

2011 Annual Report

COMMONWEALTH OF PENNSYLVANIA

JUDICIAL CONDUCT BOARD
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Pennsylvania Judicial Conduct Board

<http://www.jcbpa.org>

July 27, 2012

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

Thomas G. Wilkinson, Jr.
President, Pennsylvania Bar Association
Cozen O'Connor Law Office
1900 Market Street
Philadelphia, Pennsylvania 19103

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, 2011.

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 judges 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 2011, the Board received 711 complaints – this number of complaints conforms to nationwide statistics reflecting greater scrutiny of judicial conduct. During 2011, the Board filed formal charges against eight judges, and the Board issued 24 notices of full investigation. The Board dismissed 492 complaints as unfounded after preliminary inquiry, and the Board dismissed two (2) pending cases following further investigation. The Board dismissed 35 by a letter of caution, which is the Board's private "warning" procedure, and the Board dismissed three (3) by a letter of counsel. A letter of counsel constitutes a private rebuke by the Board for 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 2011.

2011 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) (Replaced G. C. Lord) (Term expiration 08/16/2012)
Honorable Christine L. Donohue Superior Court of Pennsylvania (Former Chair of Judicial Conduct Board) (Replaced Judge J. Panella) (Resigned 06/21/2011)	James E. McErlane, Esquire* (Replaced E. Klett) (Term Expiration 08/16/2014)
Honorable Ann E. Lazarus* Superior Court of Pennsylvania (Replaced Judge C. Donohue) (Term expiration 03/20/2013)	Ayanna M. Lee, Esquire* (Secretary of Judicial Conduct Board) (Replaced C. McAbee) (Term expiration 08/16/2012)
Honorable Thomas A. Placey* Magisterial District Judge (Replaced Judge C. Clement) (Resigned 12/2011)	

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

<u>BOARD STAFF</u>		
Joseph A. Massa, Jr., Esquire Chief Counsel		
Francis J. Puskas II, Esquire Deputy Chief Counsel	James P. Kleman, Jr., Esquire Assistant Counsel	Elizabeth A. Flaherty, 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>

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 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.

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 by 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, and 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 defined as conduct that violates the Pennsylvania Constitution, the Pennsylvania Code of Judicial Conduct, or the Rules Governing Standards of Conduct of Magisterial District Judges. The conduct forming the basis of a judicial misconduct complaint could arise from the judge's violation of the law, meaning the Pennsylvania Crimes Code, or the rules promulgated by the Supreme Court of Pennsylvania. Other examples of judicial misconduct include inappropriate courtroom demeanor 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 misconduct 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's complaint 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 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 rise to a violation of the Code or Rules 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 in 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 2011 are presented in the non-public proceedings, private sanction summaries section of this report.

Board Organization and Staff

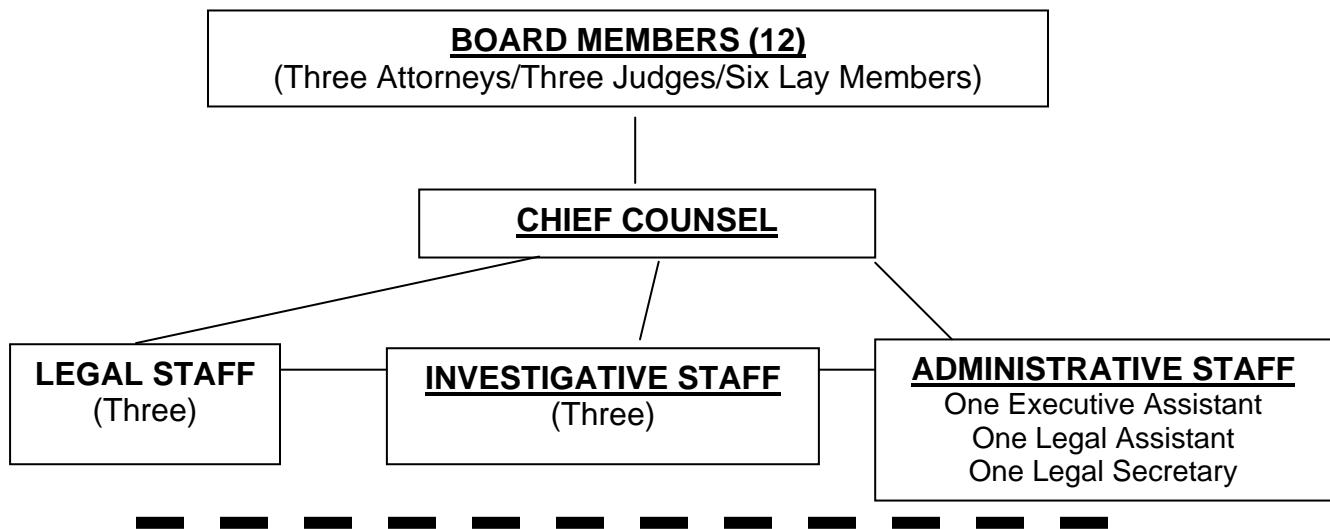
The Board has ten staff positions, including the Chief Counsel, three assistant attorneys, three field investigators, and three support staff. All Board staff members are full-time employees of the Commonwealth of Pennsylvania.

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.

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The Board's legal staff, which consists of Chief Counsel, three 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 three 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 2011-2012 fiscal year (July 1, 2011 — June 30, 2012), 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.

2007-2012 Budgets
(In Thousands)

Fiscal Year*	Requested Amount	Amount Received	Difference (\$)=shortage
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)
2011-2012	\$1,894	\$1,182	(\$712)

* 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 2011, 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

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- 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 Notices of Full Investigation (NOFIs) 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 innovative 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>

2011 STATISTICS

Classification of Allegations

There were 711 complaints received during the 2011 calendar year. The Board classified each complaint received into one of the following categories: (The Board on average received 59 complaints each month.) ***After staff and Board review, about 90% of filed complaints were “deemed ‘unfounded’ or without merit.”***

Abuse of Discretion/Office/Power	81	11.4%
Administrative	11	1.5%
Bias.....	94.....	13.2%
Candidate	1.....	0.1%
Conflict of Interest.....	12.....	1.7%
Criminal.....	9.....	1.3%
Decorum	1.....	0.1%
Delay.....	32.....	4.5%
Demeanor	36.....	5.1%
Ex Parte	10.....	1.4%
Failure to Follow Law	2.....	0.3%
Harassment	2.....	0.3%
Legal.....	387.....	54.4%
Multiple Issues	8.....	1.1%
Political	23.....	3.2%
Recusal.....	2.....	0.3%
 Total.....	 711.....	 100%



JUDICIAL COMPLEMENT

In 2011, there were 1,292 jurists within the Board’s jurisdiction.

	2011 Jurists	Senior Jurists
Supreme Court	7	0
Superior Court	15	5
Commonwealth	9	5
Common Pleas	449	99
Magisterial District Judges	539	127
Philadelphia Municipal Court	25	2
Philadelphia Traffic Court	7	3
TOTAL	1051	241

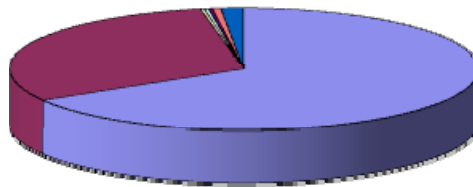


2011 STATISTICS

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 2011 calendar year)



■ Common Pleas (472)	■ MDJs (218)
□ Supreme Court (2)	□ Superior Court (2)
■ Commonwealth Court (2)	■ Phila. Traffic Court (4)
■ Judicial Candidates (11)	

Complaint Dispositions -- The Board disposed of 585 cases in 2011.

Dismissed After Preliminary Inquiry: Of the 585 cases closed in 2011, 492 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 likely 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, Rules, or Constitution. As such, it represents a less formal means of seeking information from a 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 2011, the Board and Chief Counsel issued 78 Letters of Inquiry to judicial officers within the Board's jurisdiction.

2011 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 2011, the Board issued 24 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 2011, the Board dismissed seven (7) 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 35 Letters of Caution in 2011. 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 three (3) Letters of Counsel in 2011. 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. 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 eight (8) of the 585 closed cases in 2011, 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, one judge resigned before the Board filed formal charges.

2011 STATISTICS

OPEN COMPLAINTS AS OF DECEMBER 31, 2011

As of December 31, 2011, the following complaints remained open, and they were continued into the next calendar year for disposition. A legend for the status acronyms appears at the end of the table.

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
1	2006-428	NOFI
2	2007-279	CJD PROBATION
3	2007-313	CJD PROBATION
4	2007-315	CJD PROBATION
5	2008-278	NOFI
6	2008-279	NOFI
7	2008-392	NOFI
8	2008-491	CJD
9	2008-556	SCT
10	2008-560	CJD
11	2009-040	SCT
12	2009-152	CJD
13	2009-374	SUSPENDED W/PAY-CJD
14	2009-572	PI
15	2009-654	PI
16	2010-131	NOFI
17	2010-144	PJ PROBATION
18	2010-168	NOFI
19	2010-302	PI
20	2010-361	NOFI
21	2010-375	LINQ-C
22	2010-381	PI
23	2010-382	PI
24	2010-408	PI
25	2010-433	NOFI
26	2010-434	NOFI
27	2010-445	CJD

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
28	2010-486	PI
29	2010-531	CJD
30	2010-532	CJD
31	2010-549	NOFI
32	2010-605	PI
33	2011-002	LINQ-B
34	2011-003	PI
35	2011-008	PI
36	2011-009	PI
37	2011-014	PI
38	2011-019	PI
39	2011-033	LINQ-B
40	2011-038	PI
41	2011-039	LINQ-C
42	2011-068	PI
43	2011-075	LINQ-C
44	2011-086	LINQ-B
45	2011-098	PI
46	2011-108	PI
47	2011-116	PI
48	2011-121	PI
49	2011-123	PI
50	2011-125	PI
51	2011-127	CD-LCAU
52	2011-131	PI
53	2011-145	PI
54	2011-146	LINQ-C

OPEN COMPLAINTS AS OF DECEMBER 31, 2011

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
55	2011-152	PI
56	2011-155	REHAB DIVERSION
57	2011-158	PI
58	2011-165	PI
59	2011-166	PI
60	2011-170	LINQ-C
61	2011-171	PI
62	2011-172	PI
63	2011-173	PI
64	2011-174	PI
65	2011-175	PI
66	2011-180	PI
67	2011-192	PI
68	2011-197	PI
69	2011-203	PI
70	2011-204	PI
71	2011-217	PI
72	2011-218	PI
73	2011-221	PI
74	2011-222	PI
75	2011-226	PI
76	2011-227	NOFI
77	2011-229	NOFI
78	2011-232	PI
79	2011-233	PI
80	2011-234	PI
81	2011-237	LINQ-B
82	2011-240	NOFI
83	2011-242	PI
84	2011-244	PI
85	2011-245	PI
86	2011-246	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
87	2011-247	PI
88	2011-249	PI
89	2011-251	PI
90	2011-256	PI
91	2011-257	PI
92	2011-260	LINQ-C
93	2011-261	PI
94	2011-264	PI
95	2011-265	PI
96	2011-267	PI
97	2011-268	PI
98	2011-269	PI
99	2011-270	PI
100	2011-271	PI
101	2011-272	PI
102	2011-274	PI
103	2011-275	PI
104	2011-277	PI
105	2011-278	PI
106	2011-279	PI
107	2011-280	PI
108	2011-281	PI
109	2011-283	PI
110	2011-285	PI
111	2011-286	PI
112	2011-288	PI
113	2011-289	LINQ-C
114	2011-290	PI
115	2011-293	PI
116	2011-294	PI
117	2011-295	PI
118	2011-297	LINQ-C

OPEN COMPLAINTS AS OF DECEMBER 31, 2011

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
119	2011-302	LINQ-C
120	2011-303	NOFI
121	2011-304	PI
122	2011-305	LINQ-C
123	2011-306	LINQ-C
124	2011-307	PI
125	2011-309	PI
126	2011-311	PI
127	2011-314	PI
128	2011-315	PI
129	2011-319	PI
130	2011-320	CD-LCAU
131	2011-322	PI
132	2011-323	NOFI
133	2011-325	LINQ-C
134	2011-326	PI
135	2011-327	LINQ-C
136	2011-329	PI
137	2011-332	LINQ-C
138	2011-336	PI
139	2011-337	LINQ-B
140	2011-339	PI
141	2011-340	PI
142	2011-344	PI
143	2011-345	PI
144	2011-350	PI
145	2011-351	PI
146	2011-352	PI
147	2011-353	PI
148	2011-354	PI
149	2011-359	PI
150	2011-361	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
151	2011-362	PI
152	2011-365	PI
153	2011-366	PI
154	2011-367	PI
155	2011-370	PI
156	2011-371	PI
157	2011-372	PI
158	2011-373	PI
159	2011-374	PI
160	2011-375	PI
161	2011-376	PI
162	2011-377	PI
163	2011-378	LINQ-B
164	2011-379	PI
165	2011-380	PI
166	2011-381	PI
167	2011-382	PI
168	2011-383	PI
169	2011-384	PI
170	2011-385	PI
171	2011-386	PI
172	2011-389	PI
173	2011-390	PI
174	2011-391	PI
175	2011-392	PI
176	2011-393	PI
177	2011-394	PI
178	2011-395	PI
179	2011-396	PI
180	2011-397	PI
181	2011-399	PI
182	2011-401	PI

OPEN COMPLAINTS AS OF DECEMBER 31, 2011

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
183	2011-402	PI
184	2011-403	PI
185	2011-405	PI
186	2011-408	PI
187	2011-409	PI
188	2011-410	PI
189	2011-411	PI
190	2011-412	PI
191	2011-413	PI
192	2011-415	PI
193	2011-416	PI
194	2011-417	PI
195	2011-418	PI
196	2011-419	PI
197	2011-420	PI
198	2011-421	PI
199	2011-422	PI
200	2011-423	PI
201	2011-424	PI
202	2011-425	PI
203	2011-426	PI
204	2011-427	PI
205	2011-428	PI
206	2011-429	LINQ-B
207	2011-430	PI
208	2011-431	PI
209	2011-432	PI
210	2011-433	LINQ-B
211	2011-435	PI
212	2011-436	PI
213	2011-437	PI
214	2011-438	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
215	2011-439	PI
216	2011-440	PI
217	2011-441	PI
218	2011-443	PI
219	2011-444	PI
220	2011-445	PI
221	2011-446	PI
222	2011-447	PI
223	2011-448	PI
224	2011-449	PI
225	2011-450	PI
226	2011-451	PI
227	2011-452	PI
228	2011-453	PI
229	2011-454	PI
230	2011-455	PI
231	2011-456	PI
232	2011-457	PI
233	2011-458	PI
234	2011-459	PI
235	2011-460	PI
236	2011-461	PI
237	2011-462	PI
238	2011-463	PI
239	2011-464	PI
240	2011-465	PI
241	2011-466	PI
242	2011-467	PI
243	2011-469	PI
244	2011-470	PI
245	2011-471	PI
246	2011-472	PI

OPEN COMPLAINTS AS OF DECEMBER 31, 2011

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
247	2011-473	PI
248	2011-474	PI
249	2011-475	PI
250	2011-476	PI
251	2011-477	PI
252	2011-478	PI
253	2011-479	PI
254	2011-480	PI
255	2011-481	PI
256	2011-483	PI
257	2011-484	PI
258	2011-485	PI
259	2011-486	PI
260	2011-487	PI
261	2011-488	PI
262	2011-490	PI
263	2011-491	PI
264	2011-492	NOFI
265	2011-493	PI
266	2011-494	PI
267	2011-495	PI
268	2011-496	PI
269	2011-497	PI
270	2011-498	PI
271	2011-499	PI
272	2011-500	PI
273	2011-501	PI
274	2011-502	PI
275	2011-503	PI
276	2011-504	PI
277	2011-505	PI
278	2011-506	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
279	2011-507	PI
280	2011-508	PI
281	2011-509	PI
282	2011-510	PI
283	2011-511	PI
284	2011-512	PI
285	2011-513	PI
286	2011-514	PI
287	2011-515	PI
288	2011-516	PI
289	2011-517	PI
290	2011-518	PI
291	2011-519	PI
292	2011-520	PI
293	2011-521	PI
294	2011-522	LINQ-C
295	2011-523	PI
296	2011-524	PI
297	2011-525	PI
298	2011-526	PI
299	2011-527	PI
300	2011-528	PI
301	2011-529	PI
302	2011-530	PI
303	2011-531	PI
304	2011-532	PI
305	2011-533	PI
306	2011-534	PI
307	2011-535	PI
308	2011-537	PI
309	2011-538	PI
310	2011-539	PI

OPEN COMPLAINTS AS OF DECEMBER 31, 2011

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
311	2011-540	PI
312	2011-541	PI
313	2011-542	SCT
314	2011-545	LINQ-C
315	2011-546	PI
316	2011-547	PI
317	2011-548	PI
318	2011-549	PI
319	2011-550	PI
320	2011-552	PI
321	2011-553	PI
322	2011-555	PI
323	2011-556	PI
324	2011-557	PI
325	2011-558	PI
326	2011-559	PI
327	2011-560	PI
328	2011-561	PI
329	2011-562	PI
330	2011-563	PI
331	2011-564	PI
332	2011-565	PI
333	2011-566	PI
334	2011-567	SCT
335	2011-568	PI
336	2011-569	PI
337	2011-570	PI
338	2011-571	PI
339	2011-572	PI
340	2011-573	PI
341	2011-575	PI
342	2011-576	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
343	2011-577	PI
344	2011-578	PI
345	2011-579	PI
346	2011-580	PI
347	2011-581	PI
348	2011-582	PI
349	2011-583	PI
350	2011-584	PI
351	2011-585	PI
352	2011-586	PI
353	2011-587	PI
354	2011-588	PI
355	2011-589	PI
356	2011-590	PI
357	2011-591	PI
358	2011-592	PI
359	2011-593	PI
360	2011-594	PI
361	2011-595	PI
362	2011-596	PI
363	2011-597	PI
364	2011-598	PI
365	2011-599	PI
366	2011-600	PI
367	2011-601	PI
368	2011-602	PI
369	2011-603	PI
370	2011-604	PI
371	2011-605	PI
372	2011-606	PI
373	2011-607	PI
374	2011-608	PI

OPEN COMPLAINTS AS OF DECEMBER 31, 2011

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
375	2011-609	PI
376	2011-610	PI
377	2011-611	PI
378	2011-612	PI
379	2011-613	PI
380	2011-614	PI
381	2011-615	PI
382	2011-616	PI
383	2011-617	PI
384	2011-618	LINQ-B
385	2011-619	LINQ-C
386	2011-620	PI
387	2011-621	PI
388	2011-622	PI
389	2011-623	PI
390	2011-624	PI
391	2011-625	PI
392	2011-626	PI
393	2011-627	PI
394	2011-628	PI
395	2011-629	PI
396	2011-630	PI
397	2011-631	PI
398	2011-632	PI
399	2011-633	PI
400	2011-634	PI
401	2011-635	PI
402	2011-636	PI
403	2011-637	PI
404	2011-638	PI
405	2011-639	PI
406	2011-640	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
407	2011-641	PI
408	2011-642	PI
409	2011-643	PI
410	2011-644	PI
411	2011-645	PI
412	2011-646	PI
413	2011-647	PI
414	2011-648	PI
415	2011-649	PI
416	2011-650	PI
417	2011-651	PI
418	2011-652	PI
419	2011-653	PI
420	2011-654	PI
421	2011-655	PI
422	2011-656	PI
423	2011-657	PI
424	2011-658	PI
425	2011-659	PI
426	2011-660	PI
427	2011-661	PI
428	2011-662	PI
429	2011-663	PI
430	2011-664	PI
431	2011-665	PI
432	2011-666	PI
433	2011-667	PI
434	2011-668	PI
435	2011-669	PI
436	2011-670	PI
437	2011-671	PI
438	2011-672	PI

OPEN COMPLAINTS AS OF DECEMBER 31, 2011

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
439	2011-673	PI
440	2011-674	PI
441	2011-675	PI
442	2011-676	PI
443	2011-677	PI
444	2011-678	PI
445	2011-679	PI
446	2011-680	PI
447	2011-681	PI
448	2011-682	PI
449	2011-683	PI
450	2011-684	PI
451	2011-685	PI
452	2011-686	PI
453	2011-687	PI
454	2011-688	PI
455	2011-689	PI
456	2011-690	PI
457	2011-691	PI
458	2011-692	PI
459	2011-693	PI

<u>ITEM NO.</u>	<u>CASE NO.</u>	<u>STATUS</u>
460	2011-694	PI
461	2011-695	PI
462	2011-696	PI
463	2011-697	PI
464	2011-698	PI
465	2011-699	PI
466	2011-700	PI
467	2011-701	PI
468	2011-702	PI
469	2011-703	NOFI
470	2011-704	PI
471	2011-705	PI
472	2011-706	PI
473	2011-707	PI
474	2011-708	PI
475	2011-709	PI
476	2011-710	PI
477	2011-711	PI

STATUS KEY:

CJD	=	Case in process with Court of Judicial Discipline
CJD Probation	=	Court of Judicial Discipline issued probationary sentence
CD-LCAU	=	Judicial Candidate Cautioned
LCAU	=	Letter of Caution issued
LINQ	=	Letter of Inquiry issued, (B=Board; C=Chief Counsel)
PI	=	Preliminary Inquiry stage
NOFI	=	Notice of Full Investigation stage
Rehab Diversion	=	Pending successful ARD completion
SCT	=	Pending Supreme Court of Pennsylvania Appeal

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 2011, 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. Examples as follows:

- Rule 2A and PA Constitution Art V., § 18(d)(1)
 - The judge covered for a constable's improper removal of inmate from county jail by lying to parole officer that inmate had been brought to the judicial office.
- Inappropriate Use of Prestige of Office Canon 2A, 2B, Canon 5, PA Constitution Art V., § 18(d)(1)
 - The judicial officer was engaged in improper non-judicial business activities, attempted to procure a liquor license when forbidden by law from doing so, and failed to report certain income on his statements of financial interest.

2. **Letters of Caution** (Issued as private warnings of judicial misconduct), examples as follows:

- Rule 2A
 - The judicial officer failed to respect and comply with the law in disregarding a court order in a personal litigation matter.
 - The judicial officer, without valid legal justification, refused to accept a civil complaint for filing that could have been properly filed in her court.
- Rule 2A and Rule 4D
 - The judge initiated improper discussion with common pleas judge handling his brother's divorce case, who then recused because of contact.
 - The judge finding retail theft defendant not guilty because defendant claimed store sent a restitution letter. (Pursuit of civil remedy did not negate criminal action).
- Rule 3A
 - The judicial officer failed to devote the time necessary for the prompt and proper disposition of his caseload on landlord-tenant matters

2011 STATISTICS

- Canon 3B(1)
 - The judge had a 10-month delay in issuing the opinion after parties filed briefs.
- Canon 7A(4)
 - The judicial officer engaged in political activity not authorized by the Code.
- Canon 3A(3))
 - The judicial officer made offensive statements to a defendant at a hearing on a custody contempt petition.
- Canons 3A(3), (4))
 - The judicial officer conducted off-the-record discussions with another judicial officer about their decision in a related pending case and made discourteous statements to a defendant at a hearing for a petition for modification of child support.
- PA Constitution Art V., § 18(d)(1))
 - The judicial officer filed an incomplete statement of financial interest.
- Canon 7A(1)(b)
 - An unsuccessful candidate for judicial office endorsed a candidate for the office of district attorney by signing a petition to have the candidate's name placed on the countywide ballot.
- Rule 2A, 4(C),(D)
 - The judicial officer refused to postpone time of a scheduled hearing for a short period of time for litigant who was caught in traffic and telephoned the judicial officer to explain the situation.
- Canon 3B(1)
 - The judicial officer was unjustifiably delayed in the filing of an opinion.
- Rule 4(C), (D)
 - The judicial officer engaged in out-of-court discussions with a police officer in a traffic case, and he was discourteous to the defendant at a hearing held on the traffic case.
- Canon 3A(3), (4)
 - The judicial officer used coarse language and exercised undue pressure over a party at a divorce settlement conference.
- Rules 2A, Rule 4(A), (C), (D), Rule 8A
 - The judicial officer engaged in improper out-of-court discussions with parties in a pending protection from abuse petition, engaged in a shouting match with a litigant, and consulted improperly with staff regarding the disposition of a matter.

2011 STATISTICS

- Rules 2A, 4(A), (C), and (D)
 - The judicial officer lowered a fine for a defendant outside of the presence of and without the knowledge of the affiant officer and gave unwelcome lectures about sexual and reproductive health to truancy defendants.

- Rule 2A, 4B & C
 - In both underlying cases, the judge raised his voice in dealing with unruly litigants and demonstrated improper courtroom demeanor and failed to maintain order and decorum in the proceedings.

- Rules 2A, 4B-D
 - The judge demonstrated improper courtroom demeanor by arguing with a police officer who had treated the judge with disrespect. An investigation also revealed that the judge raised his/her voice at court employees and attorneys in courtroom setting.

The Code of Judicial Conduct Canons and the Rules Governing Standards of Conduct for Magisterial District Judges may be referenced on the Board's website, [www.http://jcbpa.org](http://jcbpa.org) Legislation tab, or may also be referenced in the Pennsylvania Rules of Court published annually by West Publications.

STATISTICS

Summary of Board Activity

COMPLAINT DISPOSITION ACTIVITY DURING 2011

<i>Dismissed after Preliminary Inquiry – 492</i>
<i>Letter of Inquiry – 78 (Board 29/Counsel 49)</i>
<i>Notice of Full Investigation – 24</i> <i>(One Notice of Full Investigation may be inclusive of multiple case numbers.)</i>
<i>Letter of Caution – 35</i>
<i>Letter of Counsel – 3</i>
<i>Formal Charges – 8</i>



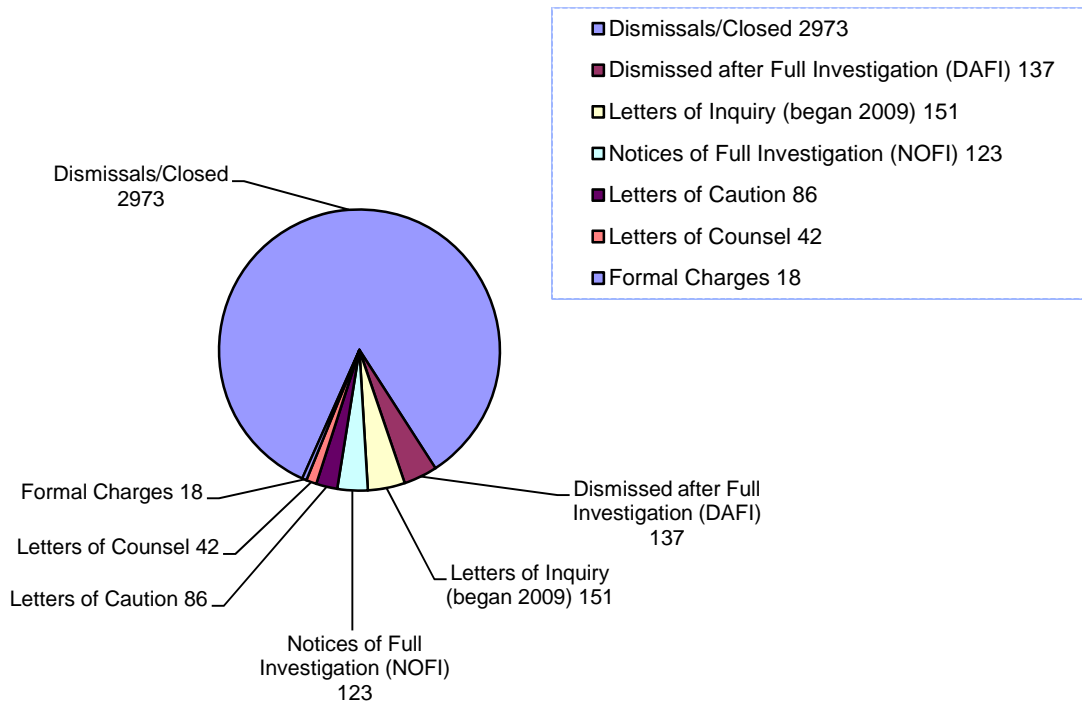
Five Year Statistical Summary*

Year	Complaints Received	Dismissed/ Closed	Letters of Inquiry	Notices of Full Investigation Issued	Letters of Caution Issued	Letters of Counsel Issued	Formal Charges Filed
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
2011	711	585	78	24	35	3	8
Total	3297	2973	151	123	86	42	18
Average	659	595	50	25	17	8	4

*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 2007, 2008, 2009, 2010, and 2011)



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 2011 TO 1993

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

JUDICIAL OFFICER	DESCRIPTION OF MISCONDUCT	DATE & SANCTION IMPOSED
Former Court of Common Pleas Judge M. Conahan, 8 JD 2011	Conahan indicted by federal grand jury and pled guilty to Count 2: Racketeering Conspiracy. Sentenced to serve period of incarceration of 210 months; 3 years supervised release after incarceration; restitution in the amount of \$874, 167.37; pay special assessment of \$100 and a fine of \$20,000.	4/23/2012 Removed from office and prohibited from holding any judicial office in PA.
Former Court of Common Pleas Judge M. Ciaveralla, 7 JD 2011	Ciavarella indicted by federal grand jury on 39 Counts. Found guilty by jury on Counts 1, 2, 7-10, 21, 35-39. Sentenced to serve a period of incarceration totaling 336 months; 3 years supervised release; restitution in the amount of \$1,173,791.94 and to pay a special assessment of \$1200.	Board Complaint filed 12/21/2011; awaiting disposition.
MDJ R. Cioppa, 6 JD 2011	Cioppa indicted by county for 2 counts of Bribery, 2 counts of Official Oppression, and 2 counts of Indecent Assault. Board filed a Petition for Relief and a Petition Requesting Interim Suspension With Pay pending outcome of the criminal trial.	7/24/2012 Removed from office and prohibited from holding any judicial office in PA. 10/17/2011 Respondent suspended with pay, entitlement to medical benefits remain intact.

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

JUDICIAL OFFICER	DESCRIPTION OF MISCONDUCT	DATE & SANCTION IMPOSED
Common Pleas Court Judge J. Toole, 5 JD 2011	Toole pled guilty to 1 count willfully making and subscribing a materially false individual tax return and Corrupt Receipt of Reward With Official Action Concerning Programs Receiving Federal Funds, both classified as felonies. Sentenced to serve a period of incarceration of 46 months; 3-year supervised release; restitution in the amount of \$444,000 and to pay a special assessment of \$800; and to forfeit specified cash, bank accounts, real estate and personal property.	7/26/2011 Removed from office and prohibited from holding any judicial office in PA.
MDJ I. Stoltzfus, 4 JD 2011	Stoltzfus attended the continuing education school for the minor judiciary. Over lunch, he handed condom-filled acorns to two female state employees in a park, while wearing a badge identifying his position as a magisterial district judge.	8/17/2011 Board Complaint dismissed. Board did not establish by clear and convincing evidence conduct violation of R.G.S.C.M.D.J. Rule 2A (because conduct did not occur in the decision-making process), Article V, § 17(b) and Article V, § 18(d)(1) of the Pennsylvania Constitution.
Former Superior Court Judge M. Joyce, 3 JD 2011	Joyce convicted of two federal felony counts of mail fraud and six federal felony counts of engaging in monetary transactions in property derived from specific unlawful conduct.	7/26/2011. Removed from office and prohibited from holding any judicial office in PA.
MDJ G. Liberace, 2 JD 2011	Grand Jury Presentment recommended Office of Attorney General charge Liberace with 3 misdemeanors involving Indecent Assault, Endangering Welfare of Children, and Corruption of Minors. Jury found Respondent guilty of Endangering Welfare of Children and Corruption of Minors. Sentenced 3-to-6 months incarceration plus 1 year probation on each of the two charges to run consecutively. Also ordered to undergo psychological sexual evaluation and be subject to the rules governing sexual offenders.	Board Complaint filed 4/13/2011; Court of Judicial Discipline stayed case until conviction and judgment of sentence is final and appeals exhausted.
MDJ M. Merlo, 1 JD 2011	Companion case to 3 JD 2010 and decided concurrently	10/17/2011. Removed from office and prohibited from holding any judicial office in PA. Respondent appealed to the Supreme Court of Pennsylvania.
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 PA.

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

JUDICIAL OFFICER	DESCRIPTION OF MISCONDUCT	DATE & SANCTION IMPOSED
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
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

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

JUDICIAL OFFICER	DESCRIPTION OF MISCONDUCT	DATE & SANCTION IMPOSED
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
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

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

JUDICIAL OFFICER	DESCRIPTION OF MISCONDUCT	DATE & SANCTION IMPOSED
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. Berkhimer 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
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

SUMMARY OF COURT OF JUDICIAL DISCIPLINE SANCTIONS IMPOSED

JUDICIAL OFFICER	DESCRIPTION OF MISCONDUCT	DATE & SANCTION IMPOSED
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 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.

Since 1980, three hundred and seventy eight (378) judges have been removed. This corresponds to an average of 12 judges removed each year.

In 2011:
• Eight (8) judges or former judges were removed from office as a result of state judicial discipline proceedings (one was ordered to retire);
• 11 judges resigned (or retired) in lieu of discipline and agreed not to serve judicial office again;
• 105 judges received other public sanctions
• 14 judges were suspended without pay, with sanction lengths between 10-days to 1-year, (two included fines);
• Four (4) former judges were barred from serving in judicial office;
• 13 judges were publicly censured; (three included supervised probation, mentorship, additional training or participation in lawyers assistance program);
• 43 judges were publicly reprimanded (two included fines, nine included corrective action);
• 16 judges were publicly admonished;
• One judge received a public warning;
• Four (4) were privately reprimanded but agreed it would be made public.
Since 1980:
➤ 378 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 33, 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.icbpa.org.

Your Information:

Name: _____

Address: _____

Telephone: _____

()

City: _____

State: _____

Zip: _____

()

Judicial Officer's Information:

Name: _____

Type of Judicial Officer:

Magisterial District Judge

County: _____

Judge

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

Case Has Been Appealed

Case Name: _____

Case Docket Number: _____

Your Attorney:

Opposing Attorney:

Witness:

Name: _____

Name: _____

Name: _____

Address: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Phone: _____

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

Date

Your Signature

**Please 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