

## THE PROSECUTION AND JUDICIAL COMPLAINT CENTER OF NYSACDL

1. General Purpose - NYSACDL is dedicated to “Promote the proper administration of criminal justice to protect individual rights and improve the criminal law, its practices and procedures and to enlighten the public as to the point of view of criminal defense lawyers and the issues in which they are concerned.” In order to accomplish these goals, NYSACDL has established a Prosecution and Judicial Complaint Center (PJCC). The PJCC will receive and screen complaints or reports concerning prosecutors and judges and, where appropriate, will make referrals to a disciplinary authority for action. The existence of the PJCC will encourage the members of NYSACDL and others to report behaviors which are contrary to the interests of justice.
2. Definition of professional and ethical misconduct
  - a. Misconduct which will be addressed by the PJCC concerns the actions of prosecutors and judges in the execution of their professional duties.
  - b. The PJCC will review allegations or reports of material violations or intentional attempts to violate the Lawyer’s Code of Professional Responsibility or the Code of Judicial Conduct and, where appropriate, will make referrals to a disciplinary authority.
3. Composition of the PJCC Panel:
  - a. Chair of the PJCC: An attorney with at least 20 years of uninterrupted legal experience and a recognized competence in the field of Criminal Law and/or legal ethics shall be appointed to Chair the PJCC by the President. The appointment to this position shall be for a term of 2 years, renewable to no more than two consecutive terms at the discretion of the Executive Committee of NYSACDL.
  - b. PJCC Panel Composition: The President, in consultation with the Chair, shall appoint the Panel to be comprised of **at least** 7 people: the Chair, the President-elect and five other persons, at least three of whom shall have 10 years of uninterrupted Criminal Law and/or legal ethics experience. Appointments to the Panel, except for the President-elect, shall be for 2 years at the discretion of the President. There shall be among the five other persons besides the Chair and the President-elect at least one person from each of the Appellate Division Departments
  - c. Advisors to the PJCC Panel: The Panel, on any issue related to a complaint or referral, may consult with experts specializing in Judicial and Prosecutorial Ethics, **who are not members of NYSACDL.**

#### 4. Function of the PJCC:

- a. The PJCC shall be charged with the task of reviewing allegations of misconduct which are referred to it.
- b. Members of the PJCC shall take an oath of discretion relating to the exercise of their function. The PJCC shall adopt rules pertaining to procedural matters before the PJCC Panel.
- c. Complaints or reports against prosecutors or judges regarding misconduct may be made by any person, including sua sponte.
- d. The complaint or report shall be in writing, identifying the person filing it and the person against whom the complaint or report is made, and shall describe in sufficient detail the alleged misconduct. The complaint may refer to one or more acts of alleged misconduct, but each act of misconduct must be particularized with sufficient detail to permit an investigation to ensue.
- e. The complaint shall be made to the Chair of the PJCC and shall remain confidential until and unless the PJCC Panel determines that a referral to an appropriate disciplinary authority is warranted.
- f. Upon receipt of a complaint or report of misconduct, the PJCC shall commence an investigation of the circumstances of the complaint.
- g. Where in the judgment of the PJCC reasonable cause exists to believe that a written complaint, report or additional material should issue, then by a vote of not less than 5 people, such complaint shall issue and be forwarded to the appropriate disciplinary authority as soon as is practicable.
  - (1) Because of the nature of the disciplinary process for both judges and lawyers, the Association cannot guarantee that the identity of the individual making a complaint will remain confidential.
  - (2) Prior to filing a complaint, the PJCC shall notify the President and the individual who initiated the complaint with the PJCC.
- h. In the event that the PJCC determines that no written complaint, report or additional material should be forwarded to the appropriate disciplinary authority, such shall be communicated with sufficient explanation to the complainant as soon as is practicable.