

Judicial Accountability Report Card Background

The American public has lost faith in the impartiality and fairness of the nation's judiciary. In an American Bar Association survey, only 32 percent of Americans say they are confident in state and federal judges.¹ And as a recent *New York Times* opinion editorial noted, misconduct and arrogant favoritism by judges “mocks the ideal of an independent, impartial judiciary, and poses a threat to the appearance and reality of judicial integrity.”²

While most judges serve competently and impartially from the bench, our systems for ensuring judicial accountability allow others to regularly abuse their positions of power and violate the due process rights of our most vulnerable citizens. Judicial disability commissions—the sole mechanisms vested with the authority to hold judges accountable in each of the 50 states and the District of Columbia—regularly turn a blind eye to misconduct by failing to investigate complaints, concealing data, using closed-door procedures, gagging complainants and ultimately refusing to remove or meaningfully sanction even the most incompetent or abusive judges. The failure of the judicial disability system is a black mark against our nation's judiciary, and one which fuels public mistrust of our court system.

To address this fundamental failure in governmental accountability, HALT—*An Organization of Americans for Legal Reform* conducted the nation's first comprehensive analysis and evaluation of the judicial disability system in all 50 states and the District of Columbia. HALT's 2008 Judicial Accountability Report Card has shed long-overdue light on the failures plaguing the nation's system of judicial accountability. We hope its findings and recommendations will help galvanize local and federal legislators, court officials and the judicial disability commissions themselves to secure much needed improvements. We believe that Americans' confidence in the judiciary will rise if the nation's system of judicial oversight effectively removes abusive and incompetent judges from the bench.

Today, increasingly visible examples of judicial abuse and inaction from state disability commissions offer us a window of opportunity to focus attention on the judicial disability system's pattern of toothlessness, secrecy and delay in our 2008 Judicial Accountability Report Card.

- *Recent High Profile Examples of Ineffective Judicial Disability Commissions*

¹ Educating the Public about the Law. American Bar Association (2001).

² Samuels, Dorothy. “Tripping Up On Trips: Judges Love Junkets as Much as Tom DeLay Does.” *New York Times*. January 20, 2006, Section A.

Last year, the Maryland Commission on Judicial Disabilities dropped charges against Prince George's County District Court Judge Richard Palumbo, who inexplicably refused to renew a protection order for Yvette Cade, a woman who pleaded for safety from a husband with a long history of violence and a criminal record. When Ms. Cade told Palumbo that she wanted an immediate divorce, he responded, "I'd like to be six-foot-five, but that's not what we do here." Without a protection order, the estranged husband was able to enter Ms. Cade's workplace, douse her with gasoline and set her on fire, disfiguring 60 percent of her body with burns.³

Despite the judge's long-standing pattern of abuse, Maryland's judicial disability commission shrugged off Palumbo's offenses and permitted him to retire quietly. According to Governor Ehrlich's office, Palumbo will even be permitted to receive his pension. As Carole Alexander, executive director of a Maryland domestic violence shelter, told the *Washington Post*, this sweetheart deal "sends a terrible message to domestic violence victims, victims in general and the public at large. For him to be able to resign and just wash his hands of this matter is just absurd."⁴ Sadly, Judge Palumbo's case is only *one* of the most recent headlines highlighting the incompetence and weakness of judicial disability bodies across the country.

The Florida Judicial Qualifications Commission issued only token sanctions to Judge Richard Albritton, who admitted asking lawyers for gifts, free lunches, hunting trips and parties. In one case, Albritton ordered a defendant to attend church and, when he was advised that his order was unconstitutional, responded, "I know that's unenforceable, but the defendant doesn't know it." In another, he urged an impoverished woman to "close your legs and stop having babies." Overlooking Albritton's repeated abuse, Florida's judicial disability body merely ordered a one-month suspension and a nominal fine. Today, Albritton is back on the bench, hearing new cases in Florida's Fourteenth Judicial Circuit.

In August, the California Commission on Judicial Performance issued a slap on the wrist to a judge found guilty of misconduct for the *fourth* time. Orange County Judge Pamela Iles has a long history of reprimands for routinely violating the due process rights of defendants. In her latest abuse of power, Iles incarcerated a man and denied him bail without giving him the chance to respond to charges. Inexplicably, California's judicial disability

³ Palumbo's callous indifference to Ms. Cade's desperate pleas for help followed a series of other instances in which the judge abused his power. Palumbo dodged speeding and traffic tickets by telling state troopers that he was a judge and knew the troopers' boss, made insensitive comments to a paralyzed man seeking a protection order, refused to grant protection orders to victims representing themselves in court and routinely made disparaging remarks about women. He often advised men in domestic violence cases to leave their female partners and look for a new mate, once stating on the record, "Women are like buses—they come by every five minutes."

⁴ Castaneda, Ruben. "Embattled Md. Judge To Retire For Health." *Washington Post*. July 29, 2006, Section A.

commission once again permitted Iles to continue hearing cases, simply handing out yet another admonishment.⁵

Unfortunately, these cases represent only the most widely reported recent instances of abject failure by the disability system. In reality, the public rarely learns of misconduct summarily dismissed by judicial disability boards.

- *Dangerous Consequences of Judicial Misconduct for Our Most Vulnerable Citizens*

Unaddressed judicial irresponsibility places a particularly heavy burden on traditionally disenfranchised Americans. For example, a recent *Boston Globe* investigation exposed numerous instances of Massachusetts small claims and district court officials disregarding the rights of poor debtors, many of whom were elderly or non-English speaking.⁶ As the *Globe* reported, judges “repeatedly break court rules, almost always to the detriment of the defendant. Collectors are almost never asked to prove the debts they claim; defendants are rarely informed of their rights. And debtors, usually too strapped to afford a lawyer, must contend with this legal mismatch alone.” Without a robust judicial accountability mechanism, little recourse exists for those whose disadvantage in society follows them into the courtroom.

Court and state bar surveys confirm that impoverished Americans, members of racial and ethnic minorities, and women typically suffer most at the hands of abusive judges. A Texas Supreme Court study, for example, found that 59 percent of Texans believe that judges do *not* treat all people alike, regardless of race, and that 78 percent perceive differences between the ways that poor and wealthy litigants are treated by judges.⁷ Similarly, an American Bar Association poll revealed that most Americans believe that judges give preferential treatment to white citizens over racial and ethnic minorities and to affluent litigants over the impoverished.⁸

- *Recent National Media Calls for Increased Judicial Accountability*

In light of the pattern of misconduct by judges, editorial boards and journalists across the country have recently implored court officials to provide more meaningful sanctions, greater transparency and increased efficiency in the systems responsible for judicial oversight.

⁵ In response to Iles’ repeated transgressions, Law Professor Deborah L. Rhode, director of the Stanford University Center on Ethics, stated, “Seems to me that there’s a pattern and practice that indicates a real abusive judicial officer. The fact that the judge continued to engage in the same kinds of conduct suggests that the sanctions haven’t been sufficient enough to gain her attention.”

⁶ Healy, Beth. “Dignity Faces a Steamroller.” *Boston Globe*. July 31, 2006, Section A.

⁷ Public Trust and Confidence in the Courts and the Legal Profession in Texas. Supreme Court of Texas and Texas Office of Court Administration (July, 1998).

⁸ Perceptions of the U.S. Justice System. American Bar Association (February, 1999).

Last year, the *Los Angeles Times* ran a blistering three-part front page series, “Juice vs. Justice,” documenting flagrant judicial improprieties in Las Vegas, followed by inaction by the Nevada Commission on Judicial Discipline.⁹ The *Times* investigation uncovered dozens of instances where judges pocketed unused campaign donations, heard cases involving corporations in which they had invested and ruled in matters involving their friends. One former Las Vegas judge acknowledged the impotence of Nevada’s judicial disability system, lamenting, “There is no watchdog and no real definition of what exactly is or isn’t proper.”

After Massachusetts’ high court threatened to dilute the powers of the state’s already weak judicial conduct commission, an August *Boston Globe* editorial urged, “[C]itizens need an efficient way to lodge misconduct complaints against judges when they go astray.”¹⁰

A recent *Hartford Courant* editorial called attention to the consequences of Connecticut’s closed judicial disability system, noting, “Respect for the courts has eroded in the past few years because of inordinate secrecy For too long, Connecticut’s third branch of government has operated like a fiefdom, open only at the whim of its masters.”¹¹ As the *Courant* editorial board concluded, “Many flashlights in this dark closet of government will expose the mold.”

- **Conclusion**

As Abner J. Mikva, former Chief Judge of the U.S. Court of Appeals for the D.C. Circuit and Counsel to the President, recently stressed, “For the system to work as it should, the judges must be perceived to be honest, to be without bias, to have no tilt in the case that is being heard.”¹²

Sadly, the broken system of judicial accountability feeds justified public mistrust and growing sentiment that our nation’s judges are not performing impartially and independently. Together, we can transform a mechanism marred by indifference and secrecy into a system dedicated to upholding the integrity of our nation’s judiciary and protecting our most vulnerable citizens.

⁹ Goodman, Michael J. and William C. Rempel. “In Las Vegas, They’re Playing with a Stacked Judicial Deck.” *Los Angeles Times*. June 8, 2006, Section A.

¹⁰ “Misjudging the Judges.” *Boston Globe*. August 14, 2006, Section A.

¹¹ “Open Up.” *Hartford Courant*. May 28, 2006, Section C.

¹² Mikva, Abner J. *Forward, Nothing for Free*. Community Rights Counsel (2000).