



SEP 19 2014

THE TENNESSEE BOARD OF JUDICIAL CONDUCT

511 Union Street
Suite 600
Nashville, TN 37219

September 17, 2014

James M. Hivner, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

MEMBERS OF THE TENNESSEE BOARD OF JUDICIAL CONDUCT

Chris Craft
Chairperson

Timothy R. Discenza
Disciplinary Counsel

Patrick J. McHale
Assistant Disciplinary Counsel

Jeffrey S. Bivins
Miles Burdine
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Timothy L. Easter
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Dwight E. Stokes
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Russell Humphrey
Chief Clerk of the Senate
Office of the Chief Clerk
State Capitol, 2nd Floor
Nashville, TN 37243

Joe McCord
Chief Clerk of the House
Office of the Chief Clerk
State Capitol, 2nd Floor
Nashville, TN 37243

Dear Chief Clerks:

Please find enclosed the statistical report of the Board of Judicial Conduct covering filings and dispositions for the month of August, 2014, as mandated by Tenn. Code Ann. § 17-5-207(a).

Please also find enclosed the Quarterly Report for the fourth quarter of this fiscal year, as mandated by Tenn. Code Ann. § 17-5-207(b). Tenn. Code Ann. § 17-5-207(d) states that "The September report shall also contain a five (5) year statistical comparison of the prior five (5) fiscal years for the same categories." However, as the Board has only completed two fiscal years, no statistical comparison with more than two years can be included with this report. One will be included next year with the September 20, 2015 report, comparing the first three years.

The Board will also begin to include in our Quarterly Reports for Fiscal Year 2014-2015 the following information pursuant to new Tenn. Pub. Acts Ch. 858:

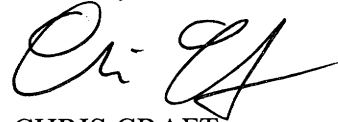
A list of votes taken by each board member as follows:

- (A) The member's name;
- (B) The total number of times the member voted to dismiss a complaint while on an investigative panel; and
- (C) The total number of times the member voted to authorize an investigation while on an investigative panel.

The Board at its semi-annual meeting in August discussed the issue of what was meant by the term “authorize an investigation,” particularly as members of an investigative panel often ask that additional information be gathered by disciplinary counsel prior to voting on whether or not a formal investigation should be opened pursuant to Tenn. Code Ann. § 17-5-304(c). It was unanimously felt by the Board, after extended discussion, that the legislature did not wish that mere requests for additional information by a panel member be counted as votes “for an investigation,” but only the single vote by each member on whether to dismiss or open a “formal investigation,” the term used by Tenn. Code Ann. § 17-5-304(c), which mandates the procedure by which each investigative panel is to handle a complaint. If it were otherwise, multiple votes would be recorded by each member for each complaint, making the vote total fairly meaningless. A member might ask for some additional fact, easily gathered, just to be recorded as voting for “an investigation,” prior to voting later to dismiss the complaint.

Therefore, our First Quarterly Report for fiscal year 2014-2015 will include a list of members’ names along with the total of votes cast on each complaint either 1) voting to dismiss the complaint, 2) voting for a formal investigation on the complaint or 3) not voting. (Tenn. Code Ann. § 17-5-304(c)(3) – “The investigative panel shall review the disciplinary counsel’s recommendations and either dismiss the complaint or authorize a full investigation.”)

Sincerely,



CHRIS CRAFT
Board Chair

CC/bep

BOARD OF JUDICIAL CONDUCT
FISCAL YEAR 2013-2014 FOURTH QUARTERLY REPORT
(For the period 4/1/14 through 6/30/14)
Due 9/20/14

The number of complaints OPENED¹ this quarter is 104. Year to date the number is 423.

The number of complaints CLOSED this quarter is 102. Year to date the number is 411.

The DISPOSITION of the complaints closed this quarter is:

	YTD	FY 2012-2013
Dismissed, complaint about court ruling----	47	253
Dismissed, no jurisdiction -----	4	8
Dismissed, inadequate factual basis -----	32	98
Dismissal with warning -----	8	19
Dismissal after full investigation -----	1	1
Deferred discipline agreement -----	0	1
Private reprimand -----	0	1
Private censure -----	0	0
Public reprimand -----	3	4
Public censure -----	1	3
Other -----	5	5
Retired complaint, no longer a judge -----	1	17
Cease and Desist Order-----	0	1
Suspension -----	0	0
Recommendation of removal from office --	0	0
TOTAL	102	411
		350

The number of complaints PENDING on the last day of this quarter is 66.

The number of complaints for which PROBABLE CAUSE WAS FOUND² this quarter is 6.
The number year to date is 19.

The number of complaints for which FORMAL CHARGES WERE FILED this quarter is 0.
The number year to date is 2.

1. A single complaint naming several judges is counted as a separate complaint against each judge. A complaint whose allegations encompass more than one category is listed under the most serious category alleged.
2. "Probable cause was found" means that Disciplinary Counsel and the investigative panel believe that there is evidence supporting the allegations against a judge and the investigative panel has authorized a full investigation pursuant to Tenn. Code Ann. §17-5-304 (c)(3).

The NATURE of the complaints filed and the TYPE OF JUDGE according to the following categories is:

		FY	
		<u>YTD</u>	2012-2013
A) Failure to comply with the law:			
Criminal -----	18	77	74
Circuit -----	10	65	50
Chancery -----	2	18	21
General Sessions -----	18	72	63
Juvenile -----	1	4	5
Magistrate and Referee-----	5	16	17
Municipal -----	1	8	5
Commissioner -----	0	1	3
Probate -----	0	0	1
Appellate Court -----	0	13	1
Senior and Retired -----	3	5	3
Other -----	<u>1</u>	<u>4</u>	<u>8</u>
TOTAL	59	283	253

		<u>YTD</u>	2012-2013
B) Bias, prejudice and unfairness:			
Criminal -----	1	6	6
Circuit -----	0	1	6
Chancery -----	0	0	4
General Sessions -----	0	3	10
Juvenile -----	0	0	3
Magistrate and Referee-----	0	0	4
Municipal -----	0	1	0
Commissioner -----	0	0	0
Probate -----	0	0	0
Appellate Court -----	0	0	0
Senior and Retired -----	0	0	0
Other -----	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	1	11	33

		<u>YTD</u>	2012-2013
C) Discourtesy:			
Criminal -----	1	3	4
Circuit -----	0	0	3
Chancery -----	0	0	0
General Sessions -----	1	4	4
Juvenile -----	0	0	0
Magistrate and Referee-----	0	0	3
Municipal -----	0	0	2
Commissioner -----	0	0	0
Probate -----	0	0	1
Appellate Court -----	0	0	0
Senior and Retired -----	0	0	0
Other -----	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	2	7	17

D) Abuse of office:	<u>YTD</u>	2012-2013	
Criminal -----	1	4	0
Circuit -----	1	1	5
Chancery -----	2	2	0
General Sessions -----	4	12	9
Juvenile -----	0	0	0
Magistrate and Referee-----	0	4	1
Municipal -----	0	2	0
Commissioner -----	1	2	0
Probate -----	0	0	0
Appellate Court -----	0	3	1
Senior and Retired -----	0	0	1
Other -----	0	0	0
TOTAL	9	30	17

E) Delay:	<u>YTD</u>	2012-2013	
Criminal -----	2	11	9
Circuit -----	2	12	2
Chancery -----	0	1	1
General Sessions -----	3	10	4
Juvenile -----	0	0	0
Magistrate and Referee-----	0	0	0
Municipal -----	0	0	0
Commissioner -----	0	0	0
Probate -----	1	1	0
Appellate Court -----	0	0	0
Senior and Retired -----	0	0	0
Other -----	0	0	0
TOTAL	8	35	16

F) Ex parte communications:	<u>YTD</u>	2012-2013	
Criminal -----	0	0	1
Circuit -----	1	2	0
Chancery -----	0	2	1
General Sessions -----	1	2	5
Juvenile -----	0	0	0
Magistrate and Referee-----	1	1	2
Municipal -----	0	0	0
Commissioner -----	0	0	0
Probate -----	0	0	0
Appellate Court -----	0	0	0
Senior and Retired -----	0	0	0
Other -----	0	0	1
TOTAL	3	7	10

G) Disability:		<u>YTD</u>	2012-2013
Criminal -----	0	0	2
Circuit -----	1	3	0
Chancery -----	0	0	0
General Sessions -----	0	1	1
Juvenile -----	0	0	0
Magistrate and Referee----	0	0	0
Municipal -----	0	0	1
Commissioner -----	0	0	0
Probate -----	0	0	0
Appellate Court -----	0	0	0
Senior and Retired -----	0	0	0
Other -----	0	0	0
TOTAL	1	4	4

H) Political violation:		<u>YTD</u>	2012-2013
Criminal -----	0	0	0
Circuit -----	3	3	1
Chancery -----	0	0	2
General Sessions -----	1	5	0
Juvenile -----	0	1	0
Magistrate and Referee----	0	0	0
Municipal -----	1	1	1
Commissioner -----	0	0	0
Probate -----	0	0	0
Appellate Court -----	3	5	0
Senior and Retired -----	0	0	0
Other -----	6	9	1
TOTAL	14	24	5

I) Recusal:		<u>YTD</u>	2012-2013
Criminal -----	2	3	3
Circuit -----	1	3	3
Chancery -----	0	0	2
General Sessions -----	3	9	10
Juvenile -----	1	1	0
Magistrate and Referee----	0	0	0
Municipal -----	0	0	0
Commissioner -----	0	0	0
Probate -----	0	0	0
Appellate Court -----	0	0	0
Senior and Retired -----	0	0	0
Other -----	0	0	0
TOTAL	7	16	18

J) Miscellaneous:		<u>YTD</u>	2012-2013
Criminal -----	0	1	0
Circuit -----	0	2	1
Chancery -----	0	0	0
General Sessions -----	0	3	0
Juvenile -----	0	0	0
Magistrate and Referee-----	0	0	0
Municipal -----	0	0	0
Commissioner -----	0	0	0
Probate -----	0	0	0
Appellate Court -----	0	0	0
Senior and Retired -----	0	0	0
Other -----	0	0	0
TOTAL	0	<u>6</u>	<u>1</u>

Respectfully submitted,



CHRIS CRAFT, Board Chair
BOARD OF JUDICIAL CONDUCT