

# **WEST VIRGINIA JUDICIAL INVESTIGATION COMMISSION**

## **2025 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, 2025 through December 31, 2025.**

## 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: two circuit judges; one magistrate; one family court judge; two retired circuit judges; 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 reappointment. 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 2025, the members of the Commission were: the Honorable Alan D. Moats, Chair and Senior Status Judge; the Honorable Bridget Cohee, Vice Chair and Judge of the 28<sup>th</sup> Judicial Circuit; 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, Dr. John Barnette and Alex Weld. Ms. Weld resigned at the end of December 2025. New Public Member Bill Bissett was appointed in January 2026.

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.

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. The JIC received three (3) such complaints in 2025, and they were still pending at the end of the year. Commission counsel also teaches ethics, sexual harassment and other topics to various groups and taught several courses both in person and remotely in 2025.

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>2</sup> In 2025, the JIC received (1) one new fatality review referral, but it did not fall within the 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 2025, Counsel conducted one (1) such investigations and presented findings to the Administrative Director.

The Commission held six regular meetings during 2025. The meetings took place at the West Virginia Judicial Tower and occurred on February 7, April 4, June 6, August 22, October 24, and December 5, 2025. 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>2</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>3</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.**

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

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<sup>3</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.

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,] 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 was first chaired by Professor Forrest “Jack” Bowman and then former Supreme Court Justice Elizabeth D. Walker. JIC Chairman Moats served as a member. The Commission also included 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 was an advisory member. Staff from the JIC, the Administrative Office and/or the Clerk’s Office provided input and/or technical staff support necessary to complete the work of the Committee. The Commission regularly met via the internet throughout 2025 and presented its draft changes concerning the Code of Judicial Conduct to the State Supreme Court in December 2025. Work on proposed changes to the Rules of Judicial Disciplinary Procedure has been extended into 2026.

## **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

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>4</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>5</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>6</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>4</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>5</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>6</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 provides 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 2025.

## **ADVISORY OPINIONS**

A judge or the Administrative Director of the Courts may, by written request of 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 be deemed 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 2025, the Commission issued fourteen (14) advisory opinions based upon written requests from judicial officers/candidates or the Administrative Director:

- **JIC Advisory Opinion 2025-01:** A judge whose son was recently elected mayor of a municipality within his/her circuit should disqualify himself/herself from any case where the city is named as a party to a proceeding and should disclose the nature of the relationship and follow Trial Court Rule 17 in any criminal case where the primary investigator is from the city.
- **JIC Advisory Opinion 2025-02:** A judge should screen a newly hired law clerk off all cases in which he/she served as the grand jury foreman

and disclose in every case that the law clerk was the grand jury foreman. If anyone objects the judge should follow Trial Court Rule 17.

- **JIC Advisory Opinion 2025-03:** A family court judge should disqualify himself/herself from any case involving his/her spouse's new law partner.
- **JIC Advisory Opinion 2025-04:** A circuit judge should disclose that his/her spouse is a teacher at a school involving any matter pertaining to that school whether or not the spouse is involved. If anyone objects, he/she should follow Trial Court Rule 17 and the decision of whether to disqualify should be made on a case-by-case basis given the totality of the circumstances.
- **JIC Advisory Opinion 2025-05:** The United Way can list a judge's name on its promotions and websites as long as his/her judicial title is not used and it is not tied to any attempt to solicit money. The charity may also recognize the judge as a sponsor at the event as long as it does not mention that he/she is a judge.
- **JIC Advisory Opinion 2025-06:** A judge who is considering approaching a lawyer who works in the public defender's office for a position as his/her new law clerk should disclose the nature of the relationship during the interview/negotiation stage and during the period between his/her hiring and actual start date. If anyone objects the judge should disqualify himself/herself from presiding over the matter involving the lawyer in question. As to any of his/her colleagues, the judge should disclose the matter but unless the potential hire has had some involvement in the case the judge does not need to disqualify himself/herself absent any other circumstances.
- **JIC Advisory Opinion 2025-07:** It would be improper for a judge to appoint a magistrate who is in an intimate relationship and resides with a magistrate assistant since it would at a minimum violation the spirit of W. Va. Code § 51-1-9 and the spirit and letter of Rules 1.2 and 2.13(A) of the Code of Judicial Conduct.
- **JIC Advisory Opinion 2025-08:** A family court judge can serve as a voluntary or paid coach since they are unlikely to preside over any Board of Education cases, but he/she must first receive written approval from the Administrative Director and as long as he/she does not let the extrajudicial activity interfere in any way with judicial duties.
- **JIC Advisory Opinion 2025-09:** A judge who is opposed to a high-powered transmission line which is likely to cross his/her real estate may attend public meetings about the issue and speak only on his/her behalf about opposition to the power line but should not mention or be introduced as a judge. The judge may also represent himself/herself in any administrative or court proceedings but must not allude to the

judgeship in any way. He/She may also give legal advice and draft or review documents pertaining to the matter for a member of the family including cousins since he/she is close to them. Because of the bias against the company the judge should disqualify himself/herself from any matter pertaining thereto.

- **JIC Advisory Opinion 2025-10:** A judge is disqualified from handling any matters involving juvenile or truancy if his/her daughter-in-law goes to work for the prosecutor's office in those areas. As to any other matter involving the prosecutor's office, the judge should disclose the nature of the relationship and follow Trial Court Rule 17.
- **JIC Advisory Opinion 2025-11:** A former law enforcement officer now magistrate may develop and teach an eight hour in service course on how to investigate sex crimes as long as judicial duties take precedence; the teaching is done on the judge's own time and no court resources are used in the development or marketing of the course; the course is marked and taught only to out of state individuals or groups; the class is open to both prosecution and defense entities; the judge does not discuss any pending or impending cases before any court; and the judge obtains prior written approval from the Administrative Director.
- **JIC Advisory Opinion 2025-12:** A law clerk who was a former deputy attorney general may continue to teach classes for the National Association of Attorneys General as long as his/her judicial duties take precedence; the teaching is done on the clerk's own time and no court resources are used in the development or marketing of the course; the class is open to all prosecution and defense entities; and the clerk receives permission from his/her immediate supervisor.
- **JIC Advisory Opinion 2025-13:** A judge may speak at the memorial of a political figure who was gunned down as long as the remarks are limited to a verse or two from scripture about peace and that violence is never the answer. The judge must not discuss the alleged shooter or crime or the individual's political or ideological beliefs or make any comments on behalf of any political organization.
- **JIC Advisory Opinion 2025-14:** A judge is disqualified from handling any family court matter involving the ex-spouse's law partner and associate and the judge's own divorce lawyer whenever actual bias is expressed.

## STATISTICS

On January 1, 2025, forty-six (46) complaints remained pending before the Judicial Investigation Commission from 2024. From January 1, 2025, through December 31, 2025, the Commission received two-hundred and twenty (220) new complaints for a total of two hundred and sixty-six (266) complaints. Of the 266 complaints, seventy-three (73) required investigation. Two hundred and three (203) were dismissed by the Judicial Investigation Commission. The Commission had no jurisdiction in fifteen (15) complaints. Three (3) complaints were withdrawn by the complainant with the approval of the Commission. Zero (0) complaints were not docketed because the complaint was not verified. The Commission issued five (5) admonishments<sup>7</sup> involving six (8) complaints. Formal discipline was issued by the State Supreme Court in two (2) statement of charges involving two (2) complaints.<sup>8</sup> Two (2) probable cause complaints (formal statement of charges) involving two (2) ethics complaints were issued by the Judicial Investigation Commission in 2025 to go to the Judicial Hearing Board for hearing.<sup>9</sup> They were still pending at the end of the year and are included in the total thirty-five (37) complaints carried over into 2026.<sup>10</sup> Commission counsel also handled over 1000 inquiries from judicial officers/candidates/employees and over 1,500 inquiries from the general public.

## ADMONISHMENTS

All admonishments are located in their entirety on our website. The Judicial Investigation Commission issued five (5) public admonishments<sup>11</sup> in 2025 involving six (6) complaints:

***In the Matter of the Honorable Daniel Harris, Magistrate of Barber County, JIC Complaint No. 179-2024:*** On September 11 2024, JDC opened a complaint against Respondent after receiving a self-report. The allegations arose from a heated dispute involving a deputy while the Magistrate was on-call. On June 16, 2025, the Commission publicly admonished Respondent for violating Rules 1.1, 1.2, 2.8(B) and 2.16(A) of

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<sup>7</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>8</sup> *Boso and Williamson.*

<sup>9</sup> *Sweeney and Akers.*

<sup>10</sup> *Sweeney and Akers.*

<sup>11</sup> Sweeney and Akers admonishments are not included in these statistics. As explained below on pages 15 and 16, the admonishments were withdrawn after the Respondents objected and formal charges were filed against them by the JIC pursuant to Rule 2.7(c) of the Rules of Judicial Disciplinary Procedure.

the Code of Judicial Conduct for his part in the encounter and for lacking candor about the incident.

***In the Matter of the Honorable Robert M. Montgomery, Judge of the 11<sup>th</sup> Family Court Circuit, JIC Complaint No. 219-2024:*** On November 19, 2024, a litigant filed an ethics complaint against Respondent alleging that he was dilatory in preparing and filing the Order from the final hearing in his case. On April 9, 2025, the Judicial Investigation Commission publicly admonished Respondent for violating Rules 1.1, 1.2, 2.1, 2.5(A) and 2.7 of the Code of Judicial Conduct.

***In the Matter of Daniel DeHaven, former Magistrate of Berkeley County, JIC Complaint Nos. 234-2024 and 237-2024:*** On December 9, 2024, the Chief Magistrate filed a complaint against Respondent alleging that he improperly allowed the nonlawyer husband of a defendant to represent her in a hearing in a criminal case. On December 17, 2024, the Chief Magistrate filed a second complaint alleging that Respondent took a female friend into the jail to with him when he went to conduct arraignments and misrepresented that she was a court employee. Following a thorough investigation, the Respondent entered into an agreement with the JIC on April 30, 2025, whereby he would resign his position immediately, would never again run for judicial office and accept an admonishment in lieu of formal charges. On June 6, 2025, the JIC admonished Respondent for violating Rules 1.1, 1.2, 2.2, 2.5(A), 2.9 and 2.16(A) of the Code of Judicial Conduct.

***In the Matter of the Honorable James W. Douglas, Judge of the 11<sup>th</sup> Family Court Circuit, JIC Complaint No. 235-2024:*** On December 16, 2024, the then Administrative Director of the Supreme Court of Appeals of West Virginia filed a complaint on Respondent alleging that he made improper comments about the Intermediate Court of Appeals to judicial colleagues and lawyers who belonged to the Kanawha Bench Bar. On June 13, 2025, the Judicial Investigation Commission publicly admonished Respondent for violating Rules 1.1, 1.2, 2.9(A) and 2.10(A) of the Code of Judicial Conduct in connection with the incident.

***In the Matter of John Luoni, former Magistrate of Kanawha County, JIC Complaint No. 80-2025:*** On May 22, 2025, the Administrative Director of the State Supreme Court filed a complaint against Respondent alleging improper behavior toward a subordinate employee at the courthouse. During the investigation, JIC Counsel discovered that Respondent also left work early on several occasions to engage in extrajudicial activities and mishandled a personal safety order. In or around August 26, 2025, the Respondent entered into an agreement with the JIC, whereby he would

resign his position immediately, would never again run for judicial office and accept an admonishment in lieu of formal charges. On August 27, 2025, the JIC admonished Respondent for violating Rules 1.1, 1.2, 1.3, 2.1, 2.3(A) and (B), 2.5(A), 2.6(A), 2.8(B) and 3.1(A) and (C) of the Code of Judicial Conduct.

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

The Judicial Investigation Commission voted to issue two (2) statement of charges arising out of RJDP 2.0 and two matters were carried over from 2023 and 2024.

***In the Matter of the Honorable Elizabeth Boso, Magistrate of Nicholas County and former Magistrate Candidate of Kanawha County***, 252 W. Va. 224, 921 S.E.2d 679 [Supreme Court No. 24-436, JIC Complaint No. 22-2024] (2025): 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. The State Supreme Court subsequently set a briefing schedule and oral argument was presented on September 16, 2025. By opinion entered October 24, 2025, the Court found that Respondent violated only Rule 4.1(A)(9) and dismissed the remaining alleged rule violations. Respondent received a two-month suspension without pay which she served forthwith.

***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 admitted to the 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. By Order entered March 13, 2025, the Supreme Court adopted the recommendation of the JHB.

***In the Matter of the Honorable Tim Sweeney, Judge of the 3<sup>rd</sup> Judicial Circuit, Supreme Court No. 25-475, JIC Complaint No. 13, 2025:*** On or about February 10, 2025, Judicial Disciplinary Counsel opened a complaint against Respondent. On March 20, 2025, Respondent replied to the allegations contained in the complaint. The complaint, Respondent's written response and sworn statement and all other evidence gathered were submitted to the JIC at its June 6, 2025. By a vote of 7-1, the Commission voted to admonish Respondent. The written admonishment was issued on June 12, 2025. Respondent timely filed his objection to the admonishment on July 3, 2025. On or about July 21, 2025, the JIC voted 8-1 to issue a two count Statement of Charges which was filed on July 22, 2025. In Charge I, the JIC charged Respondent with violating multiple Rules of the Code of Judicial Conduct for various Facebook posts. In Charge II, Respondent is accused of multiple violations of the Code for allegedly mishandling an abuse and neglect case and giving an improper interview to the news media regarding the same.

Subsequently, Respondent filed his Answer to the Formal Charges. Between the filing of the answer and the JHB hearing, the matter was vigorously litigated by both sides. The JHB Hearing was held on December 10, 2025. At that time, JDC and Respondent introduced 17 joint exhibits. Joint Exhibits 1 through 9 and 12 through 17 were admitted into evidence without objection. Importantly, the JHB has yet to rule on whether Joint Exhibit Nos. 10 and 11 have been admitted into evidence. Partial stipulations were jointly admitted as J. Ex. No. 18. At hearing, Respondent testified that he entered into the stipulations of his own free will. Respondent was the sole witness to testify at hearing. In closing arguments, Respondent asked for dismissal of all charges while JDC requested the JHB to find that Respondent violated all Rules charged and to issue an admonishment as discipline. The JHB ordered simultaneous briefs from both sides to be submitted on or before January 15, 2026.

***In the Matter of the Honorable Maryclaire Akers, Judge of the 8<sup>th</sup> Judicial Circuit, Supreme Court No. 483-2025, JIC Complaint No. 35-2025:*** On or about March 24, 2025, Judicial Disciplinary Counsel opened a complaint against Respondent. Respondent, by counsel, replied to the complaint by letter and exhibits dated April 25, 2025. The complaint, Respondent's written response and all other evidence gathered were provided to the Judicial Investigation Commission at its June 6, 2025 meeting. By a vote of 7-1, the Commission voted to issue a public admonishment. The written admonishment was issued on June 12, 2025, with a notification at the bottom that Respondent had fourteen days to file written objections and that if she did "the Judicial Investigation Commission, shall pursuant to the Rule, file formal charges

with the Clerk of the Supreme Court of Appeals of West Virginia. By mutual agreement, Respondent's written objections were due on or before noon, July 3, 2025. Respondent timely filed her written objections by email on July 2, 2025.

On or about July 24, 2025, a one count Formal Statement of Charges was filed against Respondent alleging that she violated several Rules of the Code of Judicial Conduct when she gave media interviews about a pending/impending matter. Thereafter the matter was vigorously litigated by both sides. Originally, the matter was set for hearing on December 17, 2025. Following a pre-trial hearing held in early December 2025, the JHB entered an order requiring JDC to be deposed by Respondent's attorney concerning the alleged aggravating factor pertaining to knowledge of the violation because of JIC Formal Advisory Opinion 2023-23. The order necessitated the disqualification of JDC Counsel. Thereafter, the Office of Lawyer Disciplinary Counsel was substituted to prosecute the claim and the hearing before the JHB was rescheduled for March 2026. In mid-January 2026, JDC was deposed by Respondent's counsel.

## JIC ANNUAL STATISTICS COMPARISON

**COMPLAINTS BY YEAR PER TYPE OF JUDGE**

Year	Justices	ICA	CCJ	FCJ	Magistrate	Mental Hygiene Com	No Juris etc.	Total
2025	5	0	101	37	56	3	18	220
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>86</b>	<b>0</b>	<b>1234</b>	<b>676</b>	<b>735</b>	<b>35</b>	<b>143</b>	<b>2909</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
2025	220	2	3	0	2	0	0	0	0	7
2024	242	0	4	1	2	0	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>2909</b>	<b>17</b>	<b>48</b>	<b>4</b>	<b>11</b>	<b>6</b>	<b>8</b>	<b>1</b>	<b>0</b>	<b>95</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

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. Each year, the CJE responds to hundreds of requests for information from judges, court systems, reporters, and others. The Center also provides annual statistics pertaining to judicial discipline from each state and the District of Columbia, and those statistics are usually included in this report. As of the filing of the 2025 WV report, the annual nationwide statistics are not yet available. 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: February 19, 2026

ADM/tat