

# **Board of Professional Responsibility**

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## **40<sup>th</sup> Annual Discipline Report Fiscal Year July 1, 2020 – June 30, 2021**

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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 2020-2021, Board members volunteered 694 hours and received no compensation for their service. Members of the Board include:

Floyd Flippin (Chair)  
Joe M. Looney (Vice-Chair)  
Sheriff Floyd Bonner (Lay Member)  
Stacey B. Edmonson  
Ruth Ellis  
Charles K. Grant  
Jennifer S. Hagerman  
Jon Lundberg (Lay Member)  
Jimmie C. Miller  
Juanita Patton (Lay Member)  
Jody Pickens  
Bridget Willhite

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 2020-2021, 183 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 183 members, 156 reported volunteering 1,792 hours in 2020-2021 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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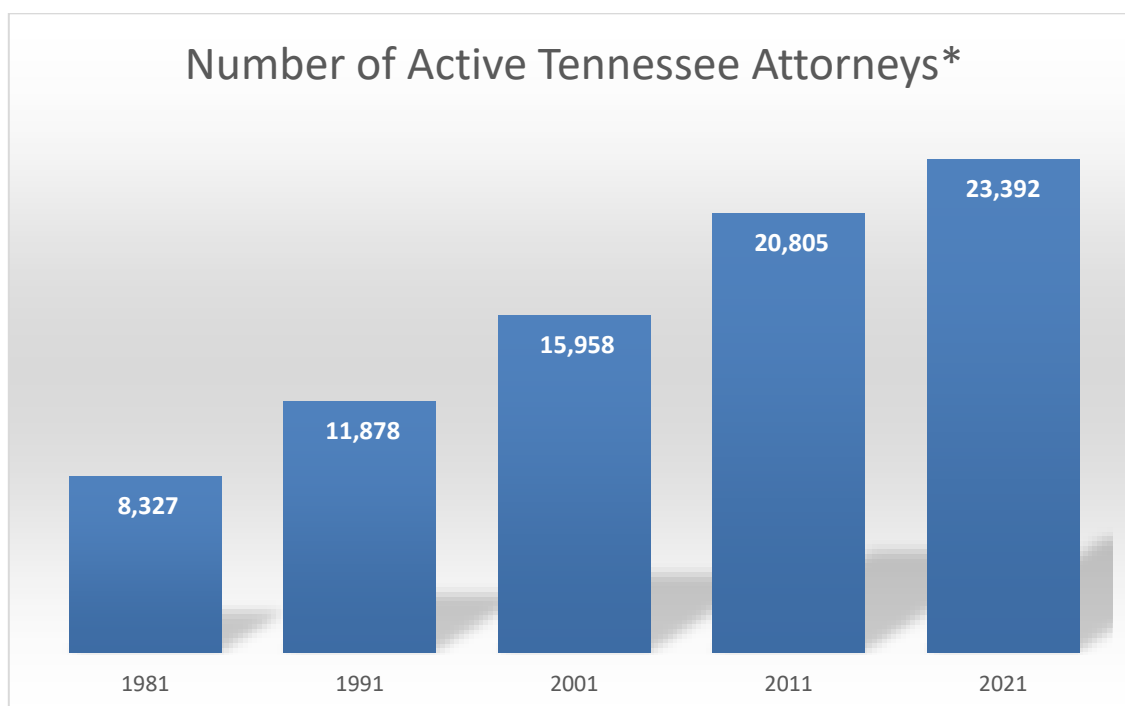
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### Tennessee Attorney Information

The Board of Professional Responsibility provides an easy-to-use online registration system that allows lawyers to fulfill their annual registration requirements. We collect and make available public registration information on our website to allow the judiciary, lawyers and the public to access licensing, registration and contact information about lawyers.

**Active Attorneys: 23,392**



### Active Attorney Statistics:

- |                   |             |     |                       |                           |     |
|-------------------|-------------|-----|-----------------------|---------------------------|-----|
| ▪ Years Licensed: | <5 yrs:     | 12% | • Age:                | 21-29 yrs:                | 5%  |
|                   | 5-10 yrs:   | 16% |                       | 30-39 yrs:                | 22% |
|                   | 10-15 yrs:  | 16% |                       | 40-49 yrs:                | 24% |
|                   | 15-20 yrs:  | 13% |                       | 50-59 yrs:                | 21% |
|                   | 20-30 yrs:  | 20% |                       | 60-69 yrs:                | 17% |
|                   | 31+ yrs:    | 23% |                       | 70+ yrs:                  | 11% |
| ▪ Gender:         | Male:       | 62% | • In-state Attorneys: | 82%                       |     |
|                   | Female:     | 36% |                       | • Out-of-state Attorneys: | 18% |
|                   | Unreported: | 2%  |                       |                           |     |

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**Inactive Attorneys**

Pursuant to Tennessee Supreme Court Rule 9, Section 10.3, inactive attorneys include attorneys serving as justice, judge or magistrate of a court of the United States of America or who serve in any federal office in which the attorney is prohibited by federal law from engaging in the practice of law; retired attorneys; attorneys on temporary duty with the armed forces; faculty members of Tennessee law schools who do not practice law; and attorneys not engaged in the practice of law in Tennessee. In 2020-2021, 5,503 attorneys on inactive status were registered with the Board of Professional Responsibility.

▪ **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 2020-2021 as follows:

Non-payment of Annual Fee:	193
Continuing Legal Education non-compliance:	149
Interest on Lawyer’s Trust Accounts non-compliance:	55
Professional Privilege Tax non-compliance:	71
Default on a Student Loan:	<u>0</u>
Total:	468

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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	2,072
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Timeliness of Resolution

0 to 15 days	73.2%
16 to 30 days	12.0%
31 to 60 days	8.6%
61 or more days	6.2%

Actions Taken

Mediate	37.5 %
Advise	41.6%
Referrals	14.4%
Provide Information	6.5%

▪ **Trust Account Overdraft Notifications**

Pursuant to Tennessee Supreme Court Rule 9, Section 35.1(b), financial institutions report to the Board whenever any properly payable instrument is presented against an attorney trust account containing insufficient funds. After receiving notification of an overdraft, Board Staff request financial information and explanation from the attorney.

<u>Total Notifications:</u>	83
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Actions Taken

Referred to Investigations:	41
Referred to Litigation:	1
Resolved without Investigation:	40

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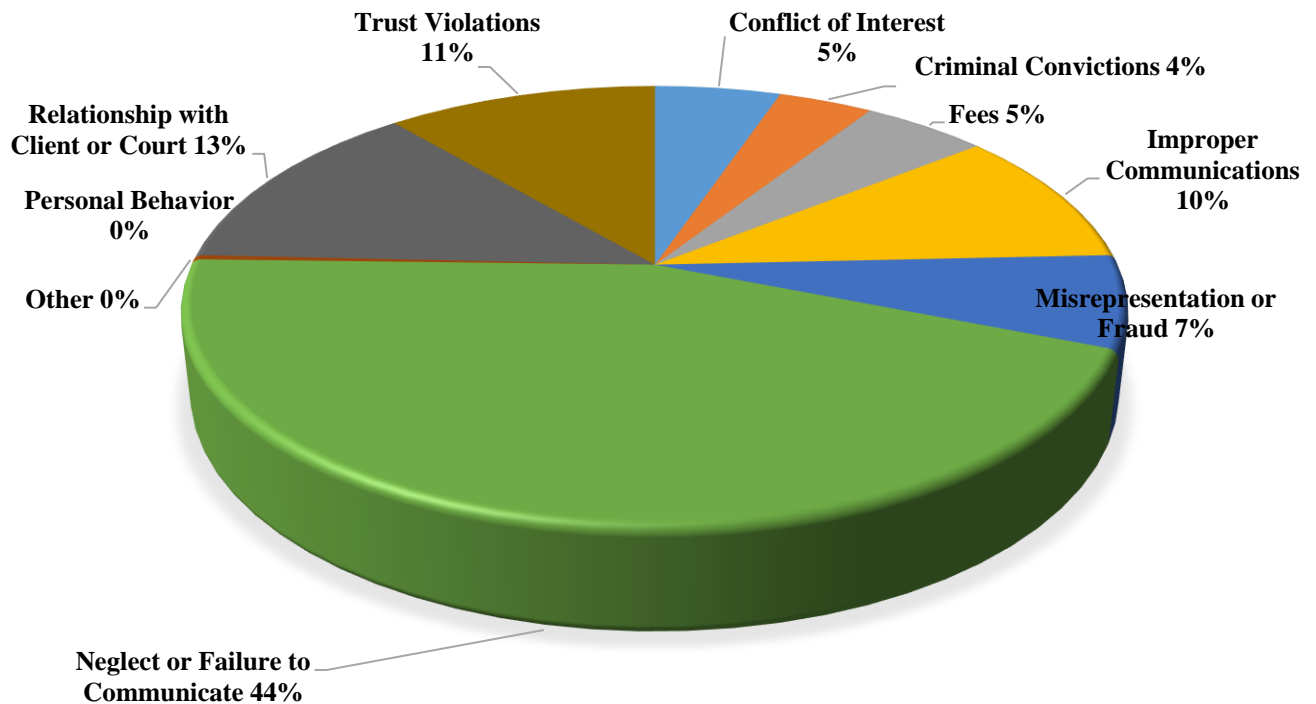
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▪ **Investigation**

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.

**A. Nature of Complaints**



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**B. Investigative Complaint Caseload**

Complaints Received:	1,134
Complaints Pending at beginning of Fiscal Year:	<u>394</u>
 Total Complaints:	 1,528

**C. Investigative Complaint Disposition:**

Administrative Dismissals:	475
Investigative Dismissals:	453
Diversions:	33
Private Informal Admonitions:	17
Private Reprimands:	21
Informal Public Censures:	31
Transfer to Disability Inactive:	18
Placed on Retired Status:	34
Other: <sup>1</sup>	<u>10</u>
 Total:	 1,092

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

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▪ **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:	81
Formal cases pending at beginning of Fiscal Year:	98
Total formal proceedings:	179
Public hearings conducted in Fiscal Year:	29

**B. Formal Disciplinary Proceedings Disposition:**

Dismissals:	7
Public Censures:	7
Suspensions:	19
Disbarments:	11
Transfer to Disability Inactive:	10
Temporary Suspensions:	5
Retired:	1
Reinstatements:	10
Other <sup>2</sup> :	<u>8</u>
Total:	78

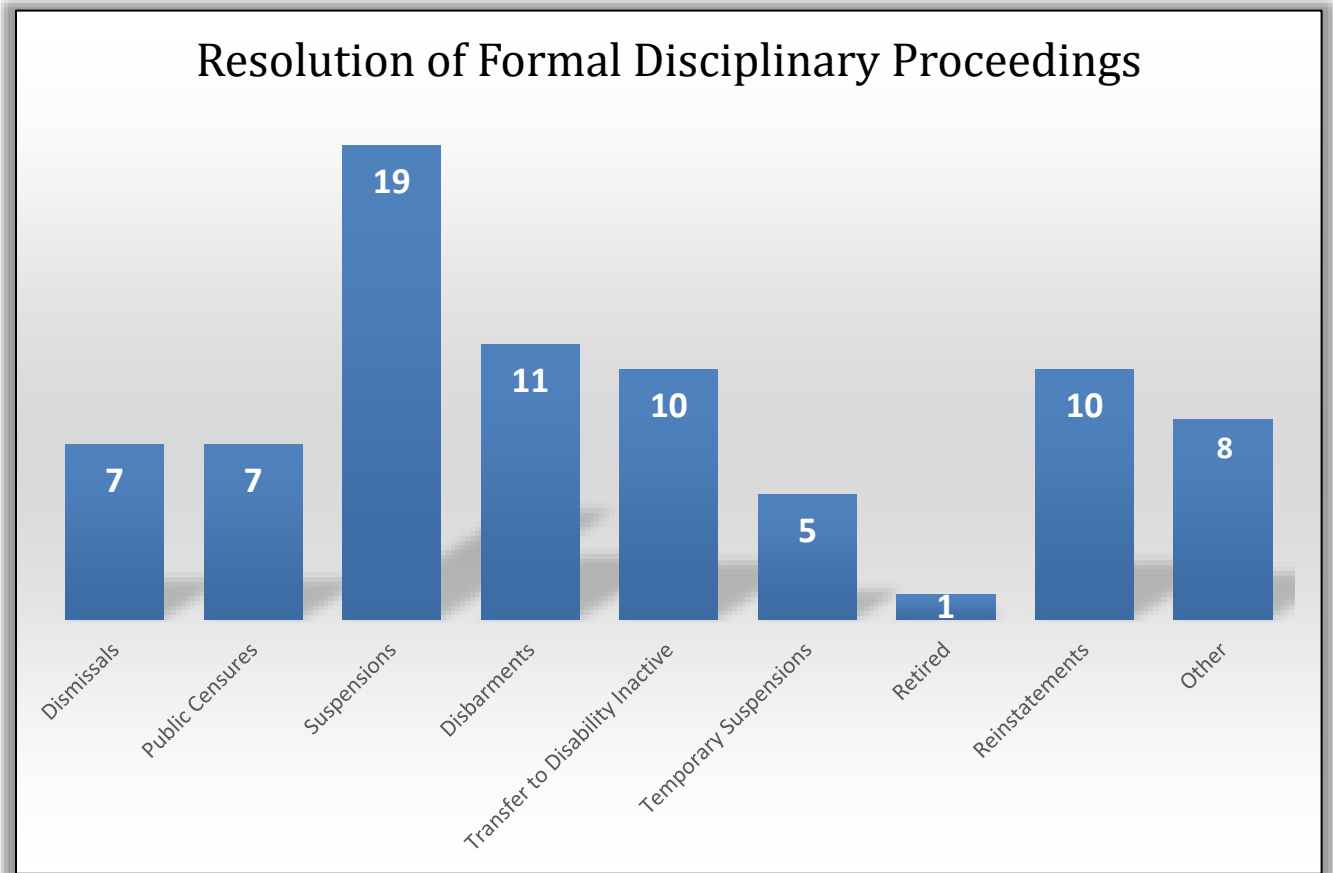
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<sup>2</sup> Abated by death; voluntary non-suited; denied; withdrawn; nonserious crime.

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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 and workshops, 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**

i. Informal Opinions

Ethics Counsel and Disciplinary Counsel responded to a total of 2,105 phone and internet inquiries from attorneys seeking ethical guidance.<sup>3</sup>

ii. Formal Opinions

The Board did not issue any formal ethics opinions this fiscal year.

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

Between July 1, 2020 and June 30, 2021, Disciplinary Counsel presented thirty-seven (37) CLE seminars, attended by approximately 1,798 attorneys.

**C. Board Notes:**

In 2020-2021, the Board emailed both Fall and Spring issues of *Board Notes*, the Board’s semi-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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**D. Workshops**

- a. The Board of Professional Responsibility hosts an annual Ethics Workshop. Due to the COVID-19 Pandemic, the 2020 Ethics Workshop was cancelled. The Board's Workshop is returning on November 12, 2021.
- b. Since August 2018, the Board of Professional Responsibility has offered a Trust Account workshop. Two trust account workshops were held in 2020/2021.

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**Staff Directory**

<b>Name</b>	<b>Title</b>	<b>Extension</b>
Doug Bergeron	Disciplinary Counsel	247
Carol Bershatsky	Receptionist	200
Shilina B. Brown	Disciplinary Counsel	232
Joe Byrd	Disciplinary Counsel	246
Melanie Cail	Legal Assistant - Litigation	237
Laura Chastain	Ethics Counsel	212
Steve Christopher	Deputy Chief Disciplinary Counsel - Investigations	203
Dana Dunn	Assistant Director	209
Sandy Garrett	Chief Disciplinary Counsel	211
Reynold Gaulden, Jr.	Registration Assistant II	244
Elizabeth Gray	Administrative Assistant-Registration/ Scanning	202
Penny Greene	Administrative Payables Clerk	219
Kelly Heflin	Legal Assistant - Investigations	242
McKenzie Hollars	CAP Legal Assistant	228
Alan Johnson	Disciplinary Counsel	207
Katherine Jennings	Executive Secretary	206
Cheryl Lang	Administrative Scan Clerk	234
Molly Liens	CAP Legal Assistant	252
Mary McKnight	Registration Manager	213
James W. Milam	Disciplinary Counsel	245
Diane M. Nisbet	Disciplinary Counsel	231
Tony Pros	Network Administrator	205
Liz Radford	Legal Assistant – Investigations and Litigation	238
Beverly Sharpe	Director of Consumer Assistance Program	226
Pennye Sisk	Lead Legal Assistant - Litigation	248
Eileen Burkhalter Smith	Disciplinary Counsel	210
Candis Story	Case Manager	229
Giselle Sutherland	Paralegal	224
Suzie Thurber	Administrative Receivables Clerk	241
Cheri Weaver	CAP Paralegal	208
Lani White	Registration and Scan Clerk	234
Russ Willis	Deputy Chief Disciplinary Counsel - Litigation	214

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## Fiscal Year July 1, 2020 – June 30, 2021

### District Committee Member Roster

District	First Name	Last Name	District	First Name	Last Name	District	First Name	Last Name
1	Guy W.	Blackwell	4	Christina	Duncan	6	Clint	Kelly
1	Julie	Canter	4	Michael R.	Gaiamo**	6	David	Kozlowski
1	McKenna L. (Ms.)	Cox	4	Joy	Gothard	6	Eric	Larsen
1	James B.	Dunn	4	A. Ensley	Hagan, Jr.	6	Patricia A. (Pat) (Ms.)	McDade
1	William B.	Harper	4	Kyle B.	Heckman	6	Tracy (Mr.)	Moore
1	Olen	Haynes, Jr.	4	Jeffrey	Henry	6	James Y.	Ross, Sr.
1	K. Kidwell	King, Jr.	4	Robert W.	Newman	6	Raymond	Runyon**
1	Richard E.	Ladd, Jr.	4	Lynn (Ms.)	Omohundro	6	Michael Stuart	Saylor
1	Polly A.	Peterson	4	Daniel	Rader, IV**	6	Liz	Sitgreaves
1	Nikki C.	Pierce	4	Donna S.	Simpson**	6	Jerry V.	Smith
1	Mark A.	Skelton	4	Randall	York	6	Jake	Wolaver
1	M. Neil	Smith, Jr.	5	John M.	Baird	7	Andy	Anderson
1	Andrew T.	Wampler	5	Adam	Barber**	7	Shaun	Brown**
1	Laura	Woods	5	Keene W.	Bartley	7	Matthew A.	Floyd
2	Wm. Dale	Amburn	5	Robert C.	Bigelow	7	Paul	Hessing
2	Maha (Ms.)	Ayesh	5	Kenneth	Bryant	7	Lisa	Houston**
2	Heidi	Barcus	5	Michael M.	Castellarin	7	Joseph	Howell
2	Amanda M.	Busby	5	Jad A.	Duncan	7	Steven W.	Maroney
2	John W.	Butler	5	Johnny	Ellis	7	William J.	Milam
2	Robert "Scott"	Carpenter	5	Christopher B.	Fowler	7	(William) Josh	Morrow**
2	James C. "Chris"	Cone	5	Craig V.	Gabbert, Jr.	7	Vincent	Seiler
2	Loretta G.	Cravens	5	Matthew	Harris**	7	Michelle	Shirley
2	David A.	Draper	5	Candi R.	Henry	7	Leanne A.	Thorne
2	Shannon (Ms.)	Egle	5	Adam	Hill	7	Edwin C.	Townsend, Jr.
2	John E.	Eldridge	5	Lucas	Jerkins	7	Joe	VanDyke
2	Steve	Erdely**	5	Stanley A.	Kweller	8	Bill	Bowen
2	Matthew A.	Grossman**	5	Raymond	Leathers**	8	Dean	Dedmon
2	Christopher A.	Hall	5	Richard	McGee	8	Jeff	Lay
2	Lisa J.	Hall	5	Bill	O'Bryan	8	Amber	Shaw
2	Josh	Hedrick	5	Anthony (Tony)	Orlandi**	8	Joseph E.	Tubbs
2	Russell	Johnson	5	Steven D.	Parman	8	John (Jack)	Warner, III
2	Michael J.	King**	5	Andrea P.	Perry	8	Vanessa	Webb
2	Brian K.	Krumm	5	Barbara	Perutelli**	8	Allison S.	Whitledge
2	Stephen A.	Marcum	5	Brant	Phillips**	9	Imad (Mr.)	Abdullah
2	Carl P.	McDonald	5	Lee (Mr.)	Pope	9	Karen	Campbell
2	Eric J.	Morrison	5	Raymond G.	Prince	9	Stuart	Canale
2	Ben	Mullins**	5	Peter C.	Robison	9	Margaret	Chesney
2	Marshall H.	Peterson	5	Abby	Rubenfeld	9	Frank	Childress
2	Mary Ann	Stackhouse	5	Christopher C.	Sabis	9	Brian	Coleman**
2	Kevin	Teeters	5	(Denise) Billye	Sanders**	9	David	Cook**
2	Victoria B.	Tillman	5	Michael J.	Sandler, Sr.	9	Anne B.	Davis
2	Hanson R.	Tipton	5	Jennifer Lynne	Sheppard	9	Laura	Deakins
2	Brian	Wanamaker	5	Rebekah	Shulman	9	Asia	Diggs
2	Shelly	Wilson	5	Lesla	Skoney	9	Jessica	Ferrante
2	Clint	Woodfin	5	Jeffrey	Spark	9	Amber	Floyd
2	Broderick	Young	5	Taylor C. (Mr.)	Sutherland	9	Nicole	Grida**
3	Peter	Alliman	5	David J.	Tarpley	9	Greg	Grisham**
3	John H. (Cam)	Cameron, Jr.	5	James Patrick	Warfield	9	Lauren	Holloway
3	John M.	Carson III	5	Bernadette	Welch	9	Sean A.	Hunt
3	Larry	Cash	5	Gerald C.	Wigger	9	Robbin (Ms.)	Hutton
3	Stephen D.	Crump	5	Luther	Wright, Jr.**	9	Adam	Johnson
3	Rachel	Fisher-Queen**	5	Stephen	Zralek	9	Julia	Kavanagh
3	Rosemarie L.	Hill	6	Douglas T.	Bates, III	9	E. Patrick (Pat)	Lancaster
3	Cameron S.	Hill, Sr.	6	Caroline G.	Beauchamp	9	Andre	Mathis
3	Philip	Jacobs	6	Richard	Boehms	9	Zachary	Moore
3	Bill	Killian	6	Nathan	Brown	9	Melisa	Moore**
3	John F.	Kimball	6	Greg	Burlison	9	Charles "Chip"	Morrow
3	Jeffrey	Maddux	6	Jim	Catalano	9	Kimbrough (Ms.)	Mullins
3	Stevie (Ms.)	Phillips	6	Anita Lynn	Coffinberry	9	Ashley (Ms.)	Patterson
3	H. Chris	Trew	6	Hilary	Duke	9	Michael C.	Patton
3	Carmen	Ware**	6	Ryan P.	Durham	9	Eugene	Podesta
3	William	Weiss	6	Nichole	Dusché	9	Steve	Ragland
4	Doug	Aaron	6	Michael "Jay"	Fahey, II	9	Marc	Reisman
4	William "Howie"	Acuff	6	Rebekah	Fisher	9	Holly J.	Renken
4	Phillip	Bivens	6	Jennifer F.	Franks	9	Jennifer	Sink
4	S. Todd	Bobo	6	Robert H.	Hassell, II	9	Kamilah	Turner
4	Philip Duane	Burnett**	6	Kim (Ms.)	Helper	9	Andre	Wharton
4	Michael	Corley	6	Patricia	Holder	9	Leslie (Ms.)	Yohey (Isaacman)