



ANNUAL REPORT 2010

Minnesota Board on Judicial Standards

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BOARD ON JUDICIAL STANDARDS
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Judge Members

Honorable Vicki Landwehr
Judge of District Court
St. Cloud, MN

Honorable Dan Mabley
Judge of District Court
Minneapolis, MN

Honorable Shaun Floerke
Judge of District Court
Duluth, MN (*Eff. 3/11*)

Honorable Jill Flaskamp Halbrooks
Court of Appeals
St. Paul, MN

Honorable Gary Pagliaccetti
Judge of District Court
Virginia, MN (*Exp. 2/11*)

Attorney Members

William Egan
Edina, MN

Jon Hopeman
Minneapolis, MN

Public Members

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David S. Paull
Executive Secretary

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Executive Assistant

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FOREWORD FROM THE CHAIR

The Minnesota Board of Judicial Standards is charged with enforcing the Minnesota Code of Judicial Conduct (the “Code”). The Code establishes a high standard for judicial conduct in the State of Minnesota. The Preamble to the Code states:

The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all of the Rules contained in this Code of precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest public confidence in their independence, impartiality, integrity, and competence.

The Board has a vision of a judicial system in which every judge not only aspires to meet, but in fact does meet these high aspirations. Public confidence in the judiciary is of paramount importance. Without public confidence, our judiciary would founder, and ultimately fail.

In carrying out its responsibility to oversee and enforce the Code, the Board has two basic functions. First, it processes complaints of judicial misconduct. To that end the Board receives complaints, investigates and conducts hearings, makes certain limited summary dispositions, and makes recommendations to the Supreme Court concerning allegations of judicial misconduct, allegations of physical or mental disability of judges, matters of voluntary retirement for disability, and review of a judge’s compliance with the statutory requirement that written motions and matters submitted to a judge be decided within ninety days of submission. Second, the Board has the power to issue advisory opinions on proper judicial conduct under the Code.

In 2010, the Board received 117 written allegations of judicial misconduct. The majority of complaints were dismissed by the Board either because the complaints were frivolous, did not allege an actual violation of the Code of Judicial Conduct, or the Board, on investigation, concluded that the complaint was without merit. In 2010, the Board also took twenty-three disciplinary actions: two public reprimands, which are issued in cases of serious misconduct, twelve private admonitions, which are issued when the Board finds a Code violation which does not warrant the more drastic and advanced step of a public reprimand, and nine letters of caution, which the Board issues in cases

where the Board has not concluded that a Code violation has occurred, but nevertheless believes it appropriate to address the judge's conduct.

The Board also had an unusually active year with public hearings. In 2010 the Board received four requests from judges for public hearings, and one request from a judge for a private hearing. Two of the public hearing requests were withdrawn, and two were heard in 2011 by three-judge panels. The Board also initiated three requests in 2010 for public hearings to be held in 2011, one of which was withdrawn when the judge withdrew his request for a disability determination and returned to the bench, the remaining two were scheduled to be heard by three judge panels.

The Board was designed by the Legislature to ensure that there exists a representative balance between the public and the judiciary and to that end it is comprised of four public members, four judges and two attorneys. The public members serve to remind the Board that the public has high expectations with respect to the conduct of members of the Minnesota judiciary. The judicial members serve to advise the Board of some of the day-to-day difficulties inherent in the position of judge and of the practical implications imposed by the Code. The attorney members bring to the Board their experience serving as the intermediaries between the bench and the public.

When the Board acts, it generally speaks with one voice, but this does not mean that individual Board members are always of one opinion. As with the application of any code of ethics, it is the gray areas in which we spend most of our time and in which we engage, often in spirited discussion. In the years I have been a member, I have been impressed with the thoughtfulness, diligence and high ideals expressed by both former and current members of this body.

The Board meets ten times per year to review complaints and monitor investigation and ongoing prosecution of complaints. The material reviewed by the Board at these meetings is voluminous and often is complex. I continue to be impressed by the high volume of work processed throughout the year by the Board's two-person staff, Executive Director David Paull and his assistant Deborah Flanagan. On behalf of the Board, let me express my appreciation for the diligent and timely work of both of these dedicated public servants.

William J. Egan
Chairperson

INTRODUCTION

A society cannot function without an effective, fair and impartial procedure to resolve disputes. In Minnesota, the constitution and laws provide a system designed to fit these essential criteria. The preservation of the rule of law, as well as the continued acceptance of judicial rulings, must depend on unshakeable public recognition that the judiciary and the court system is worthy of respect and trust. The quality of justice is directly dependent on the personal quality of our judges. It is the Board's mission to guard public confidence in the independence, integrity and impartiality of our judicial system through the observance by our judges and judicial officers of proper conduct.

To accomplish its goal, the Board discharges two general responsibilities:

- to review and investigate complaints of judges' conduct that may violate the Code of Judicial Conduct and to recommend discipline if appropriate.
- to educate the judiciary and the public on the role of the Board on Judicial Standards and on the Code of Judicial Conduct.

The Board's investigation, interpretation and disciplinary process recognizes the unique role of elected and appointed judges in our state and it conducts its proceedings to preserve the rights and dignity of the bench, bar and public.

AUTHORIZATION

Minn. Constitution. Art. 6, Section 9, authorizes the legislature to “provide for the retirement, removal, or other discipline of any judge who is disabled, incompetent, or guilty of conduct prejudicial to the administration of justice.” The legislature authorized the court to discipline a judge for “incompetence in performing the judge’s duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.” The 1971 Legislature created the Board on Judicial Standards to assist in this task and authorized the Supreme Court to make rules to implement judicial discipline. *Minn. Statutes 490A.01, 490A.02 (2006) [M.S.490.15 and 490.16 (1982).]*

ORGANIZATION

The Board has ten members: one judge from the Court of Appeals, three trial court judges, two lawyers who have practiced law in the state for at least 10 years, and four citizens who are not judges, retired judges, or lawyers. All members are appointed by the Governor and, except for the judges, require confirmation by the Senate. Members’ terms are four years and may be extended for an additional four years.

The Board meets at least nine times annually and more often if necessary. The judge members are not paid but do receive expense reimbursement. Non-judge members may claim standard state per diem, as well as expense reimbursement.

The Board is supported by a two-person staff, the Executive Secretary and the Executive Assistant. At the direction of the Board, the staff is responsible for reviewing and investigating complaints, maintaining records concerning the operation of the office, preparing the budget, administering the Board funds and making regular reports to the Board, the Supreme Court, the legislature and the public.

CODE OF JUDICIAL CONDUCT

In addition to Minnesota Statutes, the Minnesota Supreme Court has adopted the Code of Judicial Conduct to govern judicial ethics. Intrinsic to the Code are the precepts that judges, 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. The Code may not be construed so as to impinge on the essential independence of judges in making judicial decisions.

The Board considers only complaints involving a judge’s professional or personal conduct. Complaints about the merits of a judge’s decision are matters for the appellate process.

RULES AND PROCEDURES

The rules of the Board are issued by the Minnesota Supreme Court. Under its rules, the Board has the power to investigate allegations of judicial misconduct or on its own motion, to make inquiry into the conduct of a judge, as well as his or her physical or mental condition. If a complaint provides information about conduct that might constitute grounds for discipline, the Executive Secretary conducts a confidential investigation.

As amended on July 1, 2009, the rules permit the Board, upon a finding of reasonable cause, to issue letters of caution, issue private admonitions, propose public reprimands or commence a public hearing. The rules also permit to the Board to defer a disposition, impose conditions on a judge's conduct or require professional counseling or treatment. A Board recommendation of censure, suspension or removal can be imposed only by the Minnesota Supreme Court.

All proceedings of the Board are confidential until a formal complaint and response have been filed with the Minnesota Supreme Court.

An absolute privilege attaches to any information or related testimony submitted to the Board or its staff and no civil action against an informant, witness, or his or her counsel may be instituted or predicated on such information.

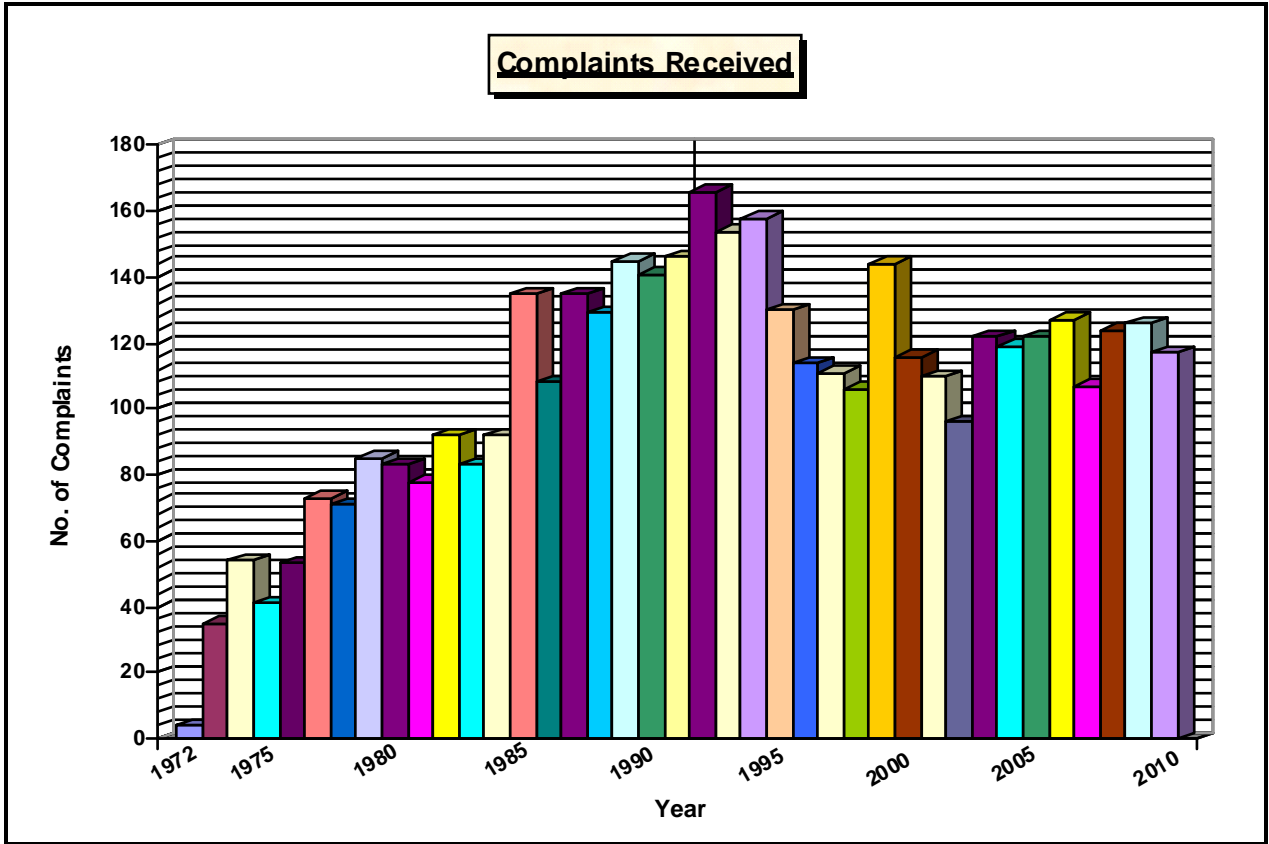
JURISDICTION

The Board's jurisdiction extends to any person exercising judicial powers and performing judicial functions, including judges assigned to administrative duties. During 2010, this included 326 trial court judges; 26 appellate judges; 59 retired judges serving on orders from the Supreme Court, either full or part-time; 36 child support magistrates and the chief administrative law judge. The Board's jurisdiction also extends to 28 referees and 36 part-time conciliation court judges. The three judges of the Minnesota Tax Court and the five judges of the Workers' Compensation Court of Appeals also come under the authority of the Board.

The Board does not have jurisdiction over court administrators or their employees, court reporters, or probation personnel. Complaints against federal judges are filed with the Eighth Circuit Court of Appeals, as prescribed in 28 USC, Section 372(c).

2010 CASE DISPOSITION

During 2010, the Board received 117 written complaints. The number of complaints received annually by the Board since its creation in 1971 is set forth below:



<u>SOURCE OF COMPLAINTS - 2010</u>	
Litigants	64
<i>Board Motion</i>	21
Attorneys	9
<i>Inmates/Prisoners</i>	8
Other	8
<i>Citizen</i>	5
Judiciary	2
<i>Victim</i>	0
Government Agency	0
TOTAL	117

ALLEGATIONS REPORTED - 2010

Bias, discrimination or partiality	60
General demeanor and decorum	57
Conflict of interest	32
Reputation of judicial office	24
Abuse of authority	23
Delay in handling court business	20
Improper influence, ticket fixing	17
Ex parte communication	12
Improper conduct on the bench	8
Financial activities or reporting	8
Failure to perform duties	6
Loss of temper	5
Other	5
Failure to follow law or procedure	4
Chemical dependency	2
Election or campaign violation	2
Political activity	2
Criminal behavior	2
Administrative irregularity	1
Corruption, bribery	1
Health, physical or mental capacity	1
Practicing law	1
Public comment on pending case	1
Incompetence as a judge	1
Nepotism; improper appointments	1
Failure to respond to board	1

JUDGES SUBJECT TO COMPLAINTS - 2010

District Court Judges	90
Justices - Supreme Court	0
Referees/Judicial Officers	8
Retired - Active Duty	7
Child Support Magistrates	6
Court of Appeals Judges	2
Judicial Candidates	1
Tax Court Judges	0
Workers Comp-Court of Appeals	0
Chief Administrative Law Judge	0
Part time judge	2
Conciliation Court Judge	1
Disability retirement during pendency	0
No longer a judge	0
Resigned during pendency	0
Deceased	0
TOTAL	117

The Board requested 47 judges to respond in writing to the Board for explanation of their alleged misconduct. Nine judges appeared before the Board this year. After initial inquiries, 13 complaints required supplemental investigation.

DISMISSAL REASONS - 2010

No grounds or frivolous	35
No misconduct; no violation	35
Insufficient evidence	19
Legal or appellate issues	17
Within discretion of judge	15
Corrective action by judge	4
Lack of jurisdiction	2
No issue left to resolve	2
Unsubstantiated after investigation	1

DISPOSITIONS - 2010

Public reprimand	2
Civil penalty	0
Private warning	0
Private admonition	12
Deferred dispositions	0
Letter of caution	9
Removal	0
Disability retirement	0
Visit by board delegation	2
Conditions imposed	2
Other minor adjustments	0
Instructions for change	0
Retired pending board action	0

Prior to January 1, 1996, the disposition of cases that resulted in a private reprimand remain confidential. Admonitions, deferred dispositions and letter of cautions were new dispositions under the new *Rules of the Board on Judicial Standards*, effective July 1, 2009.

SAMPLES OF CONDUCT FOUND TO BE IMPROPER

The purpose of these examples is to educate the public and to assist judicial officers in the avoidance of improper conduct. To maintain confidentiality, the Board requires the elimination of certain details of the individual cases summarized below. Rather than omit them completely, the Board believes it is better to provide these abridged versions. References are to the *Minnesota Code of Judicial Conduct*, as revised.

- Delaying decisions in submitted cases for an unreasonable time or failing to issue an order in a submitted case within the statutory 90-day period. [*Canon 2, Rule 2.5 and MS 546.27*]

- Failing to act with courtesy, dignity and respect toward all participants. [*Canons 1 and 2, Rule 2.8*]
- Habitually failing to begin court proceedings in a timely manner [*Canon 2, Rules 2.5*]
- Offering to bet a defendant that he will not prevail in a trial of his case. [*Canon 1, Rule 1.1, Canon 1, Rule 1.2, Canon 2, Rule 2.8(a) and Rules 4(a) (5) and (6)*]
- Ordering staff to search the Internet for a video that was the subject of the case and a potential item of evidence without first hearing from either party, as well as viewing the video and concluding that one of the parties may not have been truthful with the court. [*Canon 1, Rule 1.1, Canon 1, Rule 1.2, Canon 2, Rule 2.6(A), Canon 2, Rule 2.9A(3) and (C) and Rules 4(a)(5) and (6)*]
- Gratuitously stating to a criminal defendant that the judge “automatically disqualifies himself from “all matters” involving his lawyer. [*Canon 1, Rule 1.1, Canon 1, Rule 1.2, Canon 1, Rule 1.3, Canon 2, Rule 2.8(A), Canon 2, Rules 2.16 and Rules 4(a)(5) and (6)*]
- Gratuitously stating to a criminal defendant that the judge had “absolutely no faith in any representations” made by his lawyer. [*Canon 1, Rule 1.1, Canon 1, Rule 1.2, Canon 1, Rule 1.3, Canon 2, Rule 2.8(A), Canon 2, Rules 2.16 and Rules 4(a)(5) and (6)*]
- Without any objective basis, impugning the honesty and competence of a lawyer from whom another lawyer was considering renting an office. [*Canon 1, Rule 1.1, Canon 1, Rule 1.2, Canon 1, Rule 1.3, Canon 2, Rule 2.8(A), Canon 2, Rules 2.16 and Rules 4(a)(5) and (6)*]

Reprimands imposed by the Board after January 1, 1996, are public. In 2010, two public reprimands were issued.

JUDGE STEPHEN ALDRICH

In September, 2010, the Board issued a public reprimand to Fourth Judicial District Judge Stephen C. Aldrich. The Board and the Judge agreed to settle the formal charges previously issued in BJS File Nos. 08-104, 08-105, 09-110 and 09-111. According to the agreement, a public reprimand was issued to Judge Aldrich due to improper personal conduct engaged in by him in court while presiding in the case of *State v. Lessley*, 4th District Case No. 27-CR-08-13855. During the course of these proceedings, Judge Aldrich made the following remarks:

- On October 8, 2008, he referred to several possible witnesses in the case as “a bunch of drunkards,” further using the words, “Idiocy. Somebody died, and we’re supposed to do something with the bodies afterwards.”
- On October 8, 2008, he referred to several possible witnesses as “incompetent” due to their alleged intoxication and noted that “all this intoxication around makes the trial something of a crapshoot for everybody.”
- On October 27, 2008, while conducting proceedings related to the *State v. Lessley*, he called out to a Hennepin Deputy County Attorney that he had been waiting for a response from him for a year on an undisclosed and unrelated matter and that he should “call” him to continue the discussion.
- On November 4, 2008, he suggested that the prosecutor was demeaning the court by grandstanding to the press, stating that “You choose not to answer the questions but to give us a spin for the family one more time . . . Have you finished writing your headlines for the press yet?”

The comments made by Judge Aldrich failed to comply with the standards set forth in the *Minnesota Code of Judicial Conduct (Code)*. These unnecessary remarks gratuitously belittled possible witnesses, prematurely commented on the integrity or dependability of potential evidence, invited a lawyer representing one of the parties to contact the judge on an unrelated and undisclosed matter creating the appearance of improper *ex parte* contact, suggested in open court that one of the lawyers in the case acted disrespectfully toward the court by attempting to obtain favorable publicity.

This public reprimand is further based on Judge Aldrich’s disciplinary history. Since 1997, Judge Aldrich received three private warnings related to improper courtroom conduct. In a letter dated June 10, 2008, the Board warned him about making improper comments in court proceedings and that similar misconduct could likely result in a public reprimand.

Additionally, the Board announced that it decided to take no further action concerning the complaints of misconduct by Judge Aldrich while presiding in the case of *Houle v. Houle*, 4th District Case No. 7-FA-09-173 (BJS File Nos. 09-110 and 09-111), because the facts and circumstances of that matter had previously been well publicized.

The courtroom comment specified above was contrary to the *Minnesota Code on Judicial Conduct*, *Canon 1, Rule 1.1* and *Canon 1, Rule 1.2* and, *Canon 2, Rule 2.3*, *Canon 2, Rule 2.8*, as well as the *Rules of the Board on Judicial Standards*, (“*R.Bd.Jud.Std.*”), *Rules 4(a) (5) and (6)*, as set forth below:

Canon 1

A JUDGE SHOULD UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

Rule 1.1 *Compliance with the Law*

A judge shall comply with the law, including the Code of Judicial Conduct.

Rule 1.2 *Promoting Confidence in the Judiciary*

A judge shall act at all times in a manner that promotes public confidence in 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.

Rule 2.3 *Bias, Prejudice, and Harassment*

(A) A judge shall perform the duties of judicial office . . . without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice . . .”

Rule 2.8 *Decorum, Demeanor, and Communication with Jurors*

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials and others with whom the judge deals in an official capacity . . .

***Rule 4, Rules of the Board on Judicial Standards
Grounds for Discipline or Other Action***

(a) *Grounds for Discipline or Other Action Shall Include:*

(4) *Habitual intemperance;*

- (5) *Conduct prejudicial to the administration of justice that brings the judicial office into disrepute. . .*
- (6) *Conduct that constitutes a violation of the Code of Judicial Conduct or Professional Responsibility.*

JUDGE WILLIAM JOHNSON

The Board on Judicial Standards (Board) issued a public reprimand to 3rd Judicial District Judge William A. Johnson in October, 2010. The public reprimand was issued because the cases of *Burmeister v. Burmeister* and *Mueller v. Mueller* were not decided within the period of time permitted by law. *M.S. 546.27* requires case decisions of this type to be issued not later than 90 days of the date submitted. The decision in the *Mueller* matter was issued 119 days after the date submitted. The decision in the *Burmeister* matter was issued 138 days after the date submitted. Judge Johnson was previously disciplined for two prior case delays, the first in 1993 and the second in 2008.

Judge Johnson's failure to issue these two decisions in a timely manner was contrary to the *Minnesota Code on Judicial Conduct*, *Canon 1, Rules 1.1 and 1.2, Canon 2, Rule 2.5*, as well as the *Rules of the Board on Judicial Standards*, ("**R.Bd.Jud.Std.**"), *Rules 4(a) (5) and (6)*. *M.S. 546.27* requires case decisions of this type to be issued within 90 days of the date submitted. *Canon 2, Rule 2.5* requires judges to perform judicial and administrative duties "competently and diligently." *Comment 4* to the rule requires that cases be resolved "promptly" and "efficiently."

The applicable canons and rules are set forth below:

Canon 1

A Judge Should Uphold and Promote the Independence, Integrity and Impartiality of the Judiciary, and shall Avoid Impropriety and the Appearance of Impropriety.

Rule 1.1 *Compliance with the Law*

A judge shall comply with the law, including the Code of Judicial Conduct.

Rule 1.2 *Promoting Confidence in the Judiciary*

A judge shall act at all times in a manner that promotes public confidence in 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.****Rule 2.5** *Competence, Diligence, and Cooperation*

- (A) A judge shall perform judicial and administrative duties competently and diligently.

Comment

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

**Rule 4, Rules of the Board on Judicial Standards
Grounds for Discipline or Other Action****(b) Grounds for Discipline or Other Action Shall Include:**

- (6) Habitual intemperance;
- (7) Conduct prejudicial to the administration of justice that brings the judicial office into disrepute. . .
- (6) Conduct that constitutes a violation of the Code of Judicial Conduct or Professional Responsibility.

JUDGE'S INQUIRIES

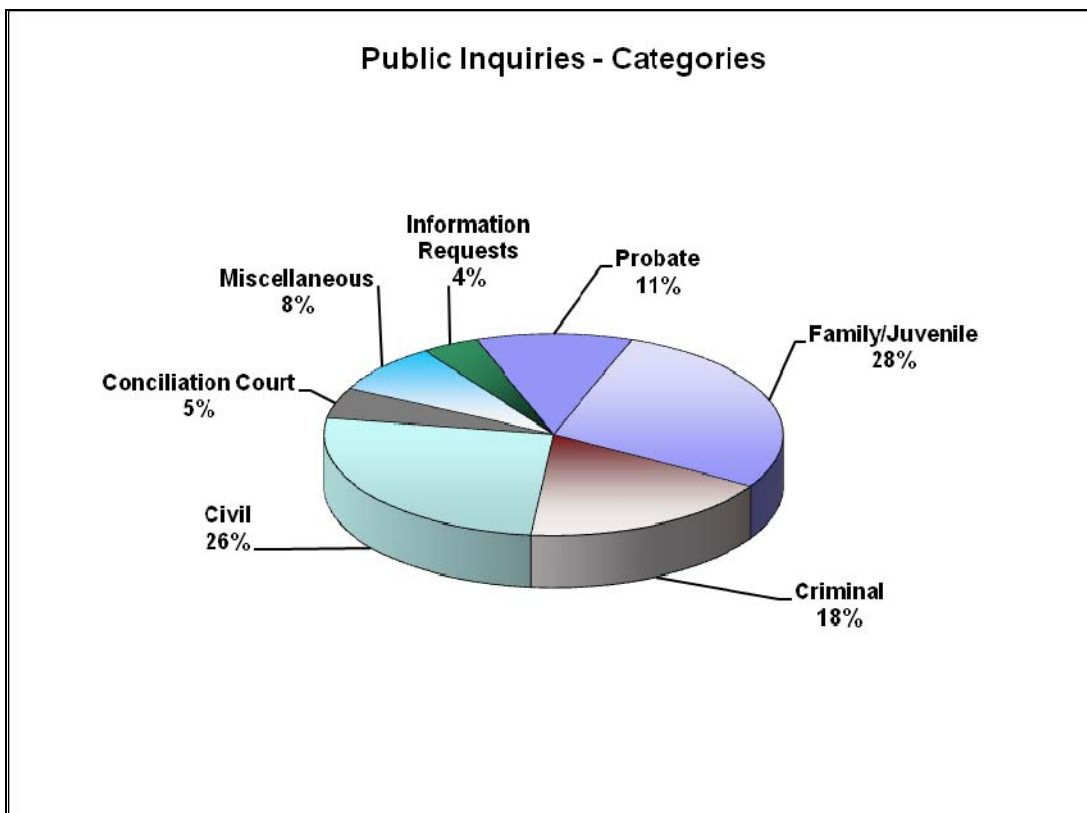
The Board encourages judges who have ethical questions to seek its guidance. The Board will issue a formal advisory opinion to any judge. In 2010, the Board issued four informal opinions.

Judges regularly contact the Board's staff for information and material on various questions involving the Code of Judicial Conduct. During 2010, there were 363 judge inquiries to the staff.

PUBLIC INQUIRIES

The staff often receives complaints that concern persons over whom the Board has no jurisdiction or that do not allege judicial misconduct.

Staff maintains a daily telephone log of callers who complain about judges or request information. In 2010, the staff responded to 1,378 such calls. The calls are generally from parties involved in a court proceeding and are coded by category; a tabulation of the categories is set out below.



During the calendar year, the Board's website received 20,283 visits. The website serves as an information service to both the judges and the public. Public discipline issued to judicial officers during the year is published on the site. This report and previous annual reports, the *Code of Judicial Conduct* and recent news events are available on the website.

2010 ADVISORY OPINIONS

Each year, the Board issues advisory opinions applying the *Code of Judicial Conduct* to various specific questions submitted by judges. A synopsis of each advisory opinion issued by the Board in 2010 is provided below. References are to the rules of ethics contained in the *Code of Judicial Conduct*, as revised.

- It is proper for a judge to remain a shareholder in the corporation in which the judge previously practiced law where (1) the sole purpose of the continued existence of the corporation is to collect receivables and pay debts, (2) prior to assuming office, the judge resigns from the corporation in every other capacity including director, officer and employee, (3) after assuming office, the judge has no legal or other connection to the corporation, (4) the corporation does not conduct any business related to the law or the practice of law, (5) the corporation is dissolved within a year after the judge assumes office, even if some receivables are still outstanding, (6) the judge's participation in the collection activities are minimal (7) the judge disqualifies from any case in which other shareholders appear for a period of 12 months and thereafter, for a period of 3 years and where otherwise necessary, discloses the previous existence of the relationship. [*Canon 1, Rule 1.1, Canon 1, Rule 1.2, Canon 2, Rule 2.2, Canon 2, Rule 2.11, Canon 3, Rule 3.1, Canon 3, Rule 3.11.*]
- It is proper for a judge to support and encourage the creation and existence of a lawyer panel which provides representation to criminal defendants who do not qualify for public defense but are unable to afford standard private representation fees by: (1) permitting the creation and operation of the panel, (2) permitting brochures about the panel to be created and distributed at courthouse facilities such as the law library or court administrative offices, (3) briefly announcing, at the beginning of a pertinent court calendar that lawyers affiliated with the panel are available for consultation to those who do not qualify for public defense. However, a judge who engages in this activity should disclaim any connection between the panel and the court and advise that it is not permissible for the court to endorse, refer or recommend any lawyer or law firm. It is appropriate for the judge to ask participating lawyers to raise their hands in court, but there should be no other participation by the court in any future interaction. A judge should also emphasize that the participating lawyers do not speak for the court and that court facilities are furnished solely as a matter of courtesy. [*Canon 1, Rules 1.1, 1.2, 1.3 as well as Canon 2, Rules 2.2, 2.4, 2.11 and 2.13.*]
- It is proper for a judge to consult and consider an electronic judicial information system such as MNCIS for the limited purpose of setting bail and issuing misdemeanor sentences if (1) all interested parties are present, (2) the pertinent information is provided the defendant in open court and (3) the defendant has an opportunity to dispute the information or otherwise be heard. [*Canon 1, Rule 1.2, Canon 2, Rules 2.2, 2.3 (A), 2.6(A), 2.9(A), 2.9(C) and Rule 2.11(a)(1).*]

- Lawyers serving as part time judges pursuant to Section IV of the Application Rules may not, during the period of service, practice law in the district court of the county in which the part-time judge serves. If the county is divided into divisions, the lawyer may not practice law in the division in which he or she serves as part-time judge. [*Application Rules, Section IV Canon 3, Rule 3.2, Canon 3, Rule 3.10.*]