

**STATE OF MARYLAND**

**COMMISSION ON JUDICIAL DISABILITIES**

**ANNUAL REPORT**  
**FOR**  
**FISCAL YEAR 2016**

**P. O. Box 340**  
**Linthicum Heights, MD 21090-0340**  
**(410) 694-9380**  
**[www.mdcourts.gov/cjd/index.html](http://www.mdcourts.gov/cjd/index.html)**

## TABLE OF CONTENTS

	<b>Pages</b>
I. INTRODUCTION .....	1
II. HISTORY AND STRUCTURE OF THE COMMISSION .....	1 - 2
III. THE COMMISSION'S JURISDICTION - WHAT THE COMMISSION CAN AND CANNOT DO .....	3 - 4
IV. THE COMPLAINT PROCESS .....	4 - 5
V. CONFIDENTIALITY .....	5
VI. MEMBERS AND STAFF .....	6 - 7
VII. MEETINGS .....	7
VIII. SUMMARY OF COMMISSION ACTIVITY IN FY 2016.....	7 - 9
IX. COMPARISON CHARTS OF COMMISSION ACTIVITY.....	9 - 12
1. CHART – SOURCES OF ALL COMPLAINTS FILED WITH THE COMMISSION.....	10
2. CHART – COMPLAINTS BY COURT .....	11
3. CHART – TYPES OF CASES INVOLVED .....	12

## **I. INTRODUCTION.**

This Annual Report is prepared by the Maryland Commission on Judicial Disabilities (“Commission”) for submission to the Maryland Court of Appeals, pursuant to Maryland Rule 16-804(g).

The Commission is the primary disciplinary body to investigate complaints that allege judicial misconduct or mental or physical disability of Maryland judicial officers, as empowered by the Maryland Constitution.

The work of the Commission plays a vital role in maintaining public confidence in, and preserving the integrity and impartiality of, the judiciary. The Commission, by providing a forum for citizens with complaints against judges, helps maintain the balance between judicial independence and public accountability. The Commission also helps to improve and strengthen the judiciary by creating a greater awareness among judges of proper judicial conduct.

The laws creating and governing the Commission’s work are as follows:

- Maryland Constitution, Art. IV, Sections 4A and 4B
- Annotated Code of Maryland, Courts and Judicial Proceedings, Sections 13-401 through 13-403
- Maryland Rules 16-803 through 16-810
- Maryland Code of Judicial Conduct, Maryland Rule 16-813

Copies of the above Maryland Constitution and Rules provisions are available on the Commission’s website at [www.mdcourts.gov/cjd/index.html](http://www.mdcourts.gov/cjd/index.html).

## **II. HISTORY AND STRUCTURE OF THE COMMISSION.**

The Commission was established by constitutional amendment in 1966 in response to a growing need for an independent body to assist in monitoring the conduct of Maryland judges. Subsequent constitutional amendments strengthened the Commission, clarified its powers, and added four additional members of the public to the Commission. The Constitution requires the Court of Appeals to adopt rules for the implementation and enforcement of the Commission’s powers and the practice and procedures before the Commission.

The Maryland Constitution, Art. IV, Section 4B(a)(1)(i) & (ii) & 2, gives the Commission the following specific powers to:

- “Investigate complaints against any judge of the Court of Appeals, any intermediate courts of appeal, the circuit courts, the District Court of Maryland, or the orphans’ court.”
- “Conduct hearings concerning such complaints, administer oaths and

affirmations, issue process to compel the attendance of witnesses and the production of evidence, and require persons to testify and produce evidence by granting them immunity from prosecution or from penalty or forfeiture."

- "issue a reprimand."
- "recommend to the Court of Appeals the removal, censure, or other appropriate disciplining of a judge or, in an appropriate case, retirement."

Further, the Maryland Rules give the Commission the authority to dismiss complaints (with or without a warning), issue private reprimands, enter into deferred discipline agreements with judges, and if the Commission "finds by clear and convincing evidence that the judge has a disability or has committed sanctionable conduct, it shall either issue a public reprimand for the sanctionable conduct or refer the matter to the Court of Appeals. . . ." with the recommendation of the Commission as to the sanction to be imposed against the judge. All dismissals with a warning, private reprimands and deferred discipline agreements require the consent of the respondent judge.

The Commission Members consist of eleven persons: three representing judges, one representing the appellate courts, one representing the Circuit Courts, and one representing the District Court; three lawyers, with each admitted to practice law in Maryland and having at least seven years of experience; and five members of the public, none of whom are active or retired judges, admitted to practice law in Maryland, or persons having a financial relationship with, or receive compensation from, a judge or lawyer licensed in Maryland. All Commission Members are appointed by the Governor, with the advice and consent of the State Senate, and are citizens and residents of Maryland. Membership is limited to two, four-year terms, or, if initially appointed to fill a vacancy, for no more than a total of ten years.

Effective July 1, 2007, the Court of Appeals established by Rule the Judicial Inquiry Board ("Board"), thereby creating a "two-tier" structure within the Commission. The Board consists of seven persons: two judges, two lawyers, and three public Members who are not lawyers or judges. Board Members are appointed by the Commission Members for a term of four years.

Complaints against Maryland judges are investigated by the Commission's Investigative Counsel ("Investigative Counsel"). The Commission's Judicial Inquiry Board ("Board") receives and reviews the Investigative Counsel's investigations, reports and recommendations and submits its own reports and recommendations to the Commission Members. The Commission Members accept or reject the Board's recommendations and take action consistent with the powers and authority granted to the Commission.

### III. THE COMMISSION'S JURISDICTION - WHAT THE COMMISSION CAN AND CANNOT DO.

The Commission is authorized to investigate complaints only against judges of the Maryland Court of Appeals, Court of Special Appeals, Circuit Courts, District Courts, and Orphans' Courts, and any retired Maryland judge during the period that the retired judge has been approved to sit. The Commission:

1. Has no authority to investigate complaints against masters, examiners, administrative law judges, Federal Judges, lawyers, police, court personnel, State's Attorneys, or public defenders.
2. Does not have appellate authority and therefore cannot review, reverse, change, or modify a legal decision or other court action taken by a judge;
3. Cannot affect the progress or outcome of a case; and
4. Cannot require a judge's recusal or disqualify a judge from presiding over a particular case.

The only types of complaints that can be investigated by the Commission are those involving a Maryland Judge's alleged "sanctionable conduct" or "disability":

1. "Sanctionable conduct" means:
  - "misconduct while in office";
  - "persistent failure by a judge to perform the duties of the judge's office";
  - "conduct prejudicial to the proper administration of justice"; or
  - violation of the binding obligations of the Maryland Code of Judicial Conduct.

"Sanctionable conduct" does not include the following by a judge, unless the judge's conduct also involves "fraud or corrupt motive or raises a substantial question as to the judge's fitness for office":

- "making an erroneous finding of fact";
- "reaching an incorrect legal conclusion";
- "misapplying the law"; or

- “failure to decide matters in a timely fashion, unless such failure is habitual.”
2. “Disability” means a judge’s “mental or physical disability that:
- seriously interferes with the performance of a judge’s duties and
  - is, or is likely to become, permanent.”

#### **IV. THE COMPLAINT PROCESS.**

Any individual, including a party or witness in a court case, lawyer, member of the public, judge, person who works for or assists the court, or other person, who has information that a Maryland judge may have committed “sanctionable conduct” or has a “disability”, can file a complaint with the Commission by completing a complaint form that can be downloaded from the Commission’s website or received from the Commission’s office, or by preparing a letter with required information. (See the Commission’s website at [www.mdcourts.gov/cjd/complaint.html](http://www.mdcourts.gov/cjd/complaint.html) for details.)

If the complaint meets the Commission’s requirements, Investigative Counsel will open a file and send a letter to the complainant acknowledging receipt of the complaint and the procedure for investigating and processing the complaint. In addition, the Investigative Counsel may make an inquiry and open a file after receiving information from any source that indicates a judge may have committed sanctionable conduct or may have a disability.

Complaints and inquiries may be dismissed, prior to a preliminary investigation, if the “complaint [or inquiry] does not allege facts that, if true, would constitute a disability or sanctionable conduct and there are no reasonable grounds for a preliminary investigation.” If the complaint is not dismissed, or an inquiry is completed without a dismissal, the Investigative Counsel conducts an investigation and thereafter reports to the Board the results of the investigation, including one of the following recommendations:

- dismiss the complaint and terminate the investigation, with or without a warning to the judge against future sanctionable conduct;
- enter into a private reprimand or a deferred discipline agreement with the judge;
- authorize a further investigation; or
- file charges against the judge.

Upon receiving the Investigative Counsel’s report, including recommendation, the Board reviews the report and recommendation and may authorize a further investigation, or

meet informally with the judge for the purpose of discussing an appropriate disposition. Upon completion of the foregoing, the Board prepares a report, including recommendation, to the Commission Members that includes one of the following recommendations:

- dismiss the complaint and terminate the investigation, with or without a warning to the judge against future sanctionable conduct;
- enter a private reprimand or a deferred discipline agreement with the judge;  
or
- “upon a determination of probable cause, the filing of charges.”

The Commission Members can take action, with or without proceeding on charges, after reviewing the Board's report, including recommendation, and any objections filed by the judge. If the Commission Members direct their Investigative Counsel to file charges against the judge alleging that the judge committed sanctionable conduct or has a disability, the charges are served upon the judge and a hearing is scheduled as to the charges. This is a formal hearing conducted in accordance with the rules of evidence.

If after the hearing the Commission Members find by clear and convincing evidence that the judge has committed sanctionable conduct or has a disability, they can either issue a public reprimand for such sanctionable conduct or refer the case to the Court of Appeals with the Commission's recommendations as to disposition. The Court of Appeals can take any one of the following actions: “(1) impose the sanction recommended by the Commission or any other sanction permitted by law; (2) dismiss the proceeding; or (3) remand for further proceedings as specified in the order of remand.”

## **V. CONFIDENTIALITY.**

The complaint and all information and proceedings relating to the complaint, are confidential. The Investigative Counsel's work product and records not admitted into evidence before the Commission, the Commission's deliberations, and records of the Commission's deliberations are confidential.

After the respondent judge's filing of a response to charges alleging sanctionable conduct, or expiration of the response filing date, such charges and all subsequent proceedings before the Commission on such charges are not confidential and therefore open to the public. In addition, a respondent judge, by written waiver, may release confidential information at any time.

Charges alleging only that a judge has a disability, and all proceedings before the Commission on such charges, are confidential.

## **VI. MEMBERS AND STAFF.**

### **COMMISSION MEMBERS**

#### **Judge Members:**

Honorable Alexander Wright, Jr., (Chair)  
Honorable Susan H. Hazlett  
Honorable Robert B. Kershaw (See footnote 1)

#### **Attorney Members:**

Arielle F. Hinton, Esquire  
Richard M. Karceski, Esquire  
Marisa A. Trasatti, Esquire

#### **Public Members:**

Virginia L. Fogle (See footnote 2)  
Vernon Hawkins, Jr.  
Susan R. Hoffmann  
Susan J. Matlick  
Sally McLane Young Ridgely (See footnote 3)

### **JUDICIAL INQUIRY BOARD MEMBERS:**

#### **Judge Members:**

Honorable Robert A. Greenberg, Chair  
Honorable Neil E. Axel

#### **Attorney Members:**

Bernice D. Mireku-North, Esquire  
Joseph A. Stevens, Esquire

#### **Public Members:**

The Honorable William J. Boarman

---

1 The Honorable Robert B. Kershaw was appointed to succeed the Honorable Robert Greenberg as a judge member by the Governor on March 28, 2016.

2 Virginia L. Fogle was appointed to succeed Marcy Canavan as a public member by the Governor on March 28, 2016.

3 Sally McLane Young Ridgely was appointed as a public member by the Governor on October 2, 2015, to fill the vacancy occurring at the end of fiscal year 2015.

Dr. Kenneth W. Eckmann  
Janet R. Scott

**STAFF:**

Executive Director/Investigative Counsel: Carol A. Crawford, Esquire  
Assistant Investigative Counsel: Tanya C. Bernstein, Esquire  
Executive Secretary: Gary J. Kolb, Esquire  
Administrative Assistant: Lisa R. Zinkand  
Legal Assistant: Sarah P. Merillat

**VII. MEETINGS.**

The Commission Members held ten regularly scheduled Meetings in FY 2016.

The Board Members held eleven regularly scheduled Meetings in FY 2016.

**VIII. SUMMARY OF COMMISSION ACTIVITY IN FY 2016.**

During Fiscal Year 2016 (July 1, 2015 through June 30, 2016), the Commission opened files for 201 verified complaints.

Sixteen complaints were filed by attorneys, 30 by inmates, 10 by Investigative Counsel, and 145 were filed by members of the general public.

Complaints against Circuit Court Judges totaled 125; 57 complaints were filed against District Court Judges; 1 complaint was filed against a Court of Appeals Judge; 6 complaints were filed against Court of Special Appeals Judges; and 12 complaints were filed against Orphans' Court Judges.

The types of cases involved include: family law matters (divorce, alimony custody, visitation, etc.) that prompted 32 complaints; criminal cases that prompted 51 complaints; and 116 complaints arose from other civil cases. Two complaints failed to fit in any of those categories that a judge has committed sanctionable conduct.

Charges were filed in two (2) cases.

In addition, the Commission issued six (6) Private Reprimands involving the following:

- 1) A Circuit Court Judge contacted a Congressman to obtain information from the U.S. Department of Veterans Affairs ("DVA") about a convicted and sentenced man's psychiatric history, and, in so doing, provided personal information about him to the Congressman and the DVA, even though the Judge was not involved in the man's case. The Judge's conduct violated

Rules 1.1, 1.2, 1.3, 2.2 and 2.9 of Maryland Rule 16-813 (Maryland Code of Judicial Conduct).

- 2) An Orphans' Court Judge received commissions as a real estate agent involving real estate included in estates being supervised by the Orphans' Court in violation of Rules 1.1, 1.2, 2.11 and 3.12 of Maryland Rule 16-813 (Maryland Code of Judicial Conduct). The Private Reprimand was made public by the Judge's waiver of the right to confidentiality pursuant to Maryland Rule 16-810(b)(1).
- 3) A District Court Judge engaged in extrajudicial activities that involved relations with an employee of the District Court and socializing by going to lunch and nightclubs with female and male employees of the District Court Clerk's Office. The Judge's conduct violated Rules 1.1, 1.2, 2.2, 2.5(a) and 3.1 of Maryland Rule 16-813 (Maryland Code of Judicial Conduct).
- 4) A Circuit Court Judge committed sanctionable conduct in two separate cases. In the first case, the Judge's demeanor was unprofessional and rude; the Judge attempted to force a settlement of the case; and the Judge's conduct gave the appearance that the Judge prejudged the case and did not consider any of the testimony and other evidence, and thereby denied the parties' reasonable opportunity to be heard. In the second case, the Judge referred to the defendant's former spouse in an offensive and racist term; the Judge's demeanor during the hearing was rude, condescending and unprofessional; the Judge attempted to force a settlement of the case; and the Judge's conduct gave the appearance that the Judge prejudged the case and did not consider any of the testimony and other evidence, thereby denying the parties' reasonable opportunity to be heard. The Judge violated Rules 1.1, 2.2, 2.3(a) & (b), 2.5(a), and 2.8(b) of Maryland Rule 16-813 (Maryland Code of Judicial Conduct).
- 5) A retired Circuit Court Judge, designated to sit by the Court of Appeals at the time, received a traffic citation and filed a request for trial. The matter was scheduled to be heard during a traffic docket, prior to the docket being called, the Judge visited the presiding judge who was to hear the matter, and the Judge appeared in the courtroom for the call of the docket, but did not advise court personnel that the Judge was a defendant in a case to be called. The Judge knew or should have known that the standard procedure required that a judge from another jurisdiction be assigned to hear the Judge's case in order to avoid any conflict of interest or appearance of impropriety. The Judge violated Rules 1.1, 1.2, 1.3, 2.4(b), 2.5(b), and 2.9(a) & (d) of Maryland Rule 16-813 (Maryland Code of Judicial Conduct). The Private Reprimand was made public by the Judge's waiver of the right to confidentiality pursuant to Maryland Rule 16-810(b)(1).

- 6) A retired District Court Judge, designated to sit by the Court of Appeals, engaged in conduct, while handling a final hearing on the merits of a peace order, that was demeaning and the Judge's language was unprofessional and condescending. The Judge violated Rules 1.1, 1.2, 2.2, 2.3(a), and 2.8(a) & (b) of Maryland Rule 16-813 (Maryland Code of Judicial Conduct). The Private Reprimand was made public by the Judge's waiver of the right to confidentiality, pursuant to Maryland Rule 16-810(b)(1).

Further, the Commission issued two (2) dismissals with a warning involving the following:

- 1) A Circuit Court Judge's general demeanor in a civil case was routinely irritable, condescending, sarcastic, short-fused, and the Judge often exhibited a judgmental tone and habit of inserting the Judge into the various roles in the courtroom. The Judge's conduct is governed by Rule 2.8(b) of Maryland Rule 16-813 (Maryland Code of Judicial Conduct).
- 2) A Circuit Court Judge, presently retired and designated to sit by the Court of Appeals, did not exhibit the required temperament, demeanor impartiality and fairness required of judges in a civil case in which the Judge demonstrated disdain for the defendant by making condescending and snide remarks to him and, at one point, the Judge offered an apology on the record for "losing his cool." The Judge's conduct is governed by Rules 1.1, 1.2, 2.2, and 2.8(b) of Maryland Rule 16-813 (Maryland Code of Judicial Conduct).

The vast majority of complaints in Fiscal Year 2016, as in prior years, were dismissed because the allegations set forth in the complaints were either found to be unsubstantiated, or the conduct complained about did not constitute sanctionable conduct.

## **IX. COMPARISON CHARTS OF COMMISSION ACTIVITY.**

The data included in the following comparison charts is based on data from the Commission case files.

**SOURCES OF ALL COMPLAINTS FILED WITH THE COMMISSION**

<b>Fiscal Year</b>	<b>Attorneys</b>	<b>Investigative Counsel Initiated Inquiries</b>	<b>Inmates</b>	<b>Judges</b>	<b>Public</b>	<b>Total</b>
2000-2001	14	1	29	0	76	120
2001-2002	4	4	26	0	108	142
2002-2003	6	6	35	0	91	138
2003-2004	6	1	17	0	70	94
2004-2005	2	7	33	0	70	112
2005-2006	12	4	30	0	62	108
2006-2007	7	2	27	0	81	117
2007-2008	5	4	29	0	91	129
2008-2009	6	5	35	0	91	137
2009-2010	4	4	25	0	90	123
2010-2011	8	2	17	0	97	124
2011-2012	8	7	19	0	98	132
2012-2013	13	2	13	2	109	139
2013-2014	7	4	21	0	109	141
2014-2015	8	9	38	0	103	158
2015-2016	16	10	30	0	145	201

## COMPLAINTS BY COURT

<b>Fiscal Year</b>	<b>District Court Judges</b>	<b>Circuit Court Judges</b>	<b>Orphans' Court Judges</b>	<b>Court of Special Appeals Judges</b>	<b>Court of Appeals Judges</b>	<b>Other</b>	<b>Total</b>
2000-2001	27	86	0	6	1	0	120
2001-2002	35	94	2	11	0	0	142
2002-2003	35	87	0	6	8	2	138
2003-2004	20	72	2	0	0	0	94
2004-2005	31	72	1	7	1	0	112
2005-2006	28	72	1	0	7	0	108
2006-2007	25	87	1	2	2	0	117
2007-2008	48	78	3	0	0	0	129
2008-2009	46	84	1	4	2	0	137
2009-2010	44	75	1	2	1	0	123
2010-2011	42	79	2	1	0	0	124
2011-2012	48	77	7	0	0	0	132
2012-2013	52	80	4	2	1	0	139
2013-2014	58	73	4	5	0	1	141
2014-2015	46	107	3	2	0	0	158
2015-2016	57	125	12	6	1	0	201

### TYPES OF CASES INVOLVED

Fiscal Year	Family Law	Criminal Cases	Civil Cases	Other	Total
2000-2001	18	55	37	10	120
2001-2002	31	47	54	10	142
2002-2003	28	54	41	15	138
2003-2004	26	24	37	7	94
2004-2005	33	22	52	5	112
2005-2006	20	39	30	19	108
2006-2007	25	43	45	4	117
2007-2008	24	41	59	5	129
2008-2009	32	48	50	7	137
2009-2010	23	36	58	6	123
2010-2011	22	50	48	4	124
2011-2012	24	31	68	9	132
2012-2013	30	32	69	8	139
2013-2014	29	37	70	5	141
2014-2015	22	49	84	3	158
2015-2016	32	51	116	2	201