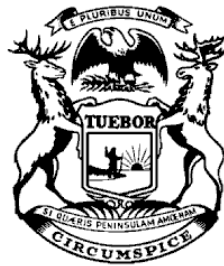


# State of Michigan

## Judicial Tenure Commission

Annual Report 2021



Judicial Tenure Commission  
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**COMMISSIONERS**

HON. JON H. HULSING  
**CHAIRPERSON**  
JAMES W. BURDICK, ESQ.  
**VICE CHAIR**  
HON. BRIAN R. SULLIVAN  
**SECRETARY**

HON. MONTE J. BURMEISTER  
DANIELLE CHANEY  
HON. PABLO CORTES  
SIHAM AWADA JAAFAR  
HON. AMY RONAYNE KRAUSE  
THOMAS J. RYAN, ESQ.



**State of Michigan**

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**Judicial Tenure Commission**

May 27, 2022

Honorable Justices of the Michigan Supreme Court  
Honorable Gretchen Whitmer, Governor  
Honorable Members of the Michigan Legislature  
Honorable Judges

I am pleased to present the 2021 Annual Report of the Michigan Judicial Tenure Commission. This report informs the public and all branches of state government about the Commission's duties, operations, and actions.

The Commission is committed to fulfilling its responsibilities to the people of the State of Michigan. It thanks its devoted and professional staff members for their continued hard work and assistance. We hope the vigilant and dedicated work of the Commission will preserve and promote the public's confidence in the integrity, independence, and fairness of the Michigan judiciary.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jon Hulsing".

Jon H. Hulsing  
Chairperson  
For the Commission

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**COMPOSITION OF THE COMMISSION DURING 2021**

**Hon. Karen Fort Hood, Chair [Deceased]**  
(January 11 – August 15, 2021)  
Court of Appeals  
Elected by Court of Appeals judges

**Hon. Jon H. Hulsing, Chair**  
(August 16, 2021 – present)  
**Vice-Chair (January 11 – August 15, 2021)**  
20<sup>th</sup> Circuit Court  
414 Washington Avenue, Room 303  
Grand Haven, MI 49417  
Term expires 12/31/24  
Elected by Circuit Court judges

**James W. Burdick, Esq., Vice-Chair**  
(September 13, 2021 – present)  
**Secretary (January 11 – September 12, 21)**  
Burdick Law, P.C.  
1760 South Telegraph Road, Suite 300  
Bloomfield Hills, MI 48302-0183  
Term expires 12/31/23  
Elected by State Bar membership

**Hon. Brian R. Sullivan, Secretary**  
(September 13, 2021 - present)  
Third Circuit Court  
2 Woodward Avenue, Room 1101  
Detroit, MI 48226  
Term expired 12/31/24  
Elected by State Bar membership

**Hon. Monte J. Burmeister**  
Crawford County Probate Court  
200 W. Michigan Avenue  
Grayling, MI 49738  
Term expires 12/31/23  
Elected by Probate judges

**Danielle Chaney**  
5603 Kingsfield Drive  
W. Bloomfield, MI 48322  
Term expires 12/31/23  
Appointed by Governor Gretchen Whitmer

**Hon. Pablo Cortes**  
62A District Court  
2650 DeHoop Avenue S.W.  
Grand Rapids, MI 49509  
Term expires 12/31/22  
Elected by District Court judges

**Siham Awada Jaafar**  
3034 W Grand Blvd Suite 8-450  
Detroit, MI 48202  
Term expires 12/31/22  
Appointed by Governor Gretchen Whitmer

**Hon. Amy Ronayne Krause**  
(Elected October 11, 2021)  
Court of Appeals  
925 W. Ottawa Street  
Lansing, MI 48909-7522  
Term expires 12/31/2024  
Elected by Court of Appeals judges

**Thomas J. Ryan, Esq.**  
2055 Orchard Lake Road  
Sylvan Lake, MI 48320  
Term expires 12/31/22  
Elected by State Bar membership

## 2021 COMMISSIONER BIOGRAPHIES

**James W. Burdick, Esq.**, specializes in complex criminal litigation and health care licensing, discipline and reinstatement. In addition to his practice, he has been appointed by federal court to chair, and to be a member of, federal panels evaluating applicants for the position of United States Magistrate Judge, and for sitting Magistrate Judges applying for renewal of their tenure. He has chaired an Attorney Grievance panel since the 1980s, hearing and deciding a multitude of complaints. He has represented clients throughout state and federal courts. Upon earning his Juris Doctorate at University of Michigan Law School, he was recruited by the Wayne County Prosecutor's Office, where he tried dozens of felony cases of all types. During his career in private practice, he has represented hundreds of individuals in criminal investigations, prosecutions and healthcare licensing discipline matters. For seven years he was an active member of the Michigan Board of Medicine.

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**Hon. Monte J. Burmeister** is the probate judge for Crawford County, Michigan. He was elected to the probate bench in 2006 and was reelected in 2012 and 2018. Judge Burmeister was in private practice prior to taking the bench and operated his own law firm from 1999 through 2006. He graduated with a Bachelor of Arts from James Madison College at Michigan State University, with honors, in 1990, and received his Juris Doctor from Wayne State University Law School in 1993. Judge Burmeister is the past President of the Michigan Probate Judges Association. He began his tenure with the Commission in 2013. On February 12, 2108, Judge Burmeister was elected the Commission's Vice-Chairperson, and on January 7, 2019, was elected the Commission's Chairperson.

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**Danielle Chaney** is a human resources professional currently serving as the Chief Human Resources Officer for Development Centers (Detroit). Prior to her role with Development Centers, Ms. Chaney worked in various other leadership roles for organizations such as the City of Detroit-Water and Sewerage Department (DWSD) where she played a vital role in the development of policy and procedure as well as assisted with the negotiation of multiple collective bargaining agreements.

Danielle graduated from Michigan State University in 2002 with a BA in Psychology and is currently pursuing her passion of championing diversity, equity and inclusion in the workplace by completing her Master of Studies in Law-Human Resources at Wayne State University Law School. Ms. Chaney also lends her expertise by providing human resources consulting services to start-up organizations in various industries throughout the country.

In an effort to provide service to all mankind, Ms. Chaney is an active member of Alpha Kappa Alpha Sorority, Inc. (Lambda Pi Omega chapter), a Board member for Teen HYPE, and when time allows, Ms. Chaney provides guidance as a certified Life and Career Coach.

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**Hon. Pablo Cortes** is chief district court judge in the city of Wyoming, Kent County. He was appointed to his seat in 2005 and subsequently elected in 2006, 2008, 2014, and 2020. From 1995 until taking the bench, Judge Cortes served as an assistant prosecuting attorney for Kent County. Judge Cortes graduated from the University of Michigan in Ann Arbor with honors in 1989 and from Wayne State University Law School in Detroit in 1995. He was elected to the Commission in 2010. Aside from his service on the Commission and various community groups, Judge Cortes serves on the board of the Michigan District Court Judges Association and its legislative committee. He has served as an adjunct professor at the Grand Rapids Community College Police Academy and as an

adjunct professor at the Thomas M. Cooley Law School in Grand Rapids. Judge Cortes served as the Commission's Secretary in 2013 and 2014. He served as the Commission's Vice-Chairperson in 2015 and 2016, and the Commission's Chairperson in 2017 and 2018.

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**[We note with great sadness that Judge Fort Hood passed away on August 15, 2021]**

**Hon. Karen Fort Hood** was a Court of Appeals judge. In November 2002 she made history as the first African American woman ever to be elected to the Michigan Court of Appeals. A former Detroit Public Schools teacher and probation officer, Judge Fort Hood was elected to the Recorder's Court bench in 1992. In January 1999 she became presiding judge of the Wayne County Circuit Court, Criminal Division. As presiding judge, she handled administrative duties relative to the court, including the adjournment of cases, disqualification of judges, discipline of attorneys, and resolution of conflicts between the thirty-one judges of the Criminal Division. In addition, Judge Fort Hood presided over the entire domestic violence docket for the Wayne County Circuit Court. Judge Fort Hood also carried a docket of other criminal cases.

Before being elected to the bench, Judge Fort Hood was a special assistant prosecutor in Wayne County Juvenile Court. She served from 1984 through 1988, and prosecuted juvenile offender and abuse and neglect cases. From 1989 through 1992 she transferred to the appellate division of the prosecutor's office where she researched, wrote and argued hundreds of briefs and other appellate matters. She was appointed as an assistant prosecuting attorney in 1988, and served until she took the bench in 1992.

Judge Fort Hood was also very active in the community. She was past president of the Association of Black Judges of Michigan and a member of the Wolverine Bar Association, the State Bar of Michigan and the Michigan Judges Association. She was a lifetime member of the Detroit NAACP.

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**Hon. Jon Hulsing** is the Chief Judge pro tem for the 20th Circuit Court in Ottawa County where he has served as a judge since 2006. His docket consists of criminal and civil cases. In 2018 he was elected by Michigan's circuit court judges to be their representative on the Commission. In addition to six years of private law practice, Judge Hulsing served as an Assistant and Senior Assistant Prosecutor in Ottawa County from 1995 to 2006. He began his public service in 1983 as a deputy with the Ottawa County Sheriff's Office and then as a patrolman with the City of Wyoming Police Department. He graduated summa cum laude with a Juris Doctorate from Thomas M. Cooley Law School. In 2020, he became one of 22 national commissioners for the Commission for the Accreditation of Law Enforcement Agencies (CALEA), which establishes best practices for law enforcement agencies.

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**Siham Awada Jaafar** was appointed by Governor Gretchen Whitmer to a term that began on January 17, 2020. As President and CEO of 3D Consulting and Communications, Ms. Jaafar conducts cultural competency and diversity training customized for corporations, law enforcement, government & healthcare agencies, educational institutions and various organizations. She is the Founder and Producer of the award winning nationally acclaimed "Images and Perceptions Diversity Conference" which has been in production in metro-Detroit since 2002 and was introduced in Chicago in 2013.

Ms. Jaafar lives her passion through creating a conversation around diversity and dispelling stereotypes. Her trainings and workshops have proven exceptionally effective in building bridges of communication across racial, religious, ethnic and gender divides. She has been instrumental in creating and producing several projects and initiatives geared towards community and public affairs programs, women in leadership, and scholarship programs, and has also worked extensively with underserved communities to provide mentorship and educational opportunities.

A multi-award winning public relations, diversity & inclusion specialist, Ms. Jaafar is a certified mediator and is currently the President of the Wayne County Dispute Resolution Center (WCDRC) and chairwoman of its Advisory Board. She is a Dearborn Heights Planning Commissioner and served on the board of directors for NAWBO (National Association of Women Business Owners) and was its Public Policy Chairwoman for two years. She is host and producer of “Off the Cuff with Siham Awada Jaafar,” a WDHT TV cable production discussing pertinent issues affecting us locally, nationally as well as internationally. She is the former Chairwoman of the ACCESS Coalition against Domestic Violence, and producer of the “Voices over Violence” program. She is also a founding member of BRIDGES (Building Respect in Diverse Groups to Enhance Sensitivity). Ms. Jaafar feels honored and privileged to have been appointed to the Judicial Tenure Commission and is grateful for the opportunity to serve the state in such a vital role.

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**Hon. Amy Ronayne Krause** was appointed to the Court of Appeals in November of 2010. She was subsequently elected in 2012, 2014 and 2020. Previously, she served as a judge on the 54A District Court in Lansing for nearly eight years, at which time she initiated a domestic violence treatment court with great success at reducing repeat offenders and changing behavior of domestic violence offenders. Judge Ronayne Krause received her Bachelor of Arts from the University of Michigan and her Juris Doctor from the University of Notre Dame Law School.

Judge Ronayne Krause began her legal career as a litigation attorney for a private law firm and then served eight years as an assistant prosecuting attorney, including 4 years supervising a sex crimes prosecution unit. In 1997, she was appointed an Assistant Attorney General by then Attorney General Frank J. Kelley and was the first recipient of the Frank J. Kelley Award for Excellence in Trial Advocacy. Judge Ronayne Krause worked for the Attorney General’s office for more than six years. Prior to taking the bench, Judge Ronayne Krause was elected to serve on the Ingham County Board of Commissioners, during which time she chaired the Law and Courts committee. She was an adjunct professor for the Western Michigan University Thomas M. Cooley Law School and has lectured for the Prosecuting Attorney Association of Michigan (PAAM) and the Criminal Defense Attorneys Association of Michigan (CDAM). She has also taught for the Michigan Judicial Institute, including teaching other district judges at the New Judges Seminar. Judge Ronayne Krause has also served as faculty for the National Council of Juvenile and Family Court Judges, training other judges on a national level regarding best practices in handling domestic violence cases.

Judge Ronayne Krause is also a member and Chairperson of the Michigan Domestic and Sexual Violence Prevention and Treatment Board and has been for almost 12 of the last 19 years, as well as being the chairperson of a statewide effort effectively to investigate sexual assault cases for the State of Michigan. She also serves on the Committee on Model Civil Jury Instructions. Judge Ronayne Krause volunteers to judge mock trial competitions, moot court competitions and to guest lecture for law schools, including the University of Michigan, Michigan State University and Western Michigan University Thomas M. Cooley Law School. Judge Ronayne Krause is a member of the Appellate Practice, Criminal Law, Family Law and Negligence Law sections of the State Bar. She is also a member of the Women Lawyers Association of Michigan Diversity and Inclusion Committee and the National Association of Women Judges.



In September 2007, Judge Ronayne Krause was recognized statewide for her outstanding work in domestic violence prevention and community service with the State Bar of Michigan's Champion of Justice Award. In 2010, she was awarded the Community Service Award from the Greater Lansing Area Chapter of the National Association of Negro Business and Professional Women's Clubs, Inc. (GLAC-NANBPW), and in 2012 she was also awarded the Distinguished Barrister Award from the Davis-Dunnings Bar Association. In 2013, she was honored with the Women Lawyers Association Mid-Michigan (WLAM Mid-Michigan) Carolyn Stell Award. In 2020, she was awarded the Michigan Association for Justice (MAJ) Judicial Excellence Award. She has previously served her community as a board member with the Lansing Educational Advancement Foundation (LEAF) and the Uplift Our Youth Foundation. Currently, she serves on the American Red Cross Bio-Tech Sub-Committee for the Mid-Michigan Chapter and the Williamston Theatre Board of Directors. Judge Ronayne Krause was appointed in 2011 by the Speaker of the House and the Senate Majority Leader to the State Drug Treatment Court Advisory Committee and in 2013 became chair of the committee and continues in that position presently.

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**Thomas J. Ryan, Esq.,** is a member of the State Bar of Michigan, Oakland County Bar Association, and the American Bar Association. Mr. Ryan is a past president of the State Bar of Michigan, serving as its 66<sup>th</sup> president from September 2000 to September 2001. Mr. Ryan served on the Oakland County Bar Association's board of directors and was its president from 1993 to 1994. He received his undergraduate degree from the University of Notre Dame and his law degree from the University of Detroit Mercy. Mr. Ryan has been in the private practice of law since January 1977, and is the attorney for the Village of Beverly Hills, City of Keego Harbor, and the City of the Village of Clarkston. He was attorney for the City of Orchard Lake Village from May 2001 to April 2011, as well as the prosecuting attorney for the Township of Bloomfield from July 1978 to October 2006. Mr. Ryan has previously served as the Commission's Vice Chairperson and Chairperson.

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**Hon. Brian R. Sullivan** was elected to the Wayne County Circuit Court in 1998. He served as presiding judge of the criminal division in 2004 and as the presiding judge of the Wayne County Business Court for about 7 years. Judge Sullivan was a member of the Criminal Jury Instruction Committee for about 12 years and the Model Civil Jury Instruction committee for eleven years (each at the appointment of the Michigan Supreme Court).

Judge Sullivan was an adjunct law school instructor for 10 years. He is a member of the Michigan Board of Law Examiners. Before taking the bench, Judge Sullivan was an assistant prosecuting attorney and in private practice for about 15 years. He also ran a free legal clinic in downtown Detroit at Most Holy Trinity Church for 20 years. Judge Sullivan was elected to the Judicial Tenure Commission to serve a term beginning January 1, 2019.

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# COMMISSION PHOTO



**HON. JON H. HULSING,**  
*Chairperson*



**JAMES W. BURDICK, ESQ.,**  
*Vice Chairperson*



**HON. BRIAN R. SULLIVAN,**  
*Secretary*



**HON. MONTE J. BURMEISTER**



**DANIELLE CHANEY**



**HON. PABLO CORTES**



**SIHAM AWADA JAAFAR**



**HON. AMY RONAYNE  
KRAUSE**



**THOMAS J. RYAN, ESQ.**

## IN MEMORIAM



**HON. KAREN FORT HOOD**  
*1953-2021*



**LYNN A. HELLAND,**  
*Executive Director*

## **I. COMMISSION COMPOSITION & SCOPE OF AUTHORITY**

**T**he Judicial Tenure Commission is an independent state agency. Its purpose is to enforce high standards of ethical conduct for judges. The Commission recognizes that to fairly resolve the merits of each case, judges must be free to act independently and in good faith. At the same time, an effective disciplinary system must hold judges accountable for misconduct.<sup>1</sup>

That means the judicial discipline system must simultaneously protect the public from unethical judicial conduct, preserve the institutional integrity of the judiciary, and attempt to ensure that unsubstantiated complaints do not interfere with the important work judges do. To those ends, the Commission investigates allegations of judicial misconduct and disability, conducts hearings as appropriate, recommends sanctions to the Michigan Supreme Court, and otherwise works to enhance the integrity of the judiciary.

### **A. Composition of the Commission**

The Commission consists of five judges, two attorneys, and two lay persons. All commissioners serve three-year terms, staggered such that three positions are filled each year. The lay commissioners are appointed by the governor. The lawyers are elected by the State Bar of Michigan. Four of the judges are elected by the court on which they serve (Probate, District Court, Circuit Court, Court of Appeals), while one judge is elected at large by the State Bar of Michigan.

### **B. Legal Authority**

#### **1. Michigan Constitution**

The Judicial Tenure Commission was established by a 1968 amendment to the Michigan Constitution. The Commission's authority is set forth in Article 6, section 30 of the Constitution, which is on the Commission's website ([jtc.courts.mi.gov](http://jtc.courts.mi.gov)).

#### **2. Michigan Court Rules**

The Constitution instructs the Michigan Supreme Court to make rules to govern judicial discipline. Chapter 9.200 of the Michigan Court Rules consists of those rules. The Supreme Court revised and renumbered Chapter 9.200 effective September 1, 2019. A copy of the current rules is on the Commission's website ([jtc.courts.mi.gov](http://jtc.courts.mi.gov)).

#### **3. Code of Judicial Conduct**

The Michigan Supreme Court adopted the Michigan Code of Judicial Conduct to establish ethical standards for judges. The Commission enforces the Code, often referred to as the "canons." The current canons are on the Commission's website ([jtc.courts.mi.gov](http://jtc.courts.mi.gov)).

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<sup>1</sup> In this report, a "judge" is any judicial officer within the Commission's jurisdiction, including judges, magistrates, and referees.

### **C. Persons within Commission Jurisdiction**

The Commission has jurisdiction over all active state “judges,” as defined in footnote 1. In 2021, there were 1,289 active judges in Michigan. The Commission also has jurisdiction over a) former judges, if a request for investigation is filed while that judge is still in office or relates to the former judge’s tenure; and b) retired judges who sit by assignment as visiting judges.<sup>2</sup>

The Commission does not have jurisdiction over judicial candidates, federal judges, or administrative law hearing officers such as workers compensation magistrates, department of corrections hearing officials, and the like.

### **D. What the Commission Cannot Do**

The Commission is not an appellate court. The Commission cannot change a judge’s decision. If a court makes an incorrect decision or misapplies the law, that ruling can be changed only through the appellate process.

The Commission also cannot get a judge removed from a case or have a matter transferred to another judge. Nor can the Commission provide legal assistance to individuals or intervene in litigation on behalf of a party.

### **E. What the Commission Can Do**

The Commission’s authority is limited to investigating alleged judicial disability or ethical misconduct, and, if warranted, recommending that the Michigan Supreme Court impose discipline. Judicial misconduct usually involves conduct in conflict with the standards set forth in the Code of Judicial Conduct. Examples of judicial misconduct include inappropriate demeanor (such as bullying or disrespect); improper communication with fewer than all of the parties in a case; failure to disqualify in cases in which the judge has or appears to have a financial or personal interest in the outcome; delay or dereliction in performing judicial duties; flagrant failure to follow the law; and damaging public comment about a pending case. Judicial misconduct may also involve improper off-the-bench activities, including committing a crime (examples include driving under the influence or misappropriating public money) or making false statements. The discipline the Commission can recommend includes public censure, suspension with or without pay, and removal.

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<sup>2</sup> Although the Commission technically has jurisdiction over retired judges, the Michigan Constitution does not authorize any sanction, other than public censure, that is applicable to a judge who is no longer active. For that reason, the Commission generally will not investigate retired judges who are not sitting as visiting judges.

## **II. OVERVIEW OF THE COMPLAINT PROCESS**

### **A. How Matters Come Before the Commission**

**T**he Commission usually begins an investigation based on a “request for investigation” (or “grievance”). Anyone may use the Commission’s complaint form to file a grievance against a judge. The form is on the Commission’s website ([jtc.courts.mi.gov](http://jtc.courts.mi.gov)), or may be obtained in hard copy by contacting the Commission. The court rules require that the person filing the grievance (“the grievant”) have his or her signature notarized to establish that he or she has sworn that the statements made in the grievance are true.

The Commission may also begin an investigation on its own. For example, though the Commission rarely considers complaints made anonymously, it may do so in its discretion. It may also open a file into matters it learns of in other ways, such as news articles or information received in the course of another Commission investigation. The Commission may also begin an investigation at the request of the State Court Administrator or the chief justice of the Michigan Supreme Court.

### **B. Commission Review of Requests for Investigation**

Each properly executed grievance about a Michigan judge is carefully reviewed by the staff. The staff may review the court file to the extent it is available online, if that would be helpful. The staff requests from the grievant or grievant’s attorney any additional information needed to do a preliminary evaluation of the grievance. The staff may not do investigation beyond that until the Commission so authorizes.

After assessing the initial information, the staff prepares a report for the Commission that recommends a course of action. For every grievance, the Commission determines either a) the information provided by the grievant and obtained by the staff does not suggest the judge committed misconduct, and therefore the grievance should not be pursued, or b) there is sufficient evidence of misconduct to warrant further investigation.

If the initial investigation shows the judge did not commit misconduct, the Commission closes the grievance without contacting the judge. The judge is given a copy of the grievance when the Commission closes the case, unless the Commission determines otherwise for good cause.

When the Commission determines a grievance warrants further investigation, it directs the staff to investigate and approves the scope of the investigation. Commission investigations may include interviewing witnesses; obtaining court records and other documents; obtaining transcripts, audio, and video of court proceedings; obtaining a physical or mental examination of a judge; and conducting such other investigation as the issues warrant. The staff reports to the Commission at the conclusion of the investigation, and during it if appropriate.

If the investigation will be aided by obtaining the judge’s comments, the Commission gives the grievance to the judge and asks for comment on some or all of the allegations and the evidence developed. The judge’s response is considered together with all other information developed during the investigation.

## C. Action the Commission Can Take

### 1. Confidential Dispositions

After an investigation, the Commission has several options. If the allegations are found to be untrue or unprovable, the Commission will usually close the case without action. If the Commission determines there was no judicial misconduct, but certain actions of the judge were problematic, the Commission may dismiss with a letter explaining that to the judge.

#### Action the Commission Can Take

- Dismiss
- Dismiss with Explanation
- Dismiss with Caution
- Dismiss with Admonition
- Recommend Private/Public Censure, Suspension, or Removal to Supreme Court

If the Commission determines improper conduct did (or probably did) occur, but was relatively minor, the Commission may dismiss with a letter of caution. A letter of caution advises the judge of the ethical concerns raised by the conduct, and warns that it should not be repeated.

When the investigation reveals misconduct that is more clearly established or more serious, but does not rise to the level that public sanction is appropriate, the Commission may dismiss with a private admonition. An admonition summarizes the Commission's findings about the improper conduct and admonishes the judge not to repeat it.

Explanations, cautions, and admonitions are letters of guidance or reproach that are only sent after the judge has been asked to explain his or her position. They inform the judge so the conduct will not escalate or be repeated. Summaries of conduct that resulted in such letters issued in 2021 are contained in Section IV.

Letters of explanation, caution, and admonition are confidential. Under the strict confidentiality rules that govern judicial misconduct investigations, the Commission and its staff ordinarily cannot advise anyone, even the person who lodged the grievance, of the precise way a grievance was resolved. However, the Commission does inform grievants that a grievance has been dismissed, and in cases in which the dismissal includes some private action, the Commission informs the grievant of that fact, without providing details.

### 2. Public Dispositions

#### a. The Complaint

When misconduct is clear enough and serious enough to warrant a public resolution, the Commission first sends the judge what is known as a "28-Day" letter pursuant to MCR 9.222. The 28-Day letter informs the judge of the charges the Commission anticipates bringing and gives the judge an opportunity to answer those charges. Unless the judge's answer satisfies the Commission, the Commission then issues a complaint. The complaint is the first publicly filed document in the investigation.

The complaint, the judge's answer to it, and all subsequent pleadings are public documents, available for inspection at the Commission's office. To the extent practicable, they are also placed on the Commission's website ([jtc.courts.mi.gov](http://jtc.courts.mi.gov)).

After the complaint is filed, the judge is entitled to inspect and copy all documentary evidence in the Commission's possession that is to be introduced at the hearing on the complaint. The Commission must also give the judge the name and address of any person to be called as a witness, and make available to the judge for inspection or copying all exculpatory material in its possession.

The Commission may petition the Supreme Court for an interim order suspending a judge pending resolution of a complaint, when necessary for the proper administration of justice. In extraordinary circumstances, the Commission may make this request before a complaint is issued.

#### **b. Hearing by Master**

After the Commission files a complaint, it petitions the Supreme Court to appoint a master to conduct a hearing. Masters are typically, though not necessarily, retired Michigan judges.

The judge may be represented by counsel at the hearing and all related proceedings. The evidence in support of the charges is presented by "disciplinary counsel." Disciplinary counsel is typically one or more Commission staff attorneys. The Michigan Rules of Evidence apply to the hearing, which is conducted like a civil trial. The standard of proof in Commission proceedings is by a preponderance of the evidence.

#### **c. Proceedings Following Hearing by Master**

The master holds a hearing to take evidence concerning the complaint, then files a report with the Commission. The report includes a statement of the proceedings, and the master's findings of fact and conclusions of law with respect to the issues presented by the complaint and the judge's answer.

Both the judge and disciplinary counsel may ask the Commission to accept or reject the master's report in part or in whole, and may have oral argument before the Commission.

#### **d. Disposition by Commission**

If the Commission determines there is insufficient evidence of misconduct to sustain the charges, it dismisses them. If, after receiving the master's report and any written or oral argument, the Commission determines that one or more charges in the complaint have been proven, it typically issues a Decision and Recommendation to the Supreme Court. That Decision and Recommendation may recommend that the Supreme Court discipline the judge. The discipline the Commission may recommend is public censure, a suspension of any duration, involuntary retirement, or removal from office. The Commission itself has no authority to discipline a judge; the Michigan Constitution reserves that role for the Supreme Court.

#### **e. Supreme Court Review**

Within 21 days after issuing its Decision and Recommendation, the Commission files the original record in the Supreme Court and serves a copy on the judge. Within 28 days after that, the judge may file a petition in the Supreme Court to modify or reject the Commission's Decision and Recommendation. The Commission has 21 days to respond. Even if the judge does not file a petition, the Supreme Court independently reviews the Commission's Decision and Recommendation.

The judge and Commission both have an opportunity to present oral arguments to the Court. The Court reviews the evidence, then issues an opinion accepting, rejecting, or modifying the Commission's Decision and Recommendation. If the Court finds the judge committed misconduct, it sanctions the judge through censure, suspension, involuntary retirement, removal, or in the case of a consent sanction, such other disciplinary action to which the parties have agreed. The judge may file a motion for rehearing before the Court, unless the Court directs otherwise in its opinion.

#### **D. Confidentiality of Commission Proceedings**

The Michigan Constitution directs the Supreme Court to provide for the confidentiality of complaints to, and investigations by, the Commission. Pursuant to this directive, Michigan Court Rule 9.261 provides that grievances and investigations are strictly confidential, subject to certain limited exceptions, unless and until the Commission issues a complaint against the judge. Although confidential for most purposes, the grievance is typically provided to the judge during the course of the investigation. Further, as a practical matter, once the Commission begins to obtain documents or interview witnesses, the fact of the investigation may become known even though the Commission treats it as confidential.

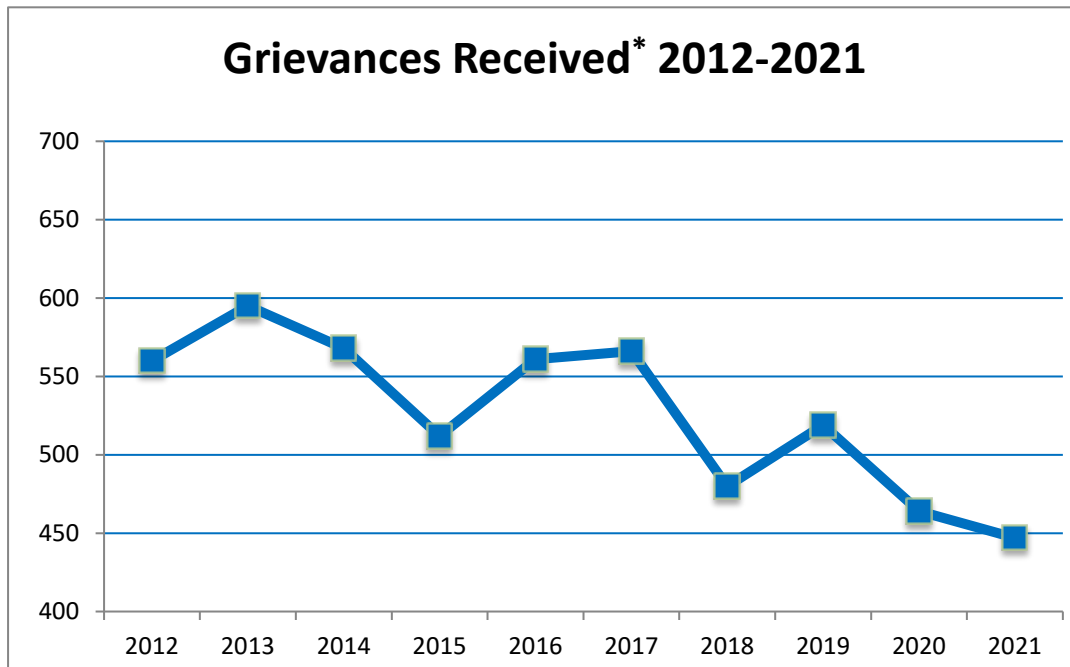
The confidentiality rule provides that once public proceedings are instituted, the complaint, answer, and all subsequent pleadings and proceedings are open to the public. The court rules also permit the Commission publicly to acknowledge an investigation before a complaint is issued, if a majority of Commissioners determine it is in the public interest to do so. Even in such a case, the Commission's statement is limited to either (1) there is an investigation pending, or (2) the investigation is complete and there is insufficient evidence for the Commission to file a complaint. The Commission very rarely determines that it is in the public interest to acknowledge an investigation.



### III. 2021 FACTS & FIGURES

#### A. Complaints Received and Investigated <sup>3</sup>

In 2021 the Commission received 638 requests for its "Request for Investigation" forms. This number does not include downloads from the Commission's website. There were 447 requests for investigation filed in 2021 that complained about actions by a total of 421 judges.



\* For at least 2016 forward, "grievances received" is the total number of complaints against judges, not the number of requests for investigation. For example, if a request for investigation alleges that two judges committed misconduct, this report counts that as two complaints against judges, since each complaint must be investigated separately.

The Commission received fewer grievances in 2020 and 2021 than it had in previous years. Though the reasons are unclear, the drop may be due in part to the pandemic and in part to staff's effort better to explain to potential grievants what the Commission can and cannot do, as a result of which, fewer persons file meritless claims. Though the total grievances have declined, the number of grievances with merit has not declined.

The grievances alleged a wide array of claims. A substantial percentage alleged legal error or expressed dissatisfaction with a judge's discretionary handling of judicial duties, neither of which is misconduct within the authority of the Commission.

<sup>3</sup> The numbers below for filed cases, resolved cases, and other figures, may sometimes appear inconsistent for several reasons: a single request for investigation can name multiple judges or rest on multiple bases; the Commission sometimes opens an investigation on its own, with no request for investigation having been filed; the Commission often addresses multiple requests for investigation regarding a judge in one public complaint, admonishment, or other resolution; and based on the confidentiality restrictions relating to the Commission's investigations, some information relating to cases may not be disclosed.

The Commission also received grievances concerning individuals who did not come under the Commission’s jurisdiction, such as federal judges, former judges, workers’ compensation judges, other government officials and miscellaneous individuals. Commission staff responded to each of these complaints and, when appropriate, made referrals to the proper authority.

**B. Grievance Dispositions**

In 2021 the Commission resolved 395 requests for investigation concerning 364 judges.

2021 CASELOAD	
Grievances pending on 1/1/2021	180
New grievances received in 2021	447
Grievances concluded in 2021	395
Grievances pending on 12/31/2021	224

**1. Closed without Action**

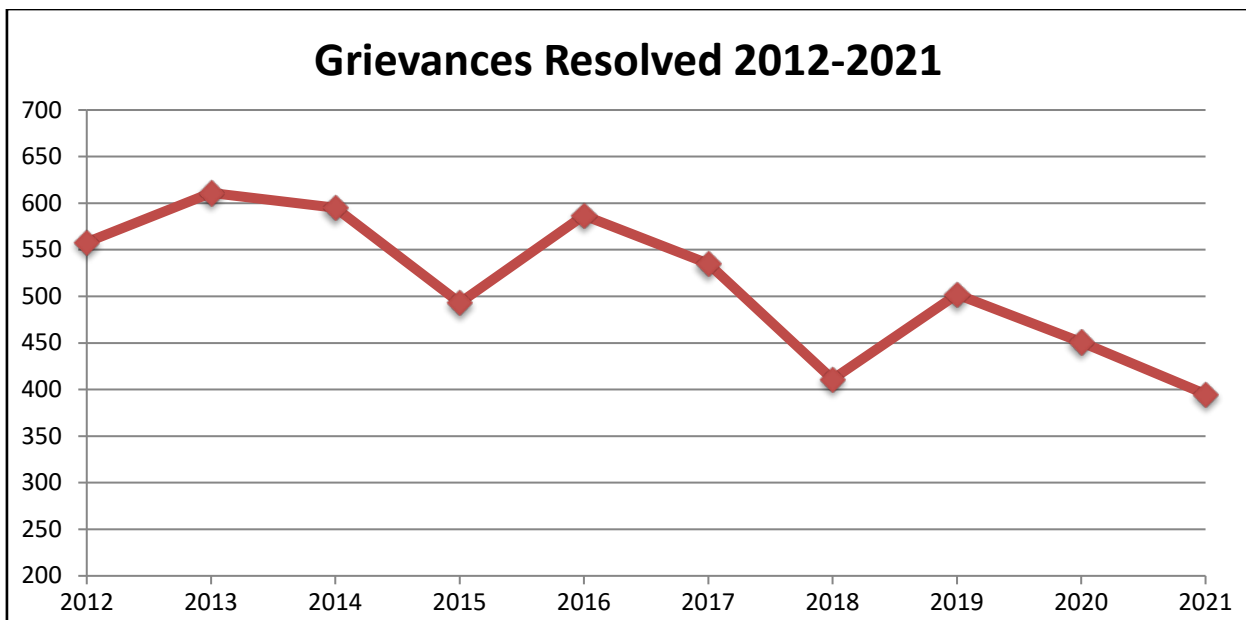
In 386 of the 395 grievances resolved in 2021, the evidence did not demonstrate misconduct after the information necessary to evaluate the grievance was obtained and reviewed. In other words, either these files alleged facts that would not constitute misconduct even if true, or investigation showed the allegations were unfounded or unprovable, or the judge gave an adequate explanation of the situation, or the Commission lacked jurisdiction.

**2. Closed with Private Action**

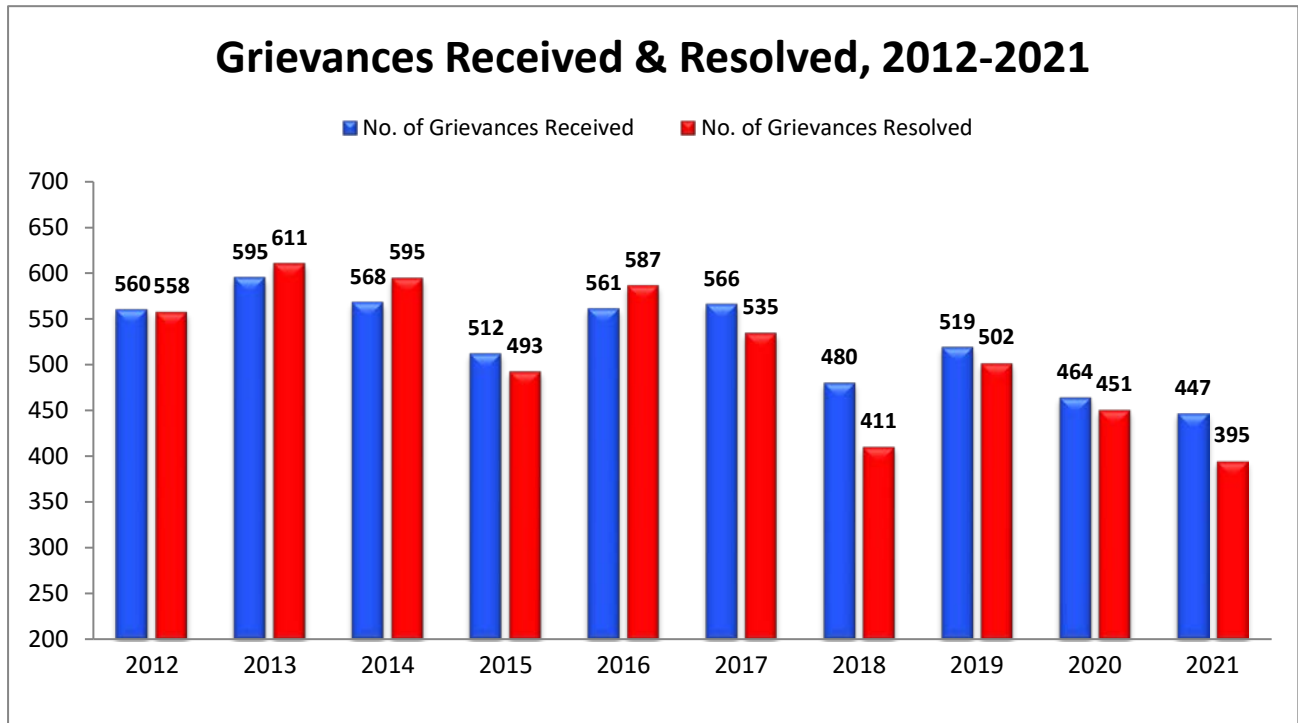
The Commission issued six cautions and three admonitions in 2021. These cases are summarized in Section IV.

**3. Public Action**

The Commission filed no public complaints in 2021. There were four pending public complaints at the close of 2021. They are summarized in Section IV.



With the exception of an unexplained drop in 2018, and a drop in 2020 and 2021 that may be due to the COVID-19 pandemic and due to staff's improved efforts to explain the limits of Commission authority to grievants before they file a grievance, the number of grievances received by the Commission has been fairly constant for more than the last decade. The number of grievances resolved was also fairly constant for many years, until an unexplained increase in the number of complex investigations, that began in 2017 and has continued, coupled with limited staff resources, slowed the resolution of investigations.

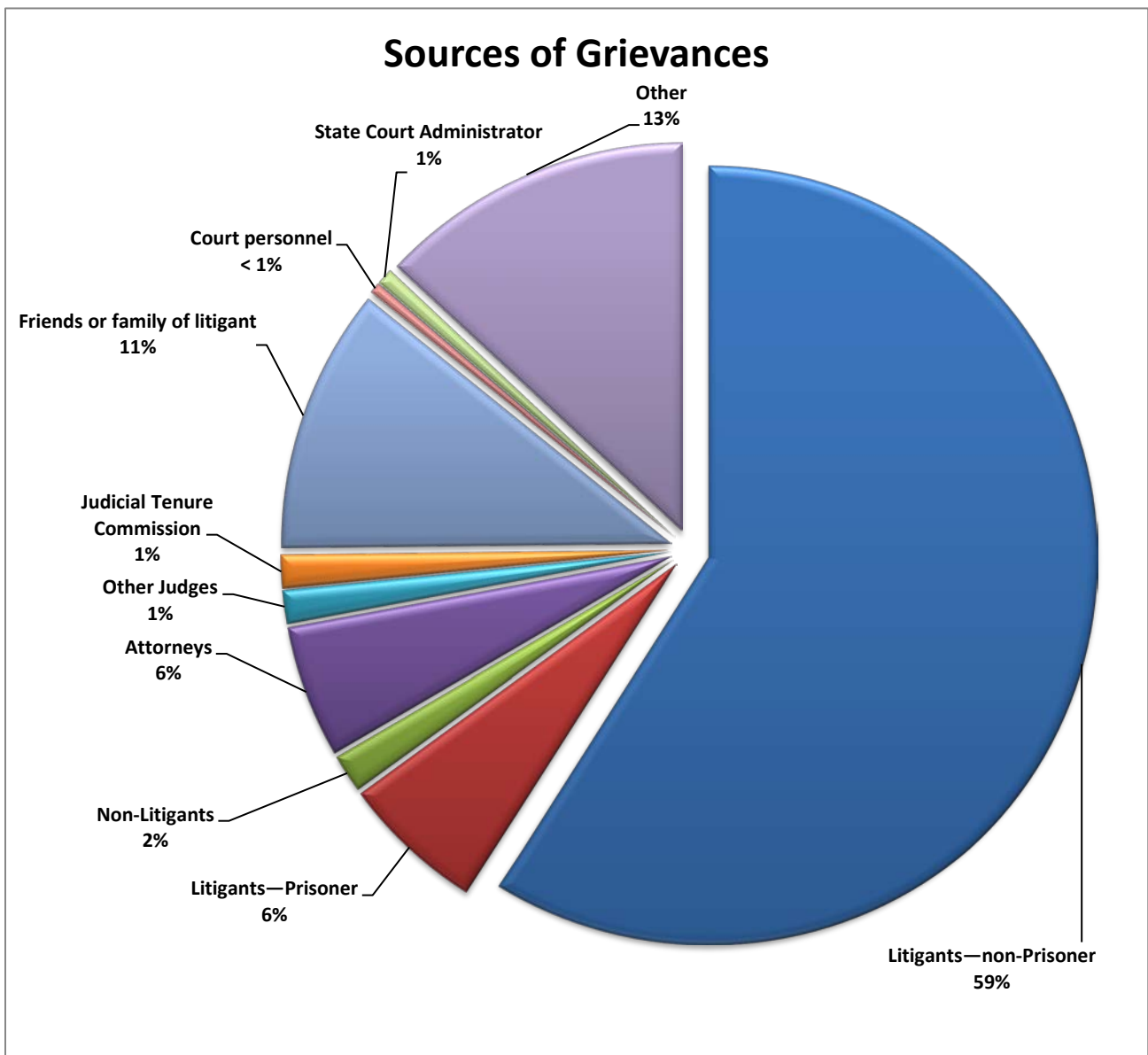


### C. Analysis of Grievances Considered in 2021

The grievances received and resolved by the Commission derived from the following sources, covered the following subject matters, were lodged against the following types of judges, and were resolved as follows. The totals may not equal 447 grievances received (section IIIA) or 395 closed (section IIIB), because some grievances allege more than one type of misconduct and some resolutions concern more than one grievance.

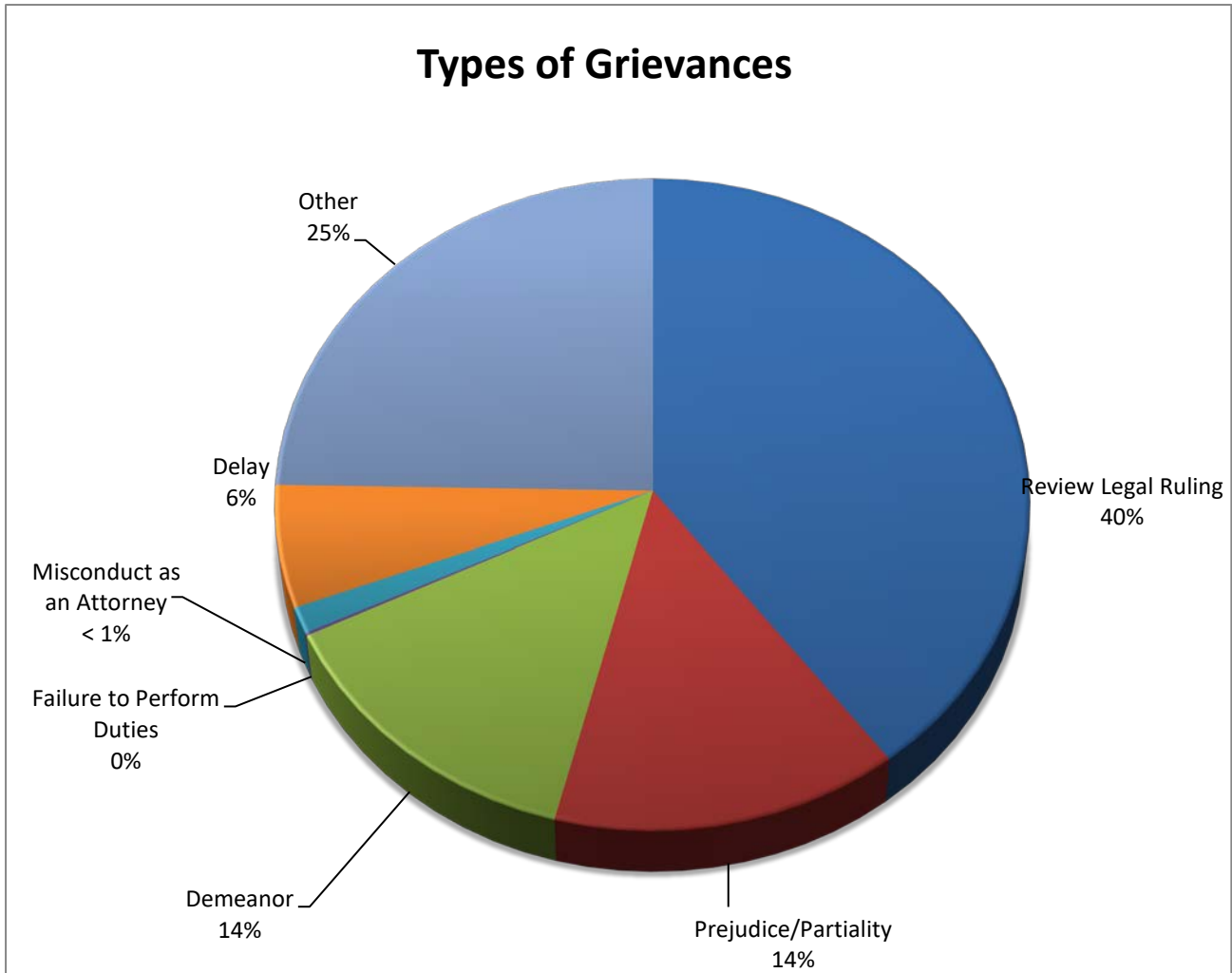
#### 1. Sources of Requests for Investigation

Litigants, acquaintances of litigants, and prisoners filed the majority of requests for investigation, constituting 76% of the total.



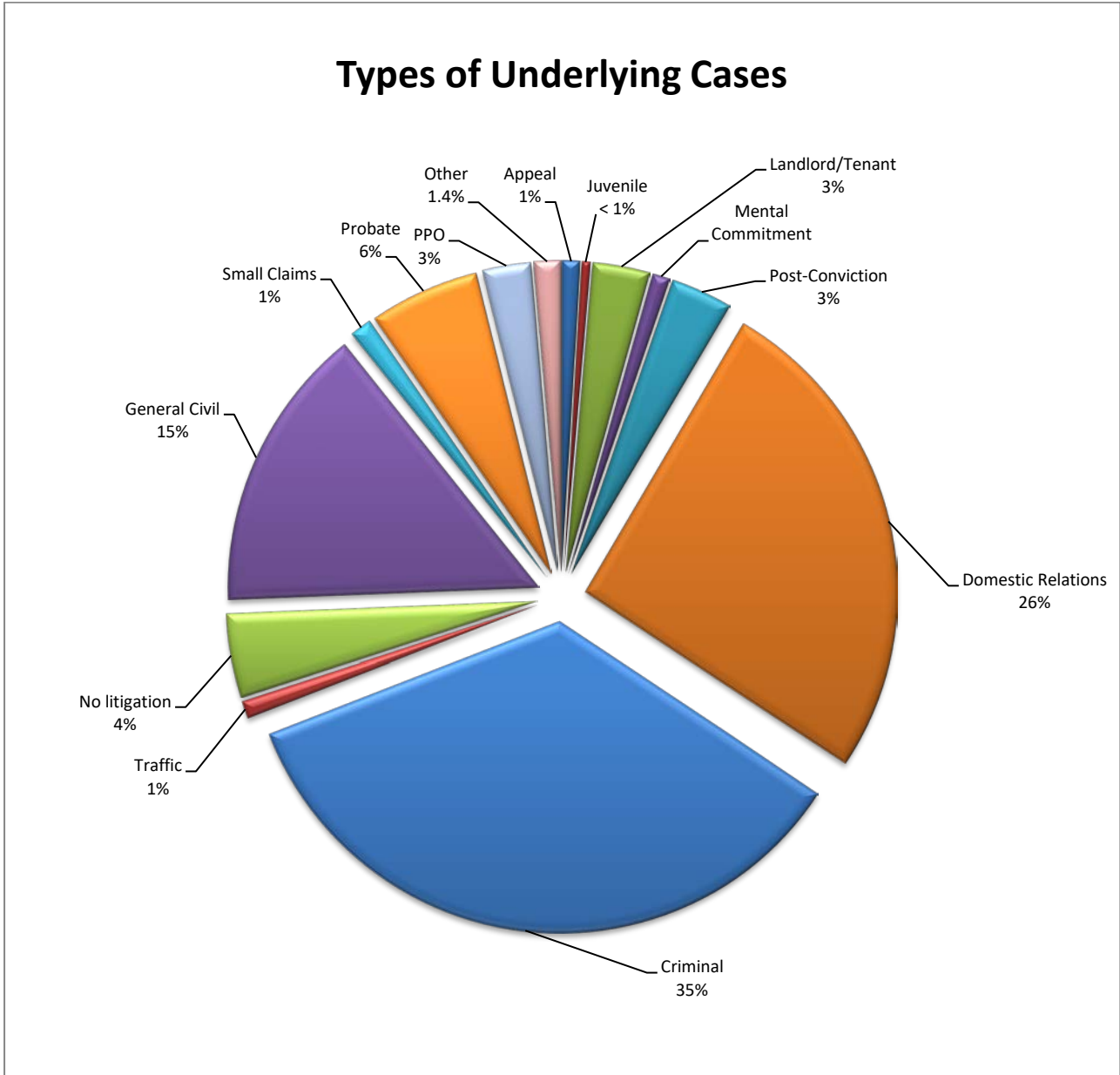
## 2. Subject Matter of Grievances

Approximately half of the 2021 requests for investigation sought to have the Commission review the merits of the underlying case. Since the Commission has no authority to act as an appellate court, those matters were dismissed unless they also included evidence of judicial misconduct.



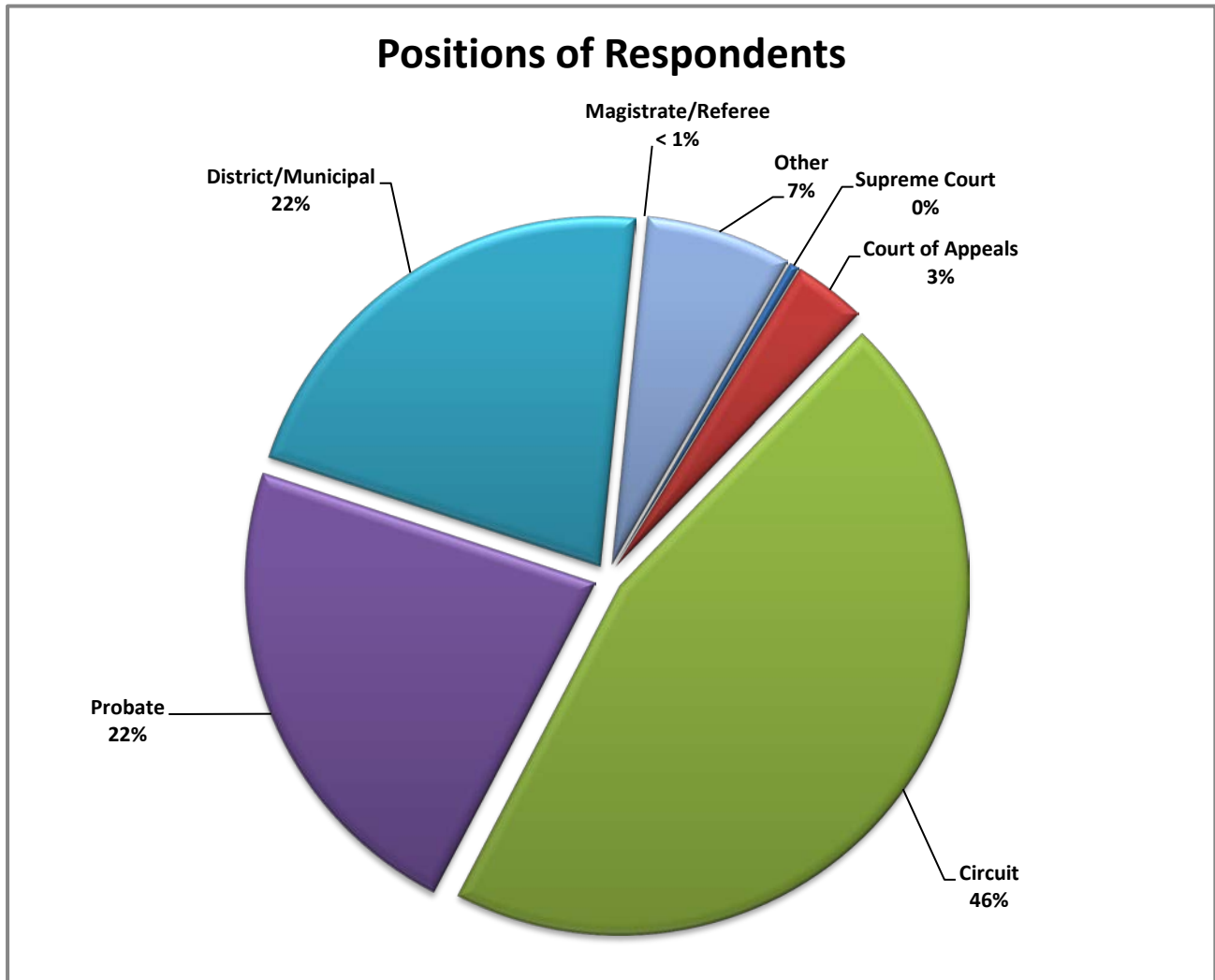
### 3. Nature of Underlying Litigation

Criminal cases, domestic relations matters, and general civil cases most commonly resulted in grievances against the judge in 2021. Those cases combined made up around three quarters of the 2021 requests for investigation. Probate cases resulted in another 6% of requests for investigation.



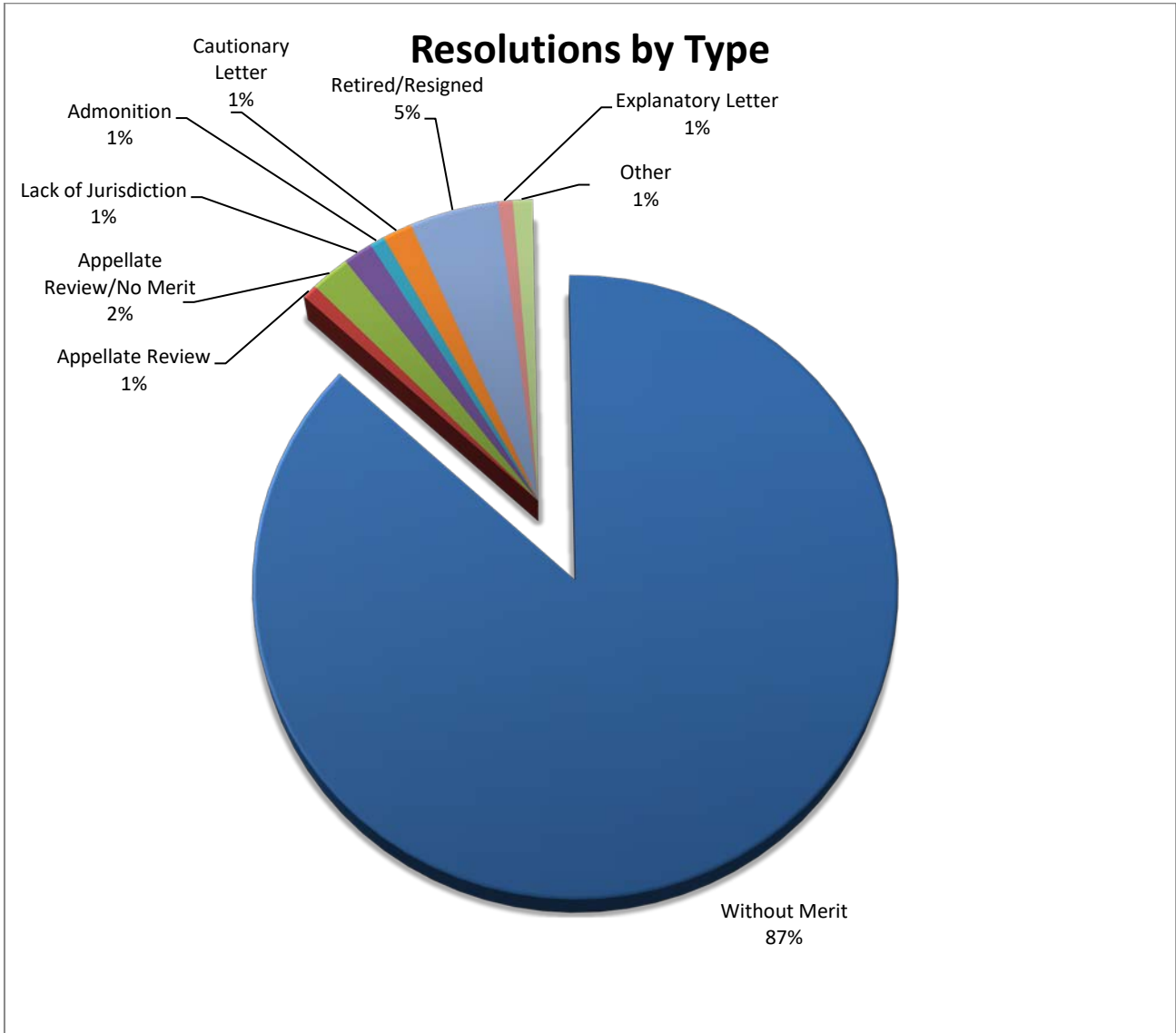
#### 4. Positions of Respondents

Circuit court judges, who comprise less than 20% of the judiciary, were the subject of 46% of the grievances filed in 2021. This is most likely due to circuit judges handling so much of the criminal and domestic relations dockets, which together generated about 61% of the grievances. District court judges, who comprise about 20% of the judiciary, were the subject of about 22% of the grievances filed. The category “Other” includes retired judges and persons who are outside the Commission’s jurisdiction, such as federal judges, administrative law judges, and lawyers.



## 5. Summary of Resolutions

The Commission filed no public complaints in 2021. There was one public complaint pending from 2019 and three public complaints pending from 2020. All were unresolved at the end of 2021. Another nine cases were resolved through letters of caution or admonition. The remaining grievances were resolved by dismissal, including those against judges who resigned or retired while under investigation.





## **IV. CASE SUMMARIES**

### **A. Public Proceedings**

#### **FC No. 100, Hon. Byron Korschuh – 40<sup>th</sup> Circuit Court (Lapeer County)**

In February 2019, the Commission issued a public complaint against Hon. Byron J. Korschuh. A month later the Commission filed an amended complaint that expanded on some of the details of the complaint but did not change its essence.

The complaint was based on multiple violations of criminal statutes, Michigan Court Rules, Michigan Rules of Professional Conduct, and the Michigan Code of Judicial Conduct. The complaint alleged that the violations were committed before and during Judge Korschuh's tenure as the Lapeer County Prosecuting Attorney, and after he became a Lapeer County Circuit Court judge. The complaint charged him with depositing into his personal accounts money that belonged to the Lapeer County Prosecutor's Office, including money from check collection companies; money paid for training conducted by assistant prosecuting attorneys; and money paid for assistant prosecuting attorneys making court appearances on City of Lapeer criminal cases.

The complaint also charged Judge Korschuh with submitting reimbursement vouchers that falsely represented that expenditures for office lunches and donuts were incurred in connection with training and/or staff development. It charged him with acting disrespectfully and using profanities during an encounter he had with an elderly woman and her disabled son about a missing campaign sign of a candidate he supported for a judicial seat. In more than one hundred cases in which either his close friend, his former defense attorney, or someone he considered his political enemy were the attorneys of record, it charged him with failing to disclose his relationship with those persons or to disqualify himself from those cases. Finally, the complaint charged Judge Korschuh with making misrepresentations to the Michigan State Police during its criminal investigation into his taking the public money; to a court; during a deposition; and to the Judicial Tenure Commission during its investigation of his misconduct. The alleged misrepresentations included Judge Korschuh's claim that he had not pled to a criminal misdemeanor in connection with taking the money intended for his office, although he had.

In March 2019, the Supreme Court appointed Hon. Williams J. Caprathe as master. The public hearing began on June 28, 2019 at the 47th District Court in Farmington Hills, and concluded on September 23. During the hearing 39 witnesses testified and more than 350 exhibits were admitted. Closing arguments were heard on September 23.

In December 2019, the master issued his findings of fact and conclusions of law. He determined that the evidence was sufficient to establish that Judge Korschuh committed the misconduct alleged in Count VII, by failing to disqualify himself from the numerous criminal and civil cases. The master found the evidence insufficient to establish the remaining allegations.

In February 2020, disciplinary counsel filed objections to the master's findings, to which Judge Korschuh filed a response. In May 2020, the Commission heard arguments, and issued a Decision and Recommendation in August. The Commission largely disagreed with the master. It determined that Judge Korschuh did commit misconduct by, among other actions, misrepresenting and falsely denying his criminal plea, embezzling county funds, failing to disclose or disqualify himself based on his relationships with several attorneys, and making misrepresentations to the court in his criminal

and civil legal proceedings, under oath at his deposition, to the MSP in its investigation of his embezzlement, and to the Commission and master in the complaint proceedings. The Commission recommended to the Michigan Supreme Court that Judge Kenschuh be removed from office and that the removal extend through the next judicial term, given his patent unfitness to serve in the judiciary.

While the Commission's recommendation was pending before the Supreme Court, Judge Kenschuh lost his bid for reelection to the circuit court in the 2020 general election. In June 2021, the Supreme Court suspended Judge Kenschuh for six years, effectively ensuring that he would not be able to run for reelection. As of the end of 2021, the Commission's petition for costs was still pending before the Court.

**FC No. 101, Hon. Kahlilia Y. Davis – 36<sup>th</sup> District Court (Wayne County)**

In March 2020, the Commission filed a public complaint against Hon. Khalilia Y. Davis. Judge Davis was charged with knowingly and deliberately conducting court proceedings without a record, making false statements to the Commission in the course of its investigation, and unauthorized recording and publication of court proceedings. Judge Davis filed an answer and affirmative defenses on May 19, 2020, and the Michigan Supreme Court suspended her, with pay, in June 2020. As of December 31, 2021, the case was pending further proceedings.

**FC No. 102, Hon. Bruce U. Morrow – 3<sup>rd</sup> Circuit Court (Wayne County)**

The Commission filed a public complaint against Hon. Bruce Morrow in August 2020. Judge Morrow was charged with the inappropriate use of sexually graphic language in conversations with two female assistant prosecuting attorneys on two occasions, in violation of Canons 1, 2(B), 3(A)(3) and 3(A)(14); and questioning the same attorneys inappropriately about their physical appearance, in violation of Canons 2(A), 2(B), 3(A)(3) and 3(A)(14). Judge Morrow filed an answer to the complaint and affirmative defenses in August 2020, admitting many of the factual allegations but denying that they constituted misconduct.

In September 2020, the Michigan Supreme Court appointed retired Ann Arbor District Court Judge Betty R. Widgeon as master. During the course of the proceedings, Judge Morrow filed two complaints for writs of superintending control with the Supreme Court. The first, asserting that the Commission's structure is unconstitutional, was denied by the Court in October 2020. The second, asserting that the public hearing should be held in person instead of via Zoom, as ordered by the master, was denied by the Court in November 2020.

Judge Widgeon conducted a five-day public hearing in November and December 2020. In February 2021 she issued a report finding that Judge Morrow committed the misconduct charged in the complaint. The Commission held a hearing on Judge Morrow's objections to the report in May 2021. In June 2021 the Commission issued its Report & Recommendation, finding that Judge Morrow committed the misconduct charged in the complaint and recommending that he be suspended without pay for one year. In October 2021 the Supreme Court heard oral argument on Judge Morrow's objections to the Commission's recommendation. As of December 31, 2021, the case was awaiting the Court's ruling.

## **FC No. 103, Hon. Tracy E. Green – 3<sup>rd</sup> Circuit Court (Wayne County)**

The Commission issued a public complaint against Hon. Tracy Green in November 2020. The complaint charged Judge Green with covering up evidence that her son had physically abused her grandsons, and making false statements about her acts and her knowledge of the abuse. The complaint alleged that Judge Green violated MCR 9.104(1), (2) and (3); MCR 9.202(B); MRPC 8.4(b) and (c); MCL 750.483a(5)(a); MCL 750.505; MCR 9.104(5); and Canons 2(A) and (B). Judge Green filed an answer to the complaint and affirmative defenses in December 2020, denying the allegations.

In March 2021 the Michigan Supreme Court appointed Judge Widgeon as the master. Judge Widgeon presided over hearings on eleven days from the end of May through the end of November, 2021. In November 2021, disciplinary counsel filed an amended complaint that added an allegation that several of Judge Green's answers to the complaint were false.

As of the end of 2021, Judge Widgeon was expected to issue her report to the Commission in early 2022.

### **B. Non-Public Proceedings**

#### **1. Conduct on the Bench**

##### **a. Failure to Disclose Relationship Appearance of Impropriety**

A judge presided over a case in which an attorney for one of the parties belonged to the same law firm as an attorney who represented the judge in another case. This presented a potential conflict of interest, and could have created the appearance of impropriety under Canon 2 of the Michigan Judicial Code of Conduct. The judge did not disclose the relationship and did not seek a waiver of the potential conflict in writing or on the record, as required by MCR 2.003.

The judge acknowledged the duty to disclose the relationship under Canon 3(C), which requires a judge to disclose potential bases for disqualification, and acknowledged failing to comply with that duty. The judge explained that the nature of the representation provided by the attorney's partner caused the judge not to recognize that the relationship existed.

The Commission noted that the judge was represented in a case in which the judge was sued as a judge, not in their individual capacity, so had no personal exposure to liability in the lawsuit. The Commission also noted that the county, rather than the judge, had selected and was paying the attorney, and that the case in which the judge was sued had been inactive for some time. For those reasons, the Commission accepted the judge's explanation that the failure to disclose the potential conflict was inadvertent.

The Commission cautioned the judge to be alert to relationships, and the need to disclose them, in future cases.

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A judge witnessed a person distribute information on courthouse property, and briefly interacted with the person concerning that. The person was charged with a crime for distributing the same information to jurors. The judge's observation and interaction were such that the judge was eventually called as a witness at the person's trial.

After observing the act and interacting with the person, but prior to appearing as a witness, the judge presided over the person's arraignment. The judge did not disclose to the parties the possibility that the judge might be a witness, nor did the judge discuss the propriety of presiding over the arraignment given the judge's personal knowledge of closely related events. The judge then set a bond that appeared high, given the nature of the offense and the surrounding circumstances.

The Commission determined that the judge considered appropriate factors when setting the bond, and did not set the bond to punish the person. The Commission rejected the judge's claim that since the person was charged with different act than that observed by the judge, the judge had no need to disclose the judge's personal observations and involvement. The Commission determined that the judge should have realized that there was significant potential that the judge would be a witness. The Commission noted that MCR 2.003(C)(1)(c) required the judge to be disqualified if the judge had personal knowledge of relevant and disputed facts, and further noted that Canon 3(C) required the judge to alert the parties to the possibility that there was a basis for the judge's disqualification.

The Commission found it mitigating that the judge was inexperienced at the time of these events, and had been counseled by another judge that there was no need to disclose. The Commission cautioned the judge to become familiar with the rules regarding disqualification in Rule 2.003, and to be sensitive to the potential need to disclose relationships in the future.

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A judge had an intimate personal relationship with a subordinate judge. During and after the relationship, the rulings of the subordinate judge were appealed to the judge. The judge did not disqualify themselves from the cases,<sup>4</sup> nor did the judge disclose the relationship.

After the relationship ended, the judge was interviewed by the Commission about certain actions of the subordinate judge. The judge did not reveal the prior relationship during the interview, nor the fact that the relationship was ongoing at the time of the actions the Commission was investigating, even though the subordinate judge had claimed that the judge had guided some of the actions the Commission was investigating.

The intimate relationship came to the Commission's attention because the judge self-reported it. The Commission found no evidence that the judge's relationship with the subordinate judge affected any of the judge's rulings on the appeals of the subordinate judge's cases. There was also no evidence that the judge provided any inaccurate information during the Commission's first interview. Finally, the judge had an unblemished discipline history.

After taking all of these factors into consideration, the Commission admonished the judge for failing to either recuse from the subordinate judge's cases or disclose the relationship, and for failing to disclose the relationship when the Commission interviewed the judge. The Commission found that the failure to disclose or recuse violated Canon 3(C). It also created the appearance of impropriety in violation of Canon 2(A) and called into question the integrity of the judiciary in violation of Canon 2(B). The Commission also admonished the judge for failing to cooperate with the Commission, as required by MCR 9.221(E), in failing to disclose the relationship during the Commission's interview.

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<sup>4</sup> The use of the plural pronoun to refer to a single person in a gender neutral way helps to keep confidential the identity of the judge, as required by the court rules that govern the Commission.

## **b. Failure to Maintain Professional Competence in the Law**

A judge presided over two matters involving the same pro per litigant.

One matter was a motion for relief from judgment filed by the litigant under MCR 6.500. The judge ordered oral argument but did not appoint an attorney to represent the litigant, as required by MCR 6.505(A). The judge ruled against the litigant, who then filed a motion for reconsideration in which the litigant noted the rule requiring that the judge appoint counsel. The judge denied the motion again, without appointing counsel as required by the rule.

The judge acknowledged having failed to follow the rule, and having taken only a cursory look at the litigant's motion for reconsideration, which would have alerted the judge to the rule.

The Commission noted that the rules regarding motions for relief of judgment are fundamental to practice as a trial judge, and found the judge's failure to allow the rule regarding counsel to be in violation of Canon 3(A)(1), which requires judges to be faithful to the law and maintain professional competence in it. The Commission cautioned the judge to be careful to follow the law in the future.

In the other matter, the judge presided over two civil cases involving the litigant, who was a prisoner in the Michigan Department of Corrections and could only appear by telephone. Three times during the hearing, the litigant told the judge he could not hear the proceedings very well. The judge continued to hold the hearing without further exploring the litigant's concerns or affording him any accommodations.

The judge noted a history with the litigant, and that nothing in the history alerted the judge to a hearing problem. The judge acknowledged not giving the litigant's concern the consideration it demanded, notwithstanding the history. After reviewing the transcript in response to the Commission's questions, the judge recognized that they should have halted the proceedings and rescheduled the case for an in-person hearing.

The Commission appreciated the judge's acknowledgement of error, and found that by ignoring the litigant's difficulties in this way, the judge violated Canons 2(B) and 3(A)(14), which require a judge to treat every person with courtesy and respect, and Canon 3(A)(3), which requires judge to be courteous to litigants. The Commission cautioned the judge to be mindful of the need to be respectful to litigants in the future.

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During a criminal arraignment, a judge stated that they normally set bond in the amount of restitution that could be assessed if the defendant were found guilty of the crime. The judge then set a bond that required the defendant to post cash or surety.

The Commission noted that MCR 6.106 lists the factors a judge may permissibly consider when imposing a monetary condition of release, and that potential restitution is not one of the factors listed. The judge explained that despite the statement the judge made on the record, the amount of possible restitution was only one of several factors the judge considered in setting the bond. The Commission agreed that the amount of possible restitution could be considered under MCR 6.106(F)(1)(e) as a likely part of a sentence if convicted, and under MCR 6.106(F)(1)(i) as a fact that could bear on the defendant's risk nonappearance.

The Commission also noted, though, that when a judge imposes conditions that include money bail, the judge must state the reasons on the record. The judge in this case did not do that. The Commission stated that a blanket statement that the judge set bond in the amount of possible restitution, should the defendant be convicted, did not comply with the court rules. The Commission found that articulating the bases for setting a money bail is a fundamental part of setting bond, such that a failure to do so is a failure to be faithful to the law. The Commission cautioned the judge to be careful to adhere to the basic requirements of MCR 6.106(F)(2) in the future.

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A judge presided over a criminal sexual conduct jury trial. The jurors disclosed they were deadlocked. The judge told the jury “the court system wants me to read you this thing,” dismissively referring to the standard instruction for a deadlocked jury. The judge chose not to read the standard instruction, and instead instructed the jury on “reasonable doubt” in the judge’s own words. After reading a sentence of the approved reasonable doubt instruction, the judge repeatedly told the jury variations of the idea that “beyond a reasonable doubt” can be “beyond all doubt.”

The judge’s instruction plainly increased the prosecution’s burden to an improper level. The prosecutor pointed that out and asked the judge to retract the judge’s previous statements that had mischaracterized the burden of proof and give a correct instruction. The judge refused.

In response to the Commission’s questions, the judge refused to accept responsibility for the deliberately erroneous instructions.

The Commission found that the judge was unfaithful to the law. The Commission admonished the judge, and noted as it did so that it would have taken more severe action but for the fact that the judge was already facing action by the Supreme Court for other misconduct.

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A judge presided over an informal hearing on a parking ticket. During the hearing the judge was dismissive and impatient with the party. The judge spoke in an overly brusque and dismissive tone and made unfounded accusations that the party was lying. When the party attempted to rebut the judge’s unfounded allegations, the judge threatened to have the party arrested.

A few months later the judge reviewed the video recording of the hearing with a superior judge. When doing so, the judge admitted to being embarrassed by the way the judge treated the party. However, three months after that, when the judge answered the Commission’s questions about this incident, the judge told the Commission the judge had treated the party with appropriate respect.

The judge explained the discrepancy by claiming a lapse of memory between the initial review of the video and answering the Commission’s questions about the incident, coupled with a decision not to review the video again before answering the questions.

The Commission expressed its concern about the judge’s overly cavalier approach to answering the Commission’s questions. The Commission found that the judge violated Canons 2(B) and 3(A)(3), which require a judge to be patient, dignified, and courteous. The Commission admonished the judge to be properly respectful toward future litigants, and should the judge ever be called upon to answer the Commission’s questions again, to approach the task with care.

## **2. Conduct off the Bench**

### **a. Appearance of Impropriety**

The Commission cautioned a judge for failing to return a refundable deposit a potential buyer paid the judge toward the purchase of a home the judge was selling.

The purchaser had canceled the proposed sale in accord with the terms of the purchase agreement. The judge did not provide the purchaser any reason for keeping the deposit and simply retained it. Later, when the purchaser sued for the return of the deposit, the judge's attorney resisted the lawsuit by filing an answer to the complaint, but one that did not include any legal basis for the judge to retain the deposit.

The judge ultimately refunded the deposit after becoming aware of the Commission's investigation, thereby ending the litigation.

The judge claimed to the Commission that the judge had a good faith basis to retain the deposit, but the Commission noted that the plain language of the purchase agreement did not support that position. The Commission cautioned the judge that retaining the funds without explanation, and in violation of the language of the agreement, created an appearance that the judge was using the judicial system to play hardball with the potential buyer. The Commission concluded that in doing so, the judge violated Canon 1 ("A judge should always be aware of that the judicial system is for the benefit of the litigant and the public, not the judiciary.") and Canon 2(A) ("A judge must avoid ... all appearances of impropriety ... [and] must ... accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen").

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### **b. Comment Affecting Fairness of Pending Matter**

A judge wrote a letter characterizing an incident at a local high school sporting event as an assault and battery perpetrated by a game official against a coach. Though the judge stated they were writing only in their personal capacity, the letter clearly identified them as a judge. The judge widely disseminated the letter, and it was cited in the media. The judge also made similar comments on a local radio show.

Canon 3(A)(6) of the Code of Judicial Conduct states that a judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court. The Commission found that the judge's statements violated this canon: they were public, they opined that a crime had been committed, and they carried weight due to the judge's position. They therefore "might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court."

The judge acknowledged their error, and stated their awareness that a judge is not permitted to freely express opinions in public. The Commission took note of the judge's acceptance of responsibility and excellent discipline history. The Commission concluded that the judge allowed frustration with the incident to override the judge's judgment. The Commission cautioned the judge to be more mindful of public expressions of opinion.

## V. COMMISSION ORGANIZATION, STAFF AND BUDGET

### A. Commission Organization and Staff

The Commission had five full-time staff positions in 2021, which included the executive director, deputy executive director, two staff attorneys, and one office manager. These staff members are state employees.

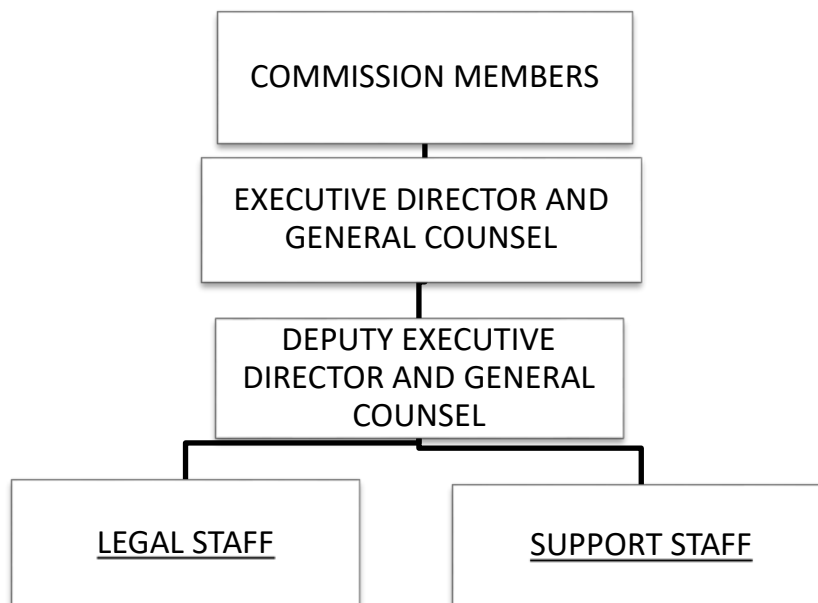
The executive director is hired by, and reports directly to, the Commission. The executive director oversees the investigation of grievances and is the disciplinary counsel handling public proceedings. The executive director is also the primary liaison between the Commission and the judiciary, the public, and the media. Lynn Helland has been the executive director and general counsel since February 2017.

Glenn J. Page has been the deputy executive director since February 2017. The staff attorneys are Casimir J. Swastek and Margaret N.S. Rynier.

In addition to the staff attorneys, since late 2018 the Commission has used the services of contract attorneys to assist with its backlog of cases. As of the end of 2021, funding provided by the Michigan legislature enabled the Commission to have the assistance of contract attorneys Lora Weingarden, Dina Dajani, Nichollette Hoard, Amy Kullenberg, Melissa Johnson, and Kavita Uppal. For a period earlier in 2021, the Commission had the benefit of assistance from contract attorney Keith Clark.

Together with the executive director and deputy executive director, the Commission's legal staff is responsible for analyzing and investigating grievances, and providing the Commission the information it needs to act on grievances. In addition, the attorneys serve as disciplinary counsel during public proceedings.

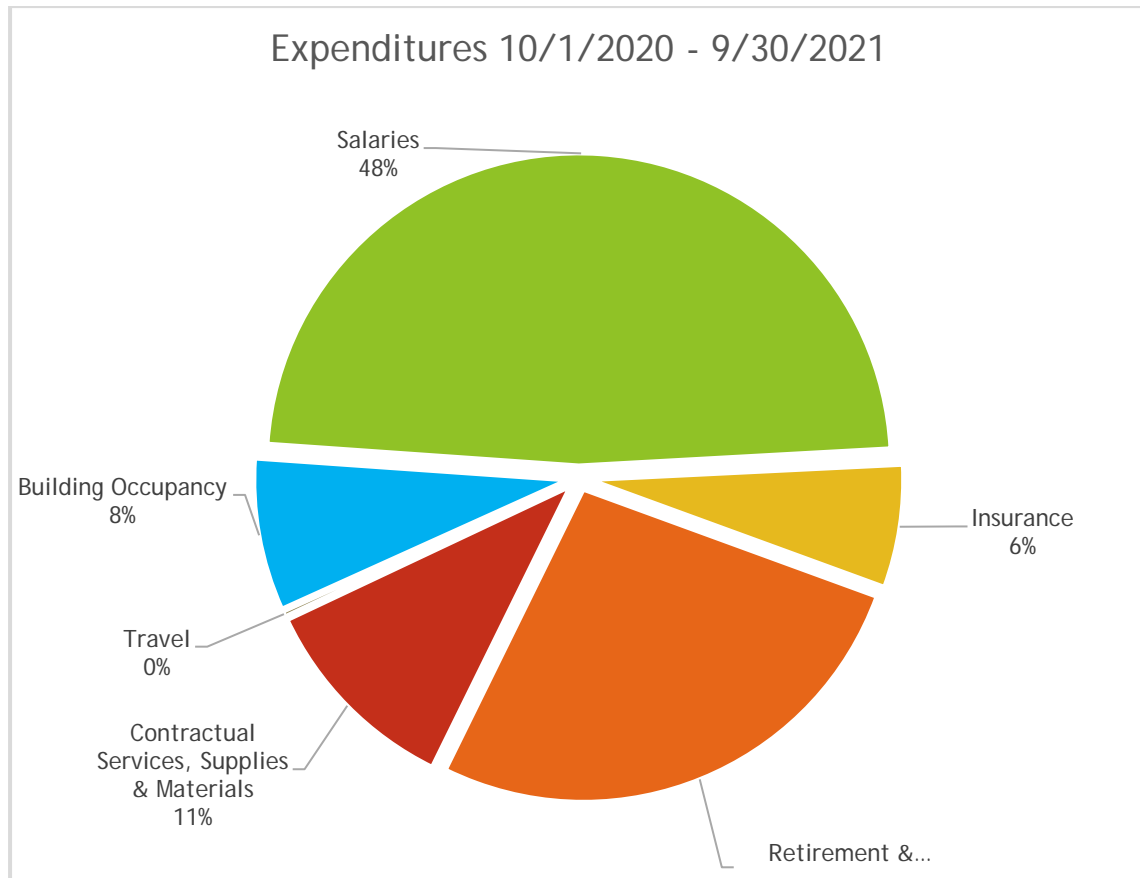
As of the end of 2021, the Commission's support staff was comprised solely of Office Manager Camellalynette Corbin and part-time Administrative Assistant Jason Flowers.





## B. Budget

The Commission's budget is established by the Michigan legislature. For the 2021 fiscal year (October 1, 2020 – September 30, 2021), limitations imposed by the pandemic caused the Commission to spend almost \$87,000 less than its appropriation of \$1,261,400. While the Commission strives to keep its expenditures to the minimum consistent with doing quality work in a professional work environment, it is clear that the current budget is, and for several years has been, inadequate to enable the Commission to resolve investigations as timely as would well serve the public and judiciary.



## VI. CONCLUSION

The year 2021 presented challenges, as Michigan's court system continued to navigate the pandemic. The Commission faced these challenges well, including using video conferencing when appropriate to conduct its work. The Commission's service to the public has improved with the use of additional staff, and the Commission hopes to receive continued support from the Michigan legislature to further improve its service to the public. The Commission remains committed to promoting the integrity, independence, and fairness of Michigan's judiciary, and the public's confidence that the Michigan judiciary possesses those qualities.