

**WEST VIRGINIA  
JUDICIAL INVESTIGATION COMMISSION  
2024 ANNUAL REPORT**



**Pursuant to Rule 1.11(3) of the Rules of Judicial Disciplinary Procedure, the West Virginia Judicial Investigation Commission (JIC) respectfully submits this Annual Report for its activities from January 1, 2024 through December 31, 2024.**

## THE COMMISSION

The Supreme Court of Appeals of West Virginia has plenary rule-making authority, and the rules it adopts have the force and effect of a statute. *See* W. Va. Const., art. VIII, §§ 3 and 8. Additionally, when a rule adopted by the Court conflicts with another statute or law, the rule supersedes the conflicting statute or law. W. Va. Const., art. VIII, § 8. The Court has “general supervisory control over all intermediate appellate courts, circuit courts and magistrate courts,” and “[t]he chief justice shall be the administrative head of all the courts.” W. Va. Const., art. VIII, § 3. The Court also has the authority to “use its inherent rule-making power” to “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.” W. Va. Const., art. VIII, § 8. Under this constitutional authority, the Court can:

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.

*Id.*

The Constitution also affords a justice, judge or magistrate due process before receiving any sanction or penalty:

[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 the 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 . . . .

*Id.* A justice or judge may only be removed from office by impeachment by the West Virginia Legislature, and a magistrate may only be removed from office in the manner provided by law for removal of county officers. *Id.*

By Order entered December 15, 1982, the Court created the Judicial Investigation Commission (“Commission” or “JIC”) to exist as of 12:01 A.M., December

16, 1982.<sup>1</sup> At that time, the Court also adopted the Rules of Judicial Disciplinary Procedure. By Order entered May 25, 1993, effective July 1, 1994, the 1982 Rules and subsequent amendments were superseded by the current Rules of Judicial Disciplinary Procedure (“RJDP”).

In creating the JIC, the Court recognized that “[t]he 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.” RJDP 1. The JIC consists of nine members: three circuit judges; one magistrate; one family court judge; one retired circuit judge; and three members of the public. RJDP 1.1. The Court appoints all members, who serve staggered terms of three years. RJDP 1.2 and 1.3. Commission members who complete one full term are twice eligible for re-appointment. Any member who is appointed to fill a vacancy and who has served less than one year shall be eligible for three reappointments. RJDP 1.6. Five members of the Commission constitute a quorum. RJDP 1.8. The Commission “shall act only with the concurrence of a majority of those present and voting.” *Id.*

In 2024, Vice-Chair and Public Member F. Layton Cottrill termed out of the Commission effective June 30. Alex Weld was appointed to replace Mr. Cottrill as a Public Member. The Honorable Bridget Cohee, Judge of the 28<sup>th</sup> Judicial Circuit,<sup>2</sup> was voted in as Vice-Chair. Other JIC members in 2024 were the Honorable Alan D. Moats, Chair and Senior Status Judge; the Honorable Jason Wharton, Judge of the 4<sup>th</sup> Judicial Circuit; the Honorable James J. Rowe, Senior Status Judge; the Honorable Patricia A. Keller, Judge of the 6<sup>th</sup> Family Court Circuit; the Honorable Mike Flanigan, Magistrate of Mercer County; and Public Members Margaret Ann O’Neal and Dr. John Barnette.

The Commission has 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. RJDP 1.11.

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<sup>1</sup> At that time, the Judicial Inquiry Commission, created by Rule promulgated on October 1, 1976, ceased to exist. The Chairman and the Executive Secretary of the Judicial Inquiry Commission provided all of the agency’s records, files and reports on cases to the Judicial Investigation Commission.

<sup>2</sup> As of January 1, 2025, there are new circuit and family court circuits.

The Commission has full-time staff consisting of Chief Counsel, a Deputy Counsel, an Executive Assistant and a full-time Investigator. RJDP 5. Among many and varied duties, the Chief Counsel and staff have the authority to: (1) receive complaints concerning violations of the Code of Judicial Conduct; (2) review all complaints concerning violations of the Code of Judicial Conduct; (3) investigate information concerning violations of the Code of Judicial Conduct; (4) prosecute violations of the Code of Judicial Conduct before the Judicial Hearing Board and the State Supreme Court; and/or (5) promptly notify the complainant and respondent of the disposition of each matter. RJDP 5.4. Additionally, Commission counsel serves as special counsel in lawyer discipline cases whenever the Office of Lawyer Disciplinary Counsel is conflicted off a matter. RJDP 5. Each year, Commission counsel also teaches ethics, sexual harassment and other topics to various groups, including but not limited to, mental hygiene commissioners, magistrates, family court judges, circuit court judges, probation officers, law clerks, prosecutors, public defenders, victim advocates and/or law enforcement officers. Commission counsel both in person and remotely taught multiple classes to various groups in 2024.

While not a part of the work of the Commission, the Chief Counsel and staff are also charged with conducting confidential investigations and preparing reports for the State Fatality Review Team to consider in efforts to ensure that court processes, procedures and actions minimize the risk of harm to people involved within the system. Chief Counsel and staff have been involved in this process since the State Supreme Court first created State Fatality Review Team by Administrative Order entered on December 7, 1994.<sup>3</sup> In 2024, the JIC received (2) two new fatality review referrals. One of the two fell within the JIC's jurisdiction to investigate. JIC has (6) six fatality review cases pending before the Regional Boards, which last met in 2019.

The Chief Counsel and staff are also tasked with the responsibility of investigating sexual harassment claims within West Virginia's court system or such other investigations as deemed appropriate. *See* § 12.7 of the West Virginia Judicial Personnel System Manual. In 2024, Chief Counsel conducted two (2) such investigations and presented findings to the Administrative Director.

The Commission held six regular meetings during 2024. The meetings took place at the West Virginia Judicial Tower and occurred on February 9, April 12, June 7, August 2, October 11, and December 6, 2024. All pertinent documents were distributed to the Commission approximately two weeks before each meeting so that the members could review the materials and be prepared to discuss them during each session.

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<sup>3</sup> The Court amended the accompanying Protocol for Fatality Review Teams by Administrative Orders entered on December 4, 1998, and May 24, 2000. By Order entered December 2, 2005, the Court broadened the scope of the investigations to include fatalities of any child involved in court proceedings. The Court again amended the Protocol by Orders entered January 2, 2013, June 16, 2014, January 20, 2016 and April 28, 2017. Those amendments limited the categories of investigation and gave the JIC the authority to decline a matter if it did not fall within one of the requisite categories.

Commission meetings are not open to the public. The Commission is not subject to the Open Governmental Proceedings Act contained in W. Va. Code § 6-9A-1, et seq. The Commission is not a “public agency” as defined by W. Va. Code § 6-9A-2(7) since that “does not include courts created by article eight of the West Virginia Constitution.” The Commission is an entity created by Rule by the State Supreme Court. Additionally, Commission meetings are not “meetings” as defined by the Act since they are conducted for the purpose of making an adjudicatory decision in any quasi-judicial, administrative or Court of Claims proceeding.” See W. Va. Code § 6-9A-2(5).

## **THE CODE OF JUDICIAL CONDUCT**

Over the years, many professions have implemented their own codes of ethics. Professional ethics encompass the personal, organizational and communal standards of behavior expected of the various occupations. Formal standards of judicial conduct have existed for approximately 78 years in West Virginia. The first Code of Judicial Conduct was promulgated by the State Supreme Court on March 28, 1947. The current Code was adopted by Order entered November 12, 2015, effective December 1, 2015.<sup>4</sup>

The current Code of Judicial Conduct is made up of four Canons:

- Canon 1. A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.**
- Canon 2. A judge shall perform the duties of judicial office impartially, competently, and diligently.**
- Canon 3. A judge shall conduct the judge’s personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.**
- Canon 4. A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.**

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<sup>4</sup> The new Code is patterned after the 2007 ABA Model Code of Judicial Conduct. The former Code that was in effect through November 30, 2015, was adopted by Order entered October 21, 1992, and went into effect on January 1, 1993. The former Code consisted of six Canons: Canon 1. A judge shall uphold the integrity and independence of the judiciary; Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge’s activities; Canon 3. A judge shall perform the duties of judicial office impartially and diligently; Canon 4. A judge shall so conduct the judge’s extra-judicial activities as to minimize the risk of conflict with judicial obligations; Canon 5. A judge or judicial candidate shall refrain from inappropriate political activity; and Canon 6. Application of the Code of Judicial Conduct.

Specific Rules are set forth under each Canon, and Comments are also provided for many of the Rules. The text of the Canons and Rules is authoritative. The Comments provide guidance with respect to the purpose and meaning of the Canons and Rules and are not intended as statements of additional rules.

The text of the Canons and Rules sets forth the minimum conduct below which no judge or candidate for election or appointment to judicial office can fall without being subject to discipline. The text of the Canons and Rules is intended “to be binding” upon judges and judicial candidates. Application I of the Code of Judicial Conduct defines “judge” as “[a]nyone, 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, [Intermediate Court of Appeals,]<sup>5</sup> Circuit Judges, Family Court Judges, Magistrates, Mental Hygiene Commissioners, Juvenile Referees, Special Commissioners and Special Masters.” The Comment makes clear that the Code of Judicial Conduct “does not apply to an administrative law judge, hearing examiner or similar officer within the executive branch of government, or to municipal judges.”

The Scope of the Code notes that a decision on “[w]hether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules.” Factors to consider include, but are not limited to, the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, whether there is a pattern of improper activity, whether there have been previous violations, and the effect of the improper activity on the judicial system or others.

By Order entered December 27, 2024, the Supreme Court appointed an advisory committee for the purpose of proposing changes to the Code of Judicial Conduct and Rules of Judicial Disciplinary Procedure. The Commission is chaired by Professor Forrest “Jack” Bowman and JIC Chairman Moats is a member. The Commission also includes one sitting circuit judge, family court judge and magistrate and one member each from the West Virginia House of Delegates and the State Senate. The Director of the Center for Judicial Ethics at the National Center for State Courts is an advisory member. Staff from the JIC, the Administrative Office and/or the Clerks Office are to provide input and/or technical staff support necessary to complete the work of the Committee. The Court requests the Committee to submit recommendations to the Administrative Director by December 31, 2025.

## **PROCEDURE FOR HANDLING COMPLAINTS**

Any person may file an ethics complaint against a judge or a candidate for judicial office with the Judicial Investigation Commission. RJDP 2. The complaint must be in writing and must be verified by the Complainant. RJDP 2.1. Any complaint “filed more than two years after the complainant knew, or in the exercise of reasonable

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<sup>5</sup> The ICA as its known went into operation on July 1, 2022.

diligence should have known, of the existence of a violation of the Code of Judicial Conduct, shall be dismissed by the Commission.” RJDP 2.12.

After a complaint is received, it is referred to counsel for review. Counsel can send a matter to an investigator for investigation, ask the respondent judge for a response,<sup>6</sup> or forward it directly to Commission members for study prior to consideration at the next meeting. Complaints referred directly to the Commission for consideration may be dismissed for lack of probable cause, referred to the judge for response, or sent to an investigator for investigation. Responses to complaints and results of investigations are again referred to the Commission for consideration.<sup>7</sup> The Commission may then: (1) dismiss the matter for lack of probable cause; (2) determine that probable cause does exist but that formal discipline is not appropriate under the circumstances and issue a written admonishment to the respondent judge;<sup>8</sup> or (3) issue a formal statement of charges when it determines that probable cause does exist and that formal discipline is appropriate. RJDP 2.7. 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. Parties are contacted about the action of the Commission after a decision has been made on a complaint.

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. RJDP 2.5. Additionally, 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. RJDP 2.5.

All proceedings of the Commission are confidential. RJDP 2.4. Admonishments issued by the Commission “shall be available to the public.” RJDP 2.7(a). “After the filing and service of formal charges, all documents filed with the Clerk of the Supreme Court of Appeals and the Judicial Hearing Board shall be available to the public.” RJDP 2.7(d). In a memorandum decision issued on January 12, 2015, the State Supreme Court reinforced the confidentiality of the judicial disciplinary process with the exception of admonishments and formal disciplinary proceedings. *See Smith v. Tarr*, memorandum decision No. 13-1230 (WV 1/12/15).

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<sup>6</sup> Any time a complaint is sent to a judge for a response, he/she has ten (10) days after the date of the written notice to reply. RJDP 2.3.

<sup>7</sup> Within sixty days of receiving a report, the Commission shall file a written decision regarding whether there is probable cause to formally charge the respondent judge with a violation of the Code of Judicial Conduct or that the respondent judge, because of advancing years and attendant physical or mental incapacity should not continue to serve or whether the matter should be further investigated by the Office of Disciplinary Counsel. RJDP 2.7(a).

<sup>8</sup> A respondent judge has fourteen (14) days after the receipt of a Judicial Investigation Commission admonishment to object. RJDP 2.7(c). If the respondent judge or Disciplinary Counsel timely files an objection, a formal statement of charges shall be filed with the Clerk of the Supreme Court. *Id.*



## Judicial Investigation Commission: How a typical Complaint is handled.

Any person who believes a judge violated the Code of Judicial Conduct (the "Code") may file a complaint with the Judicial Investigation Commission ("JIC"). The complaint must be in writing, verified and filed within two years of discovering the violation. See Rules of Judicial Disciplinary Procedure ("RJDP") 2, 2.1 & 2.12.

The JIC's Office of Disciplinary Counsel ("Counsel") reviews the Complaint and distributes a copy to the JIC. If the Complaint alleges a violation of the Code, Counsel can send a copy to the judge and request a written response within ten days. RJDP 2.3. If warranted, an investigation will ensue in which Counsel or an investigator will interview witnesses and collect documentation. Counsel will also prepare a report for the JIC. The complaint and investigation are confidential. RJDP 2.4 & 2.6.

The judge's response to the Complaint and the confidential report, if any, will be distributed to the JIC for its consideration. During the JIC's deliberations, additional questions may arise that require further investigation. Once the JIC has the necessary information, it must decide whether there is probable cause to move forward on the complaint. RJDP 2.7(a). Commission meetings and deliberations are confidential. RJDP 2.4

If the JIC determines probable cause does not exist, it issues a brief explanatory statement in support of its decision to close the complaint. There is no right of appeal of the JIC's decision. RJDP 2.7(b).

If the JIC determines that probable cause exists, but that formal discipline is not appropriate, it issues a written admonishment to the judge. The admonishment is public. RJDP 2.7(c).

The judge has 14 days to object to the admonishment. RJDP 2.7(c).

If the JIC finds probable cause and that formal discipline is appropriate or if the judge objects to the admonishment, the JIC files a public, formal statement of charges against the judge. RJDP 2.7(c).

Within 120 days of the charge being filed, the Judicial Hearing Board ("Board") holds a public hearing. RJDP 3.11 & 4.1. Afterward, it files a written recommendation with the Supreme Court. RJDP 4.8. If a violation of the Code has been proven by clear and convincing evidence, the Board may recommend the judge be disciplined. RJDP 4.5.

The judge may object to the Board's recommendation. RJDP 4.9. If the judge objects, the Supreme Court allows the parties to file briefs and may hold oral arguments. RJDP 4.9 & 4.11.

The Supreme Court disposes of the case. Discipline may include one or more of these sanctions: admonishment; reprimand; censure; suspension without pay for up to one year; and/or a fine of up to \$5,000. RJDP 4.12.



## EXTRAORDINARY PROCEEDINGS

Rule 2.14 of 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 official duties, the Administrative Director may file a complaint with Disciplinary Counsel.

RJDP 2.14(a).

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. RJDP 2.14(b). The Office of Disciplinary Counsel shall attempt to provide reasonable notice to the judge prior to the filing of this report. *Id.*

Upon receipt of the report, the Chief Justice shall determine whether probable cause exists. RJDP 2.14(c). A finding of probable cause shall be in lieu of a probable cause finding made by the Judicial Investigation Commission pursuant to Rule 2.7(c). *Id.* The Court may order the judge not to hear any further civil or criminal matters or perform other judicial functions while the matter is pending, with or without pay. RJDP 2.14(d). The Court may also:

- (1) direct 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.

RJDP 2.14(c).

If a respondent judge requests a hearing on a temporary suspension, the Court will set up a briefing schedule, and the matter will be set for oral argument. After the hearing, the Court may keep the suspension in place, may modify the suspension, or may lift the suspension. Any suspension with or without pay stays in effect while the matter is pending before the Judicial Hearing Board and until the Court disposes of the formal charges. Any judge who prevails in a Rule 2.14 matter may be entitled to reinstatement with back pay plus attorney fees.

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.

No extraordinary complaints (RJDP Rule 2.14) complaints were filed in 2024.

## **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 may constitute a violation of the Code of Judicial Conduct. The Commission may render a reply in writing 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. RJDP 2.13.

During 2024, the Commission issued twenty-six (26) advisory opinions based upon written requests from judicial officers/candidates or the Administrative Director:

- **JIC Advisory Opinion 2024-01:** A judge may participate in an elimination dinner so long as it is not sponsored by an organization which regularly appears before any court and may have his/her name placed on the handout since the ticket was purchased in the judge's individual capacity but he/she cannot use his/her title in the handout.
- **JIC Advisory Opinion 2024-02:** A judicial candidate who is elected and takes office would not be able to continue his/her employment as a realtor working for a realty company.

- **JIC Advisory Opinion 2024-03:** Judicial candidates are limited in the types of questionnaires they may answer during election season.
- **JIC Advisory Opinion 2024-04:** A judge cannot serve as a school coach but may serve as a referee as long as he/she complies with the stated rules governing referees.
- **JIC Advisory Opinion 2024-05:** A prosecutor running for judge cannot post about the outcome of criminal cases on the prosecutor website while running for judge since it could be misconstrued, however wrong it may be, as criticism of his/her opponent's sentence in a case.
- **JIC Advisory Opinion 2024-06:** A judicial candidate may represent the county and/or state Republican party(ies) in a lawsuit while contemporaneously running for office as long as he/she is not using the representation as a means to skirt the Code of Judicial Conduct and should preface any statements, comments and media responses associated with the representation as "speaking only as counsel for the party(ies).
- **JIC Advisory Opinion 2024-07:** The JIC will not issue an advisory opinion asking about the conduct of someone other than the requestor.
- **JIC Advisory Opinion 2024-08:** A judge may work on his/her own time as a part-time paid auctioneer.
- **JIC Advisory Opinion 2024-09:** A judge-elect is bound by Rule 2.10 of the Code of Judicial Conduct and therefore could not discuss a recently won civil trial as a speaker for a conference until the appeal period has passed or the other party has waived its right to appeal in writing and paid the judgment.
- **JIC Advisory Opinion 2024-10:** With some limitations, a judge may serve as a volunteer host for a program on the WV Library Network.
- **JIC Advisory Opinion 2024-11:** Neither a judge or a member of his/her staff can be the handler for a court comfort dog if it is paid for in whole or in part by a third party such as the county commission or a charitable organization.
- **JIC Advisory Opinion 2024-12:** A judicial candidate may appear in photographs or campaign ads with law enforcement officers that identify them as law enforcement but who are not in uniform.
- **JIC Advisory Opinion 2024-13:** It is improper for any judge at any level to order a lawyer to make a donation to an entity who appears before him/her as a sanction for failure to timely prepare an order as judges only have the authority prescribed by law.

- **JIC Advisory Opinion 2024-14:** A judge may be a member of a 500 member private club designed strictly for recreational purposes but may not serve on the Board of Directors or as an officer.
- **JIC Advisory Opinion 2024-15:** A judge may speak at a CASA Gala event about the status of juvenile justice and child welfare programs as long as his/her comments are procedural in nature, are strictly designed to education and/or are neutral and detached and do not create the impression that the judge is biased for or against CASA.
- **JIC Advisory Opinion 2024-16:** A senior status judge may concurrently serve as a substitute teacher as long as his/her judicial duties take place in counties other than where he/she serves as a substitute teacher.
- **JIC Advisory Opinion 2024-17:** A magistrate may concurrently serve as a part-time delivery driver so long as such employment is approved by the Administrative Director, the work is done on his/her own time and it does not interfere with judicial duties,
- **JIC Advisory Opinion 2024-18:** A judge is a full-time employee and extrajudicial activities like golf should never take precedence over a mandated workday.
- **JIC Advisory Opinion 2024-19:** A judge who is a football official with SSAC should not preside over a case involving that entity.
- **JIC Advisory Opinion 2024-20:** A holiday luncheon for courthouse staff and local lawyers and their personnel may be held in a judge's courtroom as long as every member of the county bar and staff are invited. The judge or a member of the judge's staff may ask people to bring a dish but neither the judge nor any member of his/her staff can accept monetary donations.
- **JIC Advisory Opinion 2024-21:** A judge-elect's father can no longer serve as the court's general receiver once the son takes the bench.
- **JIC Advisory Opinion 2024-22:** Two family law judge elects who are law partners cannot handle any cases/mediations which were in the firm prior to its dissolution or prior to one of the lawyers striking out on their own.
- **JIC Advisory Opinion 2024-23:** A judge-elect who held the position of prosecutor before taking the bench is not disqualified from all pending civil abuse and neglect, juvenile delinquency or status offender cases if he/she had no actual involvement in the matter and if there is no corresponding criminal case to any abuse and neglect matter.
- **JIC Advisory Opinion 2024-24:** A judge's law clerk went to work for a local firm. While still a law clerk, he worked on several cases that the firm had pending before the judge. The judge should disclose the relationship

in any case that the law clerk worked on involving the firm and follow Trial Court Rule 17 wherever possible.

- **JIC Advisory Opinion 2024-25:** A judge may not publicly comment on any pending or impending case until it has been decided, the mandate has issued and any potential appeal period, including the time frame set forth in Rules of Appellate Procedure 25(a) and 26(a) has expired.
- **JIC Advisory Opinion 2024-26:** As an education service to their colleagues, judges may provide a neutral and unbiased case synopsis as long as it truly is a synopsis and is done in a neutral and unbiased manner. Judges may cite to a new opinion during a hearing or in an order prior to the issuance of a mandate and the expiration of an appeal period per Rule 2.10(D) since they involve official duties.

## STATISTICS

On January 1, 2024, thirty-one (31) complaints remained pending before the Judicial Investigation Commission from 2023. From January 1, 2024, through December 31, 2024, the Commission received two-hundred and forty-two (242) new complaints for a total of two hundred and seventy- three (273) complaints. Of the 273 complaints, sixty-two (62) required formal investigation. One hundred and ninety-eight (198) were dismissed by the Judicial Investigation Commission. The Commission had no jurisdiction in seventeen (17) complaints. Two (2) complaints were withdrawn by the complainant with the approval of the Commission. One (1) complaint was not docketed because the complaint was not verified. The Commission issued seven (7) admonishments<sup>9</sup> involving eight (8) complaints. Formal discipline was issued by the State Supreme Court in one (1) statement of charges involving one (1) complaint.<sup>10</sup> Two (2) probable cause complaints (formal statement of charges) involving two (2) ethics complaints were issued by the Judicial Investigation Commission in 2024 to go to the Judicial Hearing Board for hearing.<sup>11</sup> Two (2) of the formal charges involving (2) complaints were pending at the end of the year and are included in the total forty-six (46) complaints carried over into 2025.<sup>12</sup> Commission counsel also handled over 1,483 inquiries from judicial officers/candidates/employees and over 1,517 telephone calls from the general public for a total of over 3,000 inquiries for 2024.

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<sup>9</sup> Prior to 1994, the JIC could not admonish a judicial officer. Under the former Rules of Judicial Disciplinary Procedure if probable cause existed to charge a judicial officer, the JIC was required to issue a Formal Statement of charges in all such matters.

<sup>10</sup> *Rock*.

<sup>11</sup> *Boso and Williamson*.

<sup>12</sup> *Boso and Williamson*.

## ADMONISHMENTS

The Judicial Investigation Commission issued seven (7) public admonishments in 2024 involving eight (8) complaints:

***In the Matter of the Honorable Kelly Codispoti, Judge of the 7<sup>th</sup> Judicial Circuit, JIC Complaint No. 168-2024:*** On August 28, 2024, a civil litigant filed a complaint on Respondent alleging dilatory behavior with respect to judicial duties. On December 11, 2024, the Commission publicly admonished Respondent for violating Rules 1.1, 1.2, and 2.1 2.4(B), 2.5(A) and 2.7 of the Code of Judicial Conduct.

***In the Matter of the Honorable Joseph Roxby, Magistrate of Ohio County, JIC Complaint No. 180-2024:*** On September 12, 2024, the Wheeling Police Chief filed an ethics complaint against Respondent alleging that he improperly handled a domestic violence protective order and engaged in intemperate behavior. On December 11, 2024, the Judicial Investigation Commission publicly admonished Respondent for violating Rules 1.1, 1.2, 2.5(A) and 2.8(B) of the Code of Judicial Conduct.

***In the Matter of the Honorable Rudolph “Bo” Ward, Magistrate of Preston County, JIC Complaint No. 35-2024:*** On February 15, 2024, Judicial Disciplinary Counsel filed a complaint on Respondent alleging use of false or misleading campaign materials in the 2024 election, improper membership in and raising money for a volunteer fire department and creating the appearance that he owned video lottery machines by collecting the proceeds resulting therefrom. On November 14, 2024, the Judicial Investigation Commission publicly admonished Respondent for violating Rules 1.1, 1.2, 3.1(B) and (C), 3.7(A)(2), 4.1(A)(9) and 4.2(A)(1) of the Code of Judicial Conduct in connection with the incident.

***In the Matter of the Honorable C. Darren Tallman, Judge of the 3<sup>rd</sup> Family Court Circuit, JIC Complaint Nos. 82-2024 and 110-2024:*** Complaints were filed by a member of the public and Judicial Disciplinary Counsel alleging violations with respect to social media posts made by the Respondent. On October 21, 2024, the Judicial Investigation Commission publicly admonished Respondent for violating Rules 1.1, 1.2, 3.1(A), 3.1(B), 3.1(C) and 4.1(A)(3) of the Code of Judicial Conduct.

***In the Matter of the Honorable Danne J. Vance, Magistrate of Cabell County, JIC Complaint No. 170-2023:*** On November 27, 2023, a litigant in a wrongful occupation/eviction proceeding filed a complaint against Respondent alleging that he failed to give her a jury trial despite a proper



request to do so. On April 19, 2024, the JIC admonished Respondent for violating Rules 1.1, 1.2, 2.2, 2.5(A) and 2.6(A) of the Code of Judicial Conduct.

***In the Matter of the Honorable Leonard Codispoti, Senior Status Magistrate, JIC Complaint No. 93-2023:*** On June 26, 2023, a special prosecutor in a criminal case filed a complaint against Respondent alleging the improper handling of matter where a defendant was charged with the misdemeanor offenses of battery on a police officer, obstructing, reckless driving and destruction of property. On March 5, 2024, the JIC admonished Respondent for violating Rules 1.1, 1.2, and 2.5(A) of the Code of Judicial Conduct.

***In the Matter Mary Ellen Griffith, former Judge of the 12<sup>th</sup> Family Court Circuit, JIC Complaint No. 146-2023:*** On October 17, 2023, a party to a petition to modify custody filed a complaint against Respondent alleging that an agency which appeared in family court was using Respondent's likeness and her comment on a social media post with permission in an effort to solicit money. On March 5, 2024, the JIC agreed to admonish Respondent for violating Rules 1.1, 1.2, 1.3, 3.1(C) and 3.7(A)(2) of the Code of Judicial Conduct.

## **JIC COMPLAINTS TO STATEMENT OF CHARGES**

The Judicial Investigation Commission voted to issue one (1) statement of charges arising out of RJDP 2.0 and two matters were carried over from 2023.

***In the Matter of the Honorable Elizabeth Boso, Magistrate of Nicholas County and former Magistrate Candidate of Kanawha County, Supreme Court No. 24-00436, JIC Complaint No. 22-2024:*** On January 31, 2024, JDC opened a complaint against Respondent predicated on false claims by her that she was a resident of Kanawha County in an effort to obtain the appointment to a vacant Magistrate position there. Following a thorough investigation, the JIC voted to issue a one count formal statement of charges. The charges were filed on August 7, 2024. A hearing was held before the Judicial Hearing Board ("JHB") on October 25, 2024 at which time Respondent admitted to violations of Rules 1.1, 1.2, 2.16(A), 4.1(A)(9), 4.2(A)(1) and 4.2(A)(2) of the Code of Judicial Conduct. By decision entered the same day, the JHB found that Respondent violated the Code provisions she admitted to at hearing and recommended that she receive a public censure, be suspended without pay for two months, and pay costs of the proceeding. As of December 31, 2024, the State Supreme Court had not yet issued a final ruling on the matter.

***In the Matter of the Honorable Dwight Williamson, Magistrate of Logan County, Supreme Court No. 24-360, JIC Complaint No. 150-2023:*** On October 19, 2023, JDC filed a complaint against Respondent. The complaint was based upon an opinion piece written by Respondent and published in two local newspapers on or about October 11, 2023. Following a thorough investigation, the JIC issued a one count formal statement of charges. On August 29, 2024, a hearing was held before the JHB at which time Respondent admitted to violations of Rules 1.1, 1.2, 2.2, 2.3(A), 2.4(B), 2.10(A) and (B) and 3.1(A), (B) and (C) of the Code of Judicial Conduct. He also admitting to aggravating factors set forth in the formal statement of charges which amounted to similar prior conduct for which he had previously been sanctioned. On August 30, 2024, the JHB issued a decision adopting the violations admitted by Respondent and recommending a public censure and his resignation/retirement on or before December 31, 2024 per an agreement between Respondent and JIC. Respondent also agreed to not take office on January 1, 2025 and to never again seek office as magistrate. As of December 31, 2024, the State Supreme Court had not issued a final decision in the matter.

***A special JDC*** also investigated a complaint against a Family Court Judge in ***In the Matter of the Honorable Deanna Rock, Judge of the 23<sup>rd</sup> Family Court Circuit***, 249 W. Va. 631, 900 S.E.2d 57 (2024) (Supreme Court No. 22-862, JIC Complaint No. 38-2022). ***A special JIC*** issued a formal statement of charges against Respondent in November 2022. A hearing was held before the Judicial Hearing Board on March 22, 2023. On May 25, 2023, the JHB found that Respondent committed two violations of Rule 2.16(A) and a concurrent violation of Rule 1.1 of the Code of Judicial Conduct. The matter was then argued before the State Supreme Court on January 23, 2024. By decision entered March 18, 2024, the State Supreme Court found an additional violation of Rule 1.2 of the Code of Judicial Conduct. Respondent received a public reprimand and was ordered to pay the costs of the proceeding.

## JIC ANNUAL STATISTICS COMPARISON

COMPLAINTS BY YEAR PER TYPE OF JUDGE

Year	Justices	ICA	CCJ	FCJ	Magistrate	Mental Hygiene Com	No Juris etc.	Total
2024	11	0	105	42	64	2	18	242
2023	1	0	83	50	38	4	15	191
2022	1	0	68	34	29	0	9	141
2021	5		66	24	33	2	8	138
2020	1		48	29	34	1	11	124
2019	3		82	35	45	2	7	174
2018	24		64	20	34	1	4	147
2017	10		50	45	38	0	6	149

2016	2		66	39	63	1	5	176
2015	1		57	35	29	1	8	131
2014	5		74	44	47	2	2	174
2013	8		78	43	46	0	9	184
2012	7		80	70	41	5	2	205
2011	1		82	41	50	4	8	186
2010	1		65	50	38	3	11	168
2009	0		65	38	50	4	2	159
<b>TOTAL</b>	<b>70</b>		<b>1028</b>	<b>597</b>	<b>615</b>	<b>30</b>	<b>107</b>	<b>2689</b>

#### DISCIPLINE BY YEAR PER TYPE OF JUDGE

Year	Total Complaints	Mag Formal Discipline	Mag Admon	FCJ Formal Discipline	FCJ Admon	CCJ Formal Discipline	CCJ Admon	SC & ICA Formal	SC & ICA Admon	Total Discipline
2024	242	0	4	0	2	1	1	0	0	8
2023	191	0	5	1	1	1	0	0	0	8
2022	141	0	4	1	0	0	2	0	0	7
2021	138	1	6	1	1	0	0	0	0	9
2020	124	4	2	0	1	0	1	0	0	8
2019	174	3	4	0	0	0	0	1	0	8
2018	147	3	0	0	0	0	0	0	0	3
2017	149	0	5	0	0	1	1	0	0	7
2016	176	1	3	0	0	1	1	0	0	6
2015	131	0	3	0	1	0	0	0	0	4
2014	174	1	2	0	1	1	1	0	0	6
2013	184	1	1	0	1	1	0	0	0	4
2012	205	0	2	1	0	0	0	0	0	3
2011	186	0	3	0	0	0	1	0	0	4
2010	168	0	1	0	1	0	0	0	0	2
2009	159	1	0	0	0	0	0	0	0	1
<b>TOTAL</b>	<b>2689</b>	<b>15</b>	<b>45</b>	<b>4</b>	<b>9</b>	<b>6</b>	<b>8</b>	<b>1</b>	<b>0</b>	<b>88</b>

Consistent with the NCSC, discipline cases are counted only for the year in which they conclude.

#### STATISTICS FROM THE NCSC CENTER FOR JUDICIAL ETHICS

- In 2024, there were approximately 131 public dispositions in state judicial discipline proceedings including 23 in New York; 19 in Texas; 9 in California; 8 in in West Virginia; 7 in Florida; 6 in Arizona and Kansas; 5 in Tennessee; 4 in Nevada and Ohio, 3 in Colorado, Minnesota, New Jersey, New Mexico and Washington; 2 in Arkansas, Georgia, Indiana, Kentucky, Louisiana and Oklahoma; and 1 in Alabama, Alaska, D.C., Idaho, Illinois, Maine, Maryland, Missouri, New Hampshire, North Carolina, North Dakota, Oregon and Pennsylvania. There were 17 states with no public sanctions.

The Center for Judicial Ethics is a clearinghouse for information about judicial ethics and discipline. The CJE provides research support for the conduct commissions that investigate complaints of judicial misconduct, publishes educational materials for judges, and tracks opinions issued by ethics advisory committees. The CJE publishes the *Judicial Conduct*

*Reporter* and other resources on judicial ethics, including a blog with new posts every Tuesday and Throwback Thursdays. Each year, the CJE responds to hundreds of requests for information from judges, court systems, reporters, and others. Every two years, the CJE presents the National College on Judicial Conduct and Ethics. As a private organization, the CJE does not have the authority to discipline or investigate judges. For more information/resources visit their website at <https://www.ncsc.org/topics/judicial-officers/ethics/center-for-judicial-ethics>

## CONCLUSION

Public confidence in the independence, integrity, and impartiality of judges, high standards that the members of the judiciary place upon themselves, and an autonomous disciplinary system that holds judicial officers answerable for their conduct are essential to the rule of law. The members of the West Virginia Judicial Investigation Commission are certain that the Commission's work contributes to those goals, a heightened awareness of the appropriate ethical standards, and the fair and proper administration of justice.

Respectfully submitted,

JUDICIAL INVESTIGATION COMMISSION,

By:   
Alan D. Moats, Chairman

Date: January 23, 2025

ADM/tat