

JUDICIAL INVESTIGATION COMMISSION

ANNUAL REPORT - 2006



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, 2006, through December 31, 2006.

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 and 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 the 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 substituted 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 "[n]o 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, temporary 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 "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 Court Judges, Magistrates, Mental Hygiene Commissioners, Juvenile Referees, Special Commissioners, and Special Judges."

The Commission consists of nine members: three circuit judges; one magistrate; one family court judge; one retired circuit judge; and three members of the public. The Supreme Court of Appeals appoints all members of the Commission.

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 six regular meetings during 2006 in the Judicial Investigation Commission Conference Room, 910 Quarrier Street, Charleston, West Virginia, on February 3, March 31, May 5, July 14, September 29, and December 8. 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 four 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 it 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. 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.

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 2006 there were eight (8) new fatalities referred to the Commission for investigation. Twelve (12) reports from 2005 were completed along with four (4) 2006 reports. Four (4) investigations and reports remain pending at the end of 2006. One (1) Fatality Review Team meeting was held in 2006.

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 Procedure 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 in 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 2006 there were three (3) proceedings under this section of the Rules of Judicial Disciplinary Procedure and a synopsis of those cases are as follows:

In the Matter of: Family Court Judge Kimber McMillion, Judge for McDowell and Mercer Counties

(Complaint No. 61-2006; Supreme Court of Appeals No. 33066) On March 31, 2006, the Administrative Director of the Courts filed a complaint against Family Court Judge Kimber Warner McMillion, alleging that she had violated Canon 2A of the Code of Judicial Conduct and was unable to perform her duties. The complaint contained allegations and exhibits which indicated that medical issues prevented her from discharging her duties fully and on an occasion the Respondent had taken ill and "passed out" on the bench and had undergone medical assessments. It was alleged that the Respondent had a history of medical and/or psychological assessments and on March 30, 2006, the Respondent appeared for work in the Family Court and was unable to perform her judicial duties because of what appeared to observers to be intoxication. This complaint was filed pursuant to Rule 2.14 of the Rules of Judicial Disciplinary Procedure and Judicial Disciplinary Counsel filed a report with the Chief Justice of the Supreme Court of Appeals of West Virginia, on April 3, 2006, setting forth allegations of misconduct and failure to perform official duties on the part of the Respondent. This report also stated that in the opinion of Disciplinary Counsel, the integrity of the legal system had been placed into question by virtue of the Respondent's action. In an order entered on April 4, 2006, the Court stated that it was of the opinion that there was probable cause to believe that the Respondent engaged in a serious violation of the Code of Judicial Conduct. The order directed that the Respondent be suspended without pay and be prohibited from hearing any further matter or performing any other judicial function during the pendency of the matter. Judicial Disciplinary Counsel was ordered to have prepared and file formal charges in the matter with the Clerk of the Supreme Court of Appeals. Pursuant to this order formal charges were prepared and ready to be filed on April 7, 2006. Prior to the filing of the formal charges, Counsel received a copy of a letter sent by the Respondent to the Chief Justice in which she resigned as Family Court Judge effectively immediately. The letter was dated April 5, 2006. On April 11, 2006, Judicial Disciplinary Counsel presented to the Court a motion in writing to dismiss the complaint as moot. An order dated April 12, 2006, dismissed this matter.

In the Matter of Magistrate Charles McCourt, Magistrate for Upshur County

(Complaint No. 62-2006; Supreme Court of Appeals No. 33068) On April 10, 2006, the Administrative Director of the Courts filed a complaint against Magistrate Clarence W. "Charlie" McCourt, Jr., Magistrate for Upshur County alleging that he engaged in a serious violation of Canon 2A of the Code of Judicial Conduct. The complaint was filed pursuant to Rule 2.14 of the Rules of Judicial Disciplinary Procedure. The complaint alleged that in the early morning hours of March 26, 2006, the Respondent engaged in inappropriate sexual contact with a domestic abuse victim. Just hours before the alleged inappropriate sexual contact occurred, the victim had appeared in the Respondent's courtroom as a victim of domestic violence. Pursuant to Rule 2.14 of the Rules of Judicial Disciplinary Procedure, Judicial Disciplinary Counsel filed a report with

the Chief Justice of the Supreme Court of Appeals. In an order entered on April 12, 2006, the Court suspended the Respondent without pay and prohibited him from hearing any further matter or performing any other judicial functions during the pendency of the case. The Court ordered that formal charges be filed in the matter. On April 18, 2006, formal charges were filed against the Respondent and he responded to the formal charges in an answer received on April 27, 2006. In a pleading filed on April 20, 2006, the Respondent requested a hearing upon his temporary suspension as provided in Rule 2.14(c)(2) of the West Virginia Rules of Judicial Disciplinary Procedure. In an order entered on April 24, 2006, the Court set this matter down for the Court's argument docket on June 6, 2006. In an order entered on July 14, 2006, the Court denied the Respondent's motion for reconsideration of its order suspending him without pay pending the completion of this case. This matter was pending was the end of 2006.

In the Matter of Magistrate Brenda J. Anselene, Magistrate for Harrison County (Complaint No. 150-2006; Supreme Court of Appeals No. 33204) On September 26, 2006, the Administrative Director of the Courts filed a complaint against Magistrate Brenda J. Anselene alleging that she engaged in a serious violation of Canon 2A of the Code of Judicial Conduct. The complaint was filed pursuant to Rule 2.14 of the Rules of Judicial Disciplinary Procedure. The complaint alleged that the Respondent yelled at her assistant, shook a paper in the assistant's face, told the assistant not to move and told her to do exactly whatever the Respondent said. The complaint alleged that the Respondent had shown aggressive behavior toward her assistant recently and that the assistant feared for her safety. On September 22, 2006, the complaint alleged, a criminal complaint was filed against the Respondent and a warrant for arrest was issued in the Magistrate Court and the Respondent was charged with battery. Judicial Disciplinary Counsel filed a report with the Chief Justice of the Supreme Court of Appeals on October 4, 2006. On that date the Supreme Court of Appeals entered an order directing the Respondent to be suspended without pay effective October 5, 2006 and prohibiting the Respondent from hearing any further civil or criminal matter or performing any other judicial function during the pendency of this case. The matter was remanded to the Judicial Investigation Commission for further investigation and proceedings pursuant to Rule 2.7(d) and 4 of the Rules of Judicial Disciplinary Procedure. On November 8, 2006, formal charges were filed against the Respondent by the Judicial Investigation Commission setting forth allegations constituting a violation of the Code of Judicial Conduct. On December 15, 2006, Respondent's answer to the formal charges filed was received. This matter was pending at the end of 2006.

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 of Appeals, but shall be admissible in any subsequent disciplinary proceeding involving the judge who made the request. During 2006 there were twelve (12) issues

raised in advisory opinion requests, and a synopsis of the Commission's opinion on each follows:

- A judge was asked to serve as 2006 Honoree for the District Boy Scout Council's Friends of Scouting dinner, by the Boy Scouts of America. The Commission reviewed Canon 4C(b) of the Code of Judicial Conduct and their opinion was that the judge should not serve as the 2006 Honoree for the District Boy Scout Council's Friends of Scouting because it was a fundraiser; however he could attend the dinner.
- A judge asked the Commission to review the issue regarding disqualification of law clerks. In the first matter the judge's law clerk was the son of one of the litigants in a class action suit against the Monsanto Company. This particular case had been filed in the United State District Court of the Southern District of West Virginia, however Monsanto's counsel contended that to avoid an appearance of impropriety or bias on behalf of Monsanto and other clients in the litigation the law clerk should perform no work on the two case pending before the judge in the state court actions. Counsel sought the creation of a "Chinese wall." The judge argued that the toxic tort cases pending in his court were complicated and that assistance of a competent law clerk was a necessity in cases of this type. He also stated that there was no mechanism existing by which a different law clerk could be made available to him. The Commission reviewed this matter and it was their opinion that the judge's law clerk was not per se disqualified from assisting him in the Monsanto cases since the clerk lived independently from his father and there was no linkage between the federal court case and the two state cases pending in the judge's court. Further, a law clerk was not a decision maker. Rather, he or she merely provided assistance to a judge who was the decision maker. The supervising judge, who closely reviewed the law clerk's work product, was in a position to determine if his or her law clerk should be shielded from certain cases to avoid the appearance of impropriety. The Commission added that even if it were determined that sufficient grounds existed to disqualify the law clerk, the "rule of necessity" discussed in State ex rel. Brown v. Dietrick, 191 W.Va. 169, 177 (1994) might have application.
- A judge was asked to assist in getting a grant renewed for the local family refuge center. The judge was asked to appear in Charleston before the group that decided whether or not to renew the grant. The judge would be expected to state how important the center was to the judge in his position as a family court judge. The Commission reviewed Canon 1 and Canon 4A of the Code of Judicial Conduct. The Commission assumed that the Family Refuge Center was a facility which houses victims of domestic violence and other domestic disputes which may come before the family court system. While the existence of the facility was extremely worthwhile to the community, the judge's participation in seeking additional funding for it might conflict with the principles set forth in Canon 1 and Canon 4. The Commission's opinion was that the judge should not engage in the efforts requested of him to aid in the renewal of the grant for the facility.

- A judge whose cousin's wife was to be a witness in a case before the judge asked for an opinion, although the cousin's wife was not called as a witness at that time. Before the judge knew that the cousin's wife would be a witness in the particular case the judge had run into this lady and her husband. At that time, during the conversation the judge and the cousin's wife discussed her purse which the judge admired. A few days after the hearing the cousin's wife left a purse valued at approximately \$50.00 with the judge's mother. The judge wanted to know whether she should recuse herself in the future in any matters concerning this case. The Commission reviewed Canon 1A, Canon 2A and Canon 3E(1) of the Code of Judicial Conduct regarding this matter. It was the opinion of the Commission that the judge should recuse herself from this proceeding. By doing so the judge would avoid the appearance of impropriety and fully comport to the standards set forth in the above stated sections of the Code of Judicial Conduct.
- A judge asked the Commission to reconsider their opinion on law clerks who should be screened from working on cases of law firms with which the law clerk has interviewed for a job. The Commission reviewed this matter and substantially amended its advisory opinion of August 5, 2002. Although the Commission still felt that the law clerk should keep the judge generally informed as to his/her employment search, the law clerk need only be screened from cases involving a law firm or lawyer with whom he/she had accepted an offer of employment.
- A judge asked the Commission if his wife could be employed in a support staff/secretarial position in the prosecuting attorney's office. The Commission reviewed Canon 1A and Canon 3E(1) of the Code of Judicial Conduct, and it was their opinion that the wife of the judge should not become an employee of the prosecuting attorney's office. Such employment would cause a conflict for the judge in all criminal cases and recusal in such cases would cause an undo burden on the court system.
- A judge asked if a probation officer who recently married an assistant prosecuting attorney might create a conflict of interest. The Commission discovered the employment of a probation officer who was married to an assistant prosecuting attorney in another county circuit. The terms of that employment were approved by the Administrative Office of the Supreme Court of Appeals based upon the condition that the probation officer and her husband who was an assistant prosecuting attorney would have no professional contact as it would relate to the assistant prosecuting attorney representing the state in any action against any person assigned to the probation officer at a pre-supervision or supervision status. Care should be taken to assure that the public does not get the false sense that the probation officer and the assistant prosecuting attorney are having professional contact in any cases.
- A judge asked the Commission whether as a member of the Family Court Education Committee the judge could accept an invitation by a member of the House of Delegates to host a dinner for the family court judges during their

conference. The House member also regularly practiced family law before some of the Family Court Judges. The Commission could find no Canon of the Code of Judicial Conduct which would be violated by the facts set forth by the judge. It was, therefore, the opinion of the Commission that a dinner could be given at the family court judges' conference by the House of Delegates member.

- A newly appointed judge asked the Commission whether the judge would be precluded from appointing the attorneys who worked for her former employer to represent children pursuant to West Virginia Code §§48-9-301 & 302. The Commission reviewed Canon 3C(4). Based upon the language contained in that Canon, the judge could appoint attorneys who worked for her former employer to represent children pursuant to the referenced West Virginia Code sections. The judge would need to do so based on a fair and equal system allowing access to all attorneys who practiced before the judge and who wished to serve in those roles to be appointed.
- A judge asked the Commission if the judge could write a letter of support for a Christian based organization seeking to establish a women's shelter in the judge's county. The organization purposed fund-raising as a means of establishing the women's shelter. The Commission reviewed Canon 4C(3)(b) of the Code of Judicial Conduct. It was the Commission's opinion the judge should not write such a letter since it would be contrary to the relevant provisions set forth in Canon 4 concerning soliciting money.
- A judge asked the Commission a three part question: (1) concerning the local women's shelter wanting to recognize the family court and the bailiffs at a candlelight vigil, a public ceremony, to be held during Domestic Violence Awareness month in October; (2) pertaining to an annual fundraising dinner of a local counseling service; and, (3) attorneys who appear before the family court bring to the court such things as cakes, cookies, fruit baskets, candy and gift certificates to local restaurants at Christmas time. Could the judge and staff be recognized at the vigil? Could the judge pay for and attend the dinner? Could the judge and/or his staff accept these gifts? The Commission reviewed Canon 2A and Canon 4A(1)(2)(3), 4C(3) and 4D(5)(h) of the Code of Judicial Conduct. The Commission's opinion was (1) that the judge should not engage in a candlelight vigil during the Domestic Violence Awareness month; (2) the language in the Canons also would preclude the judge's attendance at the annual fund raising dinner at a local counseling service to which the judge referred litigants for services and which had counselors who often testified in the family court; (3) the acceptance of gifts such as cookies or candy, etc., was permitted if those items that could be made available to all individuals who may be present in the court, such as litigants, witnesses, lawyers, etc. These gifts would be viewed as "community property," and would not be attributed individually to family court staff or individuals employed by the family court.
- A senior status judge asked the Commission for an opinion on his service on a local Men's Shelter Board of Directors located in the county where the judge lived. The Commission reviewed Canon 4C(a)(b) of the Code of Judicial

Conduct. Based upon a review of the relevant sections of Canon 4 it was the opinion of the Commission that the judge may serve on the Board of Directors at the Men's Shelter as long as he does not solicit funds or raise money on behalf of the shelter.

STATISTICS

On January 1, 2006, there were 72 complaints which remained pending before the Judicial Investigation Commission. During 2006, 192 new complaints were received for a total of 252 to be considered by the Commission. Of these 252 complaints considered, 49 required formal investigations. One hundred eight 180 were dismissed when no probable cause was found; it was determined that the Commission had no jurisdiction in 5 complaints; 1 complaint was tabled until further notice by the Commission; the Commission sent seven 7 complaints to the Judicial Hearing Board and 4 admonishments were issued. A synopsis of these admonishments follows:

In the Matter of Complaint Nos. 162-2005 and 163-2005 – A judicial officer was admonished for violation of Canon 1 and Canon 2A and 2B of the Code of Judicial Conduct. These complaints were consolidated for the issuance of an admonishment. In the complaints it was alleged that law enforcement obtained two warrants for two defendants for obtaining a controlled substance by subterfuge. They alleged that after the warrants were obtained, the judicial officer telephoned her daughter-in-law and told her about the warrants and the names of the individuals involved. The complaints alleged this information was subsequently provided to the two main defendants. Upon receipt of the complaints an investigation was conducted and the investigation revealed that on August 1, 2005, the judicial officer issued a warrant against two defendants in felony cases. The warrants were issued at the request of a drug task force commander. The judicial officer's daughter-in-law had a son who was a friend of one of the defendants. After the judicial officer left work on August 1, 2005, she spoke to her daughter-in-law by telephone and advised her that she had issued the warrant for that individual. This information was then passed on to the mother of one of the defendants and both defendants became aware of the issuance of the warrants for them possibly harming the criminal investigation.

In the Matter of Complaint No. 22-2006 – A judicial officer was admonished for a violation of Canon 1, Canon 2A and Canon 3B(4)(5) of the Code of Judicial Conduct. Upon initiation of the complaint against the judicial officer the investigation revealed that on January 25, 2006, a police detective and a police officer took a defendant to court for arraignment. The detective and the defendant were African-Americans. After the detective entered the office of the judicial officer, the judicial officer was in the detective's face and pointing her finger at him. The detective backed up toward the door and tried to leave. The judicial officer was acting very unprofessionally and called the detective "boy" several times. The detective did not raise his voice or say anything

out of line to the judicial officer. The use of this term was considered a racial slur by both the detective and the defendant.

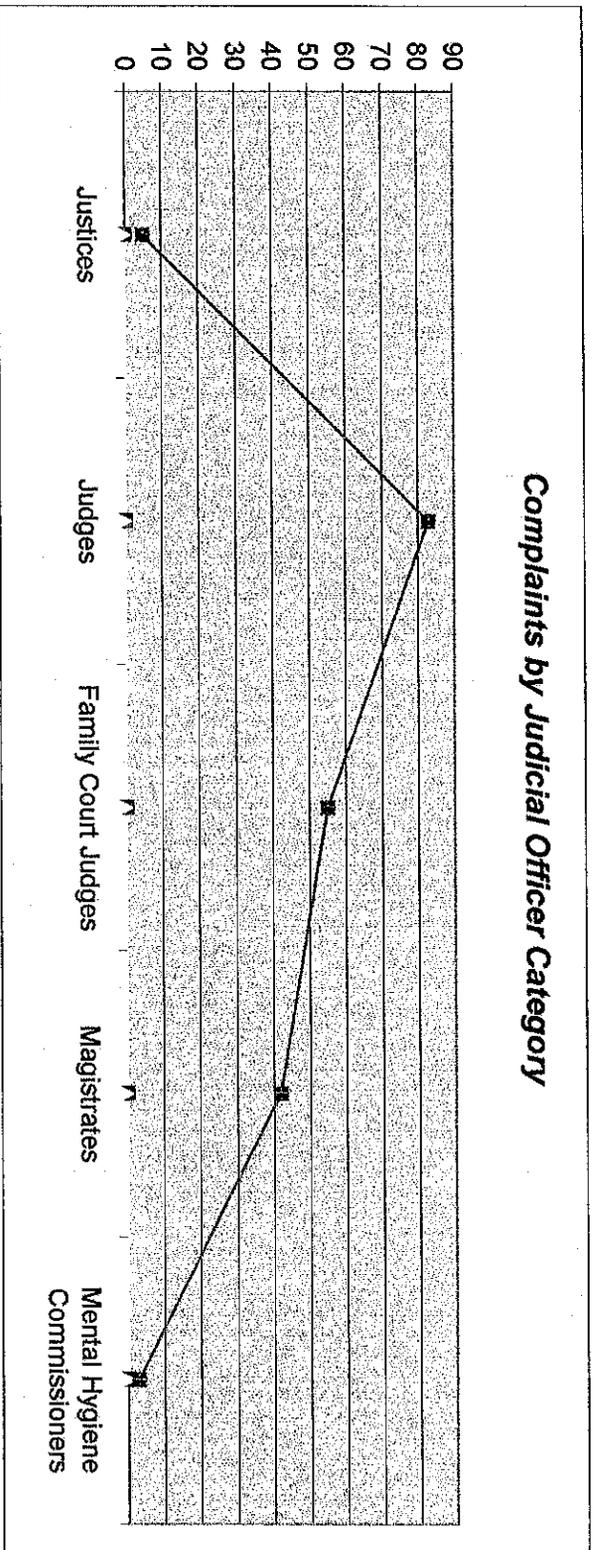
In the Matter of: Complaint No. 31-2006 – A judicial officer was admonished for violation of Canon 1, Canon 2A and Canon 3A, 3B(2)(7) of the Code of Judicial Conduct. Upon initiation of the complaint against the judicial officer the investigation revealed that on January 21, 2006, a criminal defendant was arrested and charged in the magistrate court with felony for transferring stolen property and a misdemeanor for driving on a revoked drivers license. The judicial officer arraigned the defendant and set a cash only bond in the amount of \$50,000. He also placed a hold on the defendant for a bond violation for a felony charge of delivery of crack cocaine and felony charge of conspiracy to deliver crack cocaine which was pending at the time of her arrest. On January 31, 2006, a preliminary hearing was scheduled for the defendant regarding the felony charge of transferring stolen property. At that time the defendant waived her right to have a hearing after consulting with her defense counsel. Upon agreement with the state, a motion was jointly filed to reduce the bond amount from \$50,000 for “in cash only” to \$10,000 with property to be placed as a surety and upon the condition of home confinement. The judicial officer granted the motion. On February 1, 2006, the case with all records of the proceeding was transferred to the jurisdiction of the circuit court. At that time the judicial officer no longer had jurisdiction of any matters involving the charge. On February 6, 2006, the judicial officer had a meeting in his office with a personal friend and sister of the defendant. He asked his assistant to look for the file and was reminded that the case was waived to the circuit court. The judicial officer then informed his friend and the sister of the defendant that there was a problem because the magistrate court no longer had jurisdiction. He then said that he would contact the defendant’s attorney to come to his office to see what needed to be done. He asked his assistant to contact the public defenders office and ask the attorney to come to the courthouse but he was told that the attorney was not working that day. While on the telephone another public defender came to the office and heard part of the conversation. He volunteered to “go upstairs and see what I can find out.” Subsequently, the judicial officer allowed the sister of the defendant to sign the bond, not requiring any property or surety and allowed the defendant to be released.

On December 31, 2006, there were no pending reports from Judicial Committee on Assistance and Intervention; (14) complaints were pending completion of ordered investigations; (9) complaints were pending waiting requested responses from the judicial officers; no complaints withdrawn; one (1) complaint tabled for next meeting; (7) complaints had been received too late for the last meeting in 2006 and two extraordinary proceedings were pending.

Complaints by Judicial Officer Category

Justices	5
Judges	83
Family Court Judges	55
Magistrates	42
Mental Hygiene Commissioners	3

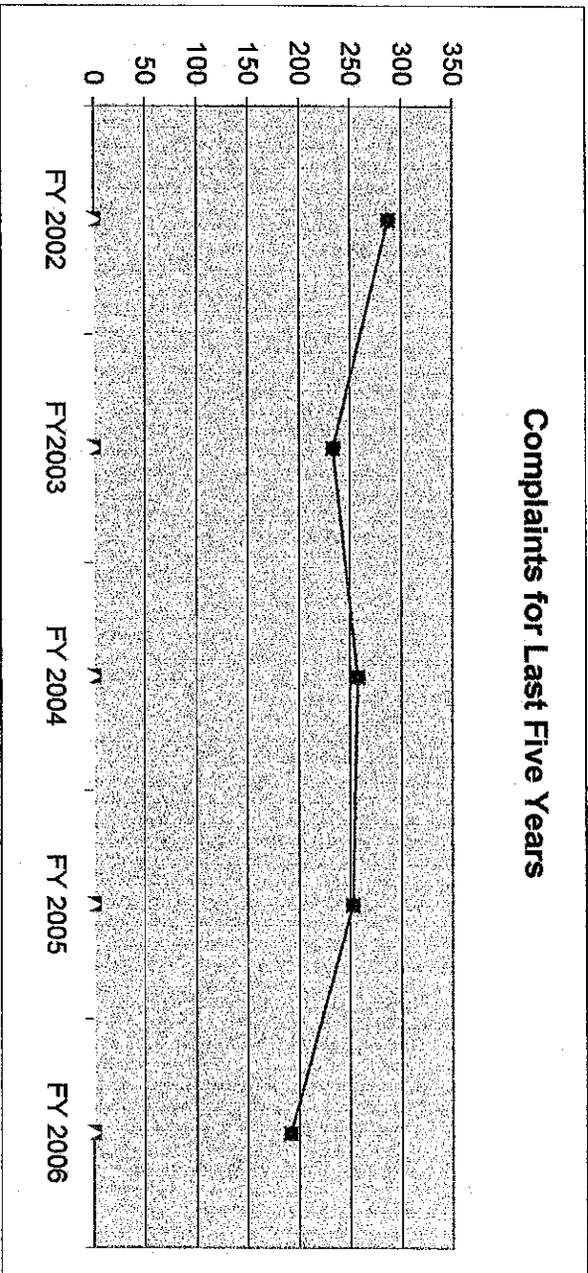
Complaints by Judicial Officer Category



Complaints Received in the Last Five Years

FY 2002	288
FY2003	234
FY 2004	258
FY 2005	253
FY 2006	192

Complaints for Last Five Years



Respectfully submitted,
JUDICIAL INVESTIGATION COMMISSION

By:

A handwritten signature in black ink that reads "Fred L. Fox, II". The signature is written in a cursive, slightly stylized font. The first name "Fred" is written in a larger, more prominent script, followed by "L." and "Fox, II".

Judge Fred L. Fox, II, Chairperson