



Tennessee Court of the Judiciary

**Interim Report
July 1st, 2011 – February 15th, 2012**

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Members of the Court of the Judiciary, 2011-2012

Disciplinary Counsel's Report

Tennessee Court of the Judiciary Members 2011-2012

Presiding Judge

Judge Chris Craft

Criminal Court
30th Judicial District
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Memphis, TN 38103

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E-mail: Christopher.craft@shelbycountyttn.gov

Term: 07/01/11 - 06/30/15 (1)

Appointed by: Supreme Court
(Trial judge - West)

Members of the Court

Judge Don R. Ash

Circuit Court
16th Judicial District, Part III
20 Public Square North, Room 409
Murfreesboro, TN 37130

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Term: 07/01/11 - 06/30/15 (2)*

Appointed by: Supreme Court
(Trial judge - Middle)

Judge Jeffrey S. Bivins

Tennessee Court of Criminal Appeals
Supreme Court Bldg.

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Term: 08/30/11 - 06/30/15
Appointed by: Supreme Court
(Intermediate app ct)

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General Sessions Court
20th Judicial District
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Term: 07/01/07 - 06/30/11 (1)
Appointed by: Supreme Court
(GS judge - licensed in TN - Middle)

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Term: 03/01/09 - 02/28/13 (1)
Appointed by: Supreme Court
(Municipal ct judge - licensed in TN)

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Term: 06/16/11 - 06/15/15 (1)
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(Atty - Middle)

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General Sessions Court
26th Judicial District
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Term: 07/01/07 - 06/30/11 (1)
Appointed by: Supreme Court *(GS judge - West)*

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Judge J. Steven Stafford

Tennessee Court of Appeals

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Appointed by: Supreme Court (*Intermediate app ct*)

Judge Jean A. Stanley

Circuit Court

1st Judicial District

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Appointed by: Supreme Court (*Trial judge - East*)

Judge Dwight E. Stokes

General Sessions Court

4th Judicial District

Sevier County Courthouse

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Appointed by: Supreme Court

Judge D. Kelly Thomas, Jr.

Tennessee Court of Criminal Appeals

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Term: 07/01/11 - 06/30/15 (1)

Appointed by: Supreme Court (*Intermediate app ct*)

(GS & Juvenile judge - licensed in TN - East)

Disciplinary Counsel 2011-2012

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ABOUT THE COURT OF THE JUDICIARY

The Court of the Judiciary was created by the legislature to investigate and, when warranted, act on complaints against judges. Members are appointed by multiple appointing authorities, including the Supreme Court. The appellate court clerk serves as clerk to the Court of the Judiciary.

ROLE AND FUNCTION OF THE COURT

The Tennessee Court of the Judiciary was created by the legislature to:

1. Provide an orderly and efficient method for making inquiry into:
 - The physical, mental and/or moral fitness of any Tennessee judge;
 - Whether the judge committed judicial misconduct;
 - Whether the judge committed any act calculated to reflect unfavorably upon the judiciary of the state or bring it into disrepute or which may adversely affect the administration of justice in the state.
2. Provide a process by which appropriate sanctions may be imposed;
3. Implement constitutional provisions by providing a procedure for the removal of judges.

COMPOSITION

It is composed of 16 members: 10 judges, 3 attorneys, and 3 lay people, who, after investigation and hearings, may recommend removal, suspension, or other discipline of a judge.

STATUTE

The statute creating and governing the Tennessee Court of the Judiciary is found at Tennessee Code Annotated § 17-5-101 through § 17-5-314.

RULES OF THE TENNESSEE COURT OF THE JUDICIARY

Pursuant to the statute, the Court of the Judiciary is authorized to establish rules. Those Rules are as follows:

RULE 1. MEETINGS

Section 1. Time and Place of Meeting

The Court shall meet at 10:00 a.m. on the fourth (4th) Wednesday in February and the fourth (4th) Wednesday in August in the Supreme Court Chambers at Nashville, Tennessee, and at such other times and places as the presiding judge, or a majority of the members of the Court, may deem necessary.

Section 2. Notice of Meeting

The clerk of the Court shall give a minimum of ten (10) days' notice of the time and place of meetings to all members of the Court.

Section 3. Quorum

Eight (8) members of the Court shall constitute a quorum.

RULE 2. PRESIDING JUDGE

Section 1. Presiding Judge

The Court, at its meeting on the fourth (4th) Wednesday in August of each year, shall elect a presiding judge to serve for a period of one (1) year. The presiding judge shall be elected from the members of the Court by a majority present and voting.

The presiding judge may be removed by two-thirds vote of the members of the Court, with or without cause.

Section 2. Presiding Judge Pro Tem

The Court, at its meeting on the fourth (4th) Wednesday in August of each year, shall elect a presiding judge pro tem to serve for a period of one (1) year. The presiding judge pro tem shall be elected from the members of the Court by a majority present and voting.

The presiding judge pro tem may be removed by two-thirds vote of the members of the Court, with or without cause.

If at any meeting the presiding judge is not present, the presiding judge pro tem shall preside. If the presiding judge is recused with respect to a matter, the presiding judge pro tem shall act as presiding judge with respect to such matter.

Section 3. Presiding Judge--Duties

In addition to the duties and responsibilities set forth in Chapter No. 356, Public Acts of 1979, as modified by Chapter 208, Public Acts of 1995, the presiding judge

shall preside at all meetings of the Court and at trials. The presiding judge shall rule upon the admission or exclusion of evidence. However, the presiding judge's ruling upon the admission or exclusion of evidence may be appealed to the full Court. The presiding judge and only the presiding judge shall be the spokesperson for all matters pending before the Court, except that if the presiding judge is recused with respect to a matter pending before the Court, the presiding judge pro tem and only the presiding judge pro tem shall be the spokesperson for the Court with respect to such matter.

After the trial of any matter the presiding judge shall write or shall designate a member of the hearing panel that heard the matter to write the majority opinion. Any member of the hearing panel that heard the matter may write a concurring or dissenting opinion.

The presiding judge shall have such other duties and responsibilities as are necessary in fulfilling the office.

RULE 3. PANELS--RECUSAL

Section 1. Recusal--Replacement

(a) *Hearing Panel.* If a member of the Court is recused from the hearing of any matter and the Court deems it necessary that a replacement be designated then the presiding judge shall designate a temporary replacement by an order signed by a majority of the members of the hearing panel for the matter. In making such temporary designation, due regard will be given to the status of the recusing member to the end that the contemplated composition and balance of the hearing panel for the matter be maintained.

(b) *Investigative Panel.* If a member of an investigative panel is recused from the hearing of any matter, then the presiding judge shall designate a temporary replacement by an order signed by the presiding judge. In making such temporary designation, due regard will be given to the status of the recusing member to the end that the contemplated composition and balance of the investigative panel for the matter be maintained.

RULE 4. DISCIPLINARY COUNSEL

Section 1. Hiring

The appointment or retention of disciplinary counsel shall be made only by a majority of the Court. However, the presiding judge or one or more members of the Court designated by the presiding judge may handle preliminary matters relating to hiring disciplinary counsel, including, but not limited to, advertising the position, receiving and reviewing resumes, screening applicants and conducting interviews.

RULE 5. COMPLAINTS AND RESPONSES

Section 1. Written Complaints

Complaints should be reduced to writing and sworn to before a notary public or by an officer authorized to administer oaths under Tennessee law. Complaints must state with reasonable particularity the factual basis of the complaint. Complaints are filed with Disciplinary Counsel at an address designated by the Court.

Section 2. Other Sources

Disciplinary Counsel is authorized to investigate anonymous complaints or information coming from sources other than a written complaint, provided Disciplinary Counsel deems the information sufficiently credible or verifiable through objective sources.

Section 3. Judge's Response to Be in Writing

A judge's response to an initial complaint is to be reduced to writing but is not required to be under oath. Responses filed by others on behalf of the judge are to be reduced to writing and sworn to before a Notary Public or by an officer authorized to administer an oath under Tennessee law. The judge's response is to be filed with Disciplinary Counsel.

RULE 6. INVESTIGATIVE PANELS

Section 1. Designation of Investigative Panels

The presiding judge shall designate such investigative panels as in the presiding judge's discretion are necessary to the efficient operation of the Court.

Each investigative panel shall be comprised of three members of the Court, and a member may serve on more than one investigative panel. The presiding judge shall not serve as a member of any investigative panel. In appointing the investigative panels, the presiding judge shall give due consideration to the composition of each panel so that to the extent feasible, public members, practicing attorneys and judges of various courts are represented on each panel. Each of the members of the various investigative panels may be from the same geographic region of the State so as to promote communication and meetings among panel members. The presiding judge may designate alternate members to serve on investigative panels in the event that a member of an investigative panel is recused from considering a particular matter.

Section 2. Coordinators of Investigative Panels

Each investigative panel shall designate a member of the investigative panel to serve as coordinator of that investigative panel. The coordinator of each investigative panel shall be responsible for scheduling periodic meetings of the investigative panel (whether in person or by telephone conference call) for communicating to

disciplinary counsel on behalf of the investigative panel, and for handling any other administrative matters that the presiding judge shall designate to be handled with respect to the investigative panel.

Section 3. Meetings of Investigative Panels

(a) *Meetings of Investigative Panels.* Promptly upon receipt of a complaint or upon receipt of a report and recommendations from the disciplinary counsel, the investigative panel shall review the matter. Upon the call of any member of an investigative panel, or if panel decision is not unanimous with respect to a matter, the coordinator shall schedule a meeting for the investigative panel to review the matter(s). The meeting may be conducted in person or by telephone conference call, provided that if the meeting is conducted by telephone conference call, every member of the panel must be able to hear and to speak to every other member of the panel.

(b) *Initial Review of Complaint.* Upon receipt of a complaint or file from the disciplinary counsel, an investigative panel shall review the matter and shall:

- (i) authorize a full investigation; or
- (ii) dismiss the complaint.

The coordinator shall communicate the investigative panel's decision promptly in writing to the disciplinary counsel.

(c) *Review After Full Investigation.* When an investigative panel has authorized a full investigation of a complaint or matter, then promptly upon its receipt of the disciplinary counsel's report of the investigation and recommendation, the investigative panel shall review the report and recommendations and shall:

- (i) approve the recommendations of disciplinary counsel;
- (ii) modify the recommendations of disciplinary counsel; or
- (iii) disapprove the recommendations of disciplinary counsel.

(d) *Action of Investigative Panel After Investigation.* After investigation and upon determining that there is probable cause to believe that a judge has committed a judicial offense, the investigative panel shall:

- (i) direct disciplinary counsel to file formal charges against the judge; or
- (ii) propose to the judge that the judge consent to a private admonition; or

(iii) propose to the judge that the judge consent to a deferred disciplinary agreement (as defined in [Tenn. Code Ann. § 17-5-301 \(g\)](#)).

In the event the judge consents to the private admonition or deferred disciplinary agreement, then the private admonition or deferred disciplinary agreement shall be administered as set forth in Rule 7. In the event the judge does not consent to the private admonition or deferred disciplinary agreement, then the investigative panel shall direct disciplinary counsel either to file formal charges against the judge or to dismiss the complaint.

Section 4. Frivolous Complaints--Destruction of Records

In the event the investigative panel determines that the charges are frivolous or unfounded, or would not constitute misconduct or incapacity if true, or are beyond the permissible scope of the Court's inquiry, the investigative panel shall dismiss the charges. The matter will then be closed, and the Court's docket will recite the investigation and dismissal of a groundless complaint.

Section 5. Formal Charge

If an investigative panel determines that there is reasonable cause to believe that a judge committed a judicial offense and the investigative panel directs that disciplinary counsel file a formal charge as provided in [Tenn. Code Ann. § 17-5-304\(e\)](#), then prior to the filing of the formal charge the investigative panel shall review and approve the form and content of such formal charge. Such formal charge shall be signed by disciplinary counsel and the members of the investigative panel who directed that the formal charge be filed.

Section 6. Consensus by Investigative Panels

In the event that the members of an investigative panel are not able to reach a consensus after due consideration by meeting in person or by meeting via a conference call in which every member of the panel can hear and speak to every other member of the panel, then the investigative panel may act upon the concurrence of two of its three members. In the event that no two members of an investigative panel concur in the decision, then the presiding judge shall direct that the matter be assigned to another investigative panel for consideration. In the event the second investigative panel recommends the filing of formal charges, no member of either the first investigative panel or the second investigative panel shall serve on the hearing panel for such matter.

RULE 7. APPEARANCE OF JUDGE; SANCTIONS

Section 1. Hearing Panel--Sanctions Consented to by Judge

If a judge consents to a sanction as provided for in [Tenn. Code Ann. § 17- 5-307\(g\)](#), and the hearing panel approves the sanction agreement, then the sanction agreement shall be reduced to writing and shall be approved by the judge, the judge's counsel (if any), disciplinary counsel and the hearing panel, and the sanction order shall be entered by the presiding judge. Because a hearing panel may act only after formal charges have been filed against a judge, all sanctions administered by a hearing panel shall be public, whether or not the judge has consented to the sanctions.

Section 2. Investigative Panel--Private Admonition

If a judge, with the unanimous concurrence of the investigative panel and the concurrence of the presiding judge, consents to a private admonition or deferred discipline agreement as provided for in [Tenn. Code Ann. § 17-5- 304\(d\)\(2\)](#), then the judge shall personally appear before the investigative panel so that the investigative panel may confirm that the judge has consented to the private admonition or deferred discipline agreement and may administer such admonition to the judge or may accept from the judge such deferred discipline agreement. Private admonitions and deferred discipline agreements shall be reduced to writing and shall be signed by the judge, the presiding judge and the members of the investigative panel imposing such private admonition or deferred discipline agreement. Private admonitions and deferred discipline agreements shall specify the nature of the behavior that resulted in the private admonition or deferred discipline agreement. Such writings shall be confidential, and a copy of the private admonition or deferred discipline agreement shall be given to the judge; the original shall be retained in the files of the Court and may be used or released only as allowed in [Tenn. Code Ann. § 17-5-301\(f\)\(3\)](#).

RULE 8. CONFIDENTIALITY

Except for hearings conducted pursuant to [Tenn. Code Ann. § 17-5-308](#) or sanctions required to be public, matters that come before the Court are confidential. Individual members of the Court will not discuss any matter pending before the Court, except with other members of the Court and with Disciplinary Counsel. However, nothing in the Rule shall prohibit the complainant, respondent-judge, or any witness from disclosing the existence or substance of a complaint, matter, investigation, or proceeding under these Rules or from disclosing any documents or correspondence filed by, served on, or provided to that person.

RULE 9. AMENDMENT OF RULES

These rules may be amended from time to time by a majority of the members of the Court present and voting at any meeting. By concurrence of the majority of the members of the Court voting, any of the above rules may be suspended, except when the suspension of a rule would cause the violation of a statute or other law.

2010-2011 Summary

During the past fiscal year, the office of the Disciplinary Counsel has instituted a number of formal policies dealing with the investigative process, consideration of factors to be considered by the Disciplinary Counsel in its recommendation to the Court of sanctions to be imposed, and its handling of and accounting for information dealing with complaints that have been filed. These policies have been formalized to standardize the processes of the office in its operation, and to better provide a method by which the public may understand the internal operation of the office of the Disciplinary Counsel, and its interaction with the Court of the Judiciary. These policies are as follows:

DISCIPLINARY COUNSEL INVESTIGATIVE PROTOCOL

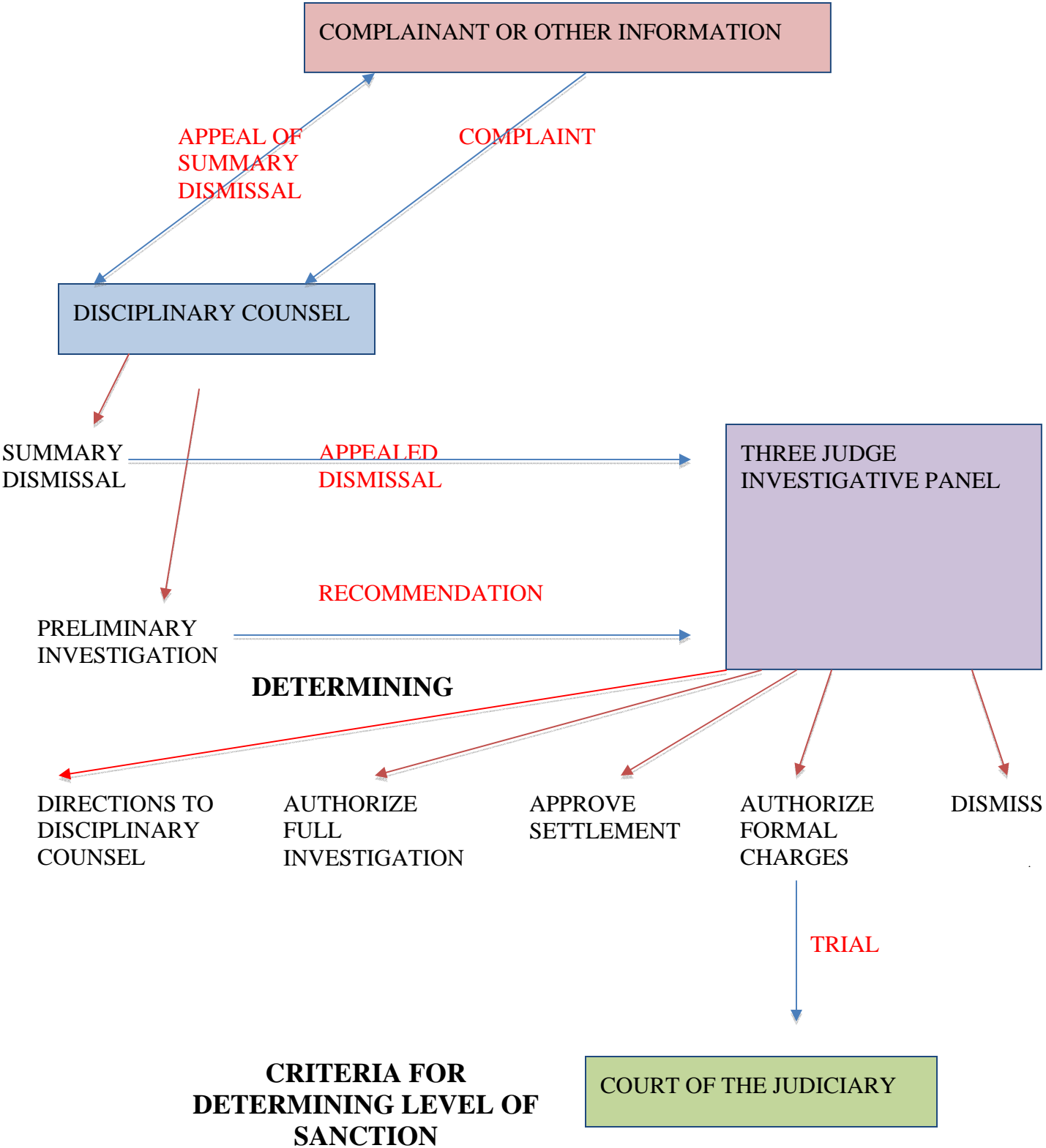
1. Sworn complaint is received and evaluated by Disciplinary Counsel's office. As part of this initial evaluation, additional information may be requested from complainant if needed for evaluation.
2. If complaint, plus any additional information obtained, alleges specific facts (not conclusions), that would cause a reasonable person to believe there is a substantial probability that the conduct involved violates TCA 17-5-302, Disciplinary Counsel initiates a preliminary investigation. If the complaint does not allege said facts, Disciplinary Counsel summarily dismisses the complaint. TCA 17-5-304(a).
3. Upon summary dismissal, Disciplinary counsel notifies the complainant of the dismissal and of the complainant's right to appeal the dismissal to an investigative panel. The Judge against whom the complaint is made is also advised of the complaint, dismissal, and given a copy of the complaint.
4. Advising the applicable Judge of the complaint normally starts preliminary investigations, and asking the Judge for a non-sworn explanation of the matters raised in the complaint, that might indicate a violation within the jurisdiction of the Court of the Judiciary. Other interviews and the examination of applicable evidence may also occur during the preliminary investigation.
5. When Disciplinary Counsel believes, after the preliminary investigation, that facts alleged are true which would cause a reasonable person to believe that a substantial violation of TCA 17-5-305 has occurred, Disciplinary Counsel shall recommend to the investigative panel assigned to the case that a full investigation be authorized. Disciplinary counsel may also ask that a full investigation be authorized when there are grounds to believe that evidence that would cause a reasonable person to believe that a substantial violation has occurred could be obtained by subpoena or other further investigation. In all other cases Disciplinary Counsel will recommend that the matter be dismissed. TCA 17-5-304(b)(2).
6. The investigative panel reviews the recommendations of the Disciplinary Counsel and either dismisses the complaint or authorizes a full investigation. TCA 17-5-304(b)(3).
7. A full investigation is characterized by the giving of notice to the judge being investigated of the specific allegations being investigated, the canons or rules allegedly violated, the judge's duty to respond, the judge's opportunity to meet with Disciplinary Counsel, and generally the name of the complainant.. This notice is sent to the judge by certified mail by Disciplinary Counsel. TCA 17-5-304(c)(1)(A-D). It

is at this stage of the investigation that permission may be sought for the use of administrative Subpoenas. TCA 17-304(b)(1)

8. At the conclusion of the full investigation Disciplinary Counsel may recommend to the investigative panel any or any combination of dismissal, private reprimand or censure, public reprimand or censure, deferred discipline agreement, the filing of formal charges, referral to an appropriate agency, or a stay. TCA 17-5-304(d)(1)(A-E).

This process is graphically illustrated by the flow chart that follows

COMPLAINT FLOW CHART



In determining the level of sanction to be recommended by Disciplinary Counsel, including whether discipline should be private or public, the following criteria will be considered, upon a finding of Disciplinary Counsel that facts exist which could result in the establishment of a violation by clear and convincing evidence:

1. Whether the conduct is an isolated instance or evidences a pattern of conduct.
2. The nature, extent and frequency of the acts of misconduct.
3. Whether the misconduct occurred in or out of the courtroom.
4. Whether the conduct occurred while the judge was acting in an official capacity.
5. Whether the judge has acknowledged or recognized the occurrence, nature and impropriety of the acts.
6. Whether the judge has evidenced a effort to change or modify conduct.
7. The judge's length of service on the bench.
8. Whether there have been prior complaints about the judge, except where prior complaints have been found frivolous, unfounded, or without jurisdiction.
9. The effect of misconduct upon the integrity of, and respect for, the judiciary.
10. The extent to which the judge exploited the judicial position for personal gain or satisfaction.

A finding unfavorable to the judge on one or more of these criteria will result in disciplinary counsel considering a recommendation for public sanction.

In addition to the this criteria which must be considered by both the investigative panel and the court pursuant to TCA 17-5-301(i), the Disciplinary Counsel shall consider whether both the judge and the public would benefit from a deferred disciplinary agreement with a condition that the judge receive professional assistance or augmented training in connection with his willingness to amend behavior which gave rise to the complaint.

DISCIPLINARY COUNSEL'S RECORDS POLICY

- 1. FILE OPENING** - Disciplinary Counsel's office shall assign a unique number to all files opened either as a result of the receipt by the office of an appropriate complaint form filed by a complainant or a file opened as a result of information from another source. This number shall consist of two (2) digits representing the year opened followed by a four (4) digit number reflecting a numerical sequence in the roster of cases kept by the office. This roster shall be maintained permanently in such a form as to allow the tracking of the status, complainant, subject Judge, type of complaint, status of complaint, disposition of complaint, and any other information concerning the complaint that would assist Disciplinary Counsel in managing and accounting for the workload of the office.
- 2. MAINTENANCE OF FILES AND INFORMATION-** When a file is opened, both a physical file and an electronic file shall be created. The physical file shall contain the complaint and all relevant documentation and correspondence pertaining to the complaint. Relevant portions of all complaints and relevant documentation received by Disciplinary Counsel's office, including correspondence received by the office, shall be scanned and maintained in the electronic file as a PDF document. Correspondence generated by the office to either the complainant or the subject Judge shall also be maintained in the electronic file, but may be maintained by copying to the electronic file the correspondence in word processing format, without the necessity of scanning the letter-head printed document. E-mail communications between Disciplinary Counsel's office and investigative panels, court members, or other E-mail communications need not be copied to the physical or electronic file, but shall not be deleted from any computer, storage media, or internet service provider. Voluminous public records such as transcripts, court dockets, or pleadings filed in any court, that are retrievable by other means, need not be scanned to the electronic file. Both the physical file and the electronic file shall be retrievable by the file number of the case, which shall be permanently retained in the roster of cases. Disciplinary Counsel shall maintain a backup copy of all electronic files and the permanent file roster that shall be updated daily. This backup shall reside on storage media separate from the computer internal hard drive.
- 3. RECORD PRESERVATION AND DESTRUCTION-** Physical files may be destroyed by Disciplinary Counsel by an appropriately secure method, such as commercial shredding, one year after the closing and final action on any file. Electronic files shall never be deleted or destroyed, and it is the intention of this policy that all relevant material to a case file shall be retrievable by reference to file number, or other information contained in the permanent roster, unless this policy is changed by Court Rule or appropriate Court Order

Annual Statistical Report

(7/1/2011 to 2/15/2012)

COMPLAINTS OPENED (7/1/2010 to 2/15/12)..... 241

AVERAGE COMPLAINTS OPENED PER WEEK7.3

DISPOSITIONS (7/1/2011 to 2/15/2012)

Dismissal by Disciplinary Counsel (Summary not Appealed).....	136
Dismissal after preliminary investigation.....	30
Dismissal by panel after preliminary investigation.....	19
Dismissal with warning after preliminary investigation.....	2
Dismissal after appeal of summary dismissal.....	56
Dismissal after full investigation without trial.....	0
Dismissal with warning after full investigation.....	2
Deferred Discipline.....	0
Public Reprimand.....	7
Private Reprimand.....	3
Other.....	2

COMPLAINTS CLOSED (7/1/2010 to 2/15/12).....257

PENDING COMPLAINTS AS OF 2/15/1257

NATURE OF COMPLAINTS RECEIVED (7/1/10 to 6/30/11)

Failure to comply with law	192
Bias, prejudice, unfairness.....	19
Discourtesy.....	5
Abuse of Office.....	4
Conflict of interest.....	5
Delay.....	6
<i>Ex parte</i> communication.....	1
Disability.....	2
Political violation.....	2
Miscellaneous.....	2
Recusal.....	3

ACCUSED JUDGES (7/1/2010 to 2/15/12)

General Sessions.....57
 Juvenile.....14
 Referee.....7
 Special Judges.....0
 Circuit.....53
 Chancery.....24
 Commissioners.....5
 Criminal.....52
 Appellate.....3
 Supreme Court.....9
 Probate.....1
 Other.....1
 Magistrate.....12
 Municipal.....3

Statistical Comparison With Prior Years

	2010-2011	2009-2010	2008-2009	2007-2008	2006-2007
Complaints Opened	359	344	348	310	330
Dispositions	334	322	360	300	331
a. Dismissals	314	301	330	280	310
b. Deferred Discipline	3	5	5	6	2
c. Public - Reprimand or Censure	9	1	3	3	2
			2	1	1
d. Private Reprimand	6	0	5	5	10
Other	2	15	15	5	6

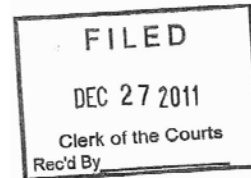
Private Disciplines

Although the details of private discipline are confidential pursuant to the Rules of the Court of the Judiciary, a discussion of the types of conduct that resulted in private disciplines is appropriate.

The conduct of judges concerning the action of the judge in the conduct of contempt hearings formed the basis of private reprimands in two of the cases during this period. In both of these cases the judge imposed a sentence of incarceration which was outside the scope of their authority and their actions were found to be in violation of Canon 2A of the Judicial Code of Conduct that requires that a judge “*respect and comply with the law and act in a manner that promotes public confidence in the integrity of the judiciary*”.

In the third case, a judge was found to have failed to disclose to the parties involved in a case factors which if disclosed might have lead to the judge’s recusal from the case as the “judge’s impartiality might reasonably be questioned. “ This was found to be a violation of Canon 4 C (3) of the Code of Judicial Conduct.

Public Disciplines



THE TENNESSEE COURT OF THE JUDICIARY

511 Union Street
Suite 600
Nashville, TN 37219

JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

Chris Craft
Presiding Judge

Timothy R. Discenza
Disciplinary Counsel

Patrick J. McHale
Assistant Disciplinary Counsel

Don R. Ash
David M. Cook
Angelita Blackshear Dalton
Joe F. Fowlkes
F. Evans Harvill
Christy R. Little
Richard A. Manahan
Kathy McMahan
Paul Neely
Pamela L. Reeves
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Kelly Thomas, Jr.
Thomas T. Woodall

December 21, 2011

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

FOR PUBLIC PRESS RELEASE

The Honorable Ronnie Zachary
General Sessions Judge
General Sessions Court of Pickett County
P.O. Box 5
Byrdstown, Tennessee 38549

RE: Complaint File No. 10-4427

Dear Judge Zachary:

This shall serve as a letter of public reprimand pursuant to your agreement with the investigative panel of this court.

The complaint alleges an act or acts by you that violated the Code of Judicial Conduct, in that the complaint asserts that you had imposed a punishment in a case that involved handcuffing a father to a son as a punishment. These acts constituted a potential violation of Canon 1 A and Commentary thereunder; Canon 2 A; and Canon 3 B (2).

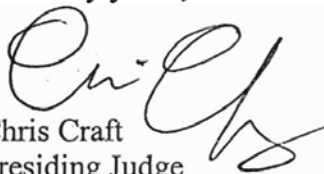
Upon receiving notice of the complaint from the Disciplinary Counsel to the Tennessee Court of the Judiciary, you responded and admitted that you had imposed the sentence described in the complaint. You have further indicated that you now are aware such a sentence is improper. You have indicated that you intend to ensure that all sentences imposed by you and entered are in fact according to law appropriate under the law.

The imposition of improper and inappropriate sentences in this case is a violation of Canon 2 A which requires that a "Judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary." Canon 3 B (2) also requires that "A judge shall be faithful to the law and maintain professional competence in it."

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Accordingly, this letter constitutes a public reprimand for your actions. In the future, you are to continue to follow the Code of Judicial Conduct in regards punishment.

Sincerely yours,



Chris Craft
Presiding Judge



**THE TENNESSEE
COURT OF THE JUDICIARY**

511 Union Street
Suite 600
Nashville, TN 37219

JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

December 6, 2011

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

Chris Craft
Presiding Judge

Timothy R. Discenza
Disciplinary Counsel

Patrick J. McHale
Assistant Disciplinary Counsel

Don R. Ash
David M. Cook
Angelita Blackshear Dalton
Joe F. Fowlkes
F. Evans Harvill
Christy R. Little
Richard A. Manahan
Kathy McMahan
Paul Neely
Pamela L. Reeves
Steve Stafford
Jean A. Stanley
Dwight E. Stokes
D. Kelly Thomas, Jr.
Thomas T. Woodall

FOR PUBLIC RELEASE

The Honorable David Bales
600 Market Street, Suite 203
Chattanooga, Tennessee 37402

RE: Complaint of Judge Rebecca Stern
File No. 11- 4440

Complaint of Hiram G. (Hank) Hill
File No. 11-4430

Dear Judge Bales:

This letter shall serve as a public letter of reprimand pursuant to your agreement with an investigative panel of this Court.

This reprimand relates to two complaints, one of which was filed by Judge Rebecca Stern, and one of which was filed by Attorney Hiram (Hank) Hill.

The pertinent portion of both of these complaints relate to two different incidents. In the first incident it is alleged that after the appeal by an attorney of a bond which had been set by you in a matter involving an arrested defendant, you inappropriately summoned the attorney to your Court when no matter had been set involving the case, for the purpose of questioning the attorney regarding the attorney's appeal of the bond. It is further alleged that you made statements, knowing that members of the news media were present, questioning Judge Stern's setting of a lower bond. It is further alleged that you raised the new bond set by Judge Stern after the appeal of your bond setting even though the defendant had waived his appearance in your

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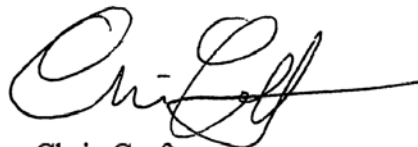
court and the Assistant District Attorney had indicated to you doubts about your jurisdiction to set a new bond.

The second incident alleges that you publicly, in the presence of the news media, voiced criticism of the lowering of a bond originally set by you, which was appealed to Criminal Court Judge Steelman.

Upon receiving notice of these two complaints from Disciplinary Counsel you promptly responded admitting the factual basis for the complaints. During subsequent discussions with Disciplinary Counsel you acknowledged that although your intention during the course of these two incidents was to express your concern concerning certain law enforcement matters, you now realized that your actions were inappropriate in both of these matters. You further expressed your intention to refrain from public comment or criticism concerning pending matters handled by other members of the Judiciary and to carefully ensure that the rulings of Superior Courts on appeals from your Court are given full effect.

Your actions in the above cases were a violation of Canon 2A which requires that "A Judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary." Accordingly this letter constitutes a public reprimand for your actions.

Sincerely Yours

A handwritten signature in cursive script, appearing to read "Chris Craft", with a long horizontal flourish extending to the right.

Chris Craft
Presiding Judge



**THE TENNESSEE
COURT OF THE JUDICIARY**

January 3, 2012

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

511 Union Street
Suite 600
Nashville, TN 37219
JUDGES OF THE TENNESSEE
COURT OF THE JUDICIARY

Chris Craft
Presiding Judge

Timothy R. Discenza
Disciplinary Counsel

Patrick J. McHale
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Jean A. Stanley
Dwight E. Stokes
D. Kelly Thomas, Jr.
Thomas T. Woodall

FOR PUBLIC RELEASE

The Honorable Robert L. Moon, Jr.
600 Market Street
Chattanooga, Tennessee 37402

RE: Complaint of Judge Rebecca Stern
File No. 11-4441

Complaint of Hiram (Hank) Hill
File No. 11-4530

Complaint of Benjamin L. McGowan
File No. 11-4536

Dear Judge Moon:

This letter shall serve as a public letter of reprimand pursuant to your agreement with an investigative panel of this Court.

The reprimand relates to three complaints, one of which was filed by Judge Rebecca Stern, one of which was filed by Attorney Hiram (Hank) Hill, and one of which was filed by Attorney Benjamin L. McGowan.

The pertinent portion of the complaint filed by Judge Rebecca Stern concerns a preliminary hearing, over which you presided, in which you threatened to have a young woman, who was a reluctant victim/witness of a domestic assault, handcuffed and arrested if she did not testify in a manner which you considered to be truthful.

Mr. Hill's complaint alleges that a defendant was sentenced in front of you on a number of traffic violations to a sentence of 6 months suspended after having waived his rights to an attorney. The remaining traffic offenses were dismissed by you. This took

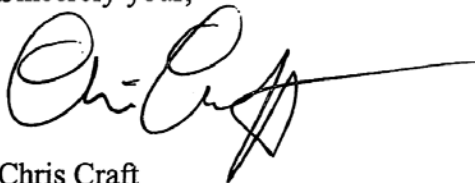
place, according to the paperwork, on August 3, 2010. At this time you asked the defendant if he could pass a drug screen and he answered that he could. You then continued the case to August 24, 2010, indicating on the complaint that if the defendant passed the drug screen he would have 30 days to get his drivers license, but otherwise he would be sentenced to two years (a legal impossibility unless all of the traffic offenses were ordered to run consecutively). The defendant did not pass the drug screen and upon returning to court, you asked him whether he wished to serve his time for the driving charges or for the possession of marijuana. When the defendant indicated he needed an attorney, you told him that there were 5 attorneys in the front row and to ask one of them. Apparently, one of the attorneys, not formally appointed, told him to take the marijuana charge. The defendant was then sentenced to 6 months incarceration and you amended the original charge of driving on a revoked license to possession of marijuana which you inscribed upon the judgment document without any initial charging document having been presented that charged the defendant with possession of marijuana.

The complaint of Mr. McGowan relates to a case that took place in your court in October of 2008 in which 3 persons, a victim and two witnesses were testifying under subpoena. Although not initially known, it turned out that all of these individuals were apparently on judicial diversion from another court for theft charges, and after hearing their testimony, you, *sua sponte*, revoked their probation and ordered their arrest and incarceration, without having given them the opportunity for counsel, a hearing, or advice of any rights.

Upon receiving notice from Disciplinary Counsel you promptly responded admitting the factual basis for the complaints. Since the filing of the complaints, you have taken remedial steps to try to insure that all indigent defendants in the Generals Sessions Courts in Hamilton County are appointed counsel to represent them at probation or diversion revocation hearings, and have communicated the necessity of this procedure by memorandum to the other General Sessions Judges and Municipal Court Judges with whom you serve and who might have also failed to appoint counsel in these type of cases. During subsequent discussions with Disciplinary Counsel you further expressed your intention to make sure that appropriate charging documents are filed before taking action on any charge in your court, and to make sure that to the extent possible any witness is not only appropriately treated but advised of the legal ramifications of their testimony.

Your actions in the above cases were a violation of Canon 2A which requires that “A Judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary.” Accordingly this letter constitutes a public reprimand for your actions in the above situations.

Sincerely your,

A handwritten signature in black ink, appearing to read "Chris Craft", with a long horizontal line extending to the right.

Chris Craft
Presiding Judge