

2009 Annual Report

COMMONWEALTH OF PENNSYLVANIA

JUDICIAL CONDUCT BOARD
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<http://www.jcbpa.org>

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Pennsylvania Judicial Conduct Board

<http://www.jcbpa.org>

December 6, 2010

TO: The Honorable Ronald D. Castille The Honorable Edward G. Rendell
 Chief Justice Governor
 Supreme Court of Pennsylvania Commonwealth of Pennsylvania
 1818 Market Street, Suite 3730 225 Main Capitol
 Philadelphia, Pennsylvania 19103 Harrisburg, Pennsylvania 17120

 The Honorable Joseph B. Scarnati III The Honorable Samuel H. Smith
 Lieutenant Governor of Pennsylvania Speaker-Designate
 Interim President Pro Tempore Pennsylvania House of Representatives
 Senate of Pennsylvania 139 Main Capitol
 292 Main Capitol Harrisburg, Pennsylvania 17120-2066
 Harrisburg, Pennsylvania 17120-3025

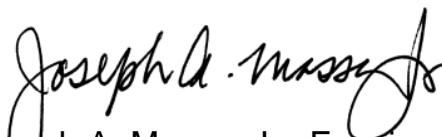
 Gretchen A. Mundorff, Esquire
 President, Pennsylvania Bar Association
 720 Vanderbilt Road
 Connellsville, Pennsylvania 15425-6218

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, 2009.

A more detailed Annual Report is available on the Board's web site at <http://www.jcbpa.org>. The detailed report provides details of the Board's operations, including an index of all pending case filings, identified only by case number indicating the current status of a particular complaint as of December 31, 2009.

Respectfully submitted,

On Behalf of the Judicial Conduct Board


Joseph A. Massa, Jr., Esquire
Chief Counsel

INTRODUCTION

The Pennsylvania Judicial Conduct Board was created to, and is committed to, preserve the honor, dignity, independence and integrity of Pennsylvania's judiciary on behalf of the commonwealth's citizens and their court system. It is the independent state agency designated by the Pennsylvania Constitution to receive and investigate complaints regarding Pennsylvania jurists who are accused of unethical actions. Where appropriate, complaints are prosecuted in the Court of Judicial Discipline, which can result in admonishment, suspension, with or without pay, or removal of office.

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

During 2009, the board received 681 complaints – the largest number of complaints in any year since the Board's inception in 1993. This is in line with nationwide statistics that reflect an increased scrutiny of judicial conduct throughout the country. During 2009, formal charges were filed against three jurists and the Board issued 20 notices of full investigation, 12 letters of caution and four letters of counsel. 628 complaints were dismissed as unfounded after preliminary inquiry. This dismissal rate is consistent with Judicial Conduct Boards throughout the country which dismiss 90% of complaints as unfounded.

A complaint is not necessarily closed in the year in which it is received. This report covers Board activity in the calendar year 2009.

2009 BOARD MEMBERS

JUDGE MEMBERS

Honorable Charles A. Clement, Jr.
Magisterial District Judge
(Former Chair of Judicial Conduct Board)
(Term expired 08/16/2009)

Honorable Charles J. Cunningham III*
Court of Common Pleas, Philadelphia County
(Term expiration 09/14/2010)

Honorable Christine L. Donohue*
Superior Court of Pennsylvania
(Term expiration 03/20/2013)

Honorable Jack A. Panella
Superior Court of Pennsylvania
(Former Chair of Judicial Conduct Board)
(Resigned 03/2009)

ATTORNEY MEMBERS

Mark A. Aronchick, Esquire*
(Term expiration 08/16/2012)

Edwin L. Klett, Esquire*
(Term expiration 08/16/2010)

Ayanna M. Lee, Esquire*
(Term expiration 08/16/2012)

PUBLIC MEMBERS

Hank Abate*
(**Vice Chair** of Judicial Conduct Board)
(Term expiration 08/16/2012)

Honorable Samuel J. Magaro*
(Retired Magisterial District Judge)
(Former Chair of Judicial Conduct Board)
(Term expiration 8/16/2011)

John R. Cellucci*
(**Chair** of Judicial Conduct Board)
(Term expiration 08/16/2010)

Cynthia N. McCormick*
(Term expiration 09/14/2010)

Cecilia Griffin Golden, Ph.D.*
(**Secretary** of Judicial Conduct Board)
(Term expiration 08/16/2010)

James R. Weaver
(Term expired 08/16/2009)

BOARD STAFF

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 thru August 16, 2010**

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

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 Board through its staff investigates every allegation made against a Pennsylvania State court 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 Code of Judicial Conduct.

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.

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. 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 (4) year terms, as follows:

- 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 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 (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. Judicial misconduct could arise from a violation of the Pennsylvania Constitution, the Pennsylvania Crimes Code, or rules promulgated by the Supreme Court of Pennsylvania. 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, such as theft, driving while intoxicated, improper financial or business dealings, sexual harassment or official oppression.

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 complaints, 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 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, or get prisoners out of jail.

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 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

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- 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, 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 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 2009 are presented in the non-public proceedings, private sanction summaries section of this report.

Board Organization and Staff

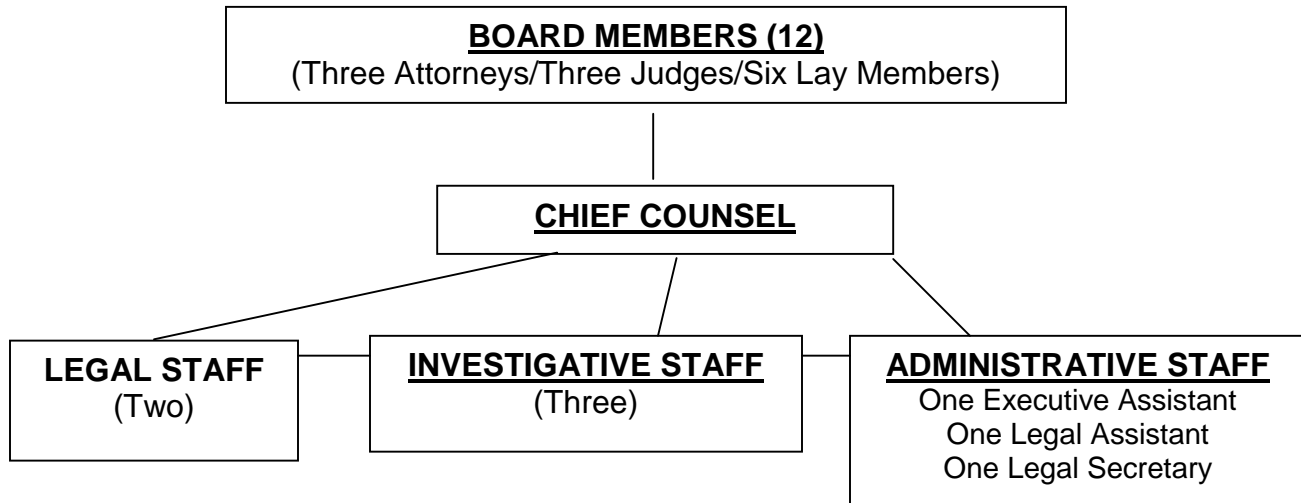
The Board has nine staff positions, including the Chief Counsel, two attorneys, three field investigators and three support staff. All Board staff members are full-time Commonwealth State employees.

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 in-house and on-site investigations. 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.

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.

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BUDGET

The Judicial Conduct Board's budget is included in the appropriation allotted to the Pennsylvania Judiciary. For the 2008-2009 fiscal year (July 1, 2008 — June 30, 2009), 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.

Outreach and Education

In 2009, 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. Chief Counsel presents the ethics component at the annual recertification classes of the magisterial district judges.

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

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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 as of December 31, 2009.

Also included 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 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.

Confidentiality of Board Proceedings

Judicial Conduct 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 Procedures (J.C.B.R.P.).

STANDARDS FOR EVALUATING JUDICIAL DISCIPLINE CASES (Non-Exclusive)

The following non-exclusive factors may be considered by the Board in evaluating judicial discipline cases. Focusing carefully and thoroughly on the nature and extent of the misconduct before considering other factors helps clarify the 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
- 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

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- 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
- 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

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- 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"> - Reprimand; - Suspension (with/without pay); - Removal from Office; - Permanent Bar from Bench. 	<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>

2009 STATISTICS

Classification of Allegations

There were 681 complaints received during the 2009 calendar year with each complaint classified into one of the following allegations: (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	96.....	14.1%
Administrative	14.....	2.1%
Bias.....	103.....	15.1%
Conflict of Interest.....	27.....	4.0%
Criminal.....	4.....	0.6%
Delay.....	29.....	4.3%
Demeanor.....	39.....	5.7%
Ex Parte	7.....	1.0%
Impropriety.....	2.....	0.3%
Legal.....	300.....	44.1%
Perjury	1.....	0.1%
Political	36.....	5.3%
Recusal.....	2.....	0.3%
Miscellaneous.....	8.....	1.2%
Multiple Issues.....	13.....	1.9%
 Total.....	 681.....	 100%



JUDICIAL COMPLEMENT

In 2009, there were 1,185 jurists within the Board’s jurisdiction.

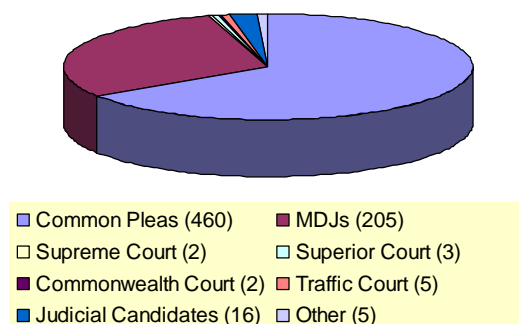
	2009 Jurists	Senior Jurists
Supreme Court	7	0
Superior Court	15	9
Commonwealth	9	6
Common Pleas	411	70
Magisterial District Judges	534	87
Philadelphia Municipal Court	24	8
Philadelphia Traffic Court	7	2
TOTAL	1,007	178



COMPLAINTS CATEGORIZED BY JUDICIAL OFFICE

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 when 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 2009 calendar year)



Complaint Dispositions -- The Board disposed of 698 cases in 2009.

Dismissed After Preliminary Inquiry: Of the 698 cases closed in 2009, 628 were dismissed after preliminary inquiry. These complaints had insufficient facts that, even if true, would not constitute judicial misconduct. Investigation showed the allegations were unfounded or not provable, or 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 than a Notice of Full Investigation into a matter which would unlikely result in 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 should only contain requests for information and not reference possible Constitution and/or canonical violations. 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 as directed by the Board or informally sent from Chief Counsel. During 2009, there were 23 Letters of Inquiry issued.

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 contradict the respondent judicial officer's written response. Information obtained through a Letter of Inquiry ultimately could lead to the issuance of a Notice of Full Investigation.

Notice of Full Investigation: If after a preliminary inquiry into a case, the Board feels sufficient evidence of judicial misconduct may have occurred, it will issue a Notice of Full Investigation to the judicial officer. The immediate issuance of a Notice of Full Investigation (i.e. without a formal Letter of Inquiry of the Board or Letter of Inquiry of Chief Counsel) could be based upon substantiated medial reports of criminal misconduct, federal or state indictment or information of a similar nature from a reliable source. The judicial officer will then have an opportunity to respond to the allegations. In 2009, the Board issued 20 Notices of Full Investigation, noting one Notice of Full Investigation may be inclusive of multiple case numbers.

Dismissed After Full Investigation: Of the 698 cases closed in 2009, eight (8) were dismissed after full investigation. In these cases, there was not enough evidence after the formal full investigation to continue, and there was not clear and convincing evidence that the alleged misconduct did occur.

Letter of Caution: The Board issued 12 letters of caution in 2009. Letters of Caution are issued as private warnings of conduct that could lead to judicial misconduct if not corrected. The judicial officer is not required to sign or accept a letter of caution.

Letter of Counsel: The Board issued four (4) letters of counsel in 2009. Letters of Counsel are issued in cases where there is sufficient evidence of judicial misconduct, 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. 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 three (3) of the 698 closed cases in 2009, 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.



OPEN COMPLAINTS AS OF DECEMBER 31, 2009

As of December 31, 2009, the following complaints remain open and were continued into the next calendar year for disposition. Seven complaints are noted as “deferred” pending a **criminal** investigation. A legend for the acronyms appears at the end of the table.

OPEN COMPLAINTS AS OF DECEMBER 31, 2009

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
1	2006-428	DEFERRED
2	2007-096	PI
3	2007-609	DEFERRED
4	2008-029	NOFI
5	2008-178	NOFI
6	2008-255	NOFI
7	2008-287	PI
8	2008-278	DEFERRED
9	2008-279	DEFERRED
10	2008-304	NOFI
11	2008-305	NOFI
12	2008-306	PI
13	2008-357	NOFI
14	2008-392	DEFERRED
15	2008-442	PI
16	2008-458	DEFERRED
17	2008-491	NOFI
18	2008-498	DEFERRED
19	2008-520	PI*
20	2008-539	NOFI
21	2008-556	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
22	2008-560	PI
23	2008-594	NOFI
24	2008-607	PI
25	2008-619	PI
26	2009-012	PI*
27	2010-012	PI
28	2009-026	LINQ
29	2009-040	PI
30	2009-041	PI*
31	2009-047	PI*
32	2009-050	PI
33	2009-101	PI*
34	2009-080	PI
35	2009-093	PI
36	2009-098	PI*
37	2009-106	PI*
38	2009-108	PI
39	2009-110	PI*
40	2009-115	PI
41	2009-119	PI*
42	2009-142	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
43	2009-144	PI*
44	2009-145	PI
45	2009-146	LINQ
46	2009-148	PI
47	2009-149	PI
48	2009-152	PI
49	2009-155	PI*
50	2009-156	PI*
51	2009-157	PI*
52	2009-162	PI
53	2009-168	PI
54	2009-171	PI*
55	2009-174	PI*
56	2009-177	PI*
57	2009-179	PI
58	2009-180	PI*
59	2009-186	PI*
60	2009-189	PI
61	2009-192	PI
62	2009-194	PI*
63	2009-203	PI*

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
64	2009-233	PI*
65	2009-204	PI*
66	2009-208	PI*
67	2009-209	PI*
68	2009-215	PI
69	2009-225	PI*
70	2009-228	PI*
71	2009-229	PI
72	2009-230	LINQ
73	2009-231	PI
74	2009-232	PI
75	2009-218	PI*
76	2009-222	PI
77	2009-238	PI
78	2009-242	PI*
79	2009-252	PI
80	2009-253	PI*
81	2009-247	PI*
82	2009-249	PI
83	2009-251	PI*
84	2009-245	PI*

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
85	2009-256	PI
86	2009-257	PI
87	2009-260	PI
88	2009-261	PI*
89	2009-265	PI*
90	2009-266	PI
91	2009-269	PI
92	2009-273	PI
93	2009-277	PI
94	2009-281	PI
95	2009-284	PI
96	2009-286	PI*
97	2009-287	PI
98	2009-289	NOFI
99	2009-291	PI*
100	2009-293	PI
101	2009-294	PI
102	2009-297	PI*
103	2009-299	PI
104	2009-303	PI
105	2009-305	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
106	2009-308	PI
107	2009-310	PI
108	2009-320	PI
109	2009-325	NOFI
110	2009-330	PI
111	2009-331	PI
112	2009-333	PI
113	2009-328	PI
114	2009-335	NOFI
115	2009-336	PI*
116	2009-368	PI*
117	2009-339	PI
118	2009-346	PI
119	2009-348	PI*
120	2009-349	PI
121	2009-352	PI*
122	2009-358	PI
123	2009-360	PI
124	2009-361	PI
125	2009-362	PI
126	2009-366	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
127	2009-371	LINQ
128	2009-374	PI
129	2009-375	PI*
130	2009-376	PI
131	2009-378	PI
132	2009-379	PI
133	2009-380	PI
134	2009-381	PI
135	2009-383	PI*
136	2009-384	PI
137	2009-386	PI*
138	2009-387	PI
139	2009-389	PI*
140	2009-396	PI*
141	2009-397	PI*
142	2009-406	LINQ
143	2009-400	PI*
144	2009-407	PI
145	2009-402	PI
146	2009-404	PI*
147	2009-409	PI*

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
148	2009-410	PI
149	2009-412	PI
150	2009-415	PI*
151	2009-416	PI
152	2009-417	PI*
153	2009-418	PI
154	2009-420	PI
155	2009-421	PI
156	2009-425	PI
157	2009-426	PI*
158	2009-429	PI*
159	2009-431	PI
160	2009-432	PI*
161	2009-433	PI
162	2009-436	PI
163	2009-437	PI
164	2009-438	PI
165	2009-446	PI
166	2009-439	PI*
167	2009-440	PI
168	2009-441	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
169	2009-443	PI*
170	2009-445	PI
171	2009-447	PI*
172	2009-463	PI*
173	2009-448	PI*
174	2009-449	PI
175	2009-450	PI*
176	2009-451	PI*
177	2009-452	PI*
178	2009-453	PI
179	2009-454	PI
180	2009-455	PI
181	2009-456	PI
182	2009-457	PI
183	2009-458	PI
184	2009-459	PI
185	2009-460	PI*
186	2009-461	PI*
187	2009-464	PI
188	2009-465	PI
189	2009-470	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
190	2009-471	PI
191	2009-472	PI*
192	2009-473	PI
193	2009-475	PI*
194	2009-474	PI
195	2009-476	PI
196	2009-477	PI
197	2009-478	PI
198	2009-479	PI
199	2009-480	PI
200	2009-482	PI
201	2009-483	PI*
202	2009-484	PI
203	2009-485	PI
204	2009-486	PI
205	2009-490	PI
206	2009-492	PI
207	2009-435	PI
208	2009-491	PI*
209	2009-493	PI
210	2009-494	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
211	2009-495	PI
212	2009-497	PI*
213	2009-498	PI
214	2009-499	PI
215	2009-500	PI*
216	2009-501	PI
217	2009-502	PI
218	2009-503	PI*
219	2009-504	PI
220	2009-505	PI
221	2009-506	PI*
222	2009-507	PI*
223	2009-508	PI*
224	2009-509	PI*
225	2009-510	PI
226	2009-511	PI
227	2009-512	PI
228	2009-513	PI
229	2009-514	PI
230	2009-515	PI
231	2009-516	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
232	2009-517	PI*
233	2009-518	PI*
234	2009-519	PI
235	2009-520	PI
236	2009-521	PI*
237	2009-522	PI*
238	2009-523	PI
239	2009-524	PI
240	2009-525	PI
241	2009-526	PI
242	2009-527	PI
243	2009-528	PI*
244	2009-529	PI
245	2009-530	PI*
246	2009-531	PI
247	2009-533	PI
248	2009-532	PI
249	2009-534	PI
250	2009-535	PI*
251	2009-536	PI
252	2009-537	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
253	2009-538	PI
254	2009-539	PI
255	2009-540	PI
256	2009-541	PI
257	2009-542	PI
258	2009-543	PI
259	2009-544	PI
260	2009-545	PI
261	2009-546	PI
262	2009-547	PI
263	2009-548	PI
264	2009-550	PI
265	2009-554	PI
266	2009-549	PI
267	2009-551	PI*
268	2009-552	PI
269	2009-553	PI
270	2009-558	PI
271	2009-559	PI
272	2009-560	PI
273	2009-555	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
274	2009-557	PI
275	2009-566	PI
276	2009-565	PI
277	2009-561	PI
278	2009-562	PI
279	2009-563	PI
280	2009-564	PI
281	2009-567	PI*
282	2009-568	PI
283	2009-569	PI
284	2009-570	PI
285	2009-571	PI
286	2009-572	PI
287	2009-573	PI
288	2009-574	PI
289	2009-575	PI*
290	2009-576	LINQ
291	2009-577	PI*
292	2009-578	PI
293	2009-579	PI
294	2009-580	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
295	2009-581	PI
296	2009-583	PI
297	2009-584	PI
298	2009-585	PI
299	2009-586	PI
300	2009-587	PI
301	2009-588	PI*
302	2009-589	PI
303	2009-593	PI
304	2009-590	PI
305	2009-591	PI
306	2009-592	PI
307	2009-594	PI*
308	2009-596	PI*
309	2009-597	PI*
310	2009-598	PI*
311	2009-600	PI*
312	2009-602	PI*
313	2009-595	PI
314	2009-599	PI
315	2009-603	PI*

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
316	2009-601	PI
317	2009-604	PI
318	2009-605	PI*
319	2009-606	PI
320	2009-607	PI
321	2009-608	PI*
322	2009-609	PI
323	2009-610	PI
324	2009-611	PI*
325	2009-612	PI*
326	2009-613	PI*
327	2009-614	PI
328	2009-615	PI*
329	2009-616	PI
330	2009-617	PI
331	2009-618	PI
332	2009-619	PI
333	2009-620	PI
334	2009-621	PI
335	2009-622	PI
336	2009-623	PI*

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
337	2009-624	PI
338	2009-625	PI
339	2009-626	PI*
340	2009-627	PI
341	2009-628	PI
342	2009-629	PI
343	2009-630	PI
344	2009-631	PI
345	2009-632	PI
346	2009-633	PI*
347	2009-634	PI*
348	2009-635	PI
349	2009-656	PI*
350	2009-657	PI*
351	2009-636	PI
352	2009-637	PI
353	2009-638	PI
354	2009-639	PI
355	2009-640	PI
356	2009-641	PI
357	2009-642	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
358	2009-643	PI*
359	2009-644	PI*
360	2009-645	PI*
361	2009-646	PI
362	2009-647	PI
363	2009-648	PI*
364	2009-649	PI
365	2009-650	PI
366	2009-651	PI
367	2009-652	PI
368	2009-653	PI
369	2009-654	PI
370	2009-655	PI*
371	2009-658	PI
372	2009-659	PI
373	2009-660	PI*
374	2009-661	PI
375	2009-662	PI
376	2009-663	PI
377	2009-664	LINQ
378	2009-665	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
379	2009-666	PI
380	2009-667	PI
381	2009-668	PI
382	2009-669	PI
383	2009-670	PI
384	2009-671	PI
385	2009-673	PI
386	2009-672	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
387	2009-674	PI
388	2009-675	PI
389	2009-676	PI
390	2009-677	PI
391	2009-678	PI
392	2009-679	PI
393	2009-680	PI
394	2009-681	PI

STATUS KEY: DEFERRED= Awaiting criminal investigation
 LINQ = Letter of Inquiry issued
 PI = Preliminary Inquiry stage
 PI* = Identified as dismissal after preliminary inquiry or DAPI; Case awaiting 2010 Board approval to close/dismiss.
 NOFI = Notice of Full Investigation stage

Non-Public Proceedings **Private Sanction Summaries**

Upon conclusion of an investigation, the Board may dismiss the matter with a letter communicating the Board's concern or a warning; warning the judge not to engage in specified behavior. Such expressions of concern or warning are not discipline. In 2009, the Board expressed concern or warning to judges about the following type of conduct:

1. **Letters of Counsel** are issued 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 indicate formal charges are not necessary. Issuance is subject to judge's acceptance and appearance before the chief counsel of the Judicial Conduct Board.
 - Ex-Parte Communications:
 - (Canon 3A(4), Rule 4D): A judge, presiding in a custody matter, did not allow attorneys to be present in his chambers during his interrogation of a minor child.
 - (Canon 3A(3), Rule 4(C)): The judge used coarse and graphic language in speaking to the minor.
 - Failure to Avoid the Appearance of Impropriety: (Canon 2A, Rule 2A)
 - A judge obtained 'tally sheets' showing the votes of a 'hung jury' in a homicide trial. The judge showed the votes to the prosecutor and strongly encouraged him to negotiate a plea rather than re-try the case. The conduct of the judge was an abuse of the judge's power.
 - Failure to Maintain Order and Decorum in the Courtroom: (Canon 3A(2); Rule 4B)
 - A judge became impatient with an assistant district attorney who rejected a proffered guilty plea and insisted on a hearing. The judge shouted critical comments at the prosecutor in a crowded courtroom; the judge took off his robe and stormed out of the courtroom still shouting at counsel.
 - Inappropriate Use of Prestige of Office: (Canon 2B; Rule 2A)
 - A judge threatened to report a paramour's ex-spouse to the probation department for failing to make full restitution on a pending criminal matter. After ex-spouse refused to sign a property settlement agreement, the judge made contact with the probation department as requested by the paramour.

Non-Public Proceedings – Letters of Counsel/Caution

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

- Abuse of Adjudicative Responsibilities: (Canon 3A(4); Rule 4D):
 - A judge interfered with the presentation of court cases by taking over and/or interrupting direct- and cross-examinations during court proceedings.
- Abuse of Power: (Canon 2A; Rule 2A)
 - A judge demanded video surveillance tapes from retail establishments to learn investigative details of a matter involving a member of his staff.
- Allowing Family Relationships to Influence Judicial Judgment, and Failure to Act with Dignity: (Canon 2B; Rule 2A)
 - The judge allowed family relationships to influence his judicial judgment in a contested divorce and custody matter. The judge *sua sponte* disqualified himself after disclosing a bias. The judge displayed improper demeanor and used derogatory language in explaining his prejudice. (Prejudice - Canon 3; Rule 4C).
- Disqualification: (Canon 3(1), Rule 8A)
 - A judge failed to disqualify himself in a case involving his court clerk's husband and engaged in other actions reflecting favoritism toward the court clerk and his personal conflict with a courthouse officer.
- Exploiting Judicial Position for Personal Benefit: (Canon 2A; Rule 2A)
 - A judge appeared at public hearings related to a zoning dispute; and identified himself as a judge during these proceedings and/or made repeated references to his judicial position, thereby lending the prestige of his office for the benefit of himself, his family, and neighbors. The conduct was, at times, disruptive of the process and disrespectful of the zoning board members and counsel.
- Failure to be Faithful to the Law: (Canon 1; Rule 4A)
 - The judge erroneously and haphazardly approved and forwarded an arrest warrant to the wrong person.
- Failure to Maintain Order and Decorum in Court Proceedings: (Canon 3A(2); Rule 4A)
 - A judge was rude, sarcastic, and impatient in court; avoided work and failed to devote sufficient time to court orders (rushing and/or continuing court matters unnecessarily).
 - The judge issued a 'warning letter' to a staff member, and then released the matter to the media.
- Failure to Perform Duties of Office Diligently: (Canon 3A(5); Rule 3A)
 - A judge failed to issue a timely order following hearings relative to Petition for Modification of and Enforcement of a Support Order. Approximately one and a half year elapsed until the judge issued ordered addressing the support modification. The judge failed to report the matter as delayed in

- his filed 703 Report until questioned about the matter by the president judge.
- The judge presided over a week-long hearing on the issue of child support (modifications). The judge issued an order 11 months after the record was closed.
- Improper Courtroom Demeanor (Canon 3A(3); Rule 3B) and Public Comment on a Pending Matter (Canon 3A(6); Rule 6):
 - A judge, presiding at a court proceeding, sat in the witness chair, not on the bench, and was not wearing his judicial robe. An informal discussion ensued about the case for about 30 minutes. No one was sworn in. Subsequently, the judge wrote a letter to the editor critical of a participant in the proceeding.
 - Improper Political Activity: (Canon 7, Rule 15)
 - A judge spoke at a partisan fundraising event, and had his name listed as an event supporter on an advertisement brochure.
 - A judge signed and circulated a nomination petition on behalf of a candidate for a municipal (non-judicial) office.
 - The judge engaged in inappropriate fund raising activity by personally soliciting funds for his campaign and asking for public support for another judicial candidate.
 - Inappropriate Public Comment:
 - (Canon 3A(6); Rule 6) The judge made injudicious remarks to a journalist regarding an opinion issued by another judge regarding a matter which may come before his court. The judge exchanged harsh words with the reporter.
 - (Canon 3A(2); Rule 4A) The judge failed to be patient and dignified to a litigant appearing before the court by making inappropriate comments and displaying a condescending and derogatory attitude toward the litigant. Further, during his tenure on the bench, the judge used coarse language in court.
 - Inappropriate Use of Prestige of Office:
 - (Canon 2B, Rule 2A): A judge participated in a not-for-profit fundraising event, lending the prestige of his judicial office to advance the fundraising efforts of the organization.
 - (Canon 3, Rule 2): The judge permitted his judicial law clerk to operate a private law practice in his office in judicial chambers to send and receive correspondence in connection with his law practice. The judge permitted the attorney to appear as counsel of record in his courtroom on behalf of criminal defendants.
 - Violation of Law: (Canon 2A; Rule 2A)
 - The judge was charged with driving under influence, and subsequently, entered the Accelerated Rehabilitation Disposition (ARD) program.

STATISTICS

Summary of Board Activity

COMPLAINT DISPOSITION ACTIVITY DURING 2009

Dismissed after Preliminary Inquiry – 628
Letter of Inquiry -- 23
Notice of Full Investigation – 20 (One Notice of Full Investigation Letter may be inclusive of multiple case numbers.)
Letter of Counsel – 4
Letter of Caution – 12
Formal Charges – 3



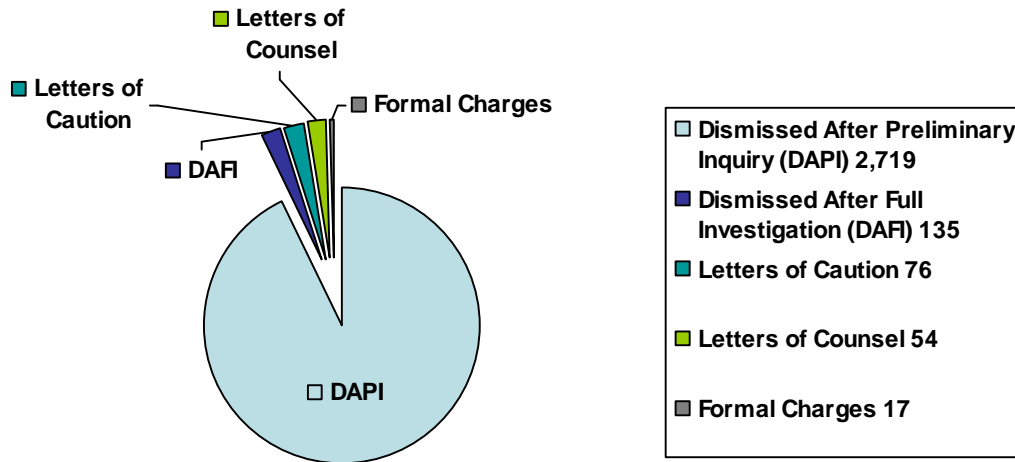
Five Year Statistical Summary*

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
2005	508	490	n/a	20	20	12	4
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
Total	3042	2819	23	137	76	54	14

*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 2005, 2006, 2007, 2008, and 2009)



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.

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.

STATISTICS

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 2009 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 & SANCTION IMPOSED</u>
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
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

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

JUDICIAL OFFICER	DESCRIPTION OF MISCONDUCT	DATE & SANCTION IMPOSED
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 ** CURRENTLY ON APPEAL TO SUPREME COURT OF PENNSYLVANIA
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
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

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

JUDICIAL OFFICER	DESCRIPTION OF MISCONDUCT	DATE & SANCTION IMPOSED
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. Pazuhanych 3 JD 2004	Information charged judge with Public drunkenness, 2 counts of Indecent Assault, Engagering 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
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

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

<u>JUDICIAL OFFICER</u>	<u>DESCRIPTION OF MISCONDUCT</u>	<u>DATE & SANCTION IMPOSED</u>
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 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	04/18/96 6 month suspension w/o pay; enter sobriety monitoring contract

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

<u>JUDICIAL OFFICER</u>	<u>DESCRIPTION OF MISCONDUCT</u>	<u>DATE & SANCTION IMPOSED</u>
	alcohol on premises	
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 367 judges removed since 1980 corresponds to an average of 12.6 judges removed each year.

In 2009:
<ul style="list-style-type: none">• 4 judges were removed from office, with 1 permanently disbarred
<ul style="list-style-type: none">• 11 judges resigned (or retired) in lieu of discipline
<ul style="list-style-type: none">• 93 judges received other public sanctions
<ul style="list-style-type: none">• 19 judges were suspended without pay, with sanction lengths between 30-days to 1- year
<ul style="list-style-type: none">• 21 judges were publicly censured
<ul style="list-style-type: none">• 59 judges were publicly reprimanded or admonished

Since 1980:
<ul style="list-style-type: none">• 367 judges have been removed

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 31, 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.

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