	2010-423	PI
203	2010-424	PI
204	2010-427	PI
205	2010-428	PI
206	2010-431	PI
207	2010-436	PI
208	2010-438	PI
209	2010-439	PI
210	2010-440	PI
211	2010-441	PI
212	2010-443	PI
213	2010-444	PI
214	2010-446	PI
215	2010-451	PI
216	2010-452	PI
217	2010-453	PI
218	2010-454	PI
219	2010-456	PI
220	2010-457	PI
221	2010-458	PI
222	2010-459	PI
223	2010-460	PI
224	2010-489	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
225	2010-463	PI
226	2010-465	PI
227	2010-467	PI
228	2010-468	PI
229	2010-470	PI
230	2010-471	PI
231	2010-472	PI
232	2010-475	PI
233	2010-476	PI
234	2010-477	PI
235	2010-479	PI
236	2010-481	PI
237	2010-483	PI
238	2010-484	PI
239	2010-486	PI
240	2010-527	PI
241	2010-491	PI
242	2010-495	PI
243	2010-499	PI
244	2010-493	PI
245	2010-494	PI
246	2010-496	PI
247	2010-497	PI
248	2010-504	PI
249	2010-505	PI
250	2010-506	PI

## OPEN COMPLAINTS AS OF DECEMBER 31, 2010

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
251	2010-501	PI
252	2010-502	PI
253	2010-507	PI
254	2010-508	PI
255	2010-509	PI
256	2010-511	PI
257	2010-512	PI
258	2010-513	PI
259	2010-516	PI
260	2010-517	PI
261	2010-515	PI
262	2010-518	PI
263	2010-519	PI
264	2010-520	PI
265	2010-522	PI
266	2010-523	PI
267	2010-521	PI
268	2010-524	PI
269	2010-525	PI
270	2010-526	PI
271	2010-528	PI
272	2010-533	PI
273	2010-534	PI
274	2010-540	PI
275	2010-542	PI
276	2010-543	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
277	2010-544	PI
278	2010-545	PI
279	2010-546	PI
280	2010-547	PI
281	2010-548	PI
282	2010-549	PI
283	2010-586	PI
284	2010-550	PI
285	2010-551	PI
286	2010-554	PI
287	2010-555	PI
288	2010-557	PI
289	2010-558	PI
290	2010-559	PI
291	2010-587	PI
292	2010-560	PI
293	2010-561	PI
294	2010-564	PI
295	2010-565	PI
296	2010-566	PI
297	2010-567	PI
298	2010-562	PI
299	2010-563	PI
300	2010-568	PI
301	2010-569	PI
302	2010-570	PI

## OPEN COMPLAINTS AS OF DECEMBER 31, 2010

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
303	2010-571	PI
304	2010-572	PI
305	2010-573	PI
306	2010-574	PI
307	2010-575	PI
308	2010-576	PI
309	2010-577	PI
310	2010-578	PI
311	2010-579	PI
312	2010-580	PI
313	2010-581	PI
314	2010-582	PI
315	2010-583	PI
316	2010-584	PI
317	2010-585	PI
318	2010-588	PI
319	2010-593	PI
320	2010-594	PI
321	2010-595	PI
322	2010-596	PI
323	2010-597	PI
324	2010-590	PI
325	2010-591	PI
326	2010-592	PI
327	2010-598	PI
328	2010-599	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
329	2010-600	PI
330	2010-589	PI
331	2010-601	PI
332	2010-602	PI
333	2010-603	PI
334	2010-604	PI
335	2010-605	PI
336	2010-606	PI
337	2010-607	PI
338	2010-608	PI
339	2010-612	PI
340	2010-609	PI
341	2010-610	PI
342	2010-611	PI
343	2010-619	PI
344	2010-615	PI
345	2010-616	PI
346	2010-617	PI
347	2010-618	PI
348	2010-613	PI
349	2010-620	PI
350	2010-621	PI
351	2010-622	PI
352	2010-614	PI
353	2010-623	PI
354	2010-624	PI

## OPEN COMPLAINTS AS OF DECEMBER 31, 2010

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
355	2010-625	PI
356	2010-626	PI
357	2010-627	PI
358	2010-628	PI
359	2010-629	PI
360	2010-630	PI
361	2010-631	PI
362	2010-632	PI
363	2010-633	PI
364	2010-634	PI
365	2010-635	PI
366	2010-639	PI
367	2010-636	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
368	2010-637	PI
369	2010-638	PI
370	2010-647	PI
371	2010-648	PI
372	2010-640	PI
373	2010-641	PI
374	2010-642	PI
375	2010-643	PI
376	2010-644	PI
377	2010-645	PI
378	2010-646	PI
379	2010-649	PI

**STATUS KEY:**

CJD = Case in process with Court of Judicial Discipline  
 CJD Probation = Court of Judicial Discipline issued probationary sentence  
 DEFERRED = Awaiting criminal investigation  
 LCAU = Letter of Caution issued  
 LINQ = Letter of Inquiry issued  
 PI = Preliminary Inquiry stage  
 NOFI = Notice of Full Investigation stage

### **Non-Public Proceedings** **Private Sanction Summaries**

As stated above, upon conclusion of its investigation of a complaint, the Board may dismiss the matter with a letter to the judicial officer communicating the Board's concern or a warning to the judge not to engage in specified behavior. In 2010, the Board expressed concern or warning to judges about the following types of conduct:

1. **Letters of Counsel** are issued by the Board as a private reprimand in cases where there is sufficient evidence of judicial misconduct to file formal charges with the Court of Judicial Discipline, but mitigating circumstances exist that weigh against the filing of formal charges. The Board's issuance of a Letter of Counsel is subject to judge's acceptance and appearance before the chief counsel of the Judicial Conduct Board.

#### **SUMMARIES**

- Inappropriate Use of Prestige of Office (Canon 2B; Rule 2A); Bringing the Judiciary into Disrepute (Pa.Cons. Art.V, § 18(d)(1):
  - A judge intervened on behalf of an acquaintance following her arrest by the police and, thereafter, contacted the officer on several occasions and requested that he "hold off" on filing any citations against the judge's acquaintance until she could clear up her license suspension issues.
  - While in a local bar, the judge made unwarranted physical contact and verbal advances to an individual with whom he worked in a professional capacity.
- Failure to abide by the Law (Canon 2A; Rule 2A):
  - A judge, in ruling on a traffic citation, would not allow a lay defendant to represent themselves in court without a lawyer, as was their right under the Constitution.
- Failure to Avoid the Appearance of Impropriety (Canon 2A, Rule 2A):
  - A judge, who was part owner of a towing business, ruled on citations filed in his court involving the individual whose car he had towed.
- Failure to Maintain Order and Decorum in the Courtroom (Canon 3A(2); Rule 4B):
  - A judge became impatient and yelled at a witness and a police officer during and immediately after a hearing involving the two individuals. The judge's argument with the police officer escalated to a screaming match, wherein the judge threatened to have the police officer fired.
- Failure to abide by the Law (Canon 2A, Rule 2A); Failure to Maintain Order and Decorum in the Courtroom (Canon 3A(2); Rule 4B):
  - A judge ruled inappropriately on a matter not before his court when ruling on whether a vehicle should have been impounded. The judge also set up improper payment plan procedures on traffic citations.

# 2010 STATISTICS

- The judge also acted playfully and immaturely at different points; for example, he playfully handcuffed a court staff member in the courtroom and he engaged in a shouting match with another judge at a meeting.
- Failure to Maintain Order and Decorum in the Courtroom (Canon 3A(2); Rule 4B); Bringing the Judiciary into Disrepute (Pa.Cons. Art.V, § 18(d)(1):
  - A judge insulted a criminal defendant and physically threatened an assistant public defender after the assistant public defender did not leave his courtroom when asked by the judge.

## 2. **Letters of Caution** (Issued as private warnings of judicial misconduct):

### SUMMARIES

- Abuse of Administrative Responsibilities: (Canon 3B(1); Rule 5):
  - A judge utilized county-issued laptop computers to view sexually-suggestive images despite the existence of a court order forbidding such activity issued previously by that same judge.
- Abuse of Power: (Canon 2A; Rule 2A)
  - A judge required, under threat of incarceration for five days, an individual to apologize to a court employee for insulting that court employee.
- Improper Solicitation of Funds (Rule 2A); Improper Use of Prestige of Office (Rule 11)
  - A judge sold raffle tickets for a charitable organization from his office and advertised the sale of raffle tickets from his office by hanging a flyer at his office.
- Ex Parte Communication (Canon 3(A)(4); Rule 4(D)); Appearance of Partiality (Canon 3(A), Rule 2A)
  - A judge engaged in private conversations with defendants before his court and attempted to effectuate an outcome in these cases. In one instance, the judge wanted to dismiss a case without apparent concern for the merits and without an agreement by the Commonwealth's prosecutors.
- Failure to Disqualify (Canon 3(C)(d)(ii); Rule 8A(4))
  - A judge presided over a matter wherein his first cousin acted as an attorney.
- Failure to be Faithful to and Adhere to the Law: (Canon 1; Rule 4A)
  - The judge erroneously allowed a plaintiff's landlord-tenant complaint to proceed in his court without the plaintiff attaching the lease to the complaint.
- Improper Campaign Conduct: (Canon 7, Rule 15(D))
  - In a hotly-contested election, a judge claimed that his opponent had a pro-criminal defense bias because the opponent was a criminal defense

## 2010 STATISTICS

attorney who spent his career helping criminal defendants “beat the system” and avoid punishment for their actions.

- Failure to Maintain Order and Decorum in the Courtroom (Canon 3A(2); Rule 4B):
  - A judge became impatient and yelled at a police detective after the police detective expressed disapproval of the judge’s dismissal of certain charges against a defendant. As the police detective left the courtroom, the judge stated that the police officer could “go out and trump up more charges” that night.
  
- Failure to be Faithful to and Adhere to the Law: (Canon 1; Rule 4A)
  - The judge failed to pronounce a verdict and sentence at the end of a trial, failed to issue a written order of sentence, and failed to inform the defendant of his rights to appeal the decision.

## STATISTICS

### Summary of Board Activity

#### COMPLAINT DISPOSITION ACTIVITY DURING 2010

Dismissed after Preliminary Inquiry – 566
Letter of Inquiry – 50 (Board 26/Counsel 24)
Notice of Full Investigation – 23 (One Notice of Full Investigation Letter may be inclusive of multiple case numbers.)
Letter of Caution – 10
Letter of Counsel – 7
Formal Charges – 3



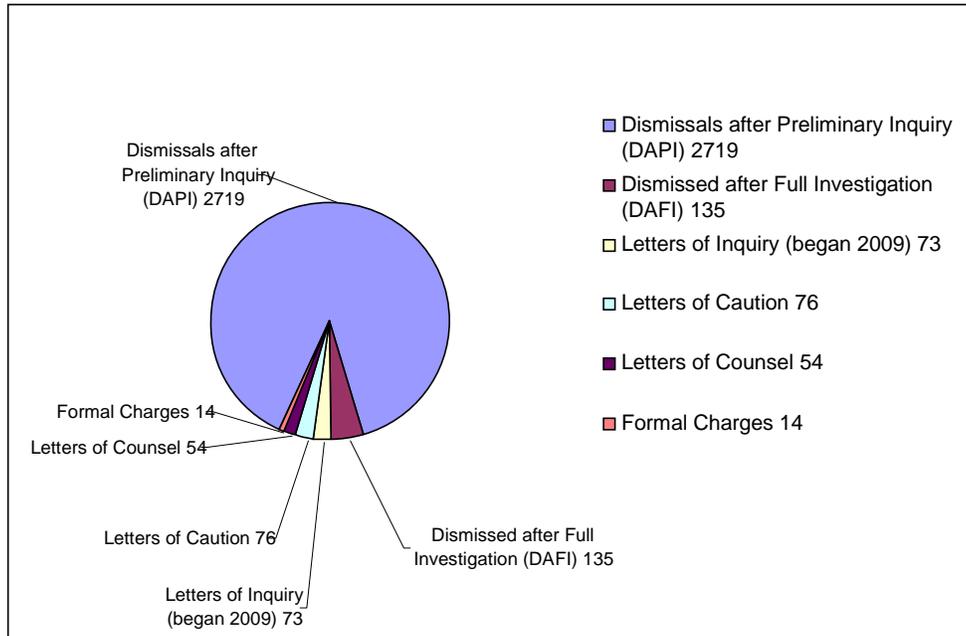
#### Five Year Statistical Summary\*

Year	Complaints Received	Dismissed After Preliminary Inquiry	Letters of Inquiry	Notices of Full Investigation Issued	Letters of Caution Issued	Letters of Counsel Issued	Formal Charges Filed
2006	597	507	n/a	41	15	10	3
2007	620	615	n/a	38	15	20	2
2008	636	579	n/a	18	14	8	2
2009	681	628	23	20	12	4	3
2010	649	566	50	23	10	7	3
<b>Total</b>	3,183	2,895	73	140	66	49	13
Average	636	579	24	37	13	10	3

\*Note: Complaints are not necessarily closed in the year in which received and may remain active case for more than one year. In addition, multiple complaints may be collectively assigned to a judicial officer.

## STATISTICS

### COMPLAINT DISPOSITION: 5-YEAR SUMMARY (Based on calendar years 2006, 2007, 2008, 2009, and 2010)



#### JUDICIAL MISCONDUCT – Five Year Statistics

The following are some types of judicial misconduct that may lead to discipline:

##### Improper Courtroom Decorum

- Rude, abusive, and otherwise improper treatment of parties, counsel, witnesses, jurors, court staff, and others.
- Failing or refusing to dispose promptly of judicial business.
- Improper or eccentric conduct while on the bench, such as sleeping or drunkenness.
- Expressions of bias based on gender, ethnicity, etc.

##### Improper Influence

- Allowing family, social, or political relationships to influence judicial decision-making.
- Conflict of interest.
- Giving or receiving gifts, bribes, loans, or favors.

##### Other Improper or Illegal Activities Including Off-Bench Conduct

- Abusing the contempt power.
- Interfering with the attorney-client relationship.
- Communicating improperly with only one side to a proceeding.
- Commenting or interfering with a pending or impending case.
- Engaging in improper political campaign activities.
- Misappropriating or misusing public property, funds, or resources.
- Violating rules relating to court administration.
- Obstruction of justice, perjury, or filing a false document.
- Ticket-fixing.
- Non-court criminal behavior.
- Use of court resources for personal gain.
- Inappropriate political activity (not related to judge's campaign for judicial office).
- Failure to cooperate with board; lying to board; asking witness to lie.

## SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

If the Board determines that alleged conduct has occurred, it may issue a "Letter of Counsel" privately reprimanding the judge. This private reprimand requires a judge to present himself or herself before Chief Counsel to sign and receive the Letter of Counsel containing the Board's official disapproval and reprimand. As part of this process, a judge must agree that the "Letter of Counsel" may be used in future court proceedings should new complaints be filed against him or her.

Over the past five years, examples of the complaints resulting in this private discipline include:

- Political activity of staff;
- Failure to disclose to litigants information that might warrant recusal.
- Inappropriate demeanor (inside/outside the courtroom, ex parte communications, and political activity).
- Improper delay in addressing court matters ripe for disposition.
- Failure to reside within magisterial district (ultimate resignation).
- Alteration of official court documents.
- Inappropriate remarks to a victim seeking a protection from abuse order (PFA).
- Maintaining a list of police officers who had cooperated with Board investigations, containing disparaging comments describing each police officer.
- Public comment regarding pending legal issues.
- Verbal abuse or derogatory comments.

## SUMMARY OF COURT OF JUDICIAL DISCIPLINE (CJD) SANCTIONS IMPOSED 2010 TO 1993

[NOTE: Bd=Judicial Conduct Board; R=Respondent or Judge whom the complaint is directed]

<u>JUDICIAL OFFICER</u>	<u>DESCRIPTION OF MISCONDUCT</u>	<u>DATE &amp; SANCTION IMPOSED</u>
Former MDJ David J. Murphy 1 JD 2010	Murphy forged the signatures of 64 individuals in connection with his re-election campaign for magisterial district judge in 2009. This conduct pre-emptorily appropriated the voting rights of the electors whose names were forged upon the petition and, as such, was so extreme that it brought the judiciary into disrepute.	1/11/11 Retroactively removed from office and prohibited from holding any judicial office in Pennsylvania.
MDJ Gerard Alonge 4 JD 2009	Alonge's "bizarre" and "weird" conduct toward 5 young women was antithetical to the reasonable expectations of the public as to how a judicial officer should conduct himself and so extreme that it brought the judicial office into disrepute	07/21/10 Suspended W/O pay for 60 days. Probation until 12/31/11 with continuing medical care; monthly report by JCB to CJD re: compliance.
MDJ Susan McEwen 3 JD 2009	Bd and R's counsel entered into joint agmt to withdraw charges due to medical reports filed under seal with the Ct. Bd filed Motion to Withdraw, W/O Prejudice and attached the agmt	06/24/10 Granted Motion to Withdraw W/O Prejudice and case closed
CP Willis W. Berry 1 JD 2009	For more than a decade operated a private real estate business out of judicial chambers, utilizing his judicial secretary and judicial resources and failing to comply with various building and safety codes	07/15/09 (Effective 08/16/09) 4 month suspension without pay; medical benefits remain intact

## SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

<u>JUDICIAL OFFICER</u>	<u>DESCRIPTION OF MISCONDUCT</u>	<u>DATE &amp; SANCTION IMPOSED</u>
TC Judge Willie Singletary 1 JD 2008	During campaign personally solicited funds and personally accepted funds	01/23/09 Public Reprimand; Probation until 1/23/2011; Report monthly to Chief Counsel and reports to be filed by JCB with CJD
MC Judge James M. DeLeon 2 JD 2008	Allowed a social relationship to influence his judicial conduct; lent the prestige of his office to advance the private interests of others; engaged in ex parte communications; disrepute	01/05/09 Count 1 re disrepute dismissed after oral argument on 503(B) Objections 01/05/09 3 month suspension w/o pay; Probation until 1/2/12
CP Judge Ann H. Lokuta 3 JD 2006	Failure to be patient, dignified and courteous to others in courtroom and in chambers; failure to promptly dispose of the business of the court; failure to diligently discharge her administrative responsibilities; failure to facilitate the performance of administrative responsibilities of other judges and court officials; failure to disqualify herself from 2 cases, impartiality reasonably questioned because of personal bias or prejudice toward a party; Respondent's conduct brought disrepute and prejudiced the proper administration of justice	12/09/08 Removal; ineligible for future judicial office  1/14/2011 AFFIRMED BY PA. Supreme Court  **Currently on appeal to US Supreme Court
Former MDJ Daniel S. Davis 2 JD 2007	Failure to hold hearings as required by law re defendant's financial ability to pay fines and costs; imposition of illegal sentences; failure to properly supervise his constable	05/14/08 Public reprimand; based on prior resignation from office and assurance will not seek judicial office in the future
MDJ Maynard A. Hamilton 2 JD 2006	Judge punched off-duty police officer at a golf club and then told the officer's wife she could go pick him up off the floor	08/03/07 9 month suspension w/o pay, medical benefits remain intact; probation for 1 year following suspension
Former MDJ Wade J. Brown 4 JD 2005	Repeatedly used racially and ethnically insensitive and inappropriate terms in referring to minorities in the presence of his staff and law enforcement; repeatedly treated female members of his staff in a demeaning manner; and indecorous behavior toward members of his staff	10/02/06 Reprimand; based on prior resignation from office and assurance will not seek judicial office in the future
MDJ Ernest L. Marraccini 2 JD 2005	Judge's dealing with defendant's in cases in the waiting room outside the courtroom deemed impatient and undignified	10/02/06 Reprimand
Former MDJ Joseph Zupsic 1 JD 2005	Attempted to influence outcome of 4 cases by influencing prosecuting officers, a chief of local police, and persuading a prosecution witness to reduce a charge; failure to disqualify from 4 cases	03/13/06 Removal; ineligible for future judicial office

## SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

<u>JUDICIAL OFFICER</u>	<u>DESCRIPTION OF MISCONDUCT</u>	<u>DATE &amp; SANCTION IMPOSED</u>
CP Judge William R. Shaffer 3 JD 2005	Inordinate decisional delay ranging from 6 months to 34 months in 9 cases; Falsely filed Pa.R.J.A. Rule 703 Reports representing he had no matters awaiting decision 90 days or more	11/18/05 Reprimand; 6 month probation as follows: dispose of all matters pending within 90 days of the date they become ripe for decision; file 703 Reports with the AOPC in accordance with directives of Rule 703; and file a copy of the reports with the JCB
Former Magistrate Moira C. Harrington 6 JD 2004	Traffic Court judge parked her motor vehicle at expired parking meters on a number of occasions placing on her windshield parking tickets which had been issued to others for overtime parking of other vehicles	05/18/05 Barred from holding judicial office for 5 years; 06/26/06 Supreme Court affirmed order
MDJ Allan C. Berkheimer 4 JD 2004	Subjected 3 female employees in his office to expletive-filled language on a daily basis, as well as offensive comments intended to embarrass; had his employees send congratulatory notes known as "Quickie Notes" by mail to constituents to acknowledge an accomplishment	06/28/05 Removal; 08/20/07 Supreme Court affirmed removal order
MDJ Edward E. Hartman 5 JD 2004	Public endorsement of candidate for political office, engaged in partisan political activity and attended political gathering, used his office and courtroom for solicitation and collection of funds for various charitable and community organizations, ex parte communication with a litigant, and made prejudicial remarks at conclusion of trial	05/18/05 Reprimand
CP Judge Mark P. Pazuhanich 3 JD 2004	Information charged judge with Public drunkenness, 2 counts of Indecent Assault, Engangering the Welfare of Children, and Corrupting the Morals of a minor; judge plead "no contest"	10/01/04 Removal; ineligible for future judicial office
DJ Joseph Toczydlowski, Jr. 1 JD 2004	Possession of small amounts of marijuana on two occasions, a misdemeanor	06/25/04 Reprimand
DJ Ronald Amati 4 JD 2003	Conviction of 3 counts of criminal conduct: conspiracy to commit offense or defraud the U.S., prohibition of illegal gambling businesses, and obstruction of state or local law enforcement	03/08/04 Removal; ineligible for future judicial office
DJ Richard K. McCarthy 3 JD 2002	Drinking to point of extreme intoxication at bars close by his office during hours	07/14/03 6 month suspension, first 2 months w/o pay; Supreme Court affirmed order
CP Judge Joseph A. Jaffe 2 JD 2003	Conviction of felonies involving extortion of funds from 2 lawyers who had cases pending before him	01/12/04 Removal; ineligible for future judicial office
DJ Allan C. Berkheimer 1 JD 2003	Attempted to influence outcome of case by contacting arresting police officer	05/20/03 Reprimand
CP Judge Joseph A. Jaffe 6 JD 2002	Felony indictment involving extortion of funds from 2 lawyers who had cases pending before him	01/15/03 Interim suspension w/o pay; medical benefits remain intact

**SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED**

<u>JUDICIAL OFFICER</u>	<u>DESCRIPTION OF MISCONDUCT</u>	<u>DATE &amp; SANCTION IMPOSED</u>
Former CP Judge Francis P. Eagen 4 JD 2001	Conviction of violating Obstructing Administration of Law or Other Gov. Function, designed to interfere with a Grand Jury criminal investigation	01/24/03 Removal; ineligible for future judicial office
CP Judge Patrick McFalls 4 JD 2002	Unjustified defiance by the judge of his PJs' directives to meet to effect his return to judicial duties while judge was on administrative leave	01/12/02 30 day suspension w/o pay
Former DJ Gigi Sullivan 3 JD 2001	Conviction of felonies for conspiracy, participating in a corrupt organization and hindering the apprehension of others, for acts arising from her involvement with cocaine and other controlled substances	04/01/02 Removal; ineligible for future judicial office
DJ Richard H. Zoller 1 JD 2001	Use of profanity while acting in judicial capacity in presence of constables, defendant and deputy sheriff	01/24/02 Judge to remain under appropriate medical supervision for anger management
DJ Ronald Amati 2 JD 2001	3 felony convictions for his involvement in video gambling enterprises while serving as a judicial officer	04/24/01 Suspension w/o pay of salary and benefits
Sr. DJ James M. Kelly 1 JD 2000	Attempted to influence the outcome of a traffic violation case involving an acquaintance	06/29/00 Severe reprimand; no longer eligible to accept assignments as a senior district justice
Former Justice Rolf Larsen 4 JD 1994	Criminal conviction on 2 felony counts, acquisition of controlled substance by fraud and conspiracy regarding the prescription of a controlled substance; CJD said case not moot despite being twice removed from office by the state Senate and as a condition of his criminal sentence	02/04/00 Removal; disbarment from the bar of the state; Special Tribunal: CJD lacked authority to consider disbarment of justice and CJD lacked power to impose moot sanctions
Former DJ Jules Melograne 1 JD 1999	Felony conviction for conspiracy to violate civil rights; underlying conduct involved judge's efforts in his judicial capacity to ensure certain persons who challenged traffic citation decisions would obtain dismissals on appeal	05/17/00 Removal; disbarred from bar of Commonwealth; Supreme Court affirmed removal and vacated CJD disbarment due to lack of authority to disbar a judge
DJ Gloria M. Strock 3 JD 1998	Failure to comply with directive to make daily deposits and commingling of court funds with personal funds	03/10/99 Removal; ineligible for future judicial office
DJ Richard J. Terrick 3 JD 1997	Attempted to influence outcome of certain cases by contacting an employee and judge of Statutory Appeals Unit before the cases were heard	04/02/98 Reprimand
DJ Dennis R. Joyce 2 JD 1997	Attempted to influence outcome of certain cases by contacting an employee and judge of Statutory Appeals Unit before the cases were heard	02/18/98 Reprimand
DJ Shirley Rowe Trkula 7 JD 1996	Attempted to influence outcome of an appeal of her decision and lied to FBI agents regarding the incident	07/18/97 60 day suspension w/o pay
Former CP Judge Richard D. Cicchetti 2 JD 1996	Sexual harassment of subordinate court employee and violation of Election Code for submitting a false campaign report	07/08/97 Previously resigned from office; severe reprimand; Affirmed by the Supreme

## SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

<u>JUDICIAL OFFICER</u>	<u>DESCRIPTION OF MISCONDUCT</u>	<u>DATE &amp; SANCTION IMPOSED</u>
		Court
CP Judge Bernard Avellino	Refusal to comply with assignment and continued refusal despite court order	03/18/97 Supreme Court suspended w/o pay for 3 months; submission of performance reports for 6 months
CP Judge Jeffrey A. Smith 1 JD 1996	Inordinate decisional delay in 61 cases	03/07/97 In-court reprimand with follow-up written reprimand
DJ Bradford C. Timbers 3 JD 1995	Failure to comply with sobriety monitoring contract	03/26/97 Removal; ineligible for future judicial office
DJ Bradford C. Timbers 3 JD 1995	Performance of judicial duties while intoxicated; attempted to influence outcome of traffic case; improper physical contact with female clerk in his office; used expletives in presence of co-workers; disobeyed PJ's directive re alcohol on premises	04/18/96 6 month suspension w/o pay; enter sobriety monitoring contract
CP Judge Gordon J. Dagher 1 JD 1995	Acceptance of football tickets from litigant in case that came before him; inordinate decisional delay	04/19/95 Written reprimand; 7 day suspension w/o pay; appearance before Court for oral reprimand
CP Judge Roger M. Fischer 7 JD 1994	Inordinate decisional delay in 21 Orphan's Court matters	04/13/95 Reprimand
DJ Robert S. Chesna 6 JD 1994	Conviction for unlawful operation of gambling machines	05/25/95 Removal; ineligible for future judicial office

# NATIONAL JUDICIAL DISCIPLINE STATISTICS

## Nationwide:

Pennsylvania reflects a nationwide trend\* of increased scrutiny of judicial conduct. The nationwide statistics of judicial discipline are outlined below.

The 371 judges removed since 1980 corresponds to an average of 16.8 judges removed each year.

In 2010:
<ul style="list-style-type: none"><li>• Seven (7) judges were removed from office as a result of state judicial discipline proceedings</li></ul>
<ul style="list-style-type: none"><li>• 18 judges resigned (or retired) in lieu of discipline and agreed not to serve judicial office again</li></ul>
<ul style="list-style-type: none"><li>• 100 judges received other public sanctions</li></ul>
<ul style="list-style-type: none"><li>• 17 judges were suspended without pay, with sanction lengths between 30-days to 1- year</li></ul>
<ul style="list-style-type: none"><li>• 17 judges were publicly censured</li></ul>
<ul style="list-style-type: none"><li>• 42 judges were publicly reprimanded</li></ul>
<ul style="list-style-type: none"><li>• 20 judges were publicly admonished</li></ul>
<ul style="list-style-type: none"><li>• Three (3) former judges were sanctioned in attorney discipline proceedings for conduct while they were judges</li></ul>
<ul style="list-style-type: none"><li>• One (1) judge was ordered to pay a \$2,400 civil penalty</li></ul>
Since 1980:
<ul style="list-style-type: none"><li>• 371 judges have been removed</li></ul>

Notwithstanding these statistics, the vast majority of Pennsylvania judges comport themselves appropriately, and discharge their judicial responsibilities with dignity and honor. Indeed, consistent with national statistics, on average ninety (90) percent of all complaints filed with the Judicial Conduct Board are dismissed after preliminary inquiry, and less than one (1) percent results in the filing of formal charges against a judge before the Court of Judicial Discipline.

\*Statistics from the American Judicature Society Center for Judicial Ethics, Volume 32, Number 4.

**COMMONWEALTH OF  
PENNSYLVANIA**

**JUDICIAL CONDUCT BOARD  
PENNSYLVANIA JUDICIAL CENTER  
601 COMMONWEALTH AVE, SUITE 3500  
P.O. BOX 62525  
HARRISBURG, PA 17120-0901  
(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 Magisterial District Judges, which may be found at our web site at [www.jcbpa.org](http://www.jcbpa.org).

**Your Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

(     )

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

(     )

**Judicial Officer's Information:**

Name: \_\_\_\_\_

Type of Judicial Officer:

Magisterial District Judge

Judge

County: \_\_\_\_\_

**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 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.

**BACK SIDE**  
***OF REQUEST FOR CONFIDENTIAL INVESTIGATION***