

## **How to Respond to a Judicial Conduct Commission Complaint**

### **Handout 1: Examples of Judicial Misconduct**

- Inappropriate or demeaning courtroom conduct, such as yelling, profanity, gender bias, or racial slurs;
- Using the prestige of judicial office to advance the private interests of the judge or others;
- Improper communication with only one of the parties or attorneys in a case;
- Public comment regarding a pending case;
- Hearing a case in which the judge has a financial interest in the outcome;
- Ruling in a case in which the parties or attorneys are related to the judge within a prohibited degree of kinship;
- A judge's failure to cooperate with the Commission or failure to abide by any provision of a Voluntary Agreement to Resign in Lieu of Disciplinary Action;
- Out-of-court behavior such as sexual harassment, sexting, official oppression, bribery, theft, driving while intoxicated, making threats, or making racist comments; and
- Endorsement of a specific political candidate.

-- SCJC website FAQs

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### Handout 2: Actions the Commission May Take

**Administrative Dismissal:** The Executive Director administratively dismisses a case when a Complainant makes a report that fails to state an allegation of judicial misconduct.

**Dismissal:** The Commission may vote to dismiss a case in which there is insufficient evidence of misconduct, or the Commission's investigation concludes that no sanctionable misconduct has occurred.

**Order of Additional Education:** The Commission may find that the judge's actions exceeded their authority or are contrary to procedural rules. In a case where the judge was misguided but not acting in bad faith, the Commission may order additional education for the judge. May be combined with private or public sanctions.

**Private Sanction:** Sanctions are issued when sufficient evidence supports a finding of judicial misconduct. To privately sanction judges, the Commission uses, by order of severity:

- Admonitions;
- Warnings; and
- Reprimands.
- No other information regarding the case will be released to the public.

**Public Sanction:** Sanctions are issued when sufficient evidence supports a finding of judicial misconduct. To publicly sanction judges, the Commission uses, by order of severity:

- Admonitions;
- Warnings; and
- Reprimands.
- The order is publicly disseminated to ensure public awareness.

**Suspension:** If a judge is indicted for a felony or charged with a misdemeanor involving the judge's official position, the Commission may vote to suspend the judge from office, with or without pay, pending the disposition of the charge.

**Recommendation of Suspension to the Supreme Court:** The Commission may request that the Supreme Court of Texas suspend a judge. Grounds for suspension are:

- willful or persistent violation of rules promulgated by the Supreme Court of Texas
- incompetence in performing the duties of office
- willful violation of the Code of Judicial Conduct; or
- willful and persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or the administration of justice.

**Voluntary Agreement to Resign:** A judge may decide to resign in lieu of disciplinary action. Upon the Commission's acceptance of the agreement, the resignation will be public.

**Formal Proceedings:** The Commission may vote formal proceedings. The Commission may itself hold a trial, or request the Texas Supreme Court to appoint a special master to conduct the proceeding and report findings of fact to the Commission. The Commission may:

- Request additional evidence;
  - Dismiss the case;
  - Issue a public censure; or
  - Recommend removal.
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- Formal proceedings and related information become public when the Commission files formal charges.
  - The Commission itself cannot remove a judge. Only the Review Tribunal may order a judge removed from the bench. The Supreme Court retains appellate authority over the decision of the Review Tribunal.

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### Handout 3: Recent Private Disciplinary Actions Against JPs

The judge's conduct cast public discredit upon the judiciary when he **consumed alcoholic beverages at a public event and placed himself in a position where it appeared to law enforcement officers that he was publicly intoxicated**. Further, the judge failed to exhibit the patience, dignity, and courtesy expected of a judicial officer while engaged in his official duties when **he made inappropriate comments during a telephone conversation with a Sheriff's deputy**. Finally, the judge lent the prestige of his judicial office to advance the private interests of another county officer when he **made a public endorsement for her re-election by co-hosting a joint campaign event with her**. [Violation of Canons 2A, 2B, 3B(4) and 5(2) of the Texas Code of Judicial Conduct and Article V, Section 1-a(6)A of the Texas Constitution.] *Private Reprimand and Order of Additional Education of a Justice of the Peace*. 06/06/18.

The judge failed to comply with the law, failed to maintain professional competence in the law, and improperly failed to recuse himself in **two criminal traffic cases he personally witnessed** when he: (1) **executed probable cause affidavits** in both cases, **ordered the arrests of both drivers, and magisterated both defendants**; and (2) subsequently **failed to recuse himself on both cases**. [Violation of Canons 2A, 3B(1) and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace*. 04/18/18.

The judge failed to comply with the law, failed to maintain professional competence in the law, and failed to exhibit the patience, dignity, and courtesy expected of a judicial officer while engaged in his official duties when he: (1) **treated a pro se traffic defendant attempting to file several pre-trial motions in a discourteous and irate manner**; and (2) **signed a Trial Setting, Trial Setting Continuance, Jury Pool Letter, and subpoenas in the case after he had recused himself** from the matter. [Violation of Canons 2A, 3B(2) and 3B(4) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace*. 02/08/18.

The judge failed to comply with the law and to maintain professional competence in the law by **collecting a "warrant fee" before agreeing to meet with a defendant to resolve a case**, and by **sending defendants to jail if they chose not to pay the upfront "warrant fee."** The judge also showed a bias against indigent defendants by not allowing them to bypass magistration if they could not pay the upfront "warrant fee." [Violation of Canons 2A, 3B(2) and 3B(6) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Justice of the Peace*. 01/18/18.

The judge failed to comply with the law, failed to maintain professional competence in the law, and denied a *pro se* litigant her right to be heard when **he refused to accept her filing of an eviction action based on his brief discussion with the tenant** and belief that the intended

lawsuit would involve the sale of real property, which would have been beyond the jurisdiction of his court. [Violation of Canons 2A, 3B(2) and 3B(8) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace*. 01/04/18.

The judge lent the prestige of his office to advance the private interest of another when **he went to the previous employer of his granddaughter to discuss her wish to be rehired with the owner and gave the owner a business card identifying himself as a judge**. [Violation of Canon 2B of the Code of Judicial Conduct.] *Private Admonition of a Justice of the Peace*. 11/17/17.

The judge failed to comply with the law, and engaged in willful conduct that was clearly inconsistent with the proper performance of his duties and cast public discredit upon the judiciary and the administration of justice when **he approved an employee's timesheets when that employee had not worked, which led to negative media coverage regarding the matter**. [Violation of Canon 2A of the Texas Code of Judicial Conduct and Article V, Section 1-a(6)A of the Texas Constitution.] *Private Warning and Order of Additional Education of a Justice of the Peace*. 10/30/17.

The judge failed to exhibit the patience, dignity, and courtesy expected of a judicial officer while engaged in his official duties when **he raised his voice, used expletives, and threatened to hold the respondents to a peace bond complaint in contempt if they did not stop arguing and fighting**. [Violation of Canon 3B(4) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace*. 10/27/17.

The judge failed to comply with the law; failed to maintain professional competence in the law; and engaged in improper *ex parte* communications when he: (1) **failed to follow the procedures set forth in Article 45.0511** of the Texas Code of Criminal Procedure, concerning a defendant's failure to comply with terms of deferment on specified motor vehicle violations, **by issuing a warrant before holding a show cause hearing; and (2) met privately with a defendant in his chambers, without the defendant's counsel or a prosecutor present, and resolved the defendant's warrant**. [Violation of Canons 2A, 3B(2) and 6C(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace*. 08/08/17.

The judge failed to follow the law and maintain professional competence in the law when he **failed to timely forward an eviction defendant's appeal to the county court**. [Violation of Canon 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace*. 08/08/17.

The judge exhibited bias and prejudice in the performance of her judicial duties against the alleged victim of an assault involving family violence when she: (1) stated that **she was going to give the defendant a low bond because the alleged victim had "ruined my relationship with my son;"** (2) admitted that **she had an issue with the alleged victim during magistration;** and

(3) commented that she thought the case had already been dismissed and **issued the defendant a Personal Recognizance bond after he was arrested on a new warrant.** [Violation of Canons 2B, 3B(1) and 3B(5) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace.* 08/08/17.

The judge misused his position and the prestige of judicial office when he **sent a letter on his official judicial letterhead to another court, asking for help with his bailiff's speeding ticket.** The judge also failed to comply with the law when he issued a citation in an eviction matter which failed to comply with Rule 510.4 of the Texas Rules of Civil Procedure. [Violation of Canons 2A and 2B of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace.* 07/17/17.

The judge improperly allowed a relationship to influence his judicial conduct when **he magistrated an acquaintance after business hours, who had been to the judge's home "multiple times" and whom the judge had known for many years.** [Violation of Canons 2A, 2B, 3B(1) and 3B(5) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace.* 06/12/17.

The judge **falsely represented that his opponent did not vote between 1996 and 2012,** when publicly available voting records showed that his opponent voted seven times during that period [Violation of Canon 5(1)(ii) of the Texas Code of Judicial Conduct.] *Private Warning of a Justice of the Peace.* 02/27/17.

The judge failed to comply with the law and demonstrated a lack of professional competence in the law when **he failed to set and conduct an examining trial** despite repeated requests by the defendant's attorney. The judge's failure to conduct the requested examining trial was inconsistent with the proper performance of his judicial duties. [Violation of Canons 2A, 3B(2) of the Texas Code of Judicial Conduct and Article V, Section 1-a(6)(a) of the Texas Constitution.] *Private Order of Additional Education of a Justice of the Peace.* 01/03/17.

The judge failed to maintain professional competence in the law, **allowed the relationship of a family member to influence the judge's judgment and conduct, acted with bias toward the family member, and took action in a judicial proceeding in which the judge was disqualified by law when the judge: (1) magistrated the family member; (2) issued the family member a PR bond and (3) secured the family member's release after 5:00 p.m. without the Sheriff's authorization.** [Violation of Canons 2A, 2B, 3B(1), 3B(2) and 3B(5) of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional education of a Justice of Peace.* 07/28/16.

The judge failed to comply with the law and failed to maintain professional competence in the law when **she failed to accept a letter as a plea of not guilty and instead instructed the defendant that the only option to resolve the outstanding warrants was to pay the fines and costs.** The Commission concluded the letters between the judge and defendant constituted improper ex parte communication concerning the merits of the pending case and the judge failed to share the communication with the prosecutor. [Violation of Canons 2A, 3B(2) and 6C(2) of the

Texas Code of Judicial Conduct. *Private Order of Additional Education to a Justice of the Peace.* 07/13/16.

The judge failed to comply with the law and demonstrated a lack of professional competence in the law to the extent that **the judge used the peace bond process to improperly enjoin a litigant from exercising her rights to free speech under the United States and Texas Constitutions.** [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace.* 03/29/2016.

The judge failed to follow the law and demonstrated a lack of professional competence in the law by **denying litigants and members of the public, including Commission staff, access to the courtroom while judicial proceedings were taking place.** [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace.* 11/06/2015.

The judge failed to comply with the law and failed to maintain professional competence in the law when the judge **deprived a litigant of his right to a hearing on the Sworn Statement of Inability to Pay and incorrectly advised him that there was "not time for a hearing."** Courts have held that denying a party any of his core constitutional rights, such as the right to be heard constitutes egregious legal error. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace.* 08/31/2015.

The judge failed to comply with the law and demonstrated a lack of professional competence in the law by: **1) entering an order of eviction that allowed the violating tenant an additional 90 days to come into compliance with the terms of the lease agreement; 2) failing to set and hear eviction matters within the time periods set forth in the applicable procedural rules; 3) failing to afford the Housing Authority the right to be heard on its motion to change venue; 4) granting a motion for a new trial in an eviction proceeding, and 5) exceeding his authority by appointing a temporary judge.** [Violation of 2A, 2B, 3B(2), 3B(5) and 3B(8) of the Texas Code of Judicial Conduct]. *Private Reprimand of a Justice of the Peace.* 03/25/2015.