



*STATE COMMISSION
ON JUDICIAL CONDUCT*



*FISCAL YEAR 2006
ANNUAL REPORT*

STATE COMMISSION ON JUDICIAL CONDUCT

2006 ANNUAL REPORT

COMMISSION MEMBERS*

Monica A. Gonzalez, Chair

Rex G. Baker, III, Vice-Chair

Michael R. Fields, Secretary

Joseph B. Morris

Ronald D. Krist

R. C. Allen, III

Faye Barksdale

W.A. "Buck" Prewitt

Ann Appling Bradford

Sid Harle

Jorge C. Rangel

* Note: One (1) new public member position and one (1) new Constitutional County Judge position remained vacant at the end of FY 2006.

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COMMISSIONER INFORMATION

OFFICERS

CHAIR

Hon. Monica A. Gonzalez

Municipal Court Judge
San Antonio

Appointed by Texas Supreme Court

Term Expires: 11/19/2009

VICE-CHAIR

Hon. Rex G. Baker, III

Justice of the Peace, Precinct 4
Dripping Springs

Appointed by Texas Supreme Court

Term Expires: 11/19/2009

Hon. Michael R. Fields

Judge, County Criminal Court-at-Law No. 14
Houston

Appointed by Texas Supreme Court

Term Expires: 11/19/2009

MEMBERS*

Hon. Joseph B. Morris

Justice, 5th Court of Appeals
Dallas

Appointed by Texas Supreme Court

Term Expires: 11/19/2007

Mr. W.A. "Buck" Prewitt

Public Member
Horseshoe Bay

Appointed by Governor

Term Expires: 11/19/2009

Mr. Ronald D. Krist

Attorney
Houston

Appointed by State Bar of Texas

Term Expires: 11/19/2007

Ms. Ann Appling Bradford

Public Member
Midland

Appointed by Governor

Term Expires: 11/19/2009

Mr. R. C. Allen, III

Public Member
Corpus Christi

Appointed by Governor

Term Expires: 11/19/2005

Hon. Sid Harle

Justice, 226th District Court
San Antonio

Appointed by Texas Supreme Court

Term Expires: 11/19/2011

Ms. Faye Barksdale

Public Member
Arlington

Appointed by Governor

Term Expires: 11/19/2007

Mr. Jorge C. Rangel

Attorney
Corpus Christi

Appointed by State Bar of Texas

Term Expires: 11/19/2011

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STATE COMMISSION ON JUDICIAL CONDUCT

COMMISSION STAFF

Seana Willing, Executive Director

Bob Warneke, General Counsel

Tom Broussard, Senior Commission Counsel

Jacqueline Habersham, Senior Commission Counsel

Judy M. Spalding, Commission Counsel

Cathy Bradford, Commission Counsel

Ron Bennett, Chief Investigator

Victor Hidalgo, Commission Investigator

Katherine Mitchell, Commission Investigator

Elaine Thompson, Legal Assistant/*Amicus* Program Manager

Valarie Ximenez, Legal Secretary

Terri Counts, Budget Analyst

Connie Paredes, Administrative Assistant

Juanita Villarreal, Administrative Assistant

JOINT STATEMENT FROM THE CHAIR AND DIRECTOR

We are pleased to present this Annual Report of the State Commission on Judicial Conduct for Fiscal Year 2006 summarizing the work of the Commission. In addition to highlighting some noteworthy achievements that took place this past year, the Report is intended to provide a general overview of the judicial disciplinary system in Texas, draw attention to the Commission's legislative concerns for the upcoming Legislative Session, and reflect the hard work and devoted service of Commission staff and the volunteers who serve as Commission members. We are most grateful to be able to work with such qualified and distinguished individuals, who continue to serve the State of Texas with integrity, dedication, and an uncompromising commitment to excellence.

August 31, 2006, marked the end of a very busy and challenging year for the State Commission on Judicial Conduct. In November 2005, Commission membership increased to 13 through a constitutional amendment that added a 6th judge member and a 5th public member. Despite the increase in membership, the agency's operating budget was reduced by 7% percent, forcing a reduction in staff, fewer Commission meetings, and the near-elimination of out-of-town travel for investigations of judicial misconduct allegations. Although the quorum requirement increased to 7 members, 3 positions went unfilled through much of the year. The 2 new positions created by the November 2005 constitutional amendment remained unfilled as of this Report. The challenge of not having enough members present at a meeting to form a quorum remains a concern as a direct result of the vacancies and the agency's reduced operating budget.

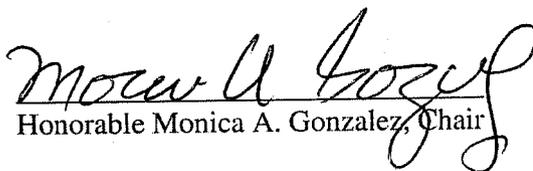
Despite these challenges, the Commission was able to dispose of close to 95% of its cases in Fiscal Year 2006. Of the 985 cases disposed of this year, approximately 580 (58%) alleged no judicial misconduct. Approximately 206 cases (21%) were dismissed following a preliminary investigation and approximately 202 cases (21%) were disposed of following a full investigation, which required a response from the judge. Of the full investigations conducted in Fiscal year 2006, ten cases (5%) were resolved with a letter of caution and eleven cases (5%) were resolved after the judge took appropriate steps to correct the conduct which led to the filing of the complaint. Discipline was issued in 42 cases (21%), consisting of 11 public sanctions, 21 private sanctions, and 4 orders of suspension. Three cases were resolved through Voluntary Agreements to Resign in Lieu of Discipline and three cases were voted into formal proceedings. Twenty-two (22) judges appeared and testified before the Commission last year.

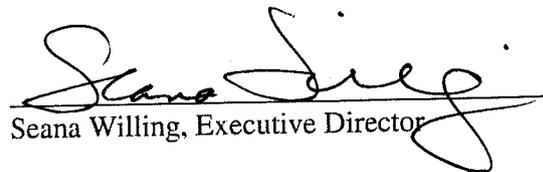
The statistics found in this Report reveal much of its work, but not all. What is not reflected in those numbers are the thousands of contacts made throughout the year, initiated by Texas judges, judicial candidates, attorneys, legislators, government officials, students, and others who sought guidance and information about compliance with the provisions of the Texas Code of Judicial Conduct. Commission staff responded to over 1,200 ethics calls in Fiscal year 2006 in its continuing effort to support the judiciary and the citizens of this State.

In addition, the statistics fail to report the countless hours Commission staff devoted to preparing and presenting well over 40 ethics training programs throughout the State, educating hundreds of judges, lawyers, court staff, and county officials about the Texas Code of Judicial Conduct, the judicial disciplinary system, and the Commission's *Amicus Curiae* Program. In addition to being invited to make numerous presentations before groups of foreign dignitaries and delegations from around the world, the Commission was also selected by the government of Paraguay as the model for its newly-created judicial conduct commission. While the Commission's ability to provide quality ethics education and training has been strained by the reduction in the agency's operating budget and staff, its commitment to participating in such outreach programs remains firm.

Although the Report reflects that approximately 1,046 cases were filed in Fiscal Year 2006, this figure does not take into account the number of hours staff spent reviewing and setting up those files, nor does it reflect the thousands of pieces of mail reviewed and acted upon by staff, or the number of inquiries received from the public, including litigants, criminal defendants, and their family members, who are unhappy with their experiences with the Texas judicial system. Although a large percentage of correspondence and telephone contacts do not result in a complaint, the amount of work involved in addressing these concerns remains a tax on the agency's limited resources.

On a final note, the Commission would point out that the role of a judicial conduct agency is to *help* maintain a balance between judicial independence and judicial accountability by enforcing the standards of judicial conduct. In providing this service, the Commission is but one part of a greater system. As set forth in the Preamble to the Texas Code of Judicial Conduct, our system of justice depends on "an independent, fair and competent judiciary" made up of judges who, "individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system." Therefore, in fulfilling its mandate to protect the public from judicial misconduct or disability, promote public confidence in the integrity, independence, and impartiality of the judiciary, and encourage judges to maintain high standards of conduct on and off the bench, the Commission does not and cannot act alone. Intrinsic to this process is the expectation that the judiciary itself, individually and collectively, has a duty to self-regulate in order to maintain and protect the appropriate balance between judicial independence and judicial accountability.


Honorable Monica A. Gonzalez, Chair


Seana Willing, Executive Director

PHILOSOPHY

The members of the State Commission on Judicial Conduct and Commission staff take their duties to the citizens and judges of Texas very seriously. Neither the political affiliation, gender, ethnic or religious background, sexual orientation, socioeconomic status, geographical location, nor the position of a complainant or a judge are considered in the review of cases pending before the Commission. The Commission's ability to fulfill its constitutional mandate requires that each Commissioner and staff member act with honesty, fairness, professionalism and diligence.

The Commission reviews every allegation of misconduct made against a Texas judge. Each complaint alleging misconduct on its face is thoroughly investigated and analyzed by Commission staff before being presented to the Commissioners. This procedure is an essential safeguard to preserve the public's confidence in the integrity of the judicial process. Judges are held to the highest standards of ethical conduct, both on and off the bench, and the Commission and its employees strive to conduct themselves in a similar manner.

OVERVIEW OF THE COMMISSION

Authority of the Commission

The State Commission on Judicial Conduct was created in 1965 by an amendment to Article V of the Texas Constitution. The Commission is the independent judicial agency responsible for investigating allegations of judicial misconduct or permanent disability, and for disciplining judges.

The Commission's jurisdiction includes all sitting Texas judges, including municipal judges, justices of the peace, criminal magistrates, county judges, county courts-at-law judges, statutory probate judges, district judges, appellate judges, masters, associate judges, referees, retired and former judges who consent to sit by assignment, and judges *pro tempore*. The Commission has no jurisdiction over federal judges and magistrates, administrative hearing officers for state agencies or the State Office of Administrative Hearings, or private mediators or arbitrators. Although judicial candidates are required to comply with the Texas Code of Judicial Conduct, the Commission does not have the authority to sanction anyone who was not a sitting judge at the time an offense occurred. Therefore, violations of the canons by candidates for judicial office who were not judges at the time of the alleged misconduct are subject to review and appropriate action by other authorities such as the State Bar, the Attorney General, the Secretary of State, or the local District Attorney.

Members of the Commission

There are thirteen members of the Commission, serving staggered six-year terms, as follows:

- Six judges appointed by the Supreme Court of Texas, one from each of the following court levels: appellate, district, county court-at-law, constitutional county, justice of the peace and municipal,
- Five citizen members who are neither attorneys nor judges, appointed by the Governor, and
- Two attorneys who are not judges, appointed by the State Bar of Texas.

By law, the appellate, district, constitutional and statutory county judges who serve on the Commission must be appointed from different appellate districts in Texas; the justice of the peace, municipal court judge and public members are selected at-large. The Texas Senate confirms all appointees. Commissioners meet approximately six times each year and receive no pay for their service.

Laws Governing the Commission

The Commission is governed by Article V, Section 1-a, of the Texas Constitution, Chapter 33 of the Texas Government Code, and the Texas Procedural Rules for the Removal

or Retirement of Judges. As part of the judiciary and as an entity having its own constitutional and statutory provisions regarding confidentiality of papers, records and proceedings, the Commission is not governed by the Texas Public Information Act, the Open Meetings Act or the Texas Administrative Procedures Act.

Defining Judicial Misconduct

Article V, Section 1-a(6)A of the Texas Constitution defines judicial misconduct as the “willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.”

Judicial misconduct could arise from a violation of the Texas Constitution, the Texas Penal Code, the Texas Code of Judicial Conduct, or rules promulgated by the Supreme Court of Texas. It could occur through the judge’s failure to cooperate with the Commission. Other examples of judicial misconduct include inappropriate or demeaning courtroom conduct, such as yelling, profanity, gender bias or racial slurs. It could be improper *ex parte* communications with only one of the parties or attorneys in a case, a public comment regarding a pending case, or a refusal by a judge to recuse or disqualify in a case where the judge has an interest in the outcome. It could involve ruling in a case in which the parties, attorneys or appointees are related within a prohibited degree of kinship to the judge. Judicial misconduct could occur through a judge’s failure to cooperate with respect to his or her obligations arising from a Commission inquiry, or failure to abide by any provision of a voluntary agreement to resign in lieu of disciplinary action.

Judicial misconduct could also arise from out-of-court activities, including theft, driving while intoxicated, improper financial or business dealings, sexual harassment or official oppression, and is subject to the same review by the Commission.

Sources of Complaints and Allegations

The Commission has the duty to consider allegations from any source, including an individual, a news article or information received in the course of an investigation. Complaints may be made anonymously, or the complainant may request confidentiality; however, in those instances, the Commission may be restricted in its ability to fully investigate the allegations.

Commission Limitations

The Commission cannot exercise appellate review of a case or change the decision or ruling of any court, nor can the Commission intervene in a pending case or proceeding. For example, if the Commission finds that a judge has committed misconduct, the Commission can only issue sanctions against the judge or seek the judge’s removal from the bench. However, even removal would not change the judge’s ruling in the underlying case. Only the appellate process is empowered to change the decision of a court.

Likewise, the Commission cannot provide individual legal assistance or advice to a complainant. The Commission cannot remove a judge from a case. The Commission cannot award damages or provide monetary relief to complainants.

Commission Investigations and Actions

Cases are reviewed, analyzed and investigated by the Commission staff. An investigation may include a letter of inquiry to the judge, a review of court records, or interviews with the complainant, attorneys and other witnesses. The Commission then considers the results of the investigation in its decision. The Commission has several options available when deciding whether to take action on a case. The types of actions include dismissal, sanction, suspension, acceptance of a voluntary agreement to resign from judicial office in lieu of disciplinary action, and formal proceedings.

Commission Organization and Staff

In fiscal year 2006, the Commission had fifteen (15) authorized staff positions (FTEs). Commission staff includes the Executive Director, five attorneys, three investigators, a legal assistant, a legal secretary, a budget analyst, and two administrative support people. All Commission staff members are full-time State employees.

The Commission's legal staff, which consists of attorneys, investigators, a legal assistant and a legal secretary, is responsible for the evaluation and investigation of complaints. The investigators are primarily responsible for reviewing and evaluating new complaints and conducting in-house and on-site investigations. The legal assistant and legal secretary are responsible for performing legal research, preparing legal documents, and assisting the attorneys in the prosecution of disciplinary proceedings. The attorneys are responsible for responding to ethics calls, speaking on judicial ethics at educational/training seminars, investigating allegations of judicial misconduct or incapacity, and prosecuting disciplinary cases before the Commission, the Texas Supreme Court and its appointees.

The Commission staff attorneys serve as examiners, or trial counsel, during formal proceedings and on appeals from Commission actions. The examiner is responsible for preparing cases for hearing and presenting the evidence that supports the charges before the Commission or a special master. The examiner handles briefing regarding special masters' reports, and presents cases orally and in writing in hearings before the Commission and appointees of the Texas Supreme Court. In certain cases, the Commission may employ special counsel, chosen from distinguished members of the bar, to assist staff in preparing and presenting these cases.

The Executive Director heads the agency and reports directly to the Commission. The Executive Director is also the primary liaison between the Commission and the judiciary, legislators, the public and the media.

Amicus Curiae

Started in 2001, *Amicus Curiae* ("Amicus") is a judicial disciplinary and education program intended to address a growing concern, often generated by scandals reported by the media, of judicial misconduct caused by impairment. Before the Commission started this program, complaints of judicial misconduct relating to impairment, such as drug or alcohol

abuse or mental illness, were sanctioned or dismissed if unfounded. The underlying impairment was never addressed. *Amicus* affords a third option under the Commission's authority to order additional training and education to a judge found to have violated a canon of judicial conduct. *Amicus* offers assistance to the judge to address the underlying personal impairment causally connected to the misconduct. One advantage *Amicus* offers over other similar programs such as the Texas Lawyers Assistance Program operated by the State Bar of Texas is its ability to assist all judges, attorney and non-attorney alike.

Although the confidential referral to *Amicus* by the Commission through the disciplinary process does not shield the judge from any sanction that the Commission deems appropriate, the Commission recognizes that not all impairment issues result in misconduct. In order to reach out to those judges who may be suffering in silence and who may not be the subject of a complaint as a result of their impairment, *Amicus* offers a self-referral component to its program, which affords judges an opportunity to seek assistance, in confidence, outside the disciplinary process.

Outreach and Education

In fiscal year 2006, the Executive Director, staff attorneys and investigators made over forty (40) presentations at judicial training courses, bar conferences, court staff workshops, and before several groups of foreign dignitaries and delegates, describing the Commission and discussing various forms of judicial misconduct.

Ethics Calls

In fiscal year 2006, the Executive Director, staff attorneys and investigators answered more than 1,200 telephone calls from judges, judicial candidates, attorneys, Legislators, the media and private citizens regarding judicial ethics inquiries. Callers are cautioned that Commission staff cannot issue an opinion on behalf of the Commission, and that the Commission is not bound by any comments made during the conversation. In many cases, the caller's question is researched before the call is returned so that the specific canon, statute, rule or ethics opinion can be identified. When appropriate, staff will send the caller a Complaint Form (in English or Spanish) and other relevant material. In some instances, staff may refer callers to other resources or agencies to better address their concerns.

Commission Website

The Commission website is located at www.scjc.state.tx.us. The website provides downloadable complaint forms in English and Spanish. The website also offers bilingual answers to frequently-asked questions regarding the Commission, such as its composition, structure and jurisdiction; the judicial complaint process; a description of the range of decisions the Commission can make, from dismissal to sanction; and explanations of the procedures for a judge to appeal the Commission's decision, and for a complainant to seek the Commission's reconsideration. Further, the website provides statistical information about the Commission and updated sanctions, resignations, suspensions, and Review Tribunal Opinions.

Also included are the Commission's governing provisions: Code of Judicial Conduct; Texas Constitution Article V, Section 1-a; Chapter 33, Texas Government Code; and the Texas Procedural Rules for the Removal or Retirement of Judges.

Public Information

The availability of information and records maintained by the Commission is governed by Rule 12 of the Texas Rules of Judicial Administration, the Texas Constitution and the Texas Government Code. Commission records are not subject to public disclosure pursuant to the Public Information Act (formerly the Open Records Act) or the Freedom of Information Act.

Generally, Commission records are confidential, with the following exceptions:

- Constitution: Article V, Section 1-A(10) of the Texas Constitution provides that “All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by the law...”
- Government Code:
 - In the event the Commission issues a public sanction against a judge, Section 33.032 of the Texas Government Code provides for the release of information previously withheld as confidential.
 - Also under this Section, suspension orders and related proceedings as well as voluntary agreements to resign in lieu of disciplinary proceedings are available to the public.
 - Section 33.032 also authorizes the release to the public of papers filed in a formal proceeding upon the filing of formal charges.
- Judicial Administration: Rule 12 of the Texas Rules of Judicial Administration provides for public access to certain records made or maintained by a judicial agency in its regular course of business *but not pertaining to its adjudicative function*. Commission records relating to complaints, investigations, and its proceedings are not judicial records and are not subject to public disclosure pursuant to Rule 12.

When the Commission takes action on a complaint, whether dismissing it, issuing a private or public sanction, accepting a voluntary agreement to resign in lieu of disciplinary action, or voting formal proceedings, the complainant is notified in writing. However, the Texas Government Code requires that the Commission omit the judge’s name from the notice to the complainant, unless a public sanction has been issued. The complainant has some privacy rights as well: at the complainant’s request, his or her name may be withheld from the judge and kept confidential.

Additionally, the Constitution provides that in instances where issues concerning either a judge or the Commission have been made public by sources other than the Commission, the Commission may make a public statement. In such a situation, the Commission determines whether the best interests of a judge or the public will be served by issuing the statement.

THE COMPLAINT PROCESS

Introduction

Each complaint stating an allegation of judicial misconduct is thoroughly reviewed, investigated and analyzed by the Commission staff. Complaints must be filed with the Commission in writing. Complaints sent by fax or through e-mail are not accepted.

Although it is not mandatory that a complainant submit his or her allegation on the Commission's complaint form, the specific information sought is essential to the efficient handling of a complaint. Complaint forms are available in English and Spanish from the following sources:

- Download from the Commission's website at www.scjc.state.tx.us; and
- Telephone requests to the Commission at (512) 463-5533.

The Commission may also initiate the complaint process itself upon a review of information from the media, court documents, the Internet or other sources. The complainant may request that the Commission keep his or her identity confidential, and anonymous complaints are also accepted.

When a complaint is filed, the Commission sends the complainant an acknowledgment letter and staff begins its investigation and analysis of the allegations. The complainant may be asked to provide additional information or documents. Staff then reviews each allegation or complaint thoroughly. In some cases, legal research may be conducted, and witnesses or the judge may be contacted. For complex matters, an attorney or investigator may travel to the judge's county for further investigation and interviews.

When the investigation is completed, the case is presented to the Commission for its consideration. In some cases, the Commission may invite the judge to appear and discuss the complainant's allegations; under certain circumstances, the Commission may invite the complainant to appear. Based on the specific constitutional provisions, statutes and canons under which the Commission operates, it considers and votes on each matter on a case-by-case basis.

If the Commission votes to issue a public sanction, the appropriate order is prepared and distributed to the subject judge and the complainant; the order is then publicly disseminated as required by law to ensure public awareness. If, however, the Commission votes to issue a private sanction, the appropriate order is prepared and tendered to the subject judge, and the complainant is notified by letter of the Commission's action. Because the Commission is controlled by constitutional and statutory provisions that prohibit the release of information regarding investigation and resolution of a case, no other details will be released to the public. However, in cases where a judge has voluntarily agreed to resign in lieu of disciplinary action, that agreement becomes public upon the Commission's acceptance of it, and the complainant is so notified.

Likewise, whenever the Commission suspends a judge after he or she has been indicted for a criminal offense, or charged with a misdemeanor involving official misconduct, the Commission releases to the public the order of suspension and all records related to the proceedings.

Commission Decisions

Commission members review, deliberate and vote on each complaint. This may result in a dismissal, a public or private order of additional education either alone or in combination with a public or private sanction, a public or private admonition, warning or reprimand, the acceptance of a voluntary agreement to resign from judicial office in lieu of disciplinary action, or formal proceedings for removal or retirement of the judge from the bench. If appropriate, the Commission may defer its action and refer the judge to the *Amicus Curiae* Program. If the judge appeals a decision of the Commission, the Texas Supreme Court appoints three appellate judges to serve as a Special Court of Review. That Court's final decision-making authority includes dismissal, affirmation of the Commission decision, imposition of a greater or lesser sanction, or the initiation of formal proceedings. The decision of the Special Court of Review is final and may not be appealed.

The Commission's decisions and actions in responding to allegations or complaints of judicial misconduct fall into one of the following categories:

1. Administrative Dismissal Report

A case is dismissed administratively when a complainant's writing or claim fails to state an allegation of judicial misconduct, addresses a dispute over a judge's discretionary rulings that may only be resolved on appeal, or identifies the wrong judge. In addition, gratuitous claims of misconduct that are unsupported by any facts or evidence may be administratively dismissed. In letters of dismissal sent to these complainants, the Commission provides a specific explanation for the administrative dismissal.

2. Dismissal

The Commission may dismiss a case after conducting a review and investigation of the allegations. Reasons for these dismissals include insufficient or no evidence of misconduct, the judge demonstrated that he or she took appropriate actions to correct the conduct at issue, or the conduct, though problematic, did not rise to the level of sanctionable misconduct. In letters of dismissal sent to these complainants, the Commission provides a specific explanation for the dismissal, and describes the steps the complainant can take for the Commission to reconsider its decision.

3. Order of Additional Education

Legal and procedural issues are often complex, so it is not surprising that some judges take judicial action that may exceed their authority or that is contrary to procedural rules. In these situations, the Commission may find that the judge has demonstrated a deficiency in a particular area of the law warranting an order of education. The Commission then contacts the appropriate judicial training center, where the subject judge may attend a particular training program or a mentor judge may be appointed for one-on-one instruction with the subject judge, to be completed within a specified time on particular subjects. The mentor judge then reports to the Commission on the subject judge's progress. The Commission may also order

the judge to obtain education on other issues, such as anger management, gender sensitivity or sexual harassment. The Commission may issue an order of education alone or as part of a private or public sanction.

4. Private or Public Sanction

Sanctions are issued by the Commission when sufficient evidence is provided that supports a finding of judicial misconduct. The most severe disciplinary action available to the Commission is a *public censure*, issued only after a case has been voted into formal proceedings by the Commission. If, after a public fact-finding trial, the Commission determines that the underlying allegations of the complaint are true but do not support a recommendation for removal from office, a *censure* is issued as a public denunciation of the judge's conduct.

The next most severe sanction is a *public reprimand*. A *reprimand* is the most severe sanction available to the Commission (unless formal proceedings are voted as described herein). A less severe sanction is a *public warning*, followed by a *public admonition*. A *warning* puts the judge on notice that the actions identified in the sanction are improper. An *admonition* is the lowest level sanction. As noted above, sanctions may be public or private, and may be combined with orders of education.

A judge may appeal any sanction other than a *public censure* to a Special Court of Review.

If a *public sanction* or *censure* is issued, all information considered by the Commission, including the judge's name, is made public. Public sanctions are issued not only to identify the specific conduct, but to educate judges that such conduct is inappropriate. This also ensures that the public is made aware of actions that violate the Code of Judicial Conduct. When a *private sanction* is voted, the judge's name and all information considered by the Commission are kept confidential.

5. Suspension

The Commission has the power to suspend a judge from sitting on the bench, with or without pay, after the judge has been either indicted by a grand jury for a felony, or charged with a misdemeanor involving official misconduct. The suspended judge has the right to a post-suspension hearing before one or more of the Commission members or the Executive Director, as designated by the Commission Chair.

In cases other than for alleged criminal behavior, the Commission, upon the filing of a sworn complaint and after giving the judge notice and an opportunity to appear before the Commission, may recommend to the Supreme Court of Texas that the judge be suspended from office, for persistent violation of rules promulgated by the Supreme Court, incompetence in performing the duties of office, willful violation of the Code of Judicial Conduct, or willful and persistent conduct that is clearly inconsistent with the proper performance of his or her duties, or that casts public discredit on the judiciary or the administration of justice.

6. Voluntary Agreement to Resign

In some cases, a judge against whom a complaint has been made may decide to resign in lieu of disciplinary action. In that event, the judge may tender to the Commission a voluntary agreement to resign from judicial office. Upon the Commission's acceptance, the

agreement is made public and the judge vacates the bench. The agreement and any agreed statement of facts relating to it are admissible in subsequent proceedings before the Commission. While the agreement is public, any records relating to the underlying case remain confidential and may only be released to the public if a judge violates a term of the agreement.

7. Formal Proceedings

In certain circumstances, the Commission may decide that a complaint against a judge is so severe that it should be handled as a formal proceeding. The Commission itself may conduct such a fact-finding hearing or it may ask the Supreme Court of Texas to appoint a Special Master (who must be a sitting or retired district or appellate judge) to hear the matter. Such proceedings are governed by the Texas Rules of Civil Procedure and the Texas Rules of Evidence to the extent practicable.

Although there is no right to a trial by jury in a formal proceeding, the judge is afforded certain other rights under the Texas Procedural Rules for the Removal or Retirement of Judges, including the following:

- To be confronted by the judge's accusers;
- To introduce evidence;
- To be represented by counsel;
- To examine and cross-examine witnesses;
- To subpoena witnesses; and
- To obtain a copy of the reporter's record of testimony.

If the formal proceeding has been conducted before a Special Master, he or she reports the findings of fact to the Commission. If either party files objections to the Master's Report, the Commission will hold a public hearing to consider the report of the Special Master and any objections. The Commission may adopt the Special Master's findings in whole or in part, modify the findings, totally reject them and enter its own findings, or order a hearing for the taking of additional evidence.

After adopting findings of fact, the Commission issues its conclusions of law. The Commission may dismiss the case, issue a public censure, or recommend removal or involuntary retirement to a seven-member Review Tribunal appointed by the Supreme Court of Texas. The Commission itself cannot remove a judge; only the Review Tribunal can order a judge removed from the bench. The Review Tribunal may also enter an order prohibiting the judge from ever holding a judicial office again.

The judge may appeal the decision of the Review Tribunal to the Texas Supreme Court.

Appellate Review of Commission Action

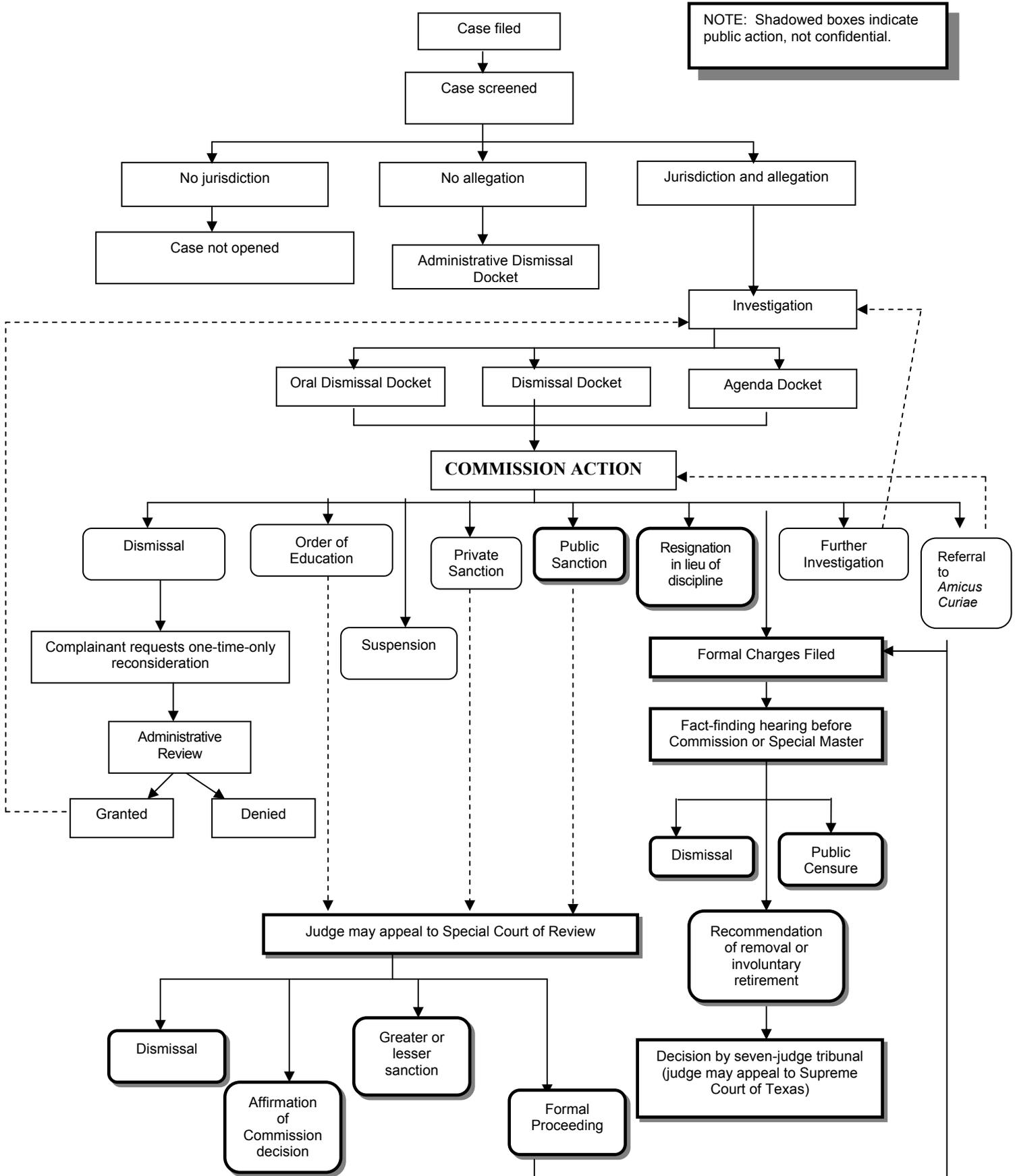
Although a public censure cannot be appealed, a judge may appeal the Commission's issuance of any other public or private sanction or order of additional education within thirty (30) days of the date the Commission issues the sanction by filing a written notice with the Chief Justice of the Supreme Court of Texas and requesting the appointment of three appellate justices to act as a Special Court of Review.

Within fifteen (15) days after the Special Court of Review is appointed, the Commission must furnish the subject judge and each justice on the Special Court of Review with a "charging document," which includes a copy of the sanction issued, as well as any additional charges to be considered in the *de novo* proceeding. All other papers, documents and evidence that were considered by the Commission are included. Once the judge has filed his or her appeal, these materials become public.

A trial *de novo* is held within thirty (30) days after the charging document is filed. The Special Court of Review considers the case from the beginning, as if the Commission had taken no previous action. The Texas Rules of Civil Procedure apply, except that the judge is not entitled to a jury trial. All documents filed and evidence received in the appeals process are public.

The Special Court of Review may dismiss or affirm the Commission's decision, impose a greater or lesser sanction, or order the Commission to file formal proceedings against the subject judge for removal or involuntary retirement. The decision of the Special Court of Review is final.

COMPLAINT PROCESS



AMICUS CURIAE

PROGRAM

The *Amicus Curiae* program (“*Amicus*” herein), developed in 2001, continues to identify and assist members of the judiciary who have impairments and to provide a confidential resource for those judges to obtain help.

Amicus Curiae, which translates as “friend of the court,” is the first program of its kind in the United States. The program grew out of the Commission’s awareness and concerns that certain issues of misconduct resulted from underlying problems related to alcohol or drug abuse, addiction, or mental or emotional disorders. Unlike most employee assistance programs, *Amicus* is unique in that it is not designed to provide direct services. Instead, *Amicus* helps locate resources to identify and treat impairments that may be affecting those judges’ personal lives and their performance on the bench.

Three distinguished professionals serve as members of the *Amicus* Board of Directors, overseeing the development and operation of the program:

- Justice Robert Seerden, Corpus Christi, is the retired Chief Justice of the 13th Court of Appeals; he is of counsel at Hermansen, McKibben, Woolsey & Villarreal, L.L.P. in Corpus Christi;
- Dr. Lawrence Schoenfeld, Ph.D, San Antonio, is Director of both the Clinical Psychology Residency and Fellow Programs at the University of Texas at San Antonio Health Sciences Center, and
- Judge Bonnie Crane Hellums, Houston, is Judge of the 247th District Court. Judge Hellums hears family law cases and has initiated one of Houston’s first Drug Courts to deal with some of the impairment issues she routinely sees in her court.

Funding for *Amicus* was initially provided through a grant from the Texas Center for the Judiciary, through the Texas Court of Criminal Appeals. The Texas Legislature initially appropriated funds to *Amicus* on September 1, 2001. Those funds enabled the Commission to hire a program manager to operate *Amicus* with the Board’s oversight. Developing program guidelines, acquiring educational reference materials, instituting a network of mentor judges, and reviewing similar programs for other professions are the continuing goals of the board. The funding for the program in fiscal year 2005 came from an interagency contract with the Court of Criminal Appeals, which expired on August 31, 2005. Due to budget cuts, no funds were available for the *Amicus* program in fiscal year 2006.

A judge whose conduct has been brought to the attention of the Commission through the filing of a complaint may be offered the opportunity to participate in *Amicus*

once the Commission makes a determination that the judge might benefit from such participation. In the event that the Commission should make such a referral, the judge's participation in *Amicus* remains contingent upon the judge's voluntary submission to the program and the judge's acceptance into the program by the *Amicus* Board following an appropriate evaluation. At the discretion of the Commission, discipline of the judge may be temporarily diverted while the judge is an *Amicus* participant. A judge's progress while in the program is regularly reported to the Commission. However, any judge may independently contact the *Amicus* Program Manager directly and request confidential assistance outside the Commission's disciplinary process.

The Commission's major consideration in whether a judge should be referred to *Amicus* for evaluation is whether the public can be assured that all judges maintain the high standards of conduct required of them by the Texas Code of Judicial Conduct and Texas Constitution.

Legislative Concerns, Observations, and Recommendations

There are a variety of topics of special note or interest that come to the attention of the Commission as it investigates complaints, conducts hearings, issues discipline, and prosecutes formal proceedings and appeals of Commission decisions. These items are provided below for the purpose of educating the public, advising the judiciary so that potential misconduct may be avoided, and pursuant to Section 33.005 of the Government Code, which authorizes the Commission to recommend changes it considers necessary in its rules or the applicable statutes or constitutional provisions.

- Section 33.001(b) of the Texas Government Code defines the term “willful or persistent conduct that is clearly inconsistent with the proper performance of a judge’s duties” found in Article V, 1-a(6)A of the Texas Constitution to include several areas of misconduct. In order to assist the Commission in its enforcement of the Texas Rules of Judicial Education, an additional area covering a judge’s failure to obtain the required judicial education hours should be added.
- The travel expenses and costs of a special master, members of a Review Tribunal or Special Court of Review, all of whom are appointed to serve by the Texas Supreme Court during a formal proceeding or appeal, should be paid out of funds appropriated to the Texas Supreme Court, the Comptroller’s Office, or the county or court where the judge currently sits, or out of the visiting judge funds if the judge is not an active, sitting judge. By statute, the Commission is only required to pay the expenses of a special master out of its appropriated funds. However, traditionally, the expenses of all Supreme Court appointees, including the justices on the Special Courts of Review and the Review Tribunals, have been paid out of the Commission’s appropriated funds. This has been problematic on several levels. First, formal proceedings and appeals are impossible to predict or plan for when preparing a biennial budget request; as a result, the Commission has struggled to adequately budget and pay for such expenses. Likewise, the Legislature will not adequately fund the Commission for these expenses because the amounts to be expended each year on formal proceedings or appeals are unknown. Second, during formal proceedings and appeals, the Commission is a party; the Executive Director acts as attorney of record. Processing claims for travel reimbursement from judges still serving as masters, Review Tribunal members or Special Court of Review members places the Commission and its Executive Director in an awkward position and may lead to an appearance of impropriety should the Director be forced to communicate with the judges about reimbursement and payment issues while the cases are still pending.
- Section 33.004 of the Government Code provides for the compensation and expenses of Commission members. Section 33.006 provides the authority for the Commission to appoint “any other person” to assist it in performing its duties; however, this authority does not currently come with corresponding authority to compensate that person or pay that person’s expenses out of the Commission’s general revenue (e.g., advisory members of the *Amicus Curiae* Board). The statute should be amended to address that authority.

- Section 33.027 of the Government Code protects the discussions, thought processes, or individual votes of members of the Commission, as well as the discussions or thought processes of employees of the Commission, including Special Counsel, from being the subject of a discovery request in formal proceedings or in appeals. However, there is no similar protection of this information at trial. Section 33.032 of the Government Code needs to be amended to include protection of this information at trial.
- Sections 33.037 and 33.038 of the Government Code should cross-reference the Local Government Code provisions that require the judge of the convicting court to enter an order of suspension pending appeal and an order of removal upon final conviction.
- Revisions to the Procedural Rules for the Removal or Retirement of Judges and the Texas Code of Judicial Conduct are long overdue. Currently, neither reflects developments and changes in the laws relating to the field of judicial ethics and discipline that have occurred over the past decade. As a result, the Commission's ability to enforce certain provisions, particularly as they relate to the political activities of judges and judicial candidates, remains in doubt.

STATISTICAL ANALYSIS

An outline of the statistical activity for the Commission through the end of fiscal year 2006 is shown in **Table 1** immediately following this section.* Graphic representations of the data are also presented in **Figures 1** through **7** to further illustrate the activities of the Commission.

In fiscal year 2006, according to Office of Court Administration records, approximately 3,638 judges were under the jurisdiction of the Commission. **Figure 1** illustrates the Texas judiciary by the total number of judges and by the number of judges in each category. **Figure 2** shows the number and percentage of cases filed with the Commission against each judge type. **Figure 3** shows the number and percentage of disciplinary actions taken by the Commission against each judge type. Of note in fiscal year 2006: district court judges accounted for 30% of the discipline issued by the Commission, as compared to 17% in fiscal year 2005 and 12% in fiscal year 2004, whereas disciplinary actions against justices of the peace declined to 29%, as compared to 50% in fiscal year 2005 and 61% in fiscal year 2004. Both groups continue to account for more than two-thirds of the cases filed each year.

Figure 4 illustrates by number and percentage the various sources of cases closed in fiscal year 2006. By the end of the year approximately 985 cases had been disposed. Nearly half of those cases were filed by civil litigants, their friends or family members, or by *pro ses*. Criminal defendants, including traffic defendants and inmates, accounted for a little more than one-third of the cases. Only 3% of the cases were filed anonymously and 1% were Commission-initiated. **Figure 5** compares the number of cases filed with the number of cases disposed for fiscal years 2003 through 2006.

Last year, 42 disciplinary actions were taken against Texas judges. The Commission disposed of 32 cases through public sanction, private sanction, orders of additional education or a combination of sanction with an order of additional education. In addition, 3 cases were disposed of through voluntary agreements to resign from office. Interim actions, such as suspensions, *Amicus* referrals, and formal proceedings, accounted for 7 of the disciplinary actions taken in fiscal year 2006. Additionally, 10 cases were resolved with a letter of caution to the judge and 11 cases were resolved after the judge took appropriate measures to correct the conduct that led to the filing of a complaint. A comparison of public discipline, private discipline and interim actions taken by the Commission in fiscal years 2003 through 2006 is shown in **Figure 6**.

Finally, of the 985 cases closed last year, approximately 58% alleged no judicial misconduct. Approximately 21% were dismissed after a preliminary investigation and approximately 21% were disposed of following a full investigation requiring a response from the judge. A comparison of initial, preliminary and full investigations conducted by the Commission in fiscal years 2003 through 2006 is shown in **Figure 7**.

* Recent internal audits of statistical reporting methods exposed minor errors in data stated in prior reports. Every attempt has been made to insure that the data reflected in this report is as accurate as possible.

Table 1: Commission Activity

	FISCAL YEAR 2003	FISCAL YEAR 2004	FISCAL YEAR 2005	FISCAL YEAR 2006
Cases Pending (Beginning FY/Ending FY)	828/499	499/398	398/393	393/453
Cases Filed	1055	1227	1101	1045
Total Number Of Cases Disposed	1384	1328	1106	985
% of Cases Disposed	131%	108%	100.5%	94%
Average Age of Cases Disposed	5.4 Months	4.04 Months	4.5 Months	5.1 Months
Disciplinary Action (total)	59	77	65	42
Cases Disposed through:				
Criminal Conviction	0	0	0	0
Review Tribunal Order	0	17	4	0
Voluntarily Agreement to Resign in Lieu of Disciplinary Action	19	17	6	3
Sanction:				
Public Censure	1	0	0	0
Public Censure and Order of Additional Education	2	0	0	0
Public Reprimand	7	2	6	3
Public Warning	2	1	3	2
Public Admonition	4	4	3	6
Public sanction and Order of Additional Education	4	0	4	0
Private Reprimand	0	3	1	1
Private Warning	5	1	8	4
Private Admonition	5	11	8	3
Private sanction and Order of Additional Education	3	6	6	8
Public Order of Additional Education	0	0	0	0
Private Order of Additional Education	4	7	8	5
Interim Disciplinary Action:				
Order of Suspension [15(a)]	0	6	3	4
Recommendation of Suspension to Supreme Court [15(b)]	2	1	4	0
Formal Proceedings Voted	1	1	0	3
Amicus Referral	0	0	1	0
Dismissals	1328	1259	1049	950
Requests for Reconsideration Received	173	212	29	28
Reconsideration Granted	10	12	1	2
Reconsideration Denied	163	200	28	26
Pending	0	0	0	0
Cases Appealed to Special Court of Review	1	0	0	2
Informal Hearings Set	71	62	32*	22*
Public Statements Issued	1	0	0	1

* Starting in FY05, Informal Hearings were measured by the number of judges appearing rather than the number of cases heard

Fig. 1 Total Number of Texas Judges*

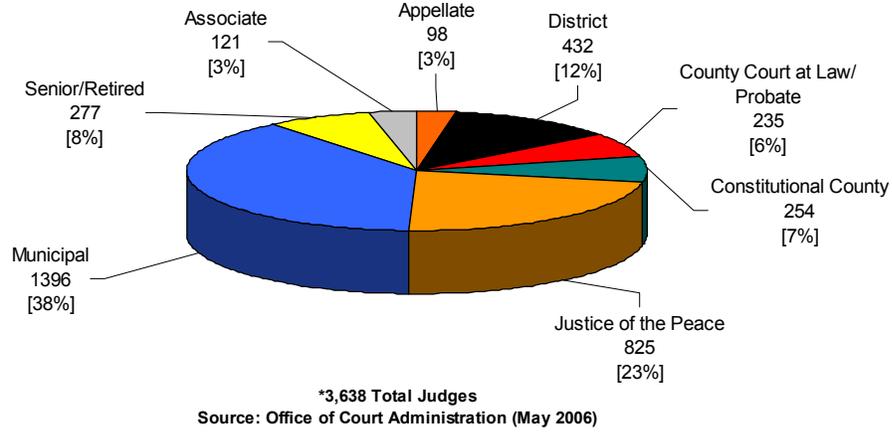


Fig. 2 Number and Percentage of Cases filed by Judge Type*

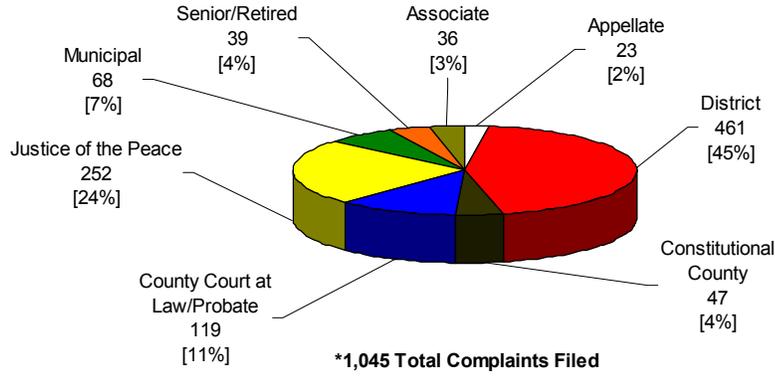
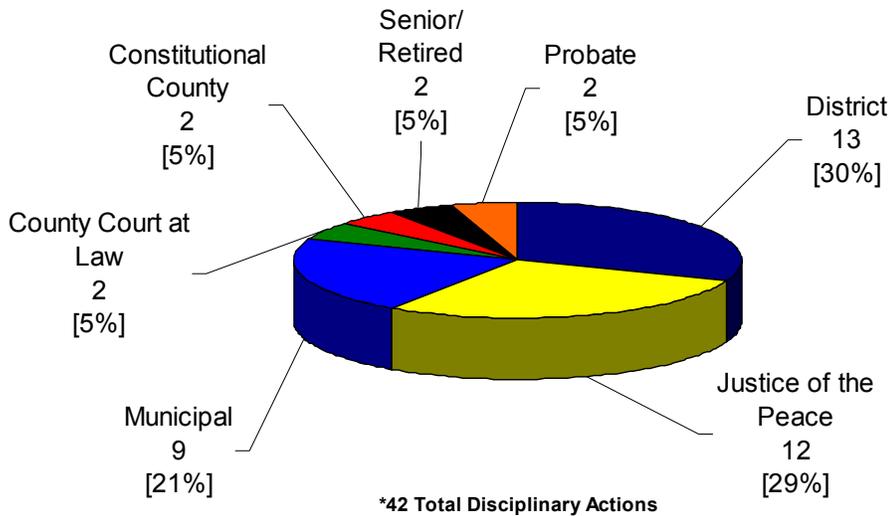


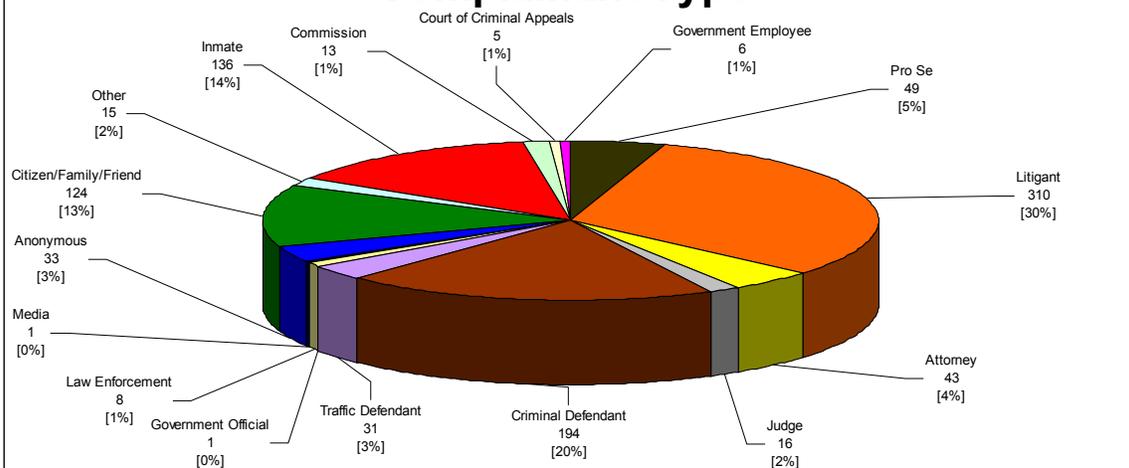
Fig. 3 Number and Percentage of Disciplinary Actions by Judge Type*



Note 1: "Disciplinary Actions" include: Public Censures, Public Sanctions, Private Sanctions, Orders of Additional Education, Voluntary Resignations in Lieu of Discipline, Suspensions, Amicus Referrals, and Formal Proceedings.

Note 2: During FY 2006, no disciplinary actions were taken against Associate Judges. Although disciplinary action was taken against one Appellate Judge, the sanctions were later dismissed after an appeal and, therefore, are not reflected in the final statistics.

Fig. 4 Number of Cases Disposed By Complainant Type*



***985 Total Cases Disposed**

**Fig. 5 Cases Filed and Disposed
(FY 2003 - FY 2006)**

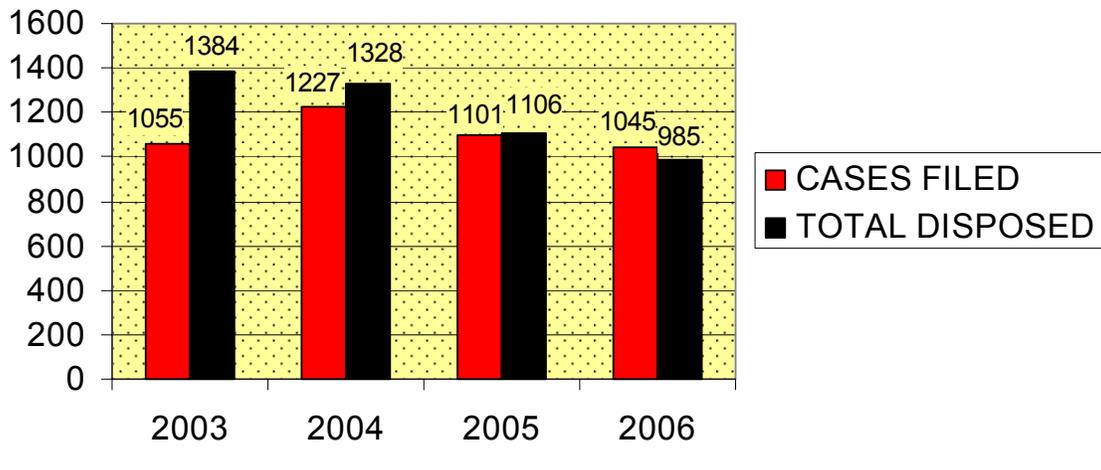
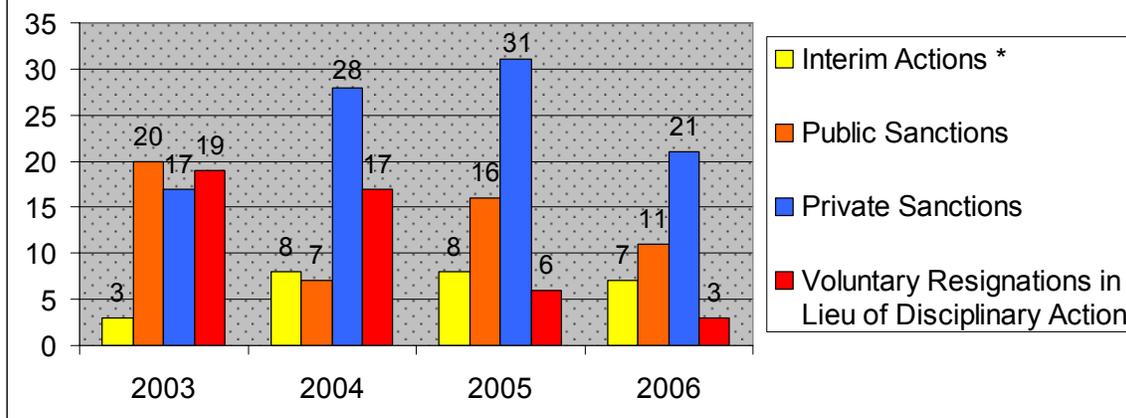
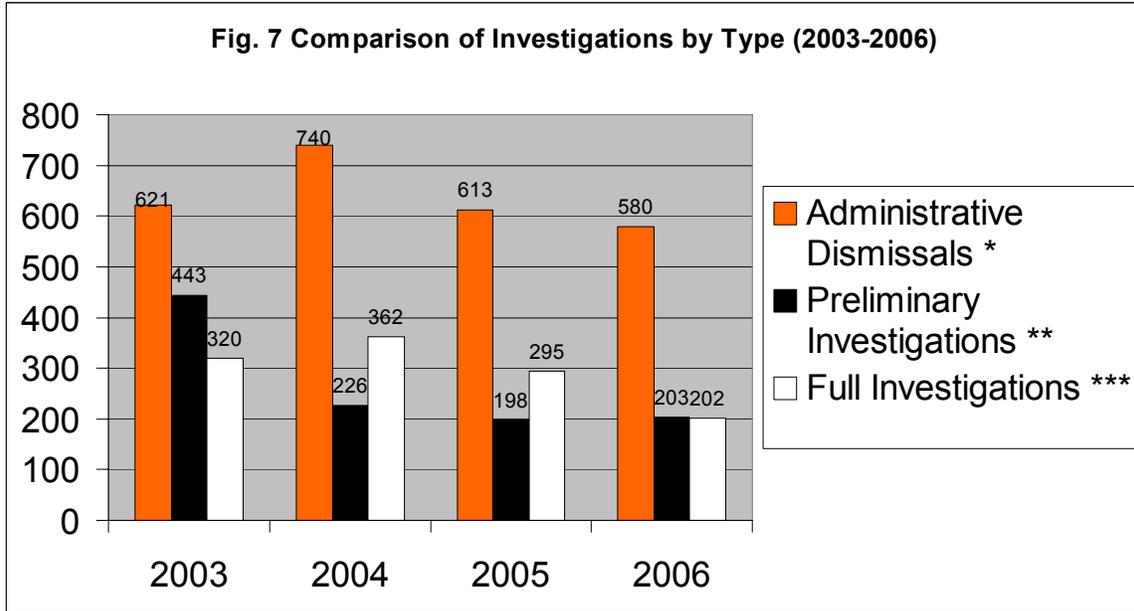


Fig. 6 Commission Activity (FY 2003-2006)



**Interim Actions include: Orders of Suspension, Recommendations of Suspension to Supreme Court, Formal Proceedings Voted, and Amicus Curiae Referrals.*



***Administrative Dismissals** include cases disposed after an initial investigation revealed that (i) no allegation of judicial misconduct was raised, (ii) the allegation addressed a dispute over a judge's discretionary rulings that may only be resolved on appeal, or (iii) the claims raised by the complainant were gratuitous and unsupported by any facts or evidence.

****Preliminary Investigations** include cases dismissed by the Commission after a thorough investigation revealed no evidence or insufficient evidence to support a finding of sanctionable misconduct.

*****Full Investigations** include cases resolved by the Commission after the respondent judge responded to the allegations of judicial misconduct as part of the investigative process. No disciplinary action, other than a suspension following indictment or information, will issue without a full investigation.

EXAMPLES OF IMPROPER JUDICIAL CONDUCT

The following are examples of judicial misconduct that resulted in disciplinary action by the Commission in fiscal year 2006. These are illustrative examples of misconduct and do not represent every disciplinary action taken by the Commission in fiscal year 2006. The summaries below are listed in relation to specific violations of the Texas Code of Judicial Conduct, the Texas Constitution, and other statutes or rules. They are also listed in descending order of the severity of the disciplinary action imposed, and may involve more than one violation. The full text of any public discipline are published on the Commission website and may be requested by contacting the Commission.

These sanction summaries are provided with the intent to educate and inform the judiciary and the public regarding misconduct that the Commission found to warrant disciplinary action in fiscal year 2006. The reader should note that the summaries provide only general information and omit mitigating or aggravating facts that the Commission considered when determining the level of sanction to be imposed. Additionally, the reader should not make any inferences from the fact situations provided in these summaries. It is the Commission's sincere desire that providing this information will protect and preserve the public's confidence in the integrity, impartiality and independence of the judiciary and further assist the judiciary in establishing, maintaining and enforcing the highest standards of judicial and personal conduct.

CANON 2A: A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

- After finding a woman guilty of neglecting her horses, the judge sentenced her to 30 days in jail and ordered a restricted diet of bread and water for the first 3 days. After finding a man guilty of illegally dumping chromium from his metal-plating business, the judge ordered him to drink “from a non-toxic volume of water containing the pollutants dumped into the dumpsters.” Although the judge was advised by county officials that neither sentence could be enforced under state law, he failed to amend or withdraw the “bread and water” or “toxic sludge cocktail” sentencing conditions. The judge's actions received widespread media attention. [Violation of Canon 2A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Admonition of a Criminal County Court at Law Judge.* (05/04/06).
- While serving as a visiting judge in the State of Texas, the judge pleaded guilty to violation of the federal conflict of interest statutes. The criminal case against the judge received media attention, casting public discredit upon the integrity of the judiciary. [Violation of Canon 2A of the Texas Code of Judicial Conduct and

Article V, §1-a(6)A of the Texas Constitution.] *Public Admonition of a Former Appellate Justice.* (06/15/06).

- The judge permitted the local county attorney to generate and provide court referral forms to defendants in plea bargain cases, directing them to take domestic violence and other classes, without prior court review or approval. The judge also permitted the local county attorney to generate and signed Notices of Setting with the court's caption directing defendants to appear for court hearings. Further, the judge failed to comply with the law and failed to maintain professional competence in the law when he failed to set a defendant's case for trial after she entered a plea of "not guilty;" failed to review and approve the terms of the defendant's plea bargain agreement with the local county attorney; and improperly ordered the defendant to pay court costs upon dismissal of her case. [Violation of Canons 2A, 2B and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a County Judge.* (08/31/06).

CANON 2B: A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

- The judge's close relationship with opposing counsel, the daughter of his longtime court coordinator, influenced his conduct and judgment in at least two cases, causing litigants and their counsel to form legitimate concerns that the judge would not be fair, neutral, and impartial in proceedings involving this attorney. Because of this relationship, the judge failed to diligently review and question the pleadings presented to him by the attorney, which effectively deprived a father of possession and custody of his child on the eve of her mother's funeral, without any opportunity for a hearing to determine whether the representations made by the petitioner were true or what was in the best interests of the child. In addition, the judge's statements about sanctioning an out-of-town attorney, made in open court, were perceived as a threat and confirmed to that lawyer that opposing counsel was in a special position to influence this judge. [Violation of Canons 2B and 3B(4) of the Texas Code of Judicial Conduct.] *Public Warning of a District Judge.* (05/30/06).

CANON 3B(2): A judge should be faithful to the law and shall maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

- The judge failed to comply with the law and failed to maintain professional competence in the law when he dismissed an eviction suit without notice or

hearing, then reinstated the case without notice or hearing. Additionally, the judge and his staff failed to maintain complete and accurate court records. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace.*(05/24/06).

- The judge demonstrated a lack of professional competence in the law when he failed to comply with the procedural requirements set out in the Texas Property Code, the Texas Rules of Civil Procedure, and the Texas Civil Practice and Remedies Code in issuing a Writ of Possession. [Violation of Canon 3B(2) of the Texas Code of Judicial Conduct]. *Private Order of Additional Education of a Justice of the Peace.* (05/24/06).
- The judge demonstrated a lack of professional competence in the law when he failed to announce his ruling in open court, as required by Rule 557 of the Texas Rules of Civil Procedure. [Violation of 3B(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Justice of the Peace.* (06/15/06).
- The judge demonstrated a lack of professional competence in the law when he dismissed a traffic defendant's speeding ticket without a motion from the prosecutor and based on erroneous representations from the City Administrator that the ticket had been issued outside the city limits. [Violation of Canon 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Municipal Judge.* (07/10/06).
- The judge demonstrated a lack of professional competence in the law when she went forward with a trial and found a traffic defendant guilty *in absentia*, then issued an arrest warrant against the defendant for failure to appear without completing the underlying paperwork laying out the requisites of a written complaint upon which to base the warrant. Further, the judge erred when she detained the defendant until she was able to pay the outstanding fine assessed against her in the underlying traffic case and failed to afford the defendant the opportunity to post bond to secure her release from custody. [Violation of Canon 3B(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Justice of the Peace.* (07/27/06).

CANON 3B(4): A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

- The judge made inappropriate and offensive statements to a female police officer following her investiture, which statements demonstrated more than a mere lapse of judgment. As a public official charged with upholding the honor and integrity of the judiciary, the judge knew or should have known that his behavior lacked dignity and would be perceived as offensive, disrespectful, and discourteous not

just to the female officer, but to her supervisor and the court employee who witnessed the incident. [Violation of Canons 2A and 3B(4) of the Texas Code of Judicial Conduct.] *Public Admonition of a Former Municipal Court Judge.* (03/06/06).

- The judge made demeaning and discourteous comments to certain litigants appearing before his court in a manner that did not reflect the appropriate demeanor expected of a judicial officer. [Violation of Canon 3B(4) of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional Education of a District Judge.* (05/04/06).
- The judge made demeaning and discourteous comments to a litigant appearing before his court in a manner that did not reflect the appropriate demeanor expected of a judicial officer. [Violation of Canon 3B(4) of the Texas Code of Judicial Conduct.] *Private Warning of a District Judge.* (05/04/06).

CANON 4D(1): A judge shall refrain from financial and business dealings that tend to reflect adversely on the judge’s impartiality, interfere with the proper performance of the judicial duties, exploit his or her judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves. This limitation does not prohibit either a judge or candidate from soliciting funds for appropriate campaign or officeholder expenses as permitted by state law.

- Through his efforts to assist his then-wife’s company obtain an exclusive contract with the county to provide services to the probate court, which efforts included a letter of recommendation from the judge, and through the numerous court appointments given to the judge’s friend and business partner who owed him money, the judge lent the prestige of judicial office to advance his own private interests and the private interests of both his then-wife and his business partner, and conveyed the impression that these individuals were in special positions to influence him. Furthermore, the judge’s business relationships with his wife and his business partner reflected adversely on the judge’s impartiality and involved the judge in frequent transactions with persons likely to come before the court. The judge’s actions received negative media attention, raising serious questions about the judge’s impartiality, integrity, and independence and casting public discredit upon the judiciary and administration of justice. [Violation of Canons 2B and 4D(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Reprimand of a Probate Judge.* (08/31/06).

Texas Constitution, Article V, Section 1-a(6)A. Any Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent violation of rules promulgated by the Supreme Court of Texas,

incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice. Any person holding such office may be disciplined or censured, in lieu of removal from office, as provided by this section.

- The judge's conduct resulted in the filing of a lawsuit by an employee against the county which received extensive media coverage. As a public official charged with upholding the honor and integrity of the judiciary, the judge knew or should have known that his actions would cast public discredit upon the integrity of the judiciary. [Violation of Article V, §1-a(6)A of the Texas Constitution.] *Private Admonition of a Justice of the Peace. (05/04/06).*