

State of Michigan
Judicial Tenure Commission

Annual Report 2022



Judicial Tenure Commission
Cadillac Place
3034 W. Grand Blvd.
Suite 8-350
Detroit, Michigan 48202
(313) 875-5110
jtc.courts.mi.gov

COMMISSIONERS

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

HON. MONTE J. BURMEISTER
HON. THOMAS C. CAMERON
DANIELLE CHANEY
HON. PABLO CORTES
SIHAM AWADA JAAFAR
THOMAS J. RYAN, ESQ.



State of Michigan

LYNN HELLAND, ESQ.
EXECUTIVE DIRECTOR

3034 W. GRAND BLVD.
SUITE 8-350
CADILLAC PLACE BUILDING
DETROIT, MICHIGAN 48202
TELEPHONE: (313) 875-5110
FAX: (313) 875-5154
WEBSITE: jtc.courts.mi.gov

Judicial Tenure Commission

May 25, 2023

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

The year 2022 was filled with positive developments for the Commission. First and foremost, the Commission thanks the Legislature, Governor Whitmer and the Supreme Court for their support in providing the Commission with additional resources it needs to ensure the judiciary is working for the people of the state.

For the first time since before the turn of the century additional full-time attorney/investigator positions have been added to our staff. The additional staff were necessary for the Commission to begin to address the large backlog of cases that has been growing over the past several years due to the increased complexity of the issues that are brought before the Commission and the increased number of complaints that have warranted a full investigation. These personnel additions required the Commission to move into a larger office space.

The Commission also worked with the Association of Black Judges of Michigan to modify our internal operating procedures to create a process to address complaints against staff members and to memorialize the Commission's existing practices of seeking out such exculpatory information as might exist and promptly providing information, including any exculpatory information, to respondent judges who are charged in a public complaint.

Finally, the Commission recognized the importance of protecting the confidentiality of grievants whose situation gives them a reasonable fear of retribution if they bring concerns to our attention. After reviewing the practices our sister states follow to protect grievants and potential grievants who report suspected judicial misconduct, the Commission proposed revisions to the Michigan Court Rules to provide for grievant confidentiality when appropriate, while at the same time ensuring that respondent judges have full access to the allegations and evidence against them

if they are charged in a public complaint. After receiving public comment the Supreme Court will determine which, if any, of those recommendations to implement.

With this backdrop I am pleased to present the 2022 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". The signature is fluid and cursive, with a large initial "J" and "H".

Hon. Jon H. Hulsing
Chairperson
For the Commission

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COMPOSITION OF THE COMMISSION DURING 2022

Hon. Jon H. Hulsing, Chair

20th 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

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

Third Circuit Court
2 Woodward Avenue, Room 1101
Detroit, MI 48226
Term expires 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

Hon. Thomas C. Cameron

(As of December 14, 2022)
Court of Appeals
3020 W Grand Blvd Ste 14-300
Term expires 12/31/2024
Elected by Court of Appeals judges

Danielle Chaney

W. Bloomfield, MI
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 12/31/25
Elected by District Court judges

Siham Awada Jaafar

3034 W Grand Blvd Suite 8-450
Detroit, MI 48202
Term expires 12/31/25
Appointed by Governor Gretchen Whitmer

**Hon. Amy Ronayne Krause
(Through December 13, 2022)**

Court of Appeals
925 W. Ottawa Street
Lansing, MI 48909-7522
Term would have expired 12/31/2024
Elected by Court of Appeals judges

Thomas J. Ryan, Esq.

2055 Orchard Lake Road
Sylvan Lake, MI 48320
Term expires 12/31/25
Elected by State Bar membership

2022 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 the 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 health care licensing discipline matters. For seven years he was an active member of the Michigan Board of Medicine. Mr. Burdick serves as the Vice-Chairperson of the Commission.

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. In 2108 Judge Burmeister was elected the Commission's Vice-Chairperson and in 2019 he was elected the Commission's Chairperson.

Hon. Thomas C. Cameron was appointed to the Michigan Court of Appeals in 2017, and previously served as a judge on the Wayne County Circuit Court bench from 2014 until his appointment to the Court of Appeals.

Previously, Judge Cameron worked for the Michigan Department of Attorney General where he managed several large civil and criminal divisions for the Attorney General, including the Civil Rights Division, Corrections Division, Criminal Division, Alcohol and Gambling Division, and several other divisions. Before serving as a senior manager, he litigated high-profile public corruption and cold case homicides for the Attorney General's Office.

Judge Cameron serves on several commissions, boards, and associations, including the Michigan Judicial Tenure Commission, the Michigan Judges Association, the Michigan Chapter of the Federalist Society, and the Detroit Metropolitan Bar Association. He is a former board member of the Michigan Domestic and Sexual Violence Prevention and Treatment Board and the former Chairman of the Michigan Commission on Law Enforcement Standards.

Judge Cameron also serves as an adjunct professor at Madonna University, where he teaches constitutional law and criminal law and procedure.

Danielle Chaney is a human resource professional currently serving as Vice President of Human Resources at Optalis Healthcare. Prior to her role at Optalis, 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 furthered pursued her passion of championing diversity, equity and inclusion in the workplace by recently 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.

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.

Hon. Jon H. 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. He served as the Judicial Tenure Commission's Vice-Chairperson in 2021. In August 2021 Judge Hulsing became the Chairperson of the Commission, after the untimely passing of former Chairperson Hon. Karen Fort Hood.

Siham Awada Jaafar was appointed by Governor Gretchen Whitmer to a term that began on January 17, 2020, and was reappointed for a second term starting in 2023. She has also been appointed by the Michigan Supreme Court to serve on the DEI Commission for the Judiciary with a term ending in December 2025. As President and CEO of 3D Consulting and Communications, Ms. Jaafar conducts cultural competency and diversity training customized for corporations, law enforcement, government & health care 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, workshops and conferences 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 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 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) where government and community come together to discuss vital issues. Ms. Jaafar feels honored and privileged to have been reappointed to the Judicial Tenure Commission and is grateful for the opportunity to serve the state in such a vital role.

[Judge Ronayne Krause resigned from the Commission as of December 13, 2022 due to her retirement from the Court of Appeals]

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.

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 66th 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, and the City of the Village of Clarkston. Mr. Ryan has previously served as the Commission's Vice Chairperson and Chairperson.

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. Judge Sullivan serves as the Secretary of the Commission.

COMMISSION PHOTOS



Pictured left to right: Executive Director Lynn Helland, Thomas J. Ryan, Esq., Siham Awada Jaafar, Hon. Jon H. Hulsing – Chairperson, Hon. Amy Ronayne Krause, James W. Burdick, Esq. – Vice Chairperson, Hon. Monte J. Burmeister, Hon. Brian R. Sullivan - Secretary



Danielle Chaney



Hon. Thomas C. Cameron



Hon. Pablo Cortes

I. COMMISSION COMPOSITION & SCOPE OF AUTHORITY

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

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).

2. Michigan Court Rules

The Constitution instructs the Michigan Supreme Court to make rules to govern judicial discipline. The Court created Chapter 9.200 of the Michigan Court Rules pursuant to that directive. The Court revised and renumbered Chapter 9.200 effective September 1, 2019 and has revised several rules since that date. A copy of the current rules is on the Commission's website (jtc.courts.mi.gov).

3. Code of Judicial Conduct

In 1974 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).

¹ 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 2022 there were 1,317 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.²

The Commission does not have jurisdiction over judicial candidates before they are elected, federal judges, or administrative law hearing officers such as workers compensation magistrates, department of corrections hearing officials, and the like. The Commission does obtain jurisdiction over the conduct of judicial candidates if and when those candidates become judges.

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 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 public discipline the Commission can recommend includes public censure, suspension with or without pay, and removal. When appropriate, the Commission can also take private action, through a letter of caution or admonition, to address judicial misconduct.

² 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

The 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) or may be obtained in hard copy by contacting the Commission office. 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. To do its initial review the staff may review the court file to the extent it is available online. 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 investigate beyond that unless 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 such other investigation as needed. The staff reports to the Commission at the conclusion of the investigation.

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

The Commission has several options after an investigation. If the allegations are found to be untrue or unprovable the Commission will usually close the case without action, though if the Commission determines that 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 the judge should not repeat the conduct.

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 the Commission only sends 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 2022 are contained in Section IV.

Letters of explanation, caution, and admonition are confidential. The Commission informs grievants when a grievance has been dismissed, and in cases in which the dismissal includes some private action the Commission informs the grievant that action was taken, in a letter that does not provide details. The strict confidentiality rules that govern judicial misconduct investigations ordinarily preclude the Commission and its staff ordinarily from advising anyone, even the person who lodged the grievance, of the precise way the Commission resolved a grievance.

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 public complaint. The complaint is the first public document in the investigation.

The complaint, the judge's answer to it, and all subsequent pleadings are public documents. To the extent practicable, they are placed on the Commission's website (jtc.courts.mi.gov).

After the Commission files the complaint 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 to take evidence concerning the complaint. Masters are typically, though not necessarily, retired Michigan judges.

The judge against whom the Commission filed 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

After the hearing concludes the master 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 has no authority to discipline a judge itself; 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

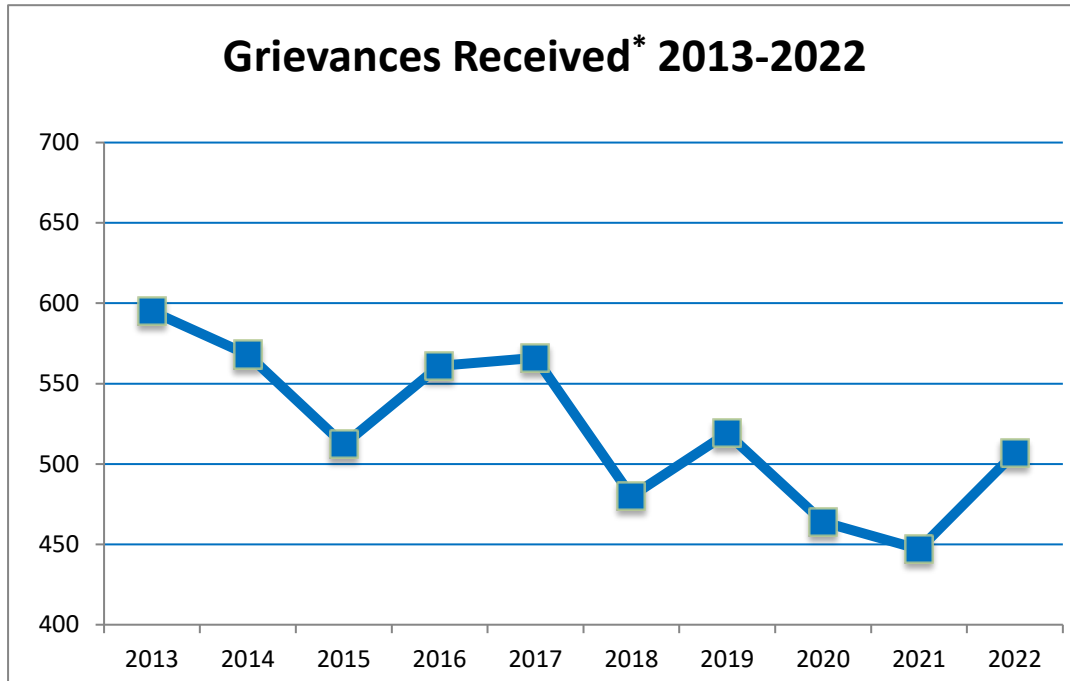
The Michigan Constitution directs the Supreme Court to provide for the confidentiality of complaints to, and investigations by, the Commission. Pursuant to this directive, Michigan Court Rule 9.261 provides that grievances and investigations are strictly confidential, subject to certain limited exceptions, 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. 2022 FACTS & FIGURES

A. Complaints Received and Investigated ³

In 2022 the Commission received 800 requests for its "Request for Investigation" forms. This number does not include downloads from the Commission's website. There were 507 requests for investigation filed in 2022 that complained about actions by a total of 294 judges.⁴



* 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. The reasons are unclear, but the drop may have been due in part to the pandemic. Though the total grievances declined in those years, the number of grievances with merit did not decline. In fact, the number of grievances that result in full investigations has been substantially higher in every year since 2017 than it had been in prior years.

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.

³ 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.

⁴ Some judges were named in multiple requests for investigation.

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 2022 the Commission resolved 461 requests for investigation concerning 268 judges.

2022 CASELOAD	
Grievances pending on 1/1/2022	222
New grievances received in 2022	507
Grievances concluded in 2022	461
Grievances pending on 12/31/2022	268

1. Closed without Action

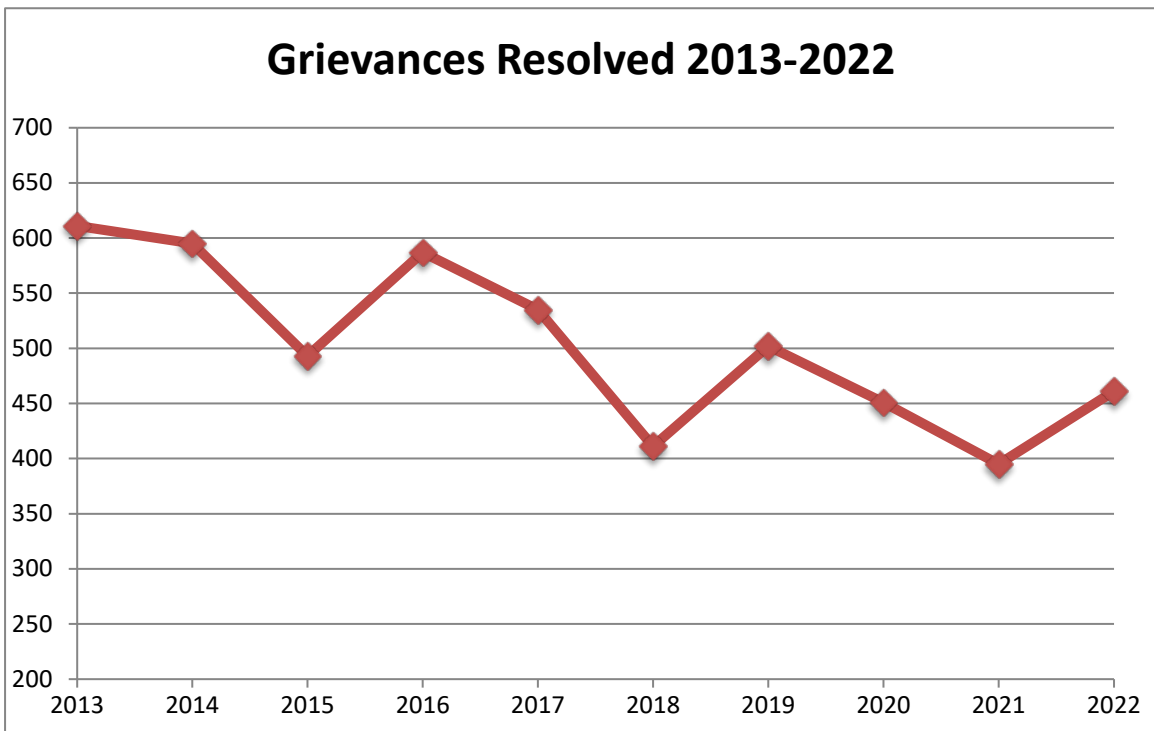
In 431 of the 461 grievances resolved in 2022, the evidence did not demonstrate misconduct after the information necessary to evaluate the grievance was obtained and reviewed. In other words, either these files alleged facts that would not constitute misconduct even if true, or investigation showed the 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

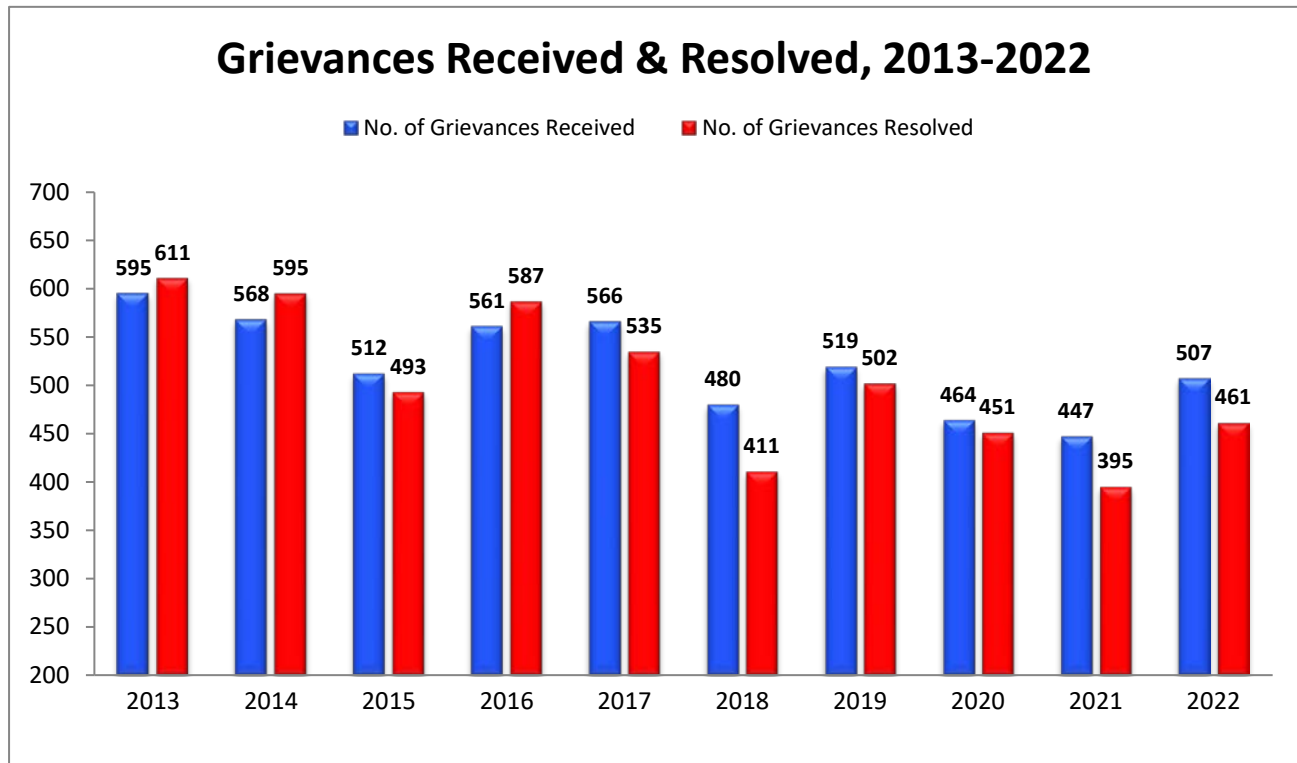
The Commission issued two admonitions, 10 cautions and two explanatory letters in 2022. These cases are summarized in Section IV.

3. Public Action

The Commission filed three public complaints in 2022. There were five pending public complaints at the close of 2022. They are summarized in Section IV.



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, appreciably slowed the resolution of investigations and has resulted in an excessive backlog. The legislature recently provided the Commission with funding to hire staff to reduce that backlog.

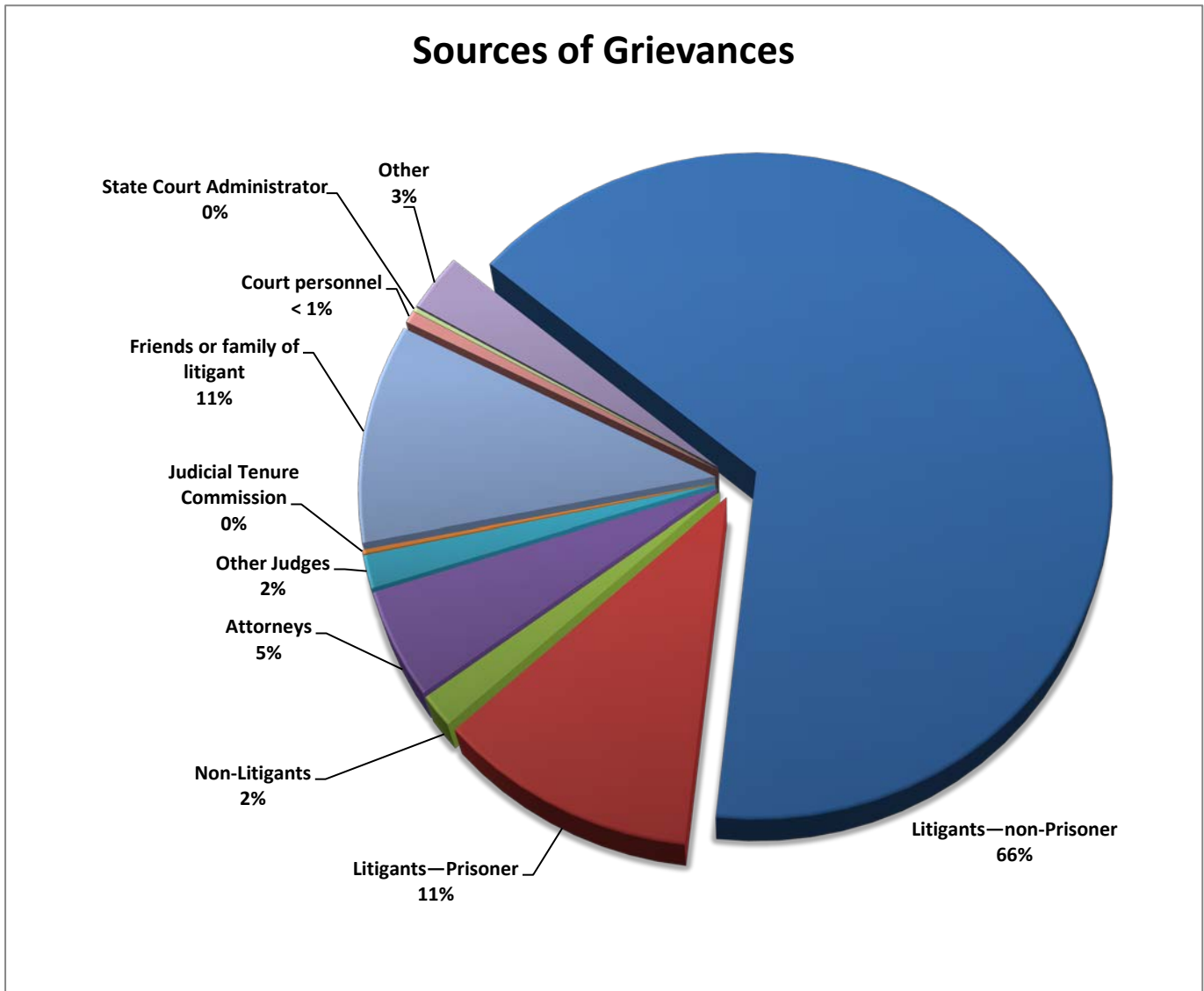


C. Analysis of Grievances Considered in 2022

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 507 grievances received (section IIIA) or 461 closed (section IIIB), because some grievances allege more than one type of misconduct and some resolutions concern more than one grievance.

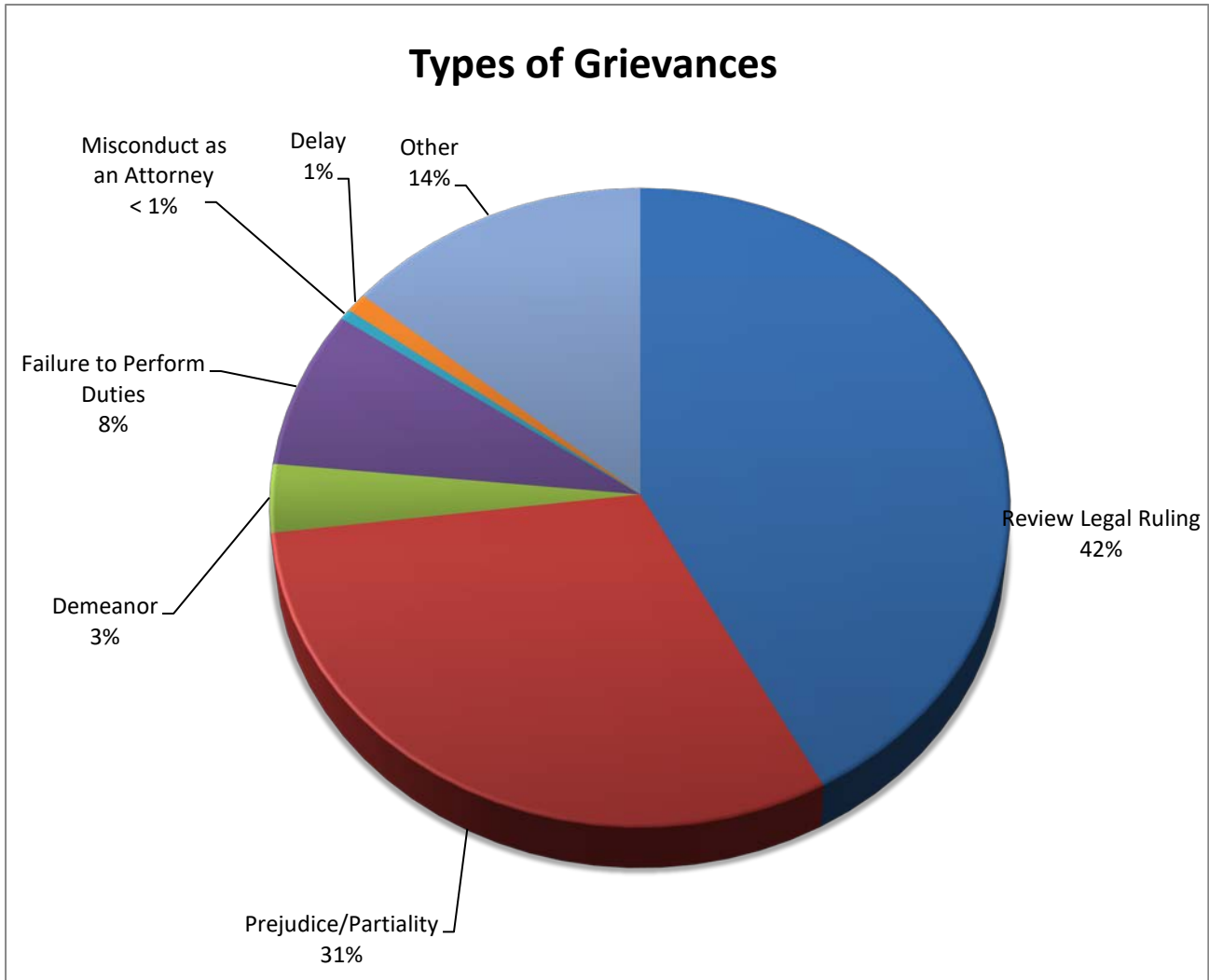
1. Sources of Requests for Investigation

Litigants, acquaintances of litigants, and prisoners filed 88% of the total requests for investigation.



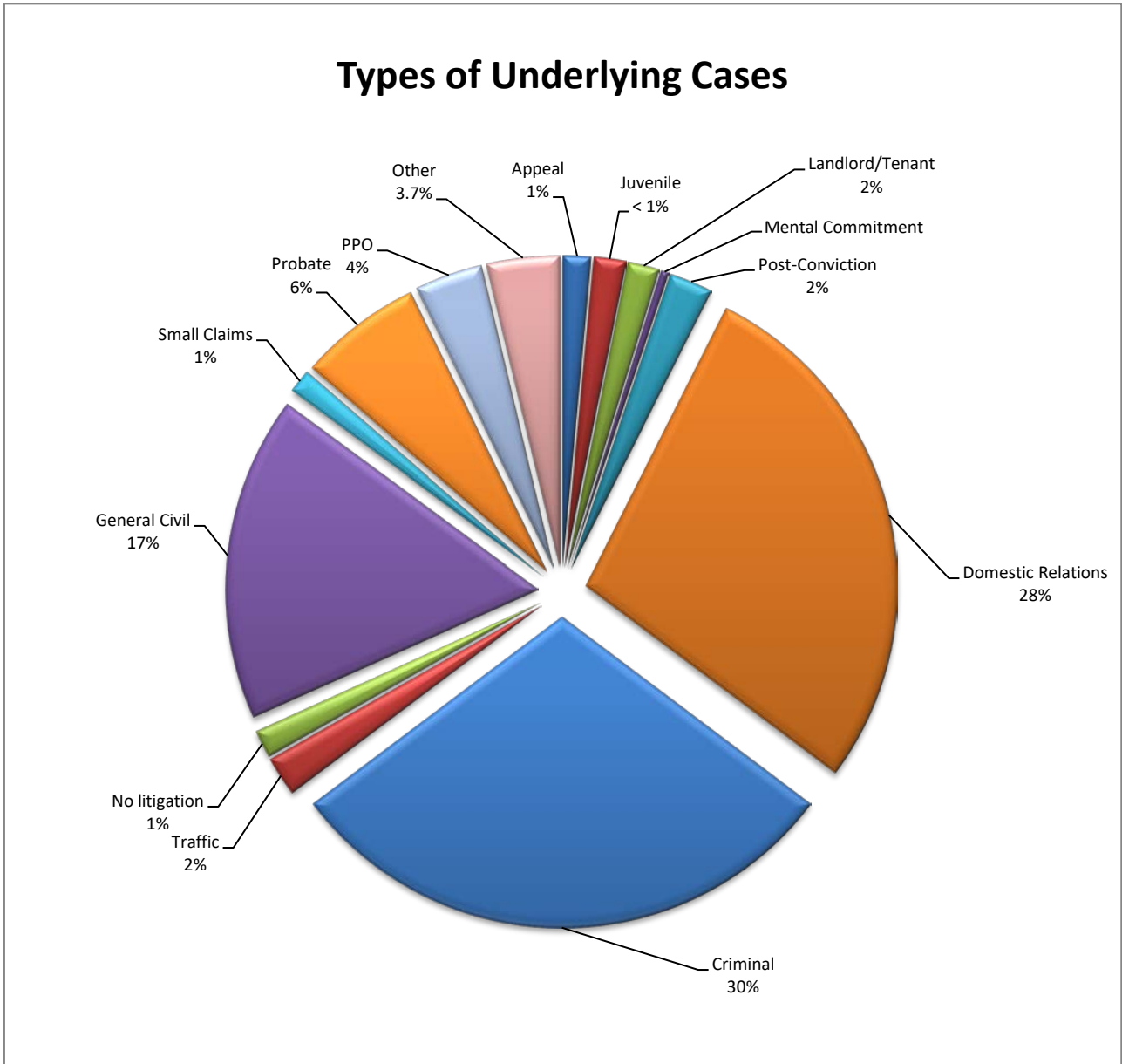
2. Subject Matter of Grievances

About 40% of the 2022 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. Another third alleged that the judge was biased.



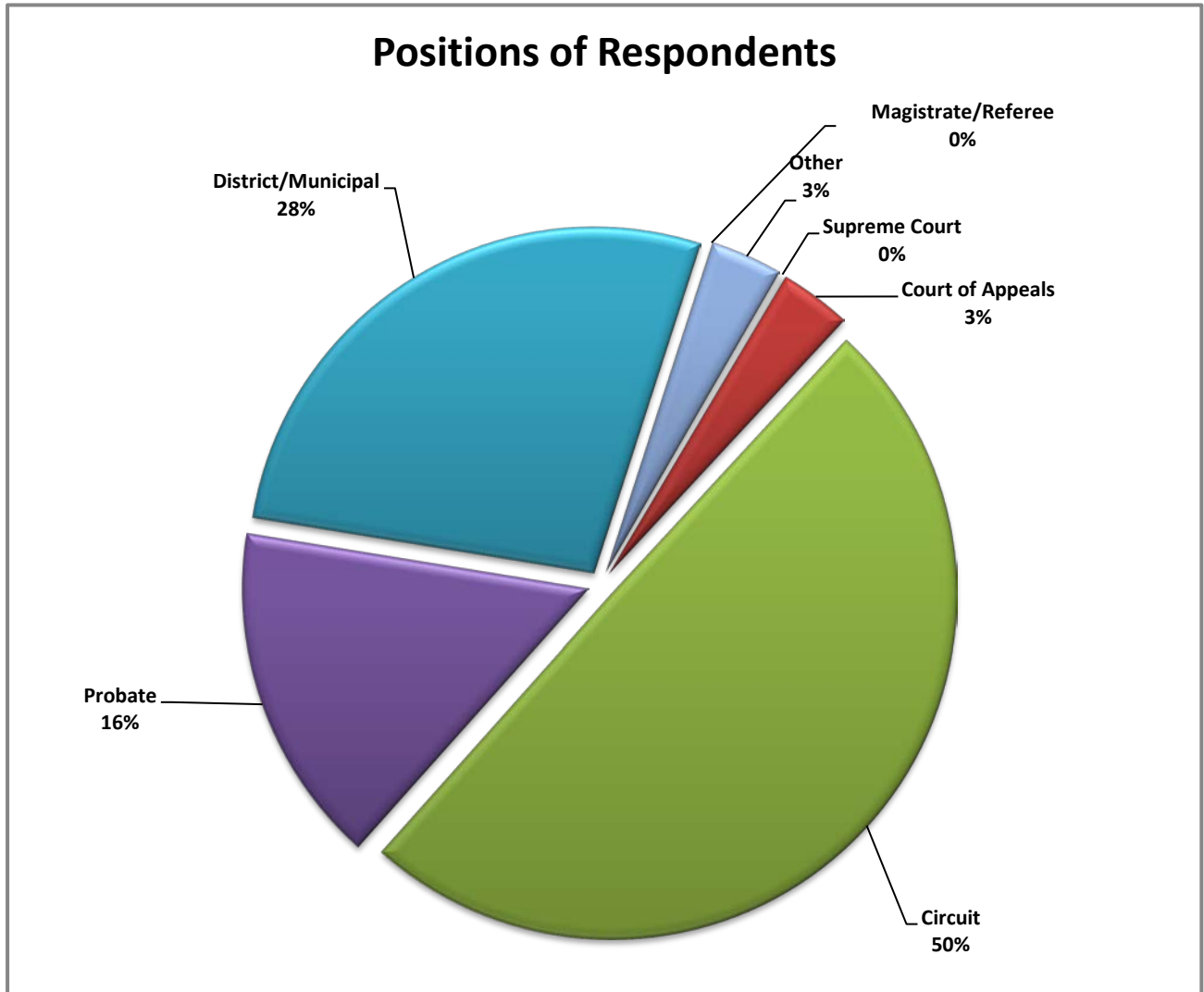
3. Nature of Underlying Litigation

Criminal cases, domestic relations matters, and general civil cases most commonly resulted in grievances in 2022. Those cases combined made up three quarters of the 2022 requests for investigation. Probate cases resulted in another 6% of requests for investigation.



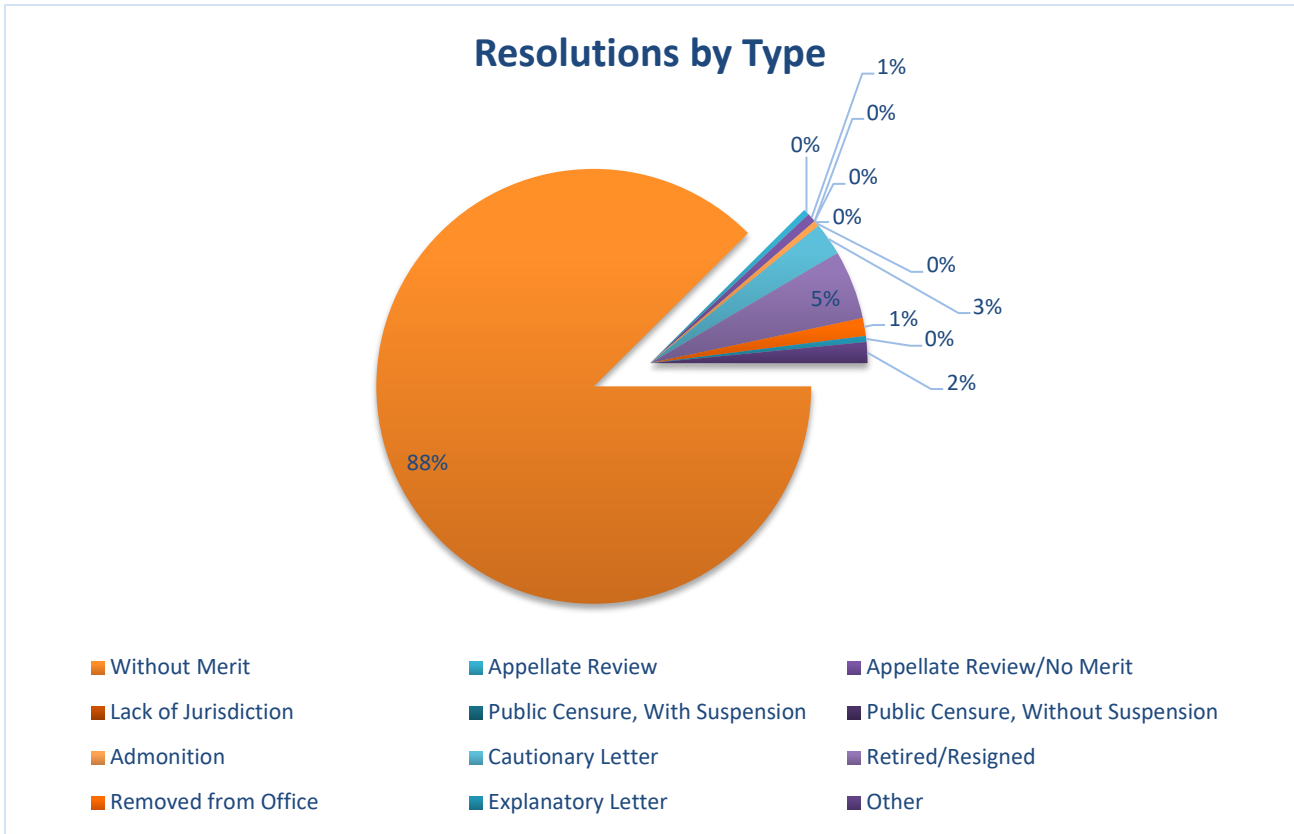
4. Positions of Respondents

Circuit court judges, who comprise less than 20% of the judiciary, were the subject of half the grievances filed in 2022. This is most likely due to circuit judges handling so much of the criminal and domestic relations dockets, which together generated about 58% of the grievances. District court judges, who comprise about 20% of the judiciary, were the subject of about 28% 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 three public complaints in 2022, all of which remained pending at the end of the year. Two public complaints the Commission filed in 2020 were also unresolved at the end of the year. One public complaint the Commission filed in 2019 and one it filed in 2020 were resolved in 2022. The Commission resolved another fourteen investigations through letters of explanation, caution or admonition in 2022. 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 – 40th Circuit Court (Lapeer County)

In February 2019 the Commission issued a public complaint against Hon. Byron J. Korschuh. The complaint addressed Judge Korschuh's conduct during his tenure as the Lapeer County Prosecuting Attorney and after he became a Lapeer County Circuit Court judge. Charges included depositing into his personal bank 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 attorneys appearing in criminal matters on behalf of the City of Lapeer. In addition, the complaint charged Judge Korschuh with submitting reimbursement vouchers that falsely represented expenditures.

The complaint also charged Judge Korschuh with acting disrespectfully and using profanities during an encounter he had with an elderly woman and her disabled son about a missing campaign sign and failing to disclose conflicts 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. 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 Commission determined that Judge Korschuh committed misconduct by, among other actions, misrepresenting and falsely denying his criminal plea of guilt; 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 Korschuh 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 Korschuh lost his bid for reelection to the circuit court in the 2020 general election. In June 2021 the Court suspended Judge Korschuh for six years, effectively ensuring that he would not be able to seek reelection.

In January 2022 the Court ordered Judge Korschuh to pay \$7,091.04 in costs to the Commission. Judge Korschuh paid those costs in March 2022.

FC No. 101, Hon. Kahlilia Y. Davis – 36th District Court (Detroit)

In March 2020 the Commission filed a public complaint against Hon. Khalilia Y. Davis that charged Judge Davis 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 her answer and affirmative defenses in May 2020 and the Michigan Supreme Court suspended her with pay in June 2020.

In March 2022 the Commission amended the complaint. The amended complaint charged Judge Davis with failing to follow the law with respect to finding persons in contempt of court, failing to conduct required evidentiary hearings and making premature judgments, obstruction of court administration, intentionally disconnecting video recording equipment and conducting proceedings without an official record, making and publishing unauthorized recordings of court proceedings, violating handicapped parking space laws through the use of an unauthorized police placard, and engaging in disrespectful conduct during proceedings regarding the resulting ticket, and making misrepresentations while under oath during judicial disciplinary proceedings.

The Commission filed a second petition for interim suspension asking the Supreme Court to suspend Judge Davis without pay in March 2022. In April the Supreme Court denied that petition and appointed retired Court of Appeals Judge Cynthia Diane Stephens as master. In June 2022 disciplinary counsel filed a second amended complaint, which Judge Davis answered the same month.

The public hearing took place over five days in July 2022. The master issued her report in August 2022. The master concluded that Judge Davis engaged in misconduct as to one of the two cases that charged Judge Davis with abusing her contempt power; failed to conduct required evidentiary hearings; violated her court's attendance policy and failed to comply with a performance improvement plan; failed to make an official record (though the master concluded that Judge Davis did not intentionally disable the recording equipment as was charged); made unauthorized recordings of court proceedings; and parked illegally (but did not abuse her authority or make false statements when she did so, as charged). The master did not find that Judge Davis made false statements during the Commission's investigation, as had been charged.

The Commission held oral arguments on September 12, 2022, and issued its Decision and Recommendation on September 23, 2022. The Commission agreed with the master to the extent that she determined Judge Davis engaged in misconduct. In addition to those findings, the Commission determined that Judge Davis abused her contempt power in the second case charged in the complaint; was discourteous, threatening and unprofessional in her communications with court administration; intentionally disabled court video equipment as charged; published court proceedings on Facebook Live, contrary to law; used an unauthorized police placard while illegally parking and while not on government business; and made several false statements during judicial disciplinary proceedings.

The Commission noted that in addition to the misconduct described above, Judge Davis filed a false Affidavit of Identity for her 2022 judicial campaign and was not repentant. The Commission recommended that Judge Davis be removed from office and thereafter suspended for six years. Counsel filed briefs in the Michigan Supreme Court in 2022. Oral argument before the Supreme Court was not scheduled as of the end of 2022.

FC No. 102, Hon. Bruce U. Morrow – 3rd Circuit Court (Wayne County)

The Commission filed a public complaint against Hon. Bruce Morrow in August 2020 that charged Judge Morrow 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 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.

In January 2022 the Supreme Court determined that Judge Morrow committed misconduct in office and that a six-month suspension (rather than one year as recommended by the Commission) was appropriate. Judge Morrow retired on January 31, 2022.

FC No. 103, Hon. Tracy E. Green – 3rd Circuit Court (Wayne County)

The Commission issued a public complaint against Hon. Tracy Green in November 2020. The complaint charged Judge Green with concealing evidence that her son had physically abused her grandsons and making false statements about her acts and her knowledge of the abuse. 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 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 original complaint were false.

Judge Widgeon issued her report in February 2022. She determined that Judge Green had concealed evidence that her son abused her grandsons and that Judge Green made several false statements about her knowledge of the abuse. After the parties filed briefs objecting to and supporting Judge Widgeon's report, the Commission held oral arguments in June 2022 and issued its Decision and Recommendation in July 2022.

The Commission adopted Judge Widgeon's findings. Based on its de novo review of the record the Commission also found that Judge Green made additional false statements. The Commission recommended that the Supreme Court remove Judge Green from office based her multiple knowingly false statements under oath, both before and after she became a judge. Counsel filed briefs in the Supreme Court in 2022, which had not scheduled oral argument as of the end of 2022.

FC No. 104, Hon. Paul J. Cusick – 3rd Circuit Court (Wayne County)

The Commission issued a public complaint against Hon. Paul Cusick on November 23, 2022. The complaint alleges that while Judge Cusick was an assistant attorney general with the Michigan Department of Attorney General, before he became a judge, he suborned perjury, failed to disclose exculpatory information he had a duty to disclose, and obstructed defense counsel's efforts to learn

about the exculpatory information in marijuana prosecutions. The complaint also charges that Judge Cusick made misrepresentations to the Commission during its investigation.

In December 2022 the Michigan Supreme Court appointed retired Ingham County Circuit Court Judge Peter Houk as master. Judge Cusick had not answered the complaint as of the end of 2022.

FC No. 105, Hon. Demetria Brue – 36th District Court (Detroit)

The Commission issued a public complaint against Hon. Demetria Brue on November 23, 2022. The complaint alleges that while interacting with the proprietor of a bicycle rental business on Mackinac Island, Judge Brue abused her judicial position, falsely told the police that the proprietor assaulted her, then made false statements to the Commission about the incident and her actions. Judge Brue answered the complaint on December 21, 2022.

This complaint arose out of the same incident that gave rise to FC No. 106, below. As of the end of 2022 the Supreme Court had not appointed a master.

FC No. 106, Hon. Debra Nance – 46th District Court (Southfield)

The Commission issued a public complaint against Hon. Debra Nance on December 14, 2022. The complaint alleges that Judge Nance accompanied Hon. Demetria Brue at the Mackinac Island bicycle rental business described in the summary of FC 105, and when questioned about the events at that business by the Commission Judge Nance knowingly made several false statements while under oath.

As of the end of 2022 Judge Nance had not answered the complaint and the Supreme Court had not appointed a master.

B. Non-Public Proceedings

1. Conduct on the Bench

a. Failure to be Faithful to the Law

A judge made remarks to three defendants in separate criminal proceedings that created the impression that defendants in the judge's court will be sentenced more harshly for going to trial. The judge denied having any intent to chill a defendant's choice to go to trial. The Commission concluded that regardless of the judge's intent, when viewed objectively the remarks made it appear that the judge was chilling defendants' choice to go to trial.

The Commission found that the judge was not faithful to the law, in violation of Canon 3(A)(1). The Commission also determined that the judge created an appearance of impropriety in violation of Canon 2(A) and undermined the public's faith in the integrity and impartiality of the judiciary in violation of Canon 2(B). The Commission acknowledged the judge's long history as a judge and magistrate with no negative disciplinary history and resolved the matter with a caution.

A judge entered a default against a municipal defendant in a civil case while knowing that the defendant had not received notice of the complaint and the default would inevitably have to be set aside. The judge made a comment on the record that this was done to "...at least get the file rolling in this matter." The Commission determined that this was a plainly invalid reason to enter a default. In addition, the judge signed a default judgment the same day the judgment was prepared by plaintiff's counsel, and the judgment included clearly excessive interest and attorney fees not authorized by law. The Commission found that both entering the default and signing the judgment violated MCR 2.603 and Canon 3(A)(1), which requires a judicial officer to be faithful to the law. The Commission acknowledged the judge's long history on the bench without other disciplinary action and cautioned not to repeat this type of action.

In a case in which a defendant was charged with a serious crime a judge refused a prosecuting attorney's request to issue a jury instruction based on a lesser-included crime. The judge refused to permit the attorney to offer case law that clearly supported the request, stating they "don't care what the law says." The instruction was not given and the jury acquitted the defendant on the greater offense.

During the Commission's investigation the judge claimed that the reason they did not give the instruction was because no rational view of the evidence would support giving the instruction – that is, the judge cited the correct legal standard to defend their decision. The Commission asked the judge to explain their position in light of the actual evidence at trial. The judge refused on the basis that they would not debate their legal decision with the Commission.

The judge also focused on the purported motives of the grievant, despite lacking credible evidence that those motives were in any way flawed. The Commission expressed its concern that the judge was shifting attention from the judge's own poor conduct to the grievant, whose motive was irrelevant.

After further inquiry by the Commission the judge relented and acknowledged that they had initially answered the questions based only on memory. After reviewing the trial record the judge acknowledged that the law required them to give the instruction the prosecutor had requested. The judge expressed sincere remorse for refusing the instruction under these circumstances.

The Commission found that the judge violated the obligation to be faithful to the law under Canon 3(A)(1) and undercut the public's faith in the judiciary and called their integrity and impartiality into question in violation of Canon 2(B). In addition, the Commission determined that the judge violated MCR 9.221(E), which requires a judge to cooperate with an investigation. The Commission also acknowledged the judge's generally very good judicial conduct, strong work ethic and sincere desire to be a better judge. The Commission admonished the judge.

A judge arraigned a defendant on two felony charges and set a bond of \$500,000 cash. Instead of considering the factors required by MCR 6.106(F)(2) when ordering anything other than a personal recognizance bond, the judge set the amount of the bond based on the seriousness of the crimes charged and because the defendant used a firearm. The Commission expressed its appreciation that

the judge candidly admitted their clear and basic legal error and took responsibility for it. The Commission cautioned the judge for failing to follow the law as required by Canon 3(A)(1).

A defendant pled guilty to manslaughter and felony firearms. At sentencing the defendant made an oral motion to withdraw his guilty plea on the basis that he was actually innocent. The judge denied his motion without making any inquiry into its factual basis and without making any findings that it was not in the interests of justice for him to withdraw his plea, as required by MCR 6.301(B).

The judge claimed to the Commission that the judge did the required analysis but did not place it on the record. The Commission determined that it did not appear the judge actually did complete the analysis, because without inquiring of the defendant the basis of his motion the judge could not possibly determine whether or not withdrawal of the plea was in the interests of justice. In addition, the Commission noted that if the judge did perform the analysis the judge's failure to put it on the record nonetheless did not allow a review of the decision and was another clear violation of MCR 6.301(B).

The Commission determined that by not following this fundamental law the judge violated Canon 3(A)(1). The Commission considered the judge's otherwise excellent disciplinary record and cautioned the judge to ensure in the future to provide parties with a meaningful opportunity to present their positions, and to place the judge's adherence to the court rules on the record.

b. Ex parte communication

A judge had an in-chambers meeting with two attorneys. During the meeting the judge provided an article to the attorneys that included the judge's markups. When providing the article the judge mentioned to one of the attorneys that the article might apply to another case in which the attorney was representing the plaintiff. The judge did not provide a copy of the article or mention the conversation to the opposing counsel in that other case. The judge represented to the Commission that they thought the article merely addressed general legal issues and did not provide an advantage to the plaintiff's attorney.

The Commission found that the judge violated Canon 3(A)(4), which forbids ex parte communications, by initiating communication with one attorney about a case without opposing counsel being present. In addition, by privately providing one party's counsel with an article relevant to the issues of a case before the judge, the judge created the appearance of favoring and assisting that party in violation of Canons 2(A) and 2(B), which prohibit the appearance of impropriety and the appearance of partiality.

The Commission cautioned the judge to be more mindful of conversations with attorneys and of the risk that the communications may create an unintended appearance of partiality. It also cautioned the judge to recognize the ex parte potential of communications with only one side in a case before the judge.

c. Delay

A judge did not decide motions in a civil proceeding until 541 days had passed from the date the motion was submitted. In another case the judge did not decide a garnishee defendant's motion

for more than a year. Although the Commission acknowledged that the delays were caused in part by large dockets, staff shortages, difficulties with time management due to competing concerns, and the Covid pandemic, it determined that the delays violated Canon 3(A)(5), which directs a judicial officer promptly to dispose of the business of the court.

The Commission had previously admonished the judge for delay but noted that this was more than 14 years prior and there were no other complaints based on delay in the interim. The Commission cautioned the judge to prioritize the court's workload to avoid allowing any case to linger excessively.

After a bench trial a plaintiff in a civil case filed a motion for new trial or new findings of fact, conclusions of law, and entry of amended judgment. The judge denied the motion eight months later without reviewing the relevant case transcripts. The plaintiff appealed the ruling and the appellate court remanded to the judge to provide a concise statement of the reasons for denying the motion. The judge issued the opinion and order about 13 months after the remand. In addition, the judge did not report the delayed pending case to the State Court Administrative Office as required under MCR 8.107(B).

The Commission found that although the judge did not intentionally delay either decision, they did not promptly dispose of the business of the court as required by Canon 3(A)(5). It also noted that the judge's failure to ensure that the transcripts had been reviewed was a somewhat careless discharge of judicial duties. The Commission considered the impact of the pandemic and the judge's own illness, as well as their candid acknowledgment that at the time the court had no protocols to ensure matters taken under advisement were resolved. The Commission also noted with approval that the judge had taken the initiative to implement procedures to avoid future excessive delay. The Commission noted as well the judge's otherwise very good disciplinary history. It cautioned the judge promptly to resolve matters in the future, to do so with due care, and to ensure the accuracy of reports to SCAO.

After completing a de novo hearing on a motion for change of custody a judge did not rule on it for a year. The judge was well aware that they had not resolved the motion, as at least twice they commented on the record on the fact that it was pending. The parties finally entered into a stipulation that mooted the motion. The judge did not report the delayed matter to SCAO. The judge asserted that that was because the court's procedures had not alerted the judge that the matter needed to be reported.

The Commission found that although the judge did not intentionally delay in ruling on the motion, they nonetheless did not promptly dispose of the business of the court as required by Canon 3(A)(5). The Commission acknowledged the judge's excellent disciplinary record and found it significant that once aware of the delay problem the judge took aggressive action to fix the court's case-tracking process. The Commission cautioned the judge to promptly dispose of the business of the court and to ensure the accuracy of reports to SCAO.

d. Treatment of every person fairly, with courtesy and respect

A judge made comments about a defendant's ethnic heritage during sentencing in a criminal case. The judge said the defendant was "a discredit to every immigrant who comes to this country,"

and that it was “people like” the defendant who have created political problems in our country. The Commission concluded that in context the judge’s comments did not denigrate any race or ethnicity and it was not their intent to do so. Rather, the judge’s words were meant communicate to the defendant that their actions harmed many people other than the immediate victim.

In a letter of explanation the Commission stated that comments about a defendant’s race or heritage are often inflammatory and often violate Canon 3(A)(14), which requires a judge to treat every person with courtesy and respect. In that regard, the Commission explained that the judge’s focus on the defendant and “people like” them as the problem, rather than focusing on the defendant’s actions, is often seen as disrespectful to the defendant as a person. The Commission further noted that the judge’s references to the political impact of the defendant’s actions tended to make it appear that the judge might have been swayed by partisan interests or public clamor in violation of Canon 3(A)(1), and might call into question the judge’s impartiality, contrary to Canon 2(B).

During a Zoom hearing concerning a code enforcement docket a judge was dismissive toward, and berated, an elderly and sick party and his son who were trying to explain the situation with respect to the ticket the person received. The judge, in a raised voice, cut the party off, described the person’s yard at length as “shameful,” and threatened to place the property owner in jail if he returned to court with the matter unresolved, then terminated the hearing without providing the party the chance to respond.

The judge self-reported the conduct and candidly acknowledged that the judge’s tone and words with the party were neither dignified nor courteous and were completely inappropriate. The Commission agreed with the judge’s self-assessment, finding that the judge’s jail threat was especially inappropriate because a jail sentence is not an option for a civil infraction. The Commission also found that the party was deprived of the right to provide an explanation for the ticket, that the interaction humiliated the party, and that the judge reacted with excessive anger toward the party.

The Commission acknowledged that the judge took responsibility for their conduct, publicly apologized, and had an excellent disciplinary record. The Commission recognized that the judge faced some difficult personal circumstances that day but noted that a judge cannot allow such circumstances to influence the manner in which the judge treats litigants. The Commission cautioned the judge to adhere to Canon 3(A)(3), which requires a judge at all times to be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal in an official capacity, and Canon 3(A)(14), which requires a judge to treat every person with courtesy and respect.⁵

e. Disclosure/Disqualification

A judge who was a former elected county prosecuting attorney was assigned to and presided over a case in which, many years prior, the judge had reviewed, approved and signed a complaint while in a supervisory capacity as the former prosecuting attorney. Although the judge was aware of potential disqualification issues upon taking the bench and had worked with the chief judge and SCAO to take steps to limit disqualification issues, this particular case was not discovered through the

⁵ Although the matter was confidential while it was pending, at its resolution the judge waived her right to keep the matter confidential, and the letter is posted under “Latest News” on the Commission’s website.

existing protocols. The Commission found that the judge had presided over the case without having actual knowledge of the judge's prior connection to it.

The judge acknowledged that the identification and subsequent disclosure of conflicts is a judge's responsibility. The Commission noted and appreciated the care and concern the judge demonstrated by acknowledging the mistake, engaging in retraining in reviewing matters for disqualification, and setting up additional "bright line" protocols to ensure that other cases the judge had handled or supervised as the elected prosecuting attorney would be assigned and/or transferred to another judge. In cautioning the judge, the Commission commented on the judge's candor in acknowledging the mistake and the positive and proactive actions that the judge took once the issue was brought to the judge's attention.

A judge did not disclose that they had a close personal relationship with an attorney representing a defendant who was before the judge for sentencing. The judge also had a close relationship with that attorney's wife, who is also an attorney who practiced before the judge. The judge was a bridesmaid in the couple's wedding, celebrated birthdays and Christmas with them (including exchanging gifts) and traveled with them. One of the attorneys had represented the judge and the judge's spouse in legal matters, sometimes on a pro bono basis.

The Commission noted that an objective observer of the relationship might think it impacted the judge's decisions in cases in which either of the attorneys appeared. The Commission noted the judge's otherwise excellent disciplinary record and cautioned the judge for failing to disclose the relationship on the record as required by MCR 2003(C)(1)(b) and Canon 3(C).

2. Conduct off the Bench -Treating every person fairly and with courtesy and respect

A judge used an inappropriate tone and profane language when speaking with a county employee by telephone. The judge acknowledged that the use of profanity is inappropriate and inconsistent with the canons. The Commission cautioned the judge that Canon 3(A) requires judges to be dignified and courteous when acting in their official capacities and to treat all people with respect. The Commission advised the judge that the use of profanity erodes public confidence in the judiciary and should be avoided when speaking with others in a judge's official capacity. It considered the judge's lack of disciplinary history in its decision to resolve the matter with a caution.

V. COMMISSION ORGANIZATION, STAFF AND BUDGET

A. Commission Organization and Staff

The Commission had seven full-time staff positions at the end of 2022, which included the executive director, administrative counsel, three staff attorneys, an office manager and an administrative assistant. 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, deputy executive director, retired in July 2022 after 13 years of employment with the Commission.

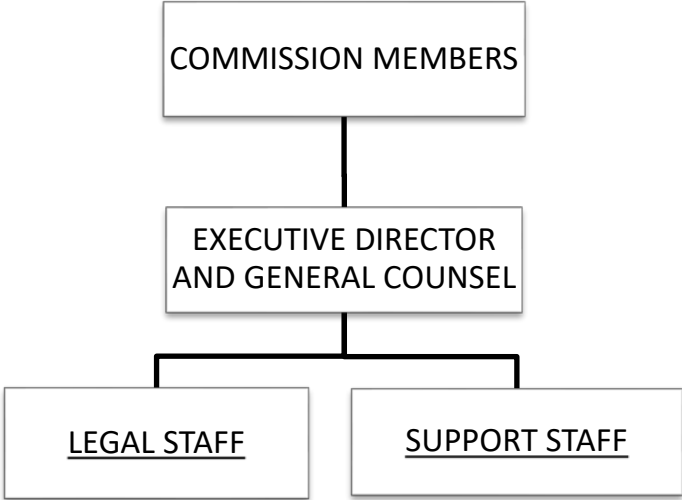
Casimir J. Swastek was named administrative counsel in August 2022. The other staff attorneys are Margaret N.S. Rynier, Dina Dajani and Melissa Johnson.

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 2022, funding provided by the Michigan legislature enabled the Commission to have the assistance of contract attorneys Lora Weingarden, Kavita Uppal, Nichollette Hoard, Amy Kullenberg, Sheldon N. Light, and Jade Edwards-Cureau.

The Commission also benefited greatly in 2022 from the volunteer assistance of two experienced litigators, Dennis Haffey and Robert Kalec. Mr. Haffey and Mr. Kalec retired after very successful careers. Recognizing the importance of the Commission’s work and that the work be timely, they volunteered their time to help address the Commission’s backlog.

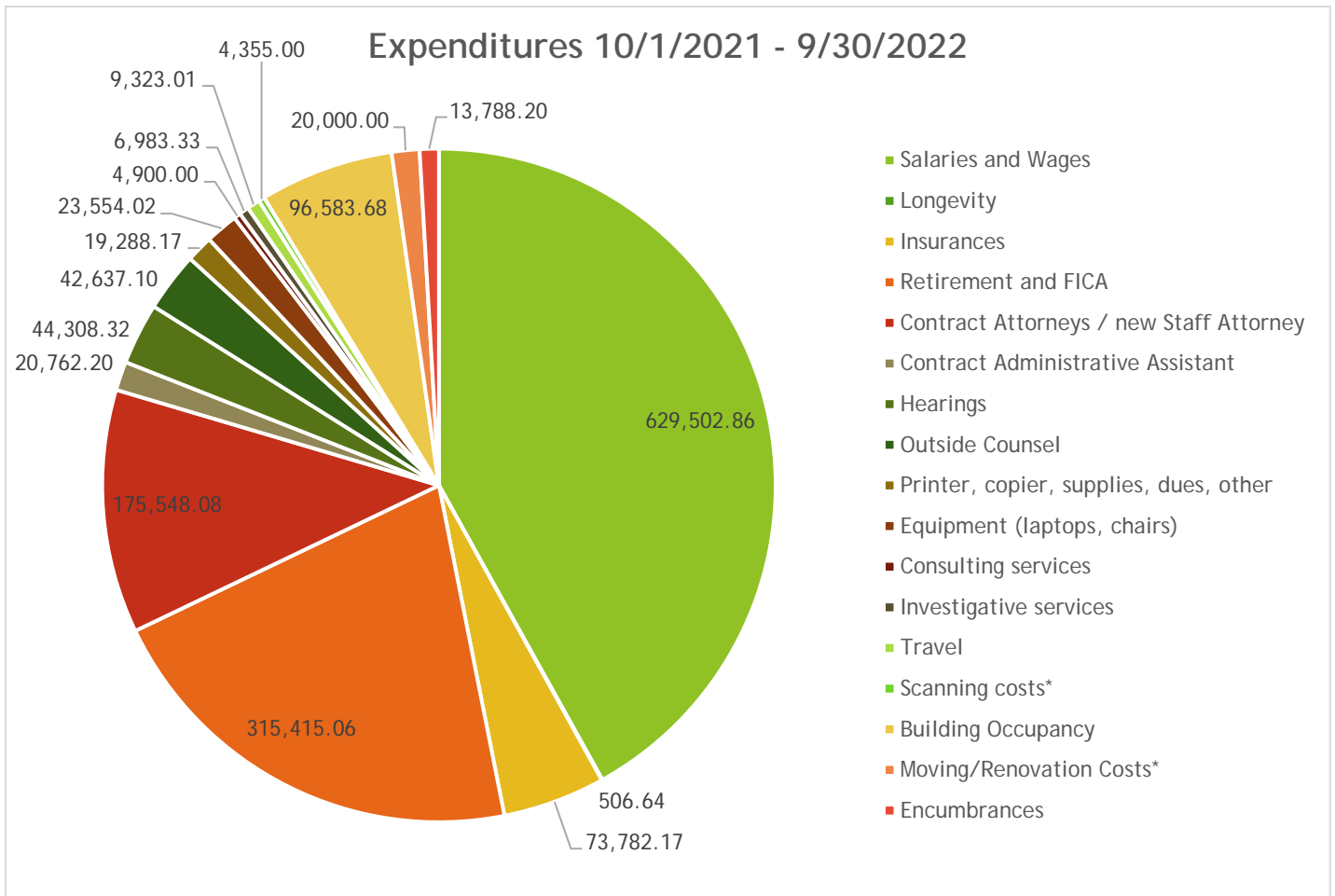
The Commission’s legal staff are responsible for analyzing and investigating grievances and providing the Commission the information it needs to act on grievances. In addition, the attorneys serve as disciplinary counsel during public proceedings.

As of the end of 2022 the Commission’s support staff was comprised of Office Manager Camellalynette Corbin and Administrative Assistant Jason Flowers.



B. Budget

The Commission’s budget is established by the Michigan legislature. For the 2022 fiscal year (October 1, 2021 – September 30, 2022) the Commission’s appropriation was \$1,804,498 with actual expenditures of \$1,705,238. After several years during which the budget was inadequate to meet the Commission’s needs, resulting in the current Commission backlog, the legislature appropriated the Commission enough additional money for the 2023 fiscal year to hire three additional attorneys and a paralegal. As of the end of 2022 two of those attorney positions were filled and an offer was pending for the third.



VI. CONCLUSION

The Commission’s service to the public improved during 2022 with additional staff and the recent additional support the Commission received from the Michigan legislature will further improve its service to the public in 2023. The Commission remains committed to fairly promoting the integrity, independence, and justness of Michigan’s judiciary, and the public’s confidence that the Michigan judiciary possesses those qualities.