

ANNUAL REPORT - 2001

TO THE SUPREME COURT OF APPEALS OF WEST VIRGINIA:

Pursuant to Rule 1.11(3) of the Rules of Judicial Disciplinary Procedure, the Judicial Investigation Commission of West Virginia respectfully submits this Annual Report for its activities during the period of January 1, 2001, through December 31, 2001.

THE COMMISSION

The Supreme Court of Appeals of West Virginia is required by Article 8, Section 8 of the Constitution of West Virginia to use its inherent rule-making power to “from time-to-time, prescribe, adopt, promulgate, and amend rules prescribing a judicial code of ethics, and a code of regulations of standards of conduct and performances for justices, judges and magistrates, along with sanctions and penalties for any violation thereof.” Under this constitutional authority the Court “is authorized to censure or temporarily suspend any justice, judge or magistrate having the judicial power of this State, including one of its own members, for any violation of any such code of ethics, code of regulations and standards, or to retire any such justice, judge or magistrate who is eligible for retirement under the West Virginia judges’ retirement system (or any successor or substitute retirement system for justices, judges, and magistrates of this State) and who, because of advancing years and attendant physical or mental incapacity, should not, in the opinion of the Supreme Court of Appeals, continue to serve as a justice, judge or magistrate.”

The Constitution provides that “no justice, judge or magistrate shall be censured, temporarily suspended or retired under the provisions of this section

unless he shall have been afforded a right to have a hearing before the Supreme Court of Appeals, nor unless he shall have received notice of the proceedings, with a statement of the cause or causes alleged for his censure, temporarily suspension or retirement, at least 20 days before the day on which the proceeding is to commence.” When rules authorized by this provision of the Constitution are “prescribed, adopted and promulgated, they shall supersede all laws and parts of laws in conflict therewith, and such laws shall be and become of no further force or effect to the extent of such conflict.” Under the constitutional provision “[a] justice or judge may be removed only by impeachment in accordance with provisions of section nine, article four, of this Constitution. A magistrate may be removed from office in the manner provided by law for the removal of county officers.”

By Order entered December 15, 1982, the Supreme Court of Appeals of West Virginia created the Judicial Investigation Commission to exist as of 12:01 A.M., December 16, 1982. At that time, the Judicial Inquiry Commission, created by Rule promulgated October 1, 1976, ceased to exist. The Chairman and the Executive Secretary of the Judicial Inquiry Commission provided to the Judicial Investigation Commission all of the records, files, and reports on cases of the Judicial Inquiry

Commission. By Orders entered November 29, 1989, and December 20, 1989, effective January 1, 1990, and an Order entered November 29, 1990, effective January 1, 1991, and an Order entered March 24, 1993, effective July 1, 1993, the Supreme Court of Appeals of West Virginia further amended the Rules of Procedure for the Handling of Complaints Against Justices, Judges, and Magistrates which are now the Rules of Judicial Disciplinary Procedure. By Order entered on May 25, 1993, effective July 1, 1994, the Rules of Judicial Disciplinary Procedure superseded the prior Rules of Judicial Disciplinary Procedure adopted December 15, 1982, and amended by Orders as stated hereinabove.

The West Virginia Rules of the Judicial Disciplinary Procedure, Rule 1, establishing the Judicial Investigation Commission, states that "the ethical conduct of judges is of the highest importance to the people of the State of West Virginia and to the legal profession. Every judge shall observe the highest standards of judicial conduct. In furtherance of this goal, the Supreme Court of Appeals does hereby establish a Judicial Investigation Commission [Commission] to determine whether probable cause exists to formally charge a judge with a violation of the Code of Judicial Conduct promulgated by the Supreme Court of Appeals to govern

the ethical conduct of judges or that a judge, because of advancing years and attendant physical and mental incapacity, should not continue to serve."

The West Virginia Rules of Judicial Disciplinary Procedure, Rule 2, using the Code of Judicial Conduct definition, defines "judge" as "anyone whether or not a lawyer who is an officer of a judicial system and who performs judicial functions including but not limited to Justices of the Supreme Court of Appeals, Circuit Judges, Family Law Masters, Magistrates, Mental Hygiene Commissioners, Juvenile Referees, Special Commissioners, and Special Masters."

The Commission consists of nine members: three circuit judges; one magistrate; one family law master; one mental hygiene commissioner, and three members of the public. All members of the Commission are appointed by the Supreme Court of Appeals.

The Commission shall have the authority to: (1) determine whether probable cause exists to formally charge a judge with a violation of the Code of Judicial Conduct or that a judge, because of advancing years and attendant physical or mental incapacity should not continue to serve; (2) propose rules of procedure for judicial disciplinary proceedings for promulgation by the Supreme Court of

Appeals; (3) file an annual report with the Supreme Court of Appeals on the operation of the Commission; (4) inform the public about the existence and operation of the judicial disciplinary system, the filing of formal charges, and the discipline imposed or recommended on formal charges; (5) delegate in its discretion, to the Chairperson or Vice-Chairperson, the authority to act for the Commission on administrative and procedural matters; (6) nominate, for selection by the Supreme Court of Appeals, candidates for the position of Judicial Disciplinary Counsel; and (7) engage in such other activities related to judicial discipline as it deems appropriate.

The Commission held five regular meetings during 2001 in the Judicial Investigation Commission Conference Room, 910 Quarrier Street, Charleston, West Virginia, on February 2, April 6, June 22, November 2, and December 14. Copies of all pertinent documents are distributed to the members of the Commission prior to each meeting so that they may review the materials and be prepared to discuss them actively in the meeting. The Commission has a support staff of a full-time Executive Secretary, full-time Counsel, and five part-time Examiners, who conduct

investigations of complaints.¹

PROCEDURE FOR HANDLING COMPLAINTS

Complaints filed with the Commission are referred to counsel, who reviews each complaint and either refers the matter to an examiner for investigation, asks the respondent judge for a response, or sends it directly to the members of the Commission for study prior to consideration at the next meeting. Those complaints which are referred directly to the Commission for consideration at a meeting are either dismissed for lack of probable cause or referred to an examiner for investigation.

Prior to any finding of probable cause by the Commission, a respondent judge shall be notified in writing of the nature of the complaint. The judge shall have ten days after the date of the notice to file a written response to the complaint.

¹While not a part of the work of the Commission, Counsel to the Judicial Investigation Commission pursuant to the Protocol for Fatality Review Teams, initially promulgated by the Supreme Court of Appeals in 1994 and amended in 1998 and 2000, is charged with initiating a confidential investigation and preparing a report for a designated Fatality Review Team. These reports are subsequently presented to a Fatality Review Team at a scheduled meeting. Commission staff is utilized in the investigation and preparation of these reports. During 2001 there were (13) fatalities referred to the Commission for investigation, report preparation and presentation of reports to the Fatality Review Teams. At the time this Annual Report was filed there were (6) Fatality Review matters pending.

All decisions on whether probable cause exists to refer the complaint to the Judicial Hearing Board are made by the Commission at meetings with a majority of the members in attendance. Likewise all decisions on dismissal of complaints are made by the Commission at meetings with a majority of the members in attendance.

Parties are contacted about the action of the Commission after a decision has been made on a complaint.

Some complaints contain more than one allegation against a judge, and the Commission may dismiss part of a complaint and find probable cause on part of a complaint.

By Orders entered March 24, 1993, effective July 1, 1993, and May 25, 1993, effective July 1, 1994, the Rules of Judicial Disciplinary Procedure were amended to include a provision that all information provided, documents filed or testimony given with respect to any investigation or proceeding under the Rules of Judicial Disciplinary shall be privileged in any action for defamation. All members of the Commission, the Judicial Committee on Assistance and Intervention, the Office of Disciplinary Counsel, and their employees, shall be absolutely immune from civil suit in the same manner as members of the judiciary in this State for any

conduct in the course of their official duties.

All proceedings of the Commission are confidential except that when a complaint has been filed or an investigation has been initiated the Office of Disciplinary Counsel may release information confirming or denying the existence of a complaint or investigation, explaining the procedural aspects of the complaint or investigation, or defending the right of the judge to a fair hearing. Prior to the release of information confirming or denying the existence of a complaint or investigation, reasonable notice shall be provided to the judge.

EXTRAORDINARY PROCEEDINGS

The Rules of Judicial Disciplinary Procedure provide that when the Administrative Director of the Courts has received information that a judge (1) has been convicted of a serious offense, (2) has been indicted or otherwise charged with a serious offense, (3) has engaged or is currently engaging in a serious violation of the Code of Judicial Conduct, or (4) has become unable or unwilling to perform his or her official duties, the Administrative Director may file a complaint with Judicial Disciplinary Counsel.

Upon receipt of such complaint, Judicial Disciplinary Counsel shall conduct

an immediate investigation and shall within ten days present to the Chief Justice of the Supreme Court a report indicating whether, in the opinion of Judicial Disciplinary Counsel, the integrity of the legal system has been placed into question by virtue of a judge's (1) having been convicted of a serious offense; (2) having been indicted or otherwise charged with a serious offense; (3) having engaged in or currently engaging in a serious violation of the Code of Judicial Conduct; or (4) inability or unwillingness to perform his or her official duties. The Office of Disciplinary Counsel shall attempt to provide reasonable notice to the judge prior to the filing of this report.

Upon receipt of the report, from the Chief Justice, the Supreme Court shall determine whether probable cause exists. A finding of probable cause hereunder shall be in lieu of a probable cause finding made pursuant to Rule 2.7(c). If it is determined that probable cause exists, the Court may: (1) direct the Disciplinary Counsel to file formal charges with the Clerk of the Supreme Court; and (2) provide notice to the judge of a right to a hearing on the issue of temporary suspension, said hearing to be in not less than 30 days; with the judge provided notice of the hearing is not less than 20 days before the proceeding; or (3) in the alternative, remand the

complaint for proceedings pursuant to Rule 2.7(d) and Rule 4.

If the judge has been convicted of a serious offense or has been indicted or otherwise charged with a serious offense, the Chief Justice may order that the judge not hear any further civil or criminal matters or perform other judicial functions while the matter is pending, with or without pay.

If pursuant to the rule on extraordinary proceedings the Court finds probable cause to believe that a judge has engaged or is currently engaging in a serious violation of the Code of Judicial Conduct or has become unable or unwilling to perform his or her official duties, the Court may direct that the judge not hear any further civil or criminal matters or perform other judicial functions while the matter is pending, with or without pay.

After the hearing on the issue of suspension, the Court may temporarily suspend the judge with or without pay while the matter is pending before the Judicial Hearing Board and until the Court has disposed of the formal charges.

Both the details of the complaint filed by the Administrative Director of the Courts and the investigation conducted by the Office of Disciplinary Counsel under this rule shall be confidential, except that when a formal charge has been filed with

the Clerk of the Supreme Court, all documents filed with the Clerk and the Judicial Hearing Board shall be made available to the public.

However, Disciplinary Counsel may release information confirming or denying the existence of a complaint or investigation, explaining the procedural aspects of the complaint or investigation, or defending the right of the judge to a fair hearing. Prior to the release of information confirming or denying the existence of a complaint or investigation, reasonable notice shall be provided to the judge.

During 2001 there was four (4) proceedings under this section of the Rules of Judicial Disciplinary Procedure and a synopsis of those cases is as follows:

In the Matter of: Magistrate Donna R. Jones, Magistrate for Marion County, Complaint No. 132-2000. On August 3, 2000, the Administrative Director of the Courts filed a complaint against Donna R. Jones, alleging among other things that she had committed acts that would constitute numerous and substantial violations of the Code of Judicial Conduct. The complaint incorporated by reference a petition filed by Chief Circuit Judge of the Sixteenth Judicial Circuit which sought to remove Magistrate Jones from office. After the complaint was filed, an immediate investigation of the matters alleged was begun and a report of Judicial Disciplinary Counsel was filed with the Chief Justice of the Supreme Court of Appeals of West Virginia. Upon filing of the report of Judicial Disciplinary Counsel, the Court suspended Magistrate Jones with pay pending the investigation of the

complaint filed against her. In a letter to the Clerk of the Supreme Court dated February 16, 2001, the Chairperson of the Judicial Investigation Commission stated that the Commission had learned that Magistrate Jones was defeated in the November election and was no longer serving as a judicial officer. It learned the petition to remove Donna Jones as Magistrate of Marion County was tried before a three-judge panel, appointed by the Supreme Court of Appeals, and subsequent to the election and Magistrate Jones' defeat the case was declared moot and no further action was taken and no decision was issued by the three-judge panel. The Commission felt that it would serve no further purpose to continue the matter and such action would constitute a further unnecessary expenditure of resources. Based on those considerations the Commission dismissed the complaint filed in the matter.

In the Matter of: Magistrate Mark Whitely, Magistrate for Raleigh County, Complaint No. 157-2000. On September 13, 2000, the Administrative Director of the Courts filed a complaint against Magistrate Mark Whitely alleging among other things that on September 12, 2000, he was arrested and charged with driving under the influence of alcohol, running a red light and failing to submit to a blood alcohol test. After the complaint was filed, an immediate investigation of the matters alleged was begun and a report of Judicial Disciplinary Counsel was filed with the Chief Justice of the Supreme Court of Appeals of West Virginia. Upon the filing of the report of Judicial Disciplinary Counsel, the Court suspended Magistrate Whitely without pay pending the investigation of the complaint filed against him. In an order entered in the Supreme Court of Appeals on January 18, 2001, the Court adopted the recommendation of the Judicial Hearing Board which had accepted a proposed memorandum of agreement to resolve Case No. 157-2000 and Case No. 164-2000. The memorandum of agreement provided that the Respondent could return to his judicial duties; he would at his own expense participate in

outpatient counseling and attend Alcoholics Anonymous meetings as recommended in the evaluation performed on December 1, 2000, with such counseling and attendance at the foresaid meetings to remain in the discretion of the physician and/or psychologist conducting such counseling; the outpatient counseling and attendance should continue for a period of six months or until such time as the physician and/or psychologist shall determine that it is no longer needed; the Respondent shall file a verification of such counseling and attendance with the Chief Circuit Judge of the Tenth Judicial Circuit on a monthly basis; the Respondent shall be reevaluated at the end of six months; the Respondent shall reimburse the Judicial Investigation Commission for the costs incurred in the investigation and prosecution of the cases; and the Judicial Investigation Commission agreed not to further pursue the complaints filed herein provided the Respondent complies with the terms of the memorandum of agreement.

In the Matter of: Magistrate-Elect Bobby Charles Justice, Magistrate-Elect for Mingo County, Complaint No. 235-2000. On December 15, 2000, the Administrative Director of the Courts filed a complaint against Magistrate-Elect Bobby Charles Justice alleging among other things that on December 13, 2000, criminal charges were instituted against him charging him with obtaining money under false pretenses, solicitation of a bribe, aiding and abetting on entering without breaking, and arson with the intent to defraud an insurer. After the complaint was filed, an immediate investigation of the matters alleged was begun and a report of Judicial Disciplinary Counsel was filed with the Chief Justice of the Supreme Court of Appeals of West Virginia. Upon the filing of the report of Judicial Disciplinary Counsel, the Court ordered that upon being sworn into office Magistrate-Elect Justice be suspended without pay pending the investigation of the complaint filed against him. The Court set the matter down for argument on April 24, 2001. In an order entered on March 8, 2001, the Court dismissed the case upon a motion filed by the Commission

suggesting that the issues raised were moot because the Respondent had never assumed judicial office and had resigned from that position. The case was dismissed from the docket of the Court.

In the Matter of: Magistrate Stephen M. Johnson, Magistrate for Calhoun County, Complaint No. 166-2001. On September 26, 2001, the Administrative Director of the Courts filed a complaint against Magistrate Stephen M. Johnson alleging that the Magistrate had embezzled certain court funds. During a preliminary investigation of the complaint, it was learned that Magistrate Johnson submitted his resignation to the Chief Circuit Judge. After the complaint was filed, an immediate investigation of the matters alleged was begun and a report of Judicial Disciplinary Counsel was filed with the Chief Justice of the Supreme Court of Appeals of West Virginia. Upon the filing of the report of Judicial Disciplinary Counsel, the Court determined that the integrity of the legal system had been placed into question by virtue of the actions of the Respondent. The matter was remanded to the Judicial Investigation Commission for further investigation and proceedings pursuant to the Rules of Judicial Disciplinary Procedure. The case is pending.

ADVISORY OPINIONS

A judge or the Administrative Director of the Courts may, by written request to the Commission, seek an advisory opinion as to whether certain specific actions contemplated may constitute a violation of the Code of Judicial Conduct. The Commission may render in writing such advisory opinion as it may deem appropriate. An advisory opinion is not binding upon the Judicial Hearing Board or

the Supreme Court, but shall be admissible in any subsequent disciplinary proceeding involving the judge who made the request. During 2001 there were twenty-one (21) issues raised in advisory opinion requests, and a synopsis of the Commission's opinion on each follows:

A family law master must disclose the employment of his wife as an intern for an agency during a graduate program, if that agency is involved in any case before the family law master. Canon 3

A judge who owns a home in an area affected by a proposed city ordinance can appear as a private citizen before the zoning board to express opposition to the proposed ordinance which would impair the judge's property interests.

A judge must have a committee in order to solicit funds to retire a campaign debt. The continuation of the committee or the formation of a new committee must be done in accordance with the Code of Judicial Conduct and the election laws of West Virginia. Canon 5C(2)

A judge may ride in a vehicle with the judge's name and title on the vehicle in a parade so long as this is done in accordance with the relevant sections of Canon 4. Canon 4A(1)(2)(3)

A judge should not write a letter to another judge who is sentencing the judge's son. However, if subpoenaed to testify at a hearing the judge could provide information requested by the court pursuant to the subpoena. Canon 2B

A judge must report a partial contingent fee recovery received after going full time on the bench for a case that was pending at the time the

judge closed the judge's private law practice. Canon 4H

A judge may not negotiate the purchase of a vehicle from an individual who appeared before the judge but whose case is closed. The possibility of the individual returning to the judge's court for subsequent action in a domestic matter would create a problem. Canon 2A

A judge may provide a list of frequently used telephone numbers on a placemat in a restaurant if the judge did not identify himself as a judge or place any judicial identification on the item. Canon 2B

A judge could serve as an advisory board member to the Make a Wish Foundation of Southern West Virginia so long as the judge did not solicit funds for that organization or use or permit the use of the prestige of the judge's office for that purpose. Canon 4C(3)(a)(b)

A judge may serve as a voting member on the Board of the Courthouse Facilities Improvement Authority since that work would appear to further the interest and well being of the West Virginia State Court System. Canon 4A(1)(2)(3), 4B, 4C(2)

A judge may serve as a judge in a mock trial presented to firefighters and police officers to assist them in understanding the workings of the trial court. However, the judge should take care to conduct such trial in a way that no statements or comments are made which may show the judge's predisposition to cases of the kind presented during the mock trial. Canon 4B

A judge may not serve as an executor or other personal representative except for the estate of a member of the judge's family. Canon 4E

A judge should not attend town meetings held specifically to address

drug and violence problems in the county since the judge would have an occasion to hear cases involving those issues. Canon 2A, 3A, 3B(2)(9)

A continuing part-time judge may accept court appointed cases. However, the continuing part-time judge may not represent clients in cases or serve as an attorney in such proceedings related to the jurisdiction over which the continuing part-time judge serves. Canon 6C

A senior status judge may not serve as a member of the board of directors of a utility co-op. The Canons exempt a retired judge admitted to senior status under certain circumstances only from Canon 4E and 4G of the Code of Judicial Conduct. Canon 4D(3)

A judge may hear cases brought by an attorney who had filed suit against the judge and the judge's client in the past. The suit was fully resolved. The lawyer has made allegations against the former client which could result in civil if not criminal allegations if proven. The judge is not disqualified from hearing cases brought by the attorney per se but should disclose the judge's former representation of the individual on the record. Canon 3E(1)

A judge should sell the judge's interest in a real estate partnership created when the judge was in law practice with the other attorneys in the partnership. The sale should take place in a one time lump sum payment so that the possibility of a continuing business relationship with the attorneys appearing before the court would not be present. Canon 4D; Matter of Means, 192 W.Va. 380, 452 S.E.2d 696 (1994)

A judge must recuse himself from any cases involving former law partners during the period payouts are being made to buy the judge's interest in the former law practice. Further, the judge must recuse

himself from any cases involving a company during the pendency of settlement negotiations on a case involving a judge while his was in private law practice. Canon 4D

When a prosecutor/spouse appears before a family law master/spouse there is a per se disqualification of the family law master from hearing the case. In those cases where the prosecutor/spouse has no direct involvement in the case, as finding under the language contained in State ex rel. Brown v. Detrick, 191 W.Va. 169, 444 S.E.2d 47, (1994) must be made as to whether a recusal is required. Canon 3E; State ex rel. Brown v. Detrick, 191 W.Va. 169, 444 S.E.2d 47, (1994)

A judge may serve as a Trustee of an Interactivity Foundation subject to the restrictions set forth in Canon 4C(3). Canon 4C(3)

A judge should not become a member of a Domestic Violence Fatality Review Team established by the Executive Branch of government to measure trends in domestic violence fatalities, identify and review deaths occurring in West Virginia related to domestic violence and use that knowledge to inform policy makers and the public about the dynamics of domestic violence fatalities and the effectiveness of community prevention and intervention efforts because the team would discuss cases and issues involving the same subject matter which would be entering the court system and which would likely appear before the judge's court or other courts. Canon 4

STATISTICS

On January 1, 2001, there were 26 complaints which remained pending before the Judicial Investigation Commission. During 2001, 214 new complaints were received for a total of 240 to be considered by the Commission. Of these 240

complaints considered, forty-seven 47 required formal investigations. One hundred and ninety-three 193 were dismissed when no probable cause was found; it was determined that the Commission had no jurisdiction in five 5 complaints; no complaints were withdrawn by the complainants with the approval of the Commission; and two 2 admonishments were issued. A synopsis of each of these admonishments follows:

In the Matter of: Magistrate Ronnie McKenzie, Magistrate for McDowell County (Judicial Investigation Complaint No. 29-2001, filed 3/9/01). Ronnie McKenzie, Magistrate for McDowell County was admonished for violation of Canon 1, Canon 2A and Canon 3A and 3B(4) of the Code of Judicial Conduct. Upon initiation of the complaint against Magistrate McKenzie, the investigation found that while waiting for a hearing outside Magistrate McKenzie's office a litigant heard the Magistrate make remarks which referred to the litigant as a crook. The investigation also revealed that Magistrate McKenzie admitted that he made comments referring to the litigant as a crook and telling him that he did not want him in his court. The Magistrate was aware that the comments were totally wrong and that he had no excuse for making them. He apologized for making the comments and had the case reassigned to another magistrate because of his feelings about the litigant.

In the Matter of: Magistrate William Rhodes, Magistrate for Wood County (Judicial Investigation Commission Complaint No. 62-2001, filed 4/18/01). William Rhodes, Magistrate for Wood County was admonished for violation of Canon 3E(1)(d)(i) of the Code of Judicial Conduct. Upon initiation of the complaint against Magistrate Rhodes,

the investigation revealed that on December 13, 2000, Magistrate Rhodes' son appeared before him with a traffic citation which had been issued to him charging him with failing to have insurance in effect. Magistrate Rhodes was the only magistrate on intake so he checked a copy of the insurance policy and it showed that his son was covered at the time his son received the citation. The Magistrate dismissed the citation and forwarded the paper work to the clerk's office. A couple of weeks later Magistrate Rhodes was informed by the State Police that his son's insurance had run out and he renewed it a day or so after he had received the citation. According to the State Police the date of issue had been changed to reflect that Magistrate Rhodes' son was covered on the day he received the citation. Magistrate Rhodes contacted his son and his son told him that he had changed the date. The Magistrate instructed his son to notify the State Police as soon as possible and his son was given another citation which came before another magistrate and he was fined \$317 receiving a 30-day suspended sentence for his driver's license and was required to pay a \$150 instatement fee.

Probable cause was found in one (1) complaint to charge the judicial officer before the Judicial Hearing Board with violations of the Code of Judicial Conduct.

A synopsis of this matter follows:

Complaint No. 173-2000: This complaint alleged that Family Law Master Edward N. Hall violated Canon 1, Canon 2A and Canon 3A and 3B(2)(4)(5) of the Code of Judicial Conduct. The complaint alleged that the Respondent improperly and inappropriately touched certain female Family Law Masters who were in attendance at a Family Law Master's Training Seminar. The Respondent was accused of failing to properly perform his duties, including not recording

certain hearings which were conducted before him. The Respondent was accused of improperly touching a female employee in the clerk's office. And the Respondent was accused of failing to remain patient and courteous to litigants including on two occasions making a statement and sounds to an African-American attorney which were derogatory. The matter was pending before the Judicial Hearing Board at the end of the year.

On December 31, 2001, twelve (12) complaints remained pending before the Judicial Investigation Commission. Of these complaints:

There were no pending reports from Judicial Committee on Assistance and Intervention; six (6) were pending completion of ordered investigations; three (3) complaints were pending waiting requested responses from the judicial officers; and three (3) had been received too late for the last meeting in 2001.

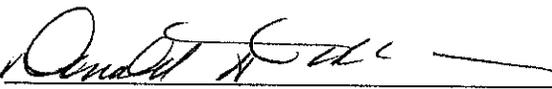
Disposition of certain Commission complaints pending before the Judicial Hearing Board or the Supreme Court of Appeals on January 1, 2001, was made during 2001. A synopsis of this matter follows:

In the Matter of: Carol Fouty, Magistrate for Kanawha County
(Supreme Court of Appeals of West Virginia No. 27832, 4/5/01) In an order filed on 4/5/01 the Supreme Court of Appeals adopted in part the written Recommended Disposition of the Judicial Hearing Board recommending that the Respondent be censured and pay costs in the

amount of \$3,305.49 for violating Canons 1A, 2A, and 3B(4) of the Code of Judicial Conduct. The Court ordered that the Respondent be censured for violating Canons 1A, 2B and 3B(4) and further ordered the Respondent to pay costs in the amount of \$1,500.

In the Matter of: Bonnie L. Riffle, Magistrate for Morgan County (Supreme Court of Appeals of West Virginia No. 26729, 10/25/01) In a per curiam opinion the Court held that Magistrate Riffle violated Canons 1, 2, 3A and 3B(2) of the Code of Judicial Conduct. The Court ordered that Former Magistrate Bonnie L. Riffle be publicly censured and that she be suspended from her position as Magistrate for one year without pay.

Respectfully submitted,
JUDICIAL INVESTIGATION COMMISSION

By: 

Judge Donald H. Cookman, Chairperson