

# **Board of Professional Responsibility**

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## **34<sup>th</sup> Annual Discipline Report Fiscal Year July 1, 2014 – June 30, 2015**

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### **Board of Professional Responsibility Organization and Composition**

The Tennessee Supreme Court regulates and supervises the practice of law in Tennessee pursuant to Tennessee Supreme Court Rule 9. The Court appoints twelve members to the Board of Professional Responsibility (the Board) to effectuate Tenn. Sup. Ct. R. 9 and the Court's disciplinary enforcement.

The Board consists of nine (9) attorneys and three (3) public (non-attorney) members who serve three-year terms and geographically represent the entire state. In 2015, Board members volunteered 894 hours and received no compensation for their service. Current members of the Board include:

Michael King (Chair)  
Eleanor Yoakum (Vice-Chair; Lay Member)  
Kenneth Blackburn (Lay Member)  
Michael Callaway  
Margaret Craddock (Lay Member)  
Wade Davies  
Dana Dye  
Odell Horton, Jr.  
John Kitch  
Susan Emery McGannon  
H. Scott Reams  
Joe G. Riley

The Court appoints a Chief Disciplinary Counsel who reports to the Board. The Board also employs attorneys as Disciplinary Counsel and support staff to assist with attorney registration; consumer assistance; investigation and litigation. A staff directory is attached as Exhibit A.

### **District Committee Members**

The Tennessee Supreme Court appoints attorneys to serve as district committee members from each disciplinary district in the state. In 2014-2015, 162 attorneys assisted the Court and the Board as district committee members reviewing Disciplinary Counsel's recommendations on investigative files and sitting on hearing panels conducting formal disciplinary charges. Of the 162 current members, 115 reported volunteering 2,008 hours in 2015 for which they received no compensation for their services. A roster of current district committee members is attached as Exhibit B.

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#### Assistance, Investigation and Prosecution

##### ▪ Consumer Assistance Program (CAP)

Non-frivolous complaints against attorneys submitted by clients, lawyers, judges and the public are referred to the Board's Consumer Assistance Program (CAP) for assistance or opened and assigned to Disciplinary Counsel for investigation. CAP answers questions, provides information, informally mediates disputes, and refers matters to Disciplinary Counsel for investigation.

##### Caseload

Number of Cases Opened	3,484
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##### Timeliness of Resolution

0 to 15 days	37.8%
16 to 30 days	3.8%
31 to 60 days	26.6%
61 or more days	31.9%

##### Actions Taken

Mediate	28%
Advise	61%
Referrals	11%

##### ▪ Investigation

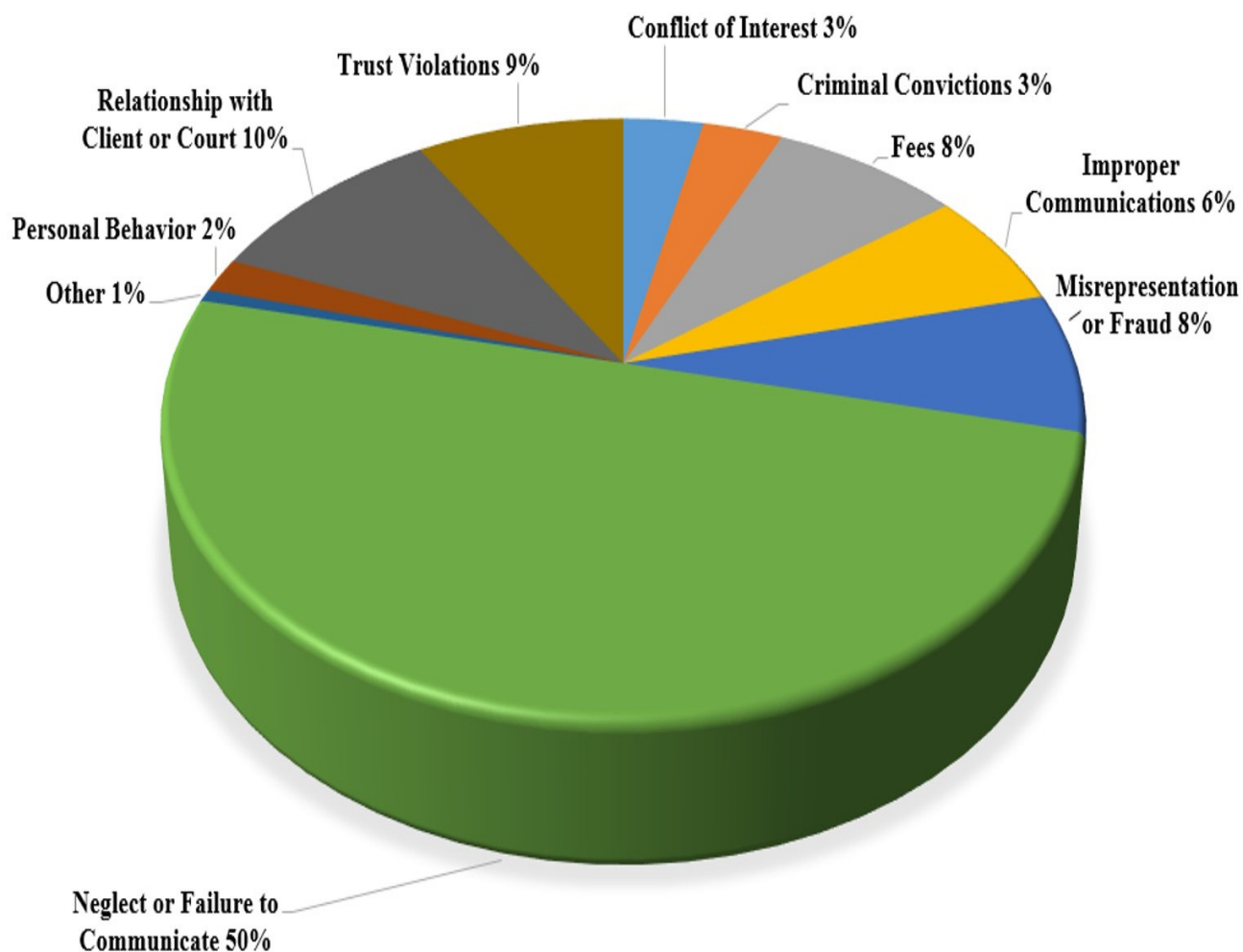
Disciplinary Counsel investigate complaints alleging unethical conduct. After investigation, Disciplinary Counsel recommend dismissal of the complaint if there is insufficient proof of a violation of the Rules of Professional Conduct. If the investigated complaint reflects a violation of the Rules of Professional Conduct, Disciplinary Counsel recommend diversion, private informal admonition, private reprimand, public censure, or the filing of formal disciplinary charges. A district committee member reviews and approves or disapproves Disciplinary Counsel's recommendation for dismissal, diversion, and private informal admonition. The Board of Professional Responsibility reviews and approves or disapproves Disciplinary Counsel's recommendation for private reprimand, public censure, and the filing of formal disciplinary charges.

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### A. Nature of Complaints



### B. Investigative Complaint Caseload

Complaints Received:	1,204
Complaints Pending at beginning of Fiscal Year:	<u>475</u>
Total Complaints:	1,679

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#### C. Investigative Complaint Disposition:

Administrative Dismissals:	346
Investigative Dismissals:	491
Diversions:	20
Private Informal Admonitions:	51
Private Reprimands:	22
Informal Public Censures:	30
Consent to Disbarment:	1
Transfer to Disability Inactive:	3
Placed on Retired Status:	20
Other: <sup>1</sup>	20
Total Complaints Processed:	1,004

#### ▪ Formal Disciplinary Proceedings:

After the Board of Professional Responsibility authorizes Disciplinary Counsel to file formal disciplinary charges (i.e., a petition for discipline) against an attorney, the matter is assigned to three district committee members who constitute a hearing panel. The Hearing Panel sets the disciplinary proceeding for a hearing which is open to the public unless a protective order has been entered. The Tennessee Rules of Evidence and Rules of Civil Procedure apply unless Tennessee Supreme Court Rule 9 provides otherwise.

The Board of Professional Responsibility must prove an attorney's ethical misconduct by a preponderance of the evidence. Hearing Panels may recommend dismissal, public censure, suspension or disbarment.

#### A. Caseload

Formal cases filed during Fiscal Year:	132
Formal cases pending at beginning of Fiscal Year:	<u>85</u>
Total formal proceedings:	217
Public hearings conducted in Fiscal Year:	54

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<sup>1</sup> Abated by death; complaint withdrawn; duplicate file.

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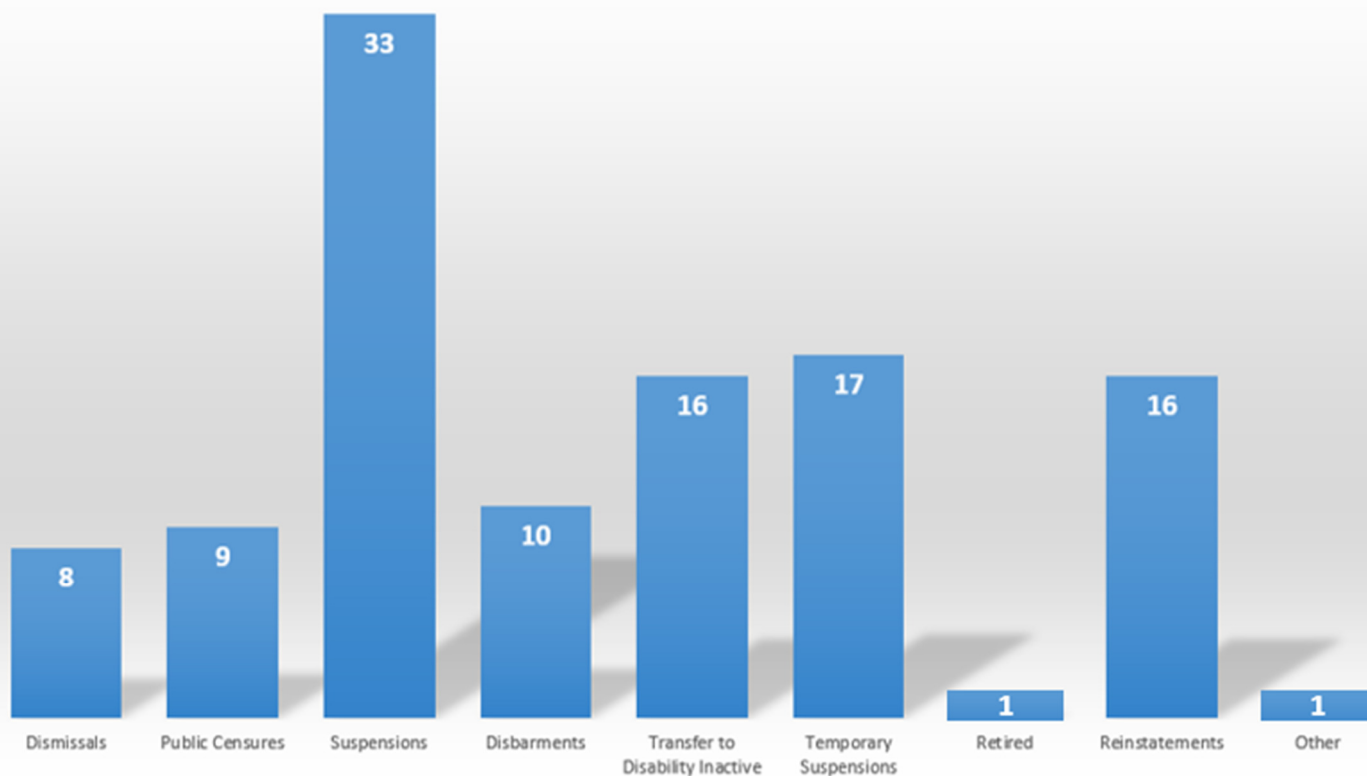
### Fiscal Year July 1, 2014 – June 30, 2015

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#### B. Formal Disciplinary Proceedings Disposition:

Dismissals:	8
Public Censures:	9
Suspensions:	33
Disbarments:	10
Transfer to Disability Inactive:	16
Temporary Suspensions:	17
Retired:	1
Reinstatements:	16
Other <sup>2</sup> :	1
Total:	111

**Resolution of Formal Disciplinary Proceedings**



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<sup>2</sup> Abated by death; voluntary non-suited.

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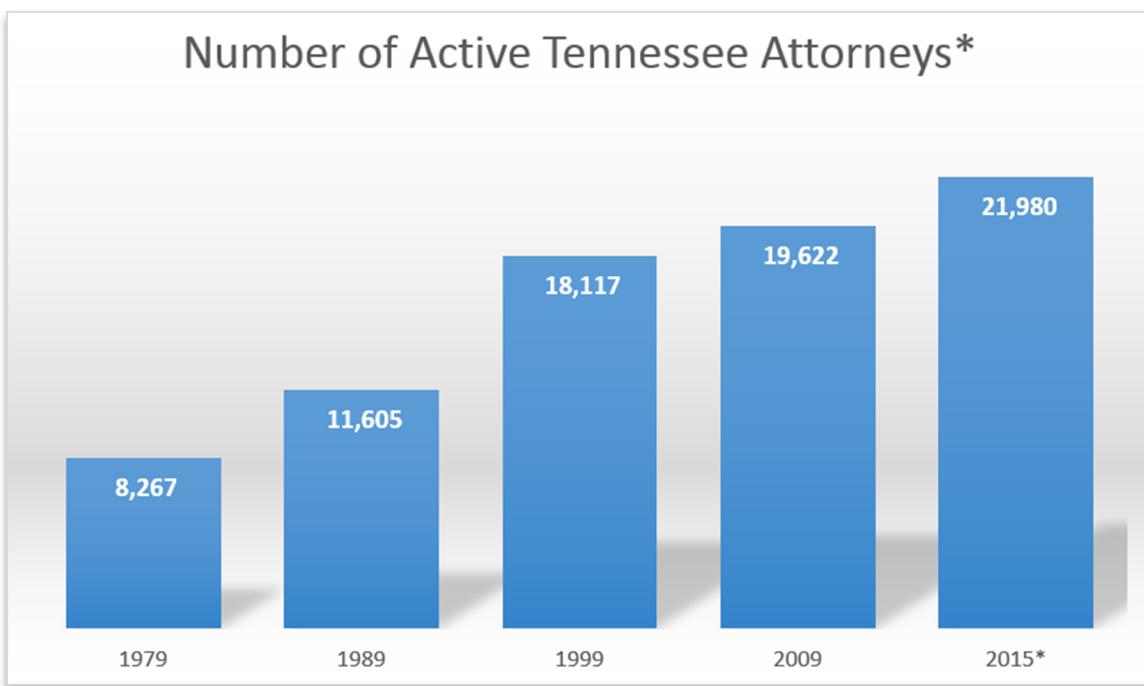
#### ▪ **Non-disciplinary/Administrative Suspensions:**

Pursuant to Supreme Court Rules, the Supreme Court suspends attorneys who fail to pay their annual fee (Tenn. Sup. Ct. R. 9 § 10.6); fail to complete annual continuing legal education requirements (Tenn. Sup. Ct. R. 21 § 7); fail to comply with Interest on Lawyers Trust Account requirements (Tenn. Sup. Ct. R. 43 § 15); fail to pay the Tennessee professional privilege tax (Tenn. Sup. Ct. R. 9 § 26); or default on student loans (Tenn. Sup. Ct. R. 9 § 37). No attorney suspended pursuant to these Rules may resume practice until reinstated by Order of the Supreme Court. Attorneys were administratively suspended during fiscal year 2014-2015 as follows:

Non-payment of Annual Fee:	39
Continuing Legal Education non-compliance:	132
Interest on Lawyer's Trust Accounts non-compliance:	27
Professional Privilege Tax non-compliance:	0
Default on a Student Loan:	2
Total:	<u>200</u>

#### ▪ **Current Number of Tennessee Attorneys**

Active Attorneys:	21,980
Inactive Attorneys:	4,251
Pro Hac Vice Attorneys:	788



\*Attorneys not included in this chart: Inactive attorneys (4,251); Pro hac vice attorneys (788).

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#### ▪ **Education and Information**

The Board issues Formal Ethics Opinions and staff respond to informal ethics questions by phone and internet. Disciplinary Counsel present continuing legal education seminars, publish *Board Notes*, a bi-annual newsletter, and update the Board's website with rule changes, disciplinary decisions and news for attorneys, judges and the public.

##### **A. Ethics Opinions**

Disciplinary Counsel responded to 2,156 phone and internet inquiries from attorneys seeking ethical guidance.<sup>3</sup>

##### **B. Continuing Legal Education (CLE) Presentations:**

Between July 1, 2014 and June 30, 2015, Disciplinary Counsel presented fifty-nine (59) CLE seminars, attended by approximately 3,698 attorneys.

##### **C. *Board Notes*:**

In 2014-2015, the Board emailed *Board Notes*, the Board's bi-annual newsletter to all attorneys and judges and published it on the Board's website.

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<sup>3</sup> Tennessee attorneys may submit ethics inquiries to the Board by calling 615-361-7500, ext. 212, or via the Board's website at [www.tbpr.org](http://www.tbpr.org).

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**Board of Professional Responsibility**  
**Staff Directory**

<b>Name</b>	<b>Title</b>	<b>Extension</b>
Kristi Astafan	Registration Manager	213
Kevin Balkwill	Disciplinary Counsel	223
Eileen Burkhalter Smith	Disciplinary Counsel	210
Patty Burton	Assistant Manager	216
Peyton Carr	Legal Assistant - Investigations	201
Betsy Garber	Disciplinary Counsel	203
Sandy Garrett	Chief Disciplinary Counsel	211
Reynold Gaulden, Jr.	Registration Assistant II	244
Elizabeth Gray	Administrative Scan Clerk	202
Candis Grooms	Case Manager	229
Krisann Hodges	Deputy Chief Disciplinary Counsel	214
Alan Johnson	Disciplinary Counsel	207
Soumya Kademakki	Lead Legal Assistant - Investigations	218
Jason Keeton	Registration Assistant 1	227
Harlene Labrum	Paralegal	220
Carol Marsh	Receptionist	200
Mary McKnight	Lead Legal Assistant - Litigation	224
Bill Moody	Disciplinary Counsel	217
Tony Pros	Network Administrator	230
Suzanne Saucier	Legal Assistant - Litigation	221
Zuzu Savage	Administrative Receivables Clerk	219
Jessica Schraw	CAP Intake Assistant	228
Beverly Sharpe	Director of Consumer Assistance Program	226
Preston Shipp	Disciplinary Counsel	222
Julie Turner	Executive Assistant	209
Joy Vaughn	Legal Assistant - Investigations	242
Cheri Weaver	CAP Legal Assistant	208
Rita Webb	Executive Secretary	206
Russ Willis	Disciplinary Counsel	236
Beverly Yousefzadeh	Administrative Payables Clerk	241

Exhibit A

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## Fiscal Year July 1, 2014 – June 30, 2015

### Board of Professional Responsibility District Committee Member Roster

District	Last Name	First Name
1	Chitwood	Kent
1	Drinnon	Douglas
1	Evans	Curtis Dwaine
1	Gaby	Gene Paul
1	Herndon, IV	Charles "Chip"
1	Johnstone	Frank
1	Miller	Jimmie C. (Ms.)
1	Phillips	William
1	Smith, Jr.	M. Neil
1	Spivey	Sandra
1	Stone	Danny
1	Terry	Braxton
1	Terry	Steve
2	Adams	Oliver Dawson
2	Alley	Keith
2	Barcus	Heidi
2	Berez	Ellen
2	Bosch	Donald
2	Cole	R. Deno
2	Coleman	Greg
2	Compher-Rice	Sara Elizabeth
2	Couch	Virginia
2	Crutchfield	Karen
2	Draper	David A.
2	Dreiser	John Paul
2	Dyer	Alyson
2	Ford	Joe
2	Hall	Christopher
2	Irvine, Jr.	Kenneth
2	King	Michael J.
2	Krumm	Brian K.
2	McDonald	Carl
2	Morrison	Eric J.
2	O'Kane	James
2	O'Rear	Carrie
2	Stephens	Mark
2	Ward	Hugh B.
2	Winters	John
3	Blevins	Melissa
3	Buchanan	Ginger
3	Cannon	Blair
3	Cash	Larry
3	Easterly	Alan
3	Greer	Stephen
3	Hill, Sr.	Cameron S.
3	Hill	Rosemarie L.
3	Jenne	Michael
3	Martin	Alison
3	Oliver	Alicia
3	Shaw	Scott
3	Smith	W. Holt
3	Swofford	Lynne Denell
3	Willhite	Bridget
4	Aaron	Doug

District	Last Name	First Name
4	Bean	Melanie
4	Bobo	S. Todd
4	Hagan, Jr.	A. Ensley
4	Heckman	Kyle B.
4	Looney	Joe Michael
4	O'Mara	Thomas Michael
4	Rambo	Andrew
4	Taylor	John Carson
4	Tucker	Adam Ford
4	Wright, Jr.	Phillip Andrew
5	Aden	Gareth S.
5	Bigelow	Robert C.
5	Campbell	Andrew
5	Carpenter	Brigid
5	Castellarin	Michael M.
5	Crenshaw, Jr.	Waverly
5	Dowlen	Zale
5	Gabbert, Jr.	Craig V.
5	Grant	Charles
5	Harris	Matthew
5	Kinslow	Rhonda
5	Kweller	Stanley A.
5	McGee	Richard
5	McLemore	C.K.
5	Mendes	Robert (Bob)
5	Ney, Jr.	Paul
5	Perry	Andrea P.
5	Potempa	Matthew
5	Raney	Aaron
5	Salas	Maria
5	Sales	Peter
5	Shockley	Gary
5	Simmons	Janelle
5	Sowell	Alan M.
5	Sweeney	Matthew
5	Todd	Daniel
5	Wigger	Gerald C.
5	Wilkinson	Gary
6	Bateman	Robert
6	Bates, III	Douglas T.
6	Baugh, Jr.	Joseph
6	Boston	Ben
6	Bryan	Vanessa
6	Davies	Lee
6	Durham	Ryan P.
6	Flynn	Patrick
6	Free	Mark
6	Garner	Samuel
6	Gill	Ms. Markley
6	Henry, Jr.	Joseph
6	Holt	Charles
6	Jack	Claudia
6	Plant	Paul
6	Rocconi, Jr.	Larry

District	Last Name	First Name
6	Schell	Edward
6	Spitzer	Michael
6	Underwood	Timothy
6	Vandivort	Kirk
6	Walker	Jeffery
7	Finney	Lowe
7	Floyd	Matthew A.
7	Maddox, III	Dwayne
7	Marshall	Teresa
7	McLean, Jr.	Hugh
7	Reynolds	Jay
7	Scott	Clint
7	Thorne	Leanne A.
7	Townsend, Jr.	Edwin C.
7	Wilkinson	Guy T.
8	Dedmon	Dean
8	Flippin	Floyd
8	Jenkins, Jr.	William L.
8	Maness	Tony
8	McEwen	Jennifer Deen
8	Taylor, IV	Jasper
8	Unger, Jr.	Langdon
8	Washburn	Jeffery
9	Aluko	Phyllis
9	Babaoglu	Rehim
9	Baker	Marjorie
9	Beard	Craig
9	Bearman	David
9	Branch	Thomas
9	Canale	Stuart
9	Cassidy, Jr.	Tom
9	Click	Rick
9	Diggs	Asia
9	Donelson	Vivian Ray
9	Elder	Alex
9	Halmon	Harriett
9	Jones	Les
9	Jordan	Trey
9	Kellum	Timothy
9	Lait	Hayden
9	Mangrum	Gregory
9	Mathis	Andre
9	McNabb	Leland
9	Ostrow	Max
9	Quinn	Arthur
9	Reisman	Marc
9	Roan	Leah
9	Tauer	Michael
9	Turner	Kamilah
9	Vincent	Scott
9	Wackerfuss	Richard
9	Waddell	Amanda
9	Walsh	John Kevin
9	Wharton	Andre