

NEVADA COMMISSION ON JUDICIAL DISCIPLINE

STANDING COMMITTEE ON JUDICIAL ETHICS



2014-2015 BIENNIAL REPORT

2014-2015 BIENNIAL REPORT

TABLE OF CONTENTS

I.	The Nevada Commission on Judicial Discipline	1
II.	Commission Action	5
III.	Commission Members	13
IV.	The Standing Committee on Judicial Ethics	13
V.	Standing Committee Action	15
VI.	Members of the Standing Committee on Judicial Ethics	17
	Appendix A – Complaint Flow Charts	
	Appendix B – Statistics	
	Appendix C – Budget Chart	

Introduction

Section 1.464 of the Nevada Revised Statutes directs the Nevada Commission on Judicial Discipline (the "Commission") to submit annual and biennial reports summarizing the activities of the Commission during the preceding fiscal year or the preceding two fiscal years. This report responds to that directive and includes statistical information regarding the disposition of complaints and the length of time proceedings have been pending as well as a statement of the budget and expenses of the Commission. There is also a description of the Commission's authority and processes with regard to judicial discipline, a description of the actions taken by the Commission during the biennium, and a list of the Commission members.

Included in this report is also a description of the Standing Committee on Judicial Ethics (the "Standing Committee"). The Standing Committee was created by the Nevada Supreme Court in 1997, with a revision in 2011, and its authority can be found in the Rules Governing the Standing Committee on Judicial Ethics, Part VIII of the Supreme Court Rules. Although this information is not required to be a part of this report, the Standing Committee is an integral part of the maintenance of judicial ethics in this state. The Standing Committee acts as a reference point for judges and the public and also as a preventive measure so that ethical problems can be avoided. Additionally, pursuant to the Supreme Court Rules, the Executive Director of the Commission is also the Executive Director of the Standing Committee. This effectively melds the Commission and the Standing Committee functions regarding judicial ethics although the two bodies operate independently. Both the Commission and the Standing Committee are comprised of volunteers who agree to undertake important functions.

Much of the work of the Commission and the Standing Committee is reflected on the detailed website maintained by the staff. The website, found at <http://judicial.state.nv.us>, is divided into two parts, one for the Commission and one for the Standing Committee. The former provides extensive information as to the mission and processes of the Commission, including reference to the constitution, statutes, procedural rules and complaint forms. It also contains the Commission's disciplinary decisions, an index of the decisions, case references, and statistics, and other information. The same is true for the Standing Committee portion of the website. That part of the website contains the explanation of the

2014-2015 BIENNIAL REPORT

Standing Committee's responsibilities, copies of its advisory opinions, and a listing of current members. Accordingly, this report incorporates much of the information set forth on the Commission's website.

Respectfully submitted,

Paul C. Deyhle
General Counsel and Executive Director
Nevada Commission on Judicial Discipline

September, 2015

I. The Nevada Commission on Judicial Discipline.

Established by the Nevada Constitution, Article 6, Section 21, the Commission is the body authorized to censure, retire, remove or otherwise discipline judges in this state. Any appeals from the action of the Commission may be appealed by the affected judge to the Nevada Supreme Court. The Legislature establishes the grounds for disciplinary action, including violations of the Code of Judicial Conduct which the Nevada Supreme Court adopts. Article 7 of the Constitution still provides for impeachment by the Legislature. The Nevada Supreme Court has referred to the Commission as a court of judicial performance.

The Legislature has also adopted sections 1.425 - 1.4695 of the Nevada Revised Statutes which supplements the constitutional provisions and provides for the circumstances under which a judge may be disciplined and many of the procedural aspects of judicial discipline. The Commission has also adopted Procedural Rules which supplement the constitutional and statutory provisions. The Commission also decides whether a judge is incapacitated and what actions to take in that instance. The Commission's website has extensive information regarding the Commission, constitution, statutes and rules governing the Commission, all of the Commission's public decisions and orders, and information regarding members and staff.

Membership.

The Commission is composed of three lay members, two district court judges and two lawyers. The three lay members are appointed by the Governor. No more than two lay members can be of the same political party and they must reside in different counties. Alternates are appointed pursuant to the inherent power of the appointing authority pursuant to Nevada Supreme Court case law. The Chair and Vice-Chair are selected from the three primary lay appointees, by vote of the entire Commission. Current lay members are Chairman Gary Vause (Democrat, Clark County), Vice Chair Mary Lau (Republican, Lyon County), Joseph "Mike" McGinness (Republican, Churchill County), Stefanie Humphrey (Democrat alternate, Carson City), and JoAnne Elston (Republican alternate, Washoe County).

Two district judge members are appointed by the Nevada Supreme Court. District judge alternates are appointed to serve in case of disqualification and limited jurisdiction judges are appointed as alternates to serve during public proceedings against judges from that level of the judiciary pursuant to statutory

mandate. No judge may sit in a case involving a judge from his or her court.

Current district court judicial members are Jerome Polaha (Second Judicial District, Washoe County), Mark Denton (Eighth Judicial District, Clark County), Lidia Stiglich (alternate) (Second Judicial District, Washoe County), and Leon Aberasturi (alternate) (Third Judicial District, Lyon County). Justice Court alternate members are Janiece Marshall (Las Vegas Justice Court) and Patricia Lynch (Reno Justice Court). Municipal court alternate members are Heidi Almase (Las Vegas Township) and Dorothy Nash Holmes (Reno Municipal Court).

Two lawyer members are appointed by the State Bar of Nevada. Standing alternates are appointed to serve in case of disqualification. Current lawyer members are Karl Armstrong (Las Vegas), Bruce Hahn (Reno), Don Christensen (alternate) (Reno) and Lawrence Irwin (alternate) (Las Vegas).

Process.

Complaints are filed with the Clerk of the Commission. The Executive Director may file complaints as well. The Commission and its staff review all complaints and the Commission meets to decide whether to investigate the complaints or any portion of a particular complaint. At this stage, the Commission must find that a reasonable inference can be drawn that a judge committed misconduct or is incapacitated. If so, the Commission directs the Executive Director to perform an investigation. The Executive Director contracts with a private investigative agency to perform investigative functions. The Commission must then decide from investigative reports whether there is a likelihood that it could find “a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the judge named in the complaint.” If so, the Commission must require the judge to respond to the complaint. After the judge responds and the Commission considers the response, the Commission must again decide whether there is the required evidence for disciplinary action. It is after such a finding that a case could move forward to a public proceeding.

If a public proceeding ensues, the Executive Director contracts with private counsel to serve as “Special Counsel” (also referred to as “Special Prosecutor”). The Special Counsel independently reviews the evidence and files a Statement of Formal Charges, based on counts for which the Commission issued a finding of reasonable probability. The judge, with or without counsel, files an answer and a public hearing, similar to a trial, ensues. The burden of proof is on the Special Counsel to show by clear and convincing evidence that a violation of the Code of Judicial Conduct occurred.

Other possible dispositions include summary dismissal without investigation (most common), dismissal after full or limited investigation and issuance of a letter of caution (characterized under the rules as a “non-disciplinary event”). If the Commission determines that a judge has committed misconduct which is minor and would be most appropriately addressed through rehabilitation, treatment, education or minor corrective action, the Commission may enter into an agreement with the judge to defer formal disciplinary proceedings and require the judge to undergo the appropriate corrective action.

Please see Appendix A for flow charts.

Possible Sanctions.

The main function of the Commission is to protect the public, not to discipline judges. Nevertheless, the range of punishments includes: permanent removal from office, bar to holding judicial office (used for judges who have left the bench before a case against them is adjudicated), suspension with or without pay, completion of a probationary period pursuant to conditions deemed appropriate by the Commission, pursuit of a remedial course of action, fines (normally payable to local law libraries), additional education and training at the judge’s expense, public censure, public or private reprimand, requirement to undergo monitoring by the Commission and mentoring by an appropriate individual. Judges can be required to issue public and private apologies to affected individuals. Judges can also be required to undergo physical and/or psychiatric evaluation and testing if the issue of a mental or physical disability is raised during the disciplinary process.

Appellate Review.

Only a judge, not a complainant, can appeal from the Commission’s decision. Appeal is taken directly to the Nevada Supreme Court. The Nevada Supreme Court defers to the Commission’s findings of fact and it determines if the record supports the findings. The Nevada Supreme Court conducts a *de novo* review of legal issues, including appropriateness of the punishment. The Nevada Supreme Court can lessen the punishment or increase it. The Court has adopted the “objective reasonable person standard” to evaluate whether conduct violates the Code of Judicial Conduct. The Commission applies the same standard.

In July 2007, the Commission conducted one non-public interim removal or suspension hearing (Halverson) that was the subject of an appeal to the Nevada Supreme Court and resulted in the first published opinion regarding that process.

It was then and remains one of a few decisions throughout the United States dealing with interim suspensions. Statutory provisions enacted in the wake of the decision provide additional due process requirements.

Time Limitations

Effective in January of 2010, the Nevada Legislature imposed time limits on the Commission's ability to consider complaints filed against judges. In NRS 1.4655, the law now provides that the Commission shall not consider complaints from acts occurring more than three years before the date of the complaint or more than one year after the complainant knew or should have known of the conduct, whichever is earlier. Exceptions to this time limit are when there is a continuing course of conduct and the end of the conduct is within the time limit; there is a pattern of recurring misconduct and at least one act is within the time periods; and, any period in which the judge has concealed or conspired to conceal evidence of misconduct is not included in the time limits. The Legislature has also required that the Commission take action within 18 months after receipt of a complaint by dismissing the complaint, attempting to resolve it pursuant to statute, entering into a deferred discipline agreement, imposing discipline pursuant to an agreement with the judge, or authorizing the filing of a formal statement of charges based on the required evidentiary standard.

The Commission is authorized to extend these time limitations pursuant to NRS 1.4681 for good cause shown. Additionally, the time limits are to be computed without including periods of delay attributable to another judge, periods of delay between Commission meetings, periods of negotiation between the Commission and the subject judge, and periods when a complaint is held in abeyance pending the disposition of a court case related to the complaint. Any dismissal for failure to comply with time limits shall not occur unless the Commission determines that the delay is unreasonable and the judge's rights to a fair hearing have been violated. A delay of an investigation by more than 24 months after the filing of a complaint is *prima facie* evidence of an unreasonable delay.

The Legislature has established a statute of limitations on judicial misconduct complaints. Notably, most jurisdictions in the country have no statute of limitations for judicial misconduct and some disciplinary actions have occurred based on conduct many years prior and sometimes before an individual became a judge.

II. Commission Action

The work of the Commission described below shows that the Commission and its staff are challenged by a constant and varied work flow. The Commission meets either in person or by telephone conference calls many times during the year to review complaints, to consider investigations, and to determine the resolution of cases. It also meets in person for formal proceedings. Additionally, the Chairperson is constantly in contact with the Executive Director about policy and meeting matters.

Formal Proceedings/Public Action

The Commission has the authority to impose discipline including censure and removal pursuant to NRS 1.440(1). A public proceeding is held only when the Commission has made a finding that a reasonable probability exists that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against a judge.

During December of 2013 (FY 2014), a public case was heard and discipline imposed upon Steven E. Jones ("Jones"), former District Court Judge in the Family Court Division of the Eighth Judicial District Court. The Commission concluded that Jones had violated Rules 1.1 and 1.2 of Canon 1, Rules 2.4(B), 2.4(C), 2.2, 2.11 and 2.12 of Canon 2, and Rule 3.10 of Canon 3 of the Revised Nevada Code of Judicial Conduct ("NCJC"). Discipline was imposed in January 2014 in the form of public censure and suspension of Jones' pay for a period of 3 months.

Judge Jones appealed the Commission's findings to the Nevada Supreme Court. The Court has been fully briefed. The matter was submitted to the Court for its decision on or about December 22, 2014, and is currently pending the Court's ruling. In earlier proceedings, on December 6, 2013, the Nevada Supreme Court dismissed Jones' Petition for Writ of Mandamus. Jones' Petition for Writ of Mandamus to stay the proceedings against him was denied on August 15, 2013. On October 30, 2013, Jones withdrew his appeal of the Eighth Judicial District Court's Order Granting Motion to Dismiss.

In a second matter concerning Judge Jones, a felony indictment was issued on October 24, 2012, in Las Vegas by a federal grand jury. Pursuant to NRS 1.4675, Jones had been suspended with pay pending outcome of the indictment. Jones agreed to permanent disbarment and resigned his position as District Court judge. He then entered into a plea agreement and Judgment of Conviction was entered by the United States District Court, District of Nevada on or about

February 26, 2015. Jones was convicted of conspiracy to commit wire fraud, a violation of 18 USC, Section 1349 and is currently in the custody of the U. S. Bureau of Prisons at Taft, California.

The Commission filed a Formal Statement of Charges on or about June 11, 2015, charging Jones with violations of Canon 1, Rule 1.1, 1.2, and 1.3, and Canon 3, Rule 3.1(C), (D) and (E). Jones filed a Motion to Dismiss on July 28, 2015, which Special Counsel opposed on August 5, 2015. The disposition of the Motion to Dismiss is currently pending before the Commission.

In May, 2014 the Commission filed its Formal Statement of Charges against the Honorable Michelle Leavitt, District Court Judge of the Eighth Judicial District Court. On May 8, 2015, the Commission entered into a Stipulation and Order for Public Reprimand in which Judge Leavitt admitted that she committed violations of Canon 1, Rule 1.1, Canon 2, Rule 2.2, 2.5(A), 2.12(A) and 2.16(A) and accepted the Commission's public reprimand.

As a result of investigation and review by the Commission which took place in FY 2015, the Commission filed its Formal Statement of Charges on August 14, 2015, against the Honorable Michael Fletcher, Justice of the Peace, Walker River Township. Judge Fletcher's response to the charges is pending.

Informal Resolution and Private Discipline

The informal resolution of a complaint outside of a formal, public hearing is available to the Commission at different stages of the disciplinary process and in different forms. Of course, pursuant to NRS 1.4653, the Commission is authorized to remove a judge, publicly censure a judge or impose "other forms of discipline" when the judge has committed willful misconduct, has willfully or persistently failed to perform the duties of office, or is habitually intemperate. Public censure or other forms of discipline may also be imposed if the violation of the Code of Judicial Conduct was not knowing or deliberate. The different stages of the process where other forms of discipline may be imposed include:

- A complaint alleges that a judge is incapacitated, an investigation reveals a judge may have a disability, or the judge raises a disability as an issue before the filing of a formal statement of charges. The Commission shall attempt to resolve these matters informally and this includes voluntary retirement and addressing the disability adequately through treatment and with a deferred discipline agreement. NRS 1.4665(2).

- If the Commission reasonably believes that a judge has committed an act or engaged in behavior that would be more appropriately addressed through rehabilitation, treatment, education or minor corrective action, the Commission may enter into an agreement with the judge to defer formal disciplinary proceedings and require the desired action. NRS 1.468(1). This cannot be done if the Commission has determined pursuant to NRS 1.467 that there is sufficient evidence that could establish grounds for disciplinary action under NRS 1.4653 (willful misconduct or habitually intemperate). The misconduct must be minor in nature. Upon compliance with the conditions of the agreement, the Commission may dismiss the complaint or take other appropriate action. NRS 1.468(2)-(6).
- After a judge responds to a complaint and the Commission finds that a reasonable probability exists that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the judge, the Commission can then find that the misconduct would be addressed more appropriately through rehabilitation, treatment, education or minor corrective action and the Commission may enter into a deferred discipline agreement. This is not available for misconduct involving several described actions. NRS 1.467(3),(4).

See *also* Commission Procedural Rule 29. During the last biennium the Commission did determine that private, informal discipline was appropriate in several cases. Because no formal, public proceedings occurred in these cases, they remain confidential pursuant to NRS 1.4683.

Cautionary Letters

The Commission is authorized at several stages in the disciplinary process to issue a letter of caution to a judge as described here:

- The Commission determines that a complaint does not contain allegations of objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated but a letter of caution is appropriate. NRS 1.4657(2).
- After authorizing an investigation, the Commission reviews the report and determines that there is not a reasonable probability that the evidence available for introduction at a formal hearing could clearly

and convincingly establish grounds for disciplinary action against a judge but a letter of caution should be issued. NRS 1.4667(2).

- After initially finding sufficient evidence and requiring a judge to answer a complaint, the Commission determines that there is not a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against a judge but a letter of caution should be issued. NRS 1.467(2).

See also Commission Procedural Rules 12, 13 and 29. Pursuant to NRS 1.4657(2), a letter of caution is not a form of discipline. Nevertheless, when a letter of caution is issued, it can be considered by the Commission when deciding the appropriate action to take on a subsequent complaint unless the letter of caution is not relevant to the misconduct alleged in the subsequent complaint. A cautionary letter is not available for misconduct involving several described forms of serious misconduct. NRS 1.467(4). The Commission issued several letters of caution during the biennium.

- The Commission issued a cautionary letter to a district court master for behavior which occurred outside of official duties.
- The Commission issued a cautionary letter to a district court judge regarding lack of attention to procedural rules and processes.
- The Commission issued a cautionary letter to a district court judge for ethical issues related to bench demeanor and treatment of lawyers and parties in the courtroom.
- The Commission issued a cautionary letter to a district court judge regarding maintenance of order and decorum and impartiality and fairness in conjunction with performing judicial duties diligently.
- The Commission issued a cautionary letter to a district court hearing master concerning maintenance of courtroom control.
- The Commission issued a cautionary letter to a district court judge concerning ethical issues related to bench demeanor and treatment of parties.

- The Commission issued a cautionary letter to a justice of the peace concerning ethical issues arising from behavior which occurred outside of official duties.
- The Commission issued a cautionary letter to a justice of the peace concerning ethical issues arising from lack of attention to training and time requirements.
- The Commission issued a cautionary letter to a district court judge concerning compliance and application of the law.

Statistical Information

The large majority of complaints filed with the Commission regarding judicial conduct result in a dismissal. This is largely due to the fact that many complainants seek a remedy with the Commission regarding the merits of their litigation when the Commission has no jurisdiction over such. Additionally, many complaints are bare allegations of bias or prejudice by the complainant who feels that he or she lost in the litigation because the judge must have been biased against the complainant, although there is no real evidence of such. Many complaints are also filed by inmates seeking yet another avenue of relief from their convictions or are of the categories mentioned above. Additionally, of the complaints which warrant a full investigation and then an answer from the respondent judge, many are considered to involve minor conduct deficiencies which are remedied by informal resolution. The actual statistics are reported here.

It should also be pointed out that there were well over 500 judges, judicial officers and *pro tempore* judicial officers over which the Commission had jurisdiction. During election years this figure climbs dramatically since the Commission's jurisdiction extends to all candidates for judicial office. At this time there are 7 Supreme Court Justices, 3 Court of Appeals judges, 82 district court judges, 67 justices of the peace and 22 municipal court judges. Additional judicial officers include senior justices and judges, *pro tem* judges, hearing/special masters, commissioners and referees.

At the beginning of FY 2014, the Commission had a long-standing backlog of 137 pending cases, some of which dated back over two years. During FY 2014, the Commission received 196 new complaints, thereby increasing the total caseload being considered to 333 cases. The Commission processed to completion 183 cases, leaving 150 cases remaining open as of June 30, 2014¹.

¹The Commission's statistics prior to FY 2014 were tabulated and kept by hand. Proper case management procedures subsequently implemented revealed a greater number of cases processed to completion in FY 2014 than originally

During FY 2015 the Commission has all but eliminated its backlog. During FY 2015 the Commission received 164 new complaints, initiated 5 public cases and completed 209 cases. This has reduced its number of open cases to 80 as of June 30, 2015.

It should be noted that the Commission received more complaints in this biennium than at any other time and processed more to completion than ever before in the Commission's history.

Additional statistical information can be reviewed in Appendix B.

Budget and Staff

The Legislature approved a budget of \$624,881 for FY 2014. This amount included \$240,269 in operating funds. To cover the unprecedented costs of litigation and hearing costs, the Commission requested and was granted an additional amount of \$170,272 in operating expenses and an additional \$3,282 in operating system replacement expenses. Additionally, funds were reallocated from personnel, in-state travel and training categories to the Commission's operating category to pay these additional costs.

The Commission's approved budget for Fiscal Year 2015 was \$643,129. The Commission's total expenditures were \$550,968.02 allowing \$92,160.98 to be reverted to the General Fund.

The Commission's staff consists of a recently appointed General Counsel and Executive Director (as of November 1, 2013), a newly approved Associate General Counsel position, and three Management Analysts. The Commission contracts with outside counsel and private investigators as necessary. The Executive Director is also responsible for the administrative duties of the Standing Committee on Judicial Ethics.

FY 2014 and FY 2015 saw a substantial increase in the number of complaints filed. Additionally, a significant backlog of cases faced the recently appointed General Counsel and Executive Director and new staff members. The contentiously litigated Jones matter was heard publicly in December 2013 and discipline was imposed in January 2014. Jones has appealed the Commission's decision and discipline to the Nevada Supreme Court. This litigation, along with five (5) other district and Nevada Supreme Court cases filed by Jones, severely

reported in the Commission's 2014 Annual Report. The actual number of cases processed to completion in FY 2014 was over 200, leaving 125 cases pending at the close of FY 2014.

impacted the Commission's burgeoning workload and further contributed to the backlog. In an effort to reduce the backlog and resolve the cases prior to the expiration of the Commission's 18-month time frame, the Interim General Counsel and Executive Director engaged the services of contract counsel.

During the Commission's search for a new Executive Director, the Commission hired an Interim General Counsel and Executive Director. The Interim General Counsel and Executive Director litigated the above-mentioned cases before both the Eighth Judicial District and the Nevada Supreme Court.

It should also be pointed out that the Commission had consistently struggled with its budget and a bare-bones staff. In the past, the Commission pared back necessary expenses and requested that investigators and contract attorneys suspend their work until the new fiscal year as there were insufficient funds for payment. This seemingly endless shortfall of adequate funds and resources led to a long-running and significant backlog of complaints and less than desirable attention to administrative matters. Without additional funding, these backlogs would have been expected to continue to occur as a result of bare-bones staffing, increased caseload, and the increasing prevalence of more complex cases. The associated delays attributable to these backlogs were unacceptable and wholly unresponsive to Nevada's citizens and judges whom the Commission serves.

Efforts to increase the Commission's responsiveness to Nevada's citizens and judges included restructuring of the office staff, technological improvements and building a realistic budget which not only reflects the Commission's actual operating costs, but will also enable the Commission to carry out its constitutional and statutory mandates more effectively and efficiently.

To this end, the General Counsel and Executive Director successfully sought modifications to the Commission's budget in the recent legislative session. Improvements to the Commission's funding included the addition of a new Associate General Counsel position to reduce contract attorney expenditures, improve operational efficiency and continuity, and to provide additional case/investigative oversight and management. Also included in the approved budget were relocation of the Commission's offices to a larger, more modern facility, purchase of a case management software system, replacement of its 12 year-old server, access to a legal research database, and reallocation of staff resources to accommodate the Commission's workload without the use of contracted former employees. The Commission's new budget also includes many new resources and long overdue technology upgrades which will enable

the Commission to run more efficiently than ever before while saving more of the taxpayers' money.

The General Counsel and Executive Director also successfully sought and lobbied for important legislative changes (AB 68) including the reimbursement of attorney's fees and costs under certain circumstances which will be returned to the state treasury.

See Appendix C for budget chart.

Current Litigation

Timothy Fasano and Rebecca Lynn Fasano v. David A. Huff, et al., Case No. 37406. The Commission was served with a summons and complaint on November 7, 2011, alleging that the Commission had not handled a complaint properly and assisted in covering up the illegal actions of a judge. The district court issued an order dismissing plaintiffs' complaint against the Commission and the other defendants. Plaintiffs were also ordered to pay \$534.87 in costs and \$10,311 in attorney's fees. The plaintiffs filed a notice of appeal. The Nevada Supreme Court issued an order affirming the district court's order on June 14, 2013, and the remittitur issued on July 17, 2013. The Commission has turned the matter over to the Controller's office for collection of the debt.

Arpino v. Edwards, et al., Nevada Supreme Court Case No. 65929. The Commission was served with a *Subpoena Duces Tecum* filed by prisoner John F. Arpino in First Judicial District Court Case No. 13-TRT000801B on March 31, 2014. A non-party Motion to Quash was filed, followed by an objection and reply. A Request for Submission was filed and while waiting for submission, venue was changed to the Second Judicial District Court and assigned Case No. CV14-01321, Department 6. The Request for Submission was re-filed and, while waiting for a decision, Arpino appealed the change of venue to the Nevada Supreme Court. His appeal was denied. The Commission's Non-Party Motion to Quash was granted by the Second Judicial District Court on June 9, 2015. Arpino also filed a Motion to Clarify and/or Strike on June 25, 2015, which the Commission opposed. Arpino's Motion to Clarify and/or Strike was denied on July 20, 2015.

III. Commission Members

The members of the Judicial Discipline Commission volunteer a substantial amount of time to carry out the extremely large amount of work required. The current members of the Commission are as follows:

Regular Commission Members	Alternate Commission Members
Gary Vause, Chair	Honorable Leon Aberasturi
Mary Lau, Vice Chair	Honorable Lidia Stiglich
Honorable Jerome Polaha	Honorable Janiece Marshall
Honorable Mark R. Denton	Honorable Patricia Lynch
Karl Armstrong, Esq.	Honorable Heidi Almase
Bruce Hahn, Esq.	Honorable Dorothy Nash Holmes
Joseph "Mike" McGinness	Donald Christensen, Esq.
	Laurence Irwin, Esq.
	JoAnn Elston
	Stefanie Humphrey

IV. The Standing Committee on Judicial Ethics.

The Standing Committee was created by Nevada Supreme Court Rules, now in Part VIII, in 1997. The Committee's purpose is to provide judges and aspirants to judicial office advisory opinions regarding ethical matters that may arise in the ordinary course of judicial service, or in the elective or appointive process. The Executive Director of the Commission on Judicial Discipline also serves as the Executive Director of the Standing Committee.

The Committee renders non-binding advisory opinions on hypothetical questions regarding the Nevada Code of Judicial Conduct and assists the Nevada Supreme Court by studying and recommending additions to, amendments to, or repeal of provisions of the Nevada Code of Judicial Conduct or other laws governing the conduct of judges and judicial candidates.

The Committee is composed of six judges appointed by the Nevada Supreme Court. Three must be limited jurisdiction judges and three must be district court judges. Twelve attorneys are appointed by the State Bar of Nevada, one of whom is the Chairman and one of whom is the Vice-Chair. The current Chairman is Michael Pagni, Esq. (McDonald Carano Wilson, LLP) and the current Vice-Chair is Janette Bloom, Esq. (Marshall Bloom). The officers are appointed by

the Commission on Judicial Discipline following nomination by the members of the Standing Committee. Twelve non-attorneys (lay members) were previously appointed by the Governor to sit on the Standing Committee for the purpose of resolving election practice disputes. In 2012, the Nevada Supreme Court removed the Standing Committee's jurisdiction to resolve election practice disputes. Consequently, the lay members were removed from the Standing Committee by amendment to the Supreme Court Rules, effective 10/05/2015. The members are appointed to two-year terms with a limit of no more than four consecutive full terms.

Advisory Opinions.

Process.

The opinion process begins when a judge or candidate submits a written hypothetical request to the Executive Director. Legal research submitted by the judge is accepted and encouraged. The Chairperson decides whether to form a panel and if he/she does, the Committee's staff contacts attorneys and judges to participate. Each panel must have one district judge and one limited jurisdiction judge, and six attorneys (including either the chair or vice-chair). Panel members discuss the ethical issue(s) via telephonic conference(s) and vote whether to issue an opinion or not and on what the conclusion will be. The Chair or Vice-Chair drafts the opinion or assigns the task to another attorney member of the panel or the Executive Director. Each panel member reviews the draft and provides input regarding the written product. The final opinion is signed by the panel Chair and then filed with the clerk of the Nevada Supreme Court. Final opinions are also posted permanently on the Standing Committee's website.

Limitations.

The Committee shall not act on requests for opinions when any of the following circumstances exist:

1. There is a pending Nevada State Bar or Judicial Discipline Commission complaint, investigation, proceeding, or litigation concerning the subject of the request.
2. The request constitutes a complaint against a member of the judiciary.
3. The request involves procedures employed by the Judicial Discipline Commission in processing complaints against judges.

4. The request involves activities, the propriety of which depends principally on a question of law unrelated to judicial ethics.
5. Where it is known that the request involves a situation in litigation or concerns threatened litigation or involves the propriety of sanctions within the purview of the courts, such as contempt.
6. The Committee has by majority vote determined that it would be inadvisable to respond to the request and has specified in writing its reasoning to the person who requested the opinion.

V. Standing Committee Action

It should be noted that the website for the Judicial Discipline Commission also contains the website for the Standing Committee. See <http://judicial.state.nv.us>. The Standing Committee portion of the website is divided into the following areas:

- a. Purpose of the Standing Committee
- b. Introduction to the Standing Committee
- c. Rules Governing the Standing Committee
- d. Revised Nevada Code of Judicial Conduct
- e. Advisory Opinions
- f. Advisory Opinions Indexed by Topic
- g. Standing Committee Members and Staff
- h. Interested in Becoming a Member of the Standing Committee

This portion of the website is an excellent reference for those who may have judicial ethics questions. The Revised Code of Judicial Conduct is set forth in full as are all advisory opinions ever issued by the Standing Committee. The section on advisory opinions indexed by topic allows a person to narrow a search regarding an issue to a relevant area of interest. Because so much information has been provided on the website, it will not be repeated here in the interest of economy.

Fiscal Year 2014 - Advisory Opinions

The Committee issued six (6) opinions during FY 2014.

JE13-004 May a court employee such as the Court Administrator serve as a pro tempore judge in a justice or municipal court? **Note: This opinion was originally filed August 28, 2013, and was amended and re-issued on November 19, 2013, to correct an incorrect cite.**

JE13-005 May a Nevada judge accept an appointment to serve on the board of directors of a non-profit organization that works to improve the quality of healthcare in Nevada?

JE13-006 May a retired judge still actively serving as a senior judge agree to have his name listed on an invitation to a fund raising event hosted by a nonprofit to raise money for an at-risk youth center named in honor of the judge?

JE14-001 May an elected limited jurisdiction judge serve as a special master or pro tempore judge in another court?

JE14-002 May a district court purchase and use case law search engine software created, managed and provided for profit by an attorney who practices before the same court?

JE14-003 Is a judge engaging in extrajudicial activities within the context of Canon 3 when serving as an officer of the United States Air Force Reserve, regardless of the particular assignment?

Fiscal Year 2015 - Advisory Opinions

The Committee issued five (5) opinions during FY 2015.

JE14-004 May a judge volunteer to work in a concession stand at various public events where a percentage of the proceeds from sales are used to raise funds for a nonprofit organization for a child's sports team?

JE14-005 May a justice of the peace in a township with a population of less than 6,000 represent a petitioner in a *habeas corpus* proceeding outside the judge's jurisdiction?

JE14-006 May a court employee who, prior to acceptance of employment with the court, was a facilitator of domestic battery treatment counseling in the

community along with the employee's spouse (pursuant to NRS 200.485(3)), continue to provide said counseling services after accepting employment with the court?

JE15-001 May a sitting judge i) actively campaign against a recall petition; and ii) solicit or accept campaign contributions to defeat the recall petition and any subsequent recall election?

JE15-002 May a judge consider non-party communications during administration and oversight of adult guardianship proceedings?

VI. Members of the Standing Committee on Judicial Ethics

The members of the Standing Committee are a dedicated group of individuals who volunteer their time and answer important judicial ethics questions. Judges and judicial aspirants frequently request informal and formal guidance in the form of requests for advisory opinions. The names of the Standing Committee members are listed here.

Judicial Members

Honorable Stephen L. George
Henderson Justice Court

Honorable Jim Wilson
First Judicial District Court

Honorable David Hardy
Second Judicial District Court

Honorable Nancy Alf
Eighth Judicial District Court

Honorable Mason E. Simons
Elko Township Justice Court

Honorable Melissa Saragosa
Las Vegas Justice Court

Attorney Members

Michael A.T. Pagni, Esq., Chair
McDonald Carano & Wilson, LLP

Janette Bloom, Esq., Vice Chair
Marshall Bloom

Robert Martin, Esq.
Martin & Allison

Bill C. Hammer, Esq.
Hammer & Associates

Christopher Cannon, Esq.
Olson Cannon Gormely Angulo
& Stoberski

Patricia Halstead, Esq.
Halstead Law Offices

Paul Connaghan, Esq.
Connaghan Newberry Law Firm

Eric Dobberstein, Esq.
Dickinson Wright, PLLC

Frank Toddre, II, Esq.
Olson Cannon Gormely Angulo, *et al.*

Kelly Dove, Esq.
Snell & Willmer

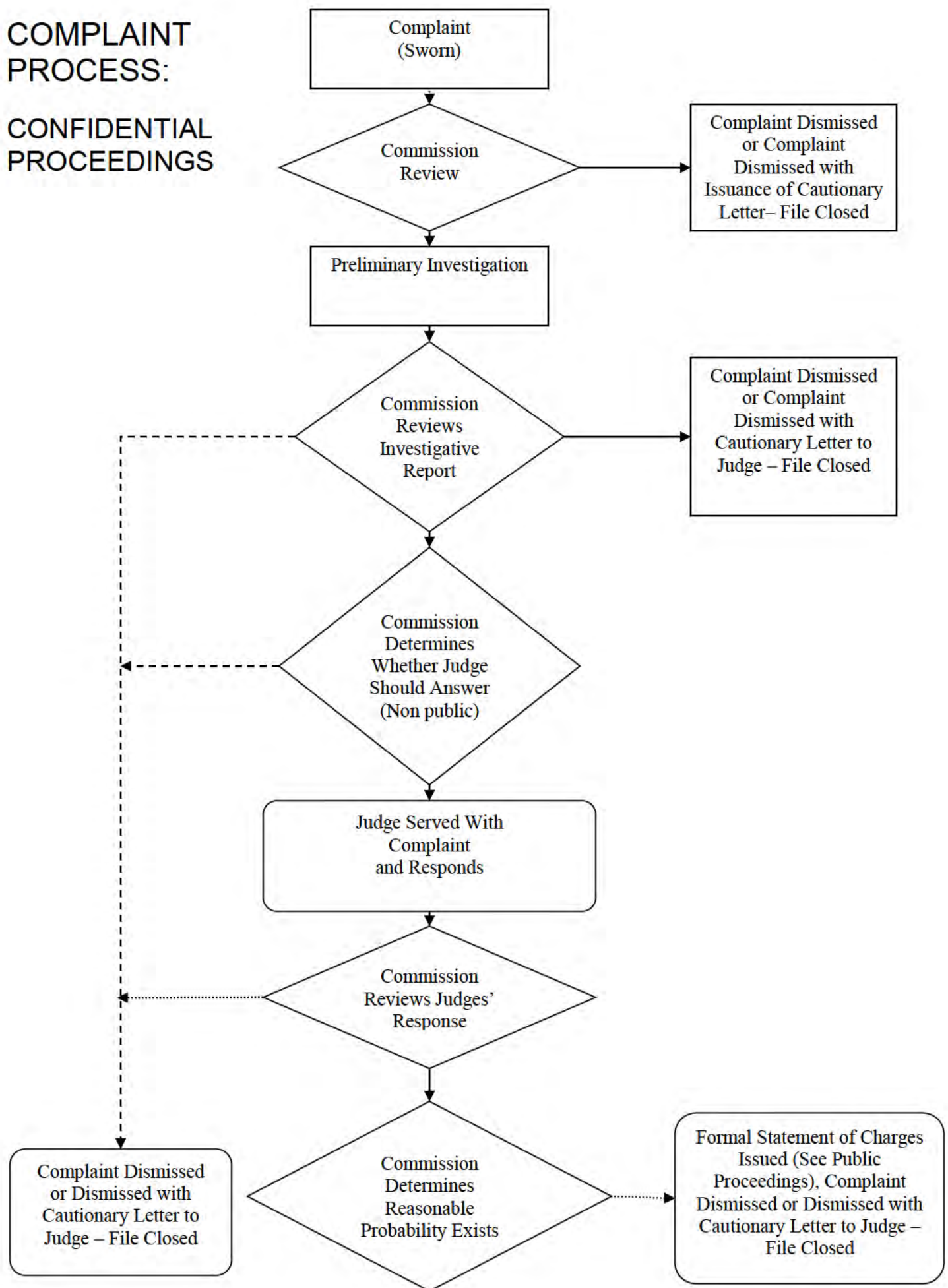
Laurie Diefenbach, Esq.
Retired Clark Co. Public Defender

G. David Robertson, Esq.
Robertson, Johnson, Miller & Williamson

APPENDIX A

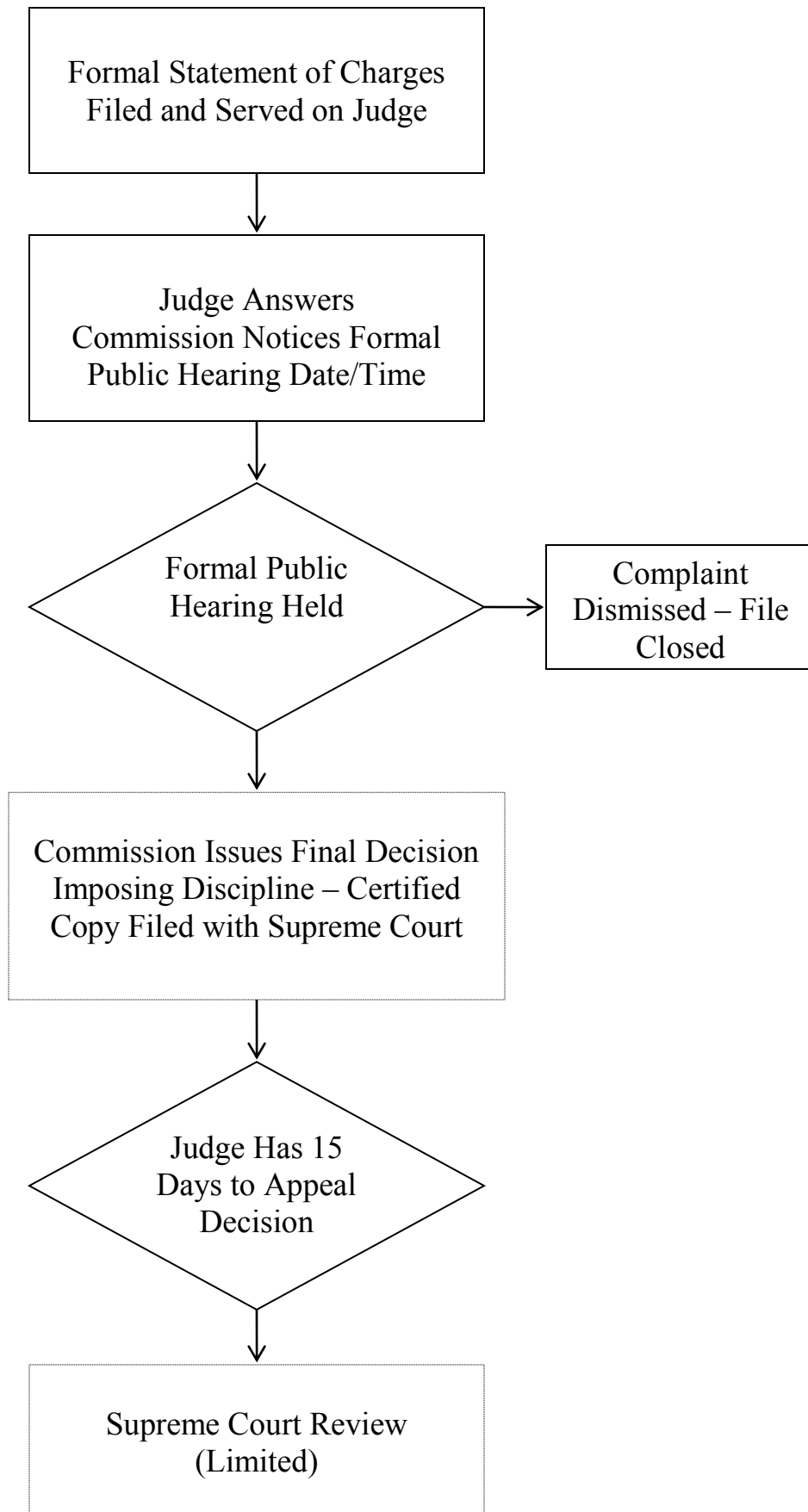
COMPLAINT PROCESS:

CONFIDENTIAL PROCEEDINGS



COMPLAINT
PROCESS:

FORMAL
PUBLIC
PROCEEDINGS



APPENDIX B

**CASE DISPOSITIONS
FISCAL YEAR 2014**

Disposition	Number
Dismissed after initial review ¹	152
Dismissed after investigation - no action taken	17
Dismissed with cautionary letter	3
Informal discipline ²	6
Public charges dismissed	0
Public reprimand	2
Public censure	2
Suspension ³	1
Removal	0
Total	183

¹Includes cases dismissed administratively prior to Commission review

²Includes private reprimand or deferred discipline agreement

³Includes suspension with and without pay

**CASE DISPOSITIONS
FISCAL YEAR 2015**

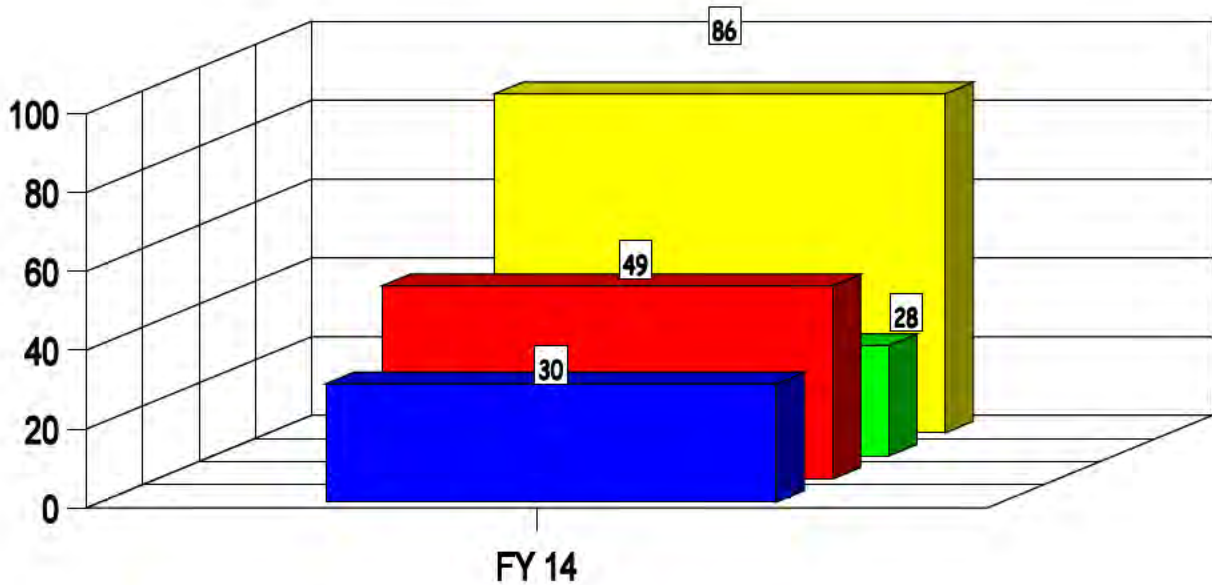
Disposition	Number
Dismissed after initial review ¹	178
Dismissed after investigation - no action taken	17
Dismissed with cautionary letter	6
Proceed to Formal Statement of Charges	6
Informal discipline ²	0
Public charges dismissed	0
Public reprimand	2
Public censure	0
Suspension ³	0
Removal	0
Total	209

¹Includes cases dismissed administratively prior to Commission review

²Includes private reprimand or deferred discipline agreement

³Includes suspension with and without pay

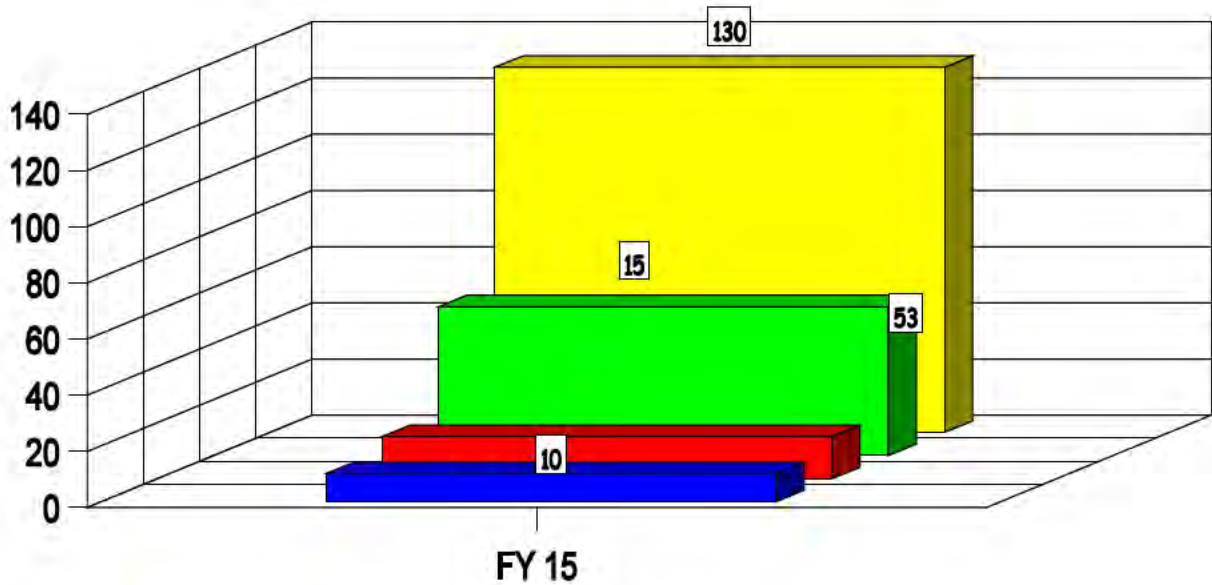
NUMBER OF COMPLAINTS COMPLETED
DURING FISCAL YEAR 2014





- Number of Complaints Completed within 6 months or less**
- Number of Complaints Completed within 7 to 12 months**
- Number of Complaints Completed within 13 to 18 mos**
- Number of Complaints Completed greater than 18 mos**

Note: The number of complaints completed which were older than 18 months includes a significant number of cases from prior fiscal years.

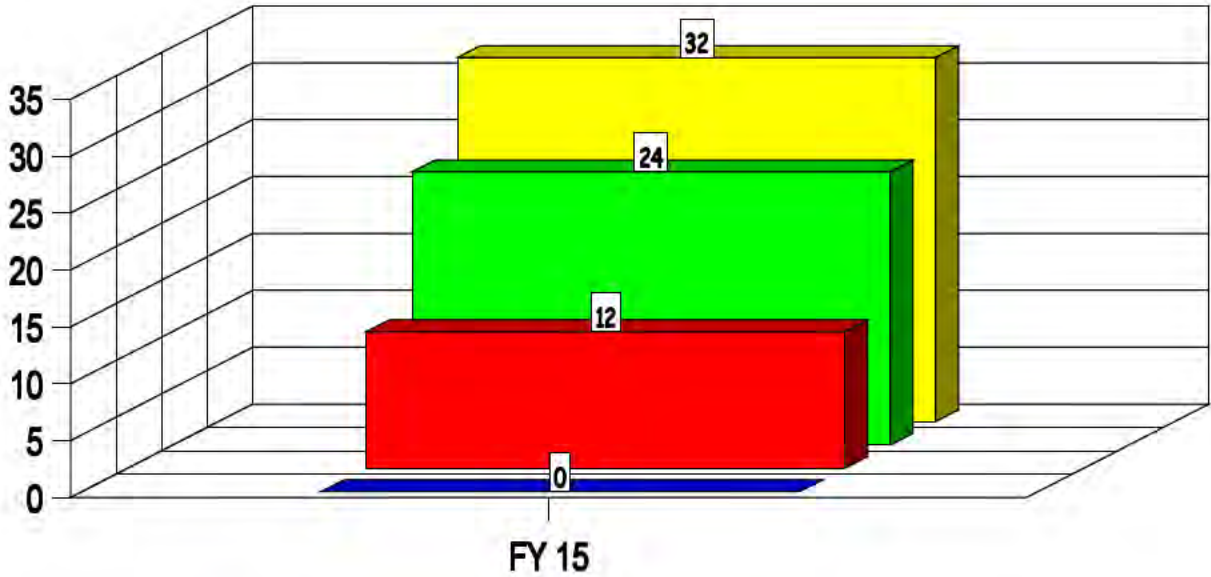
NUMBER OF COMPLAINTS COMPLETED
DURING FISCAL YEAR 2015





-  Number of Complaints Completed within 6 months or less
-  Number of Complaints Completed within 7 to 12 months
-  Number of Complaints Completed within 13 to 18 mos
-  Number of Complaints Completed greater than 18 mos

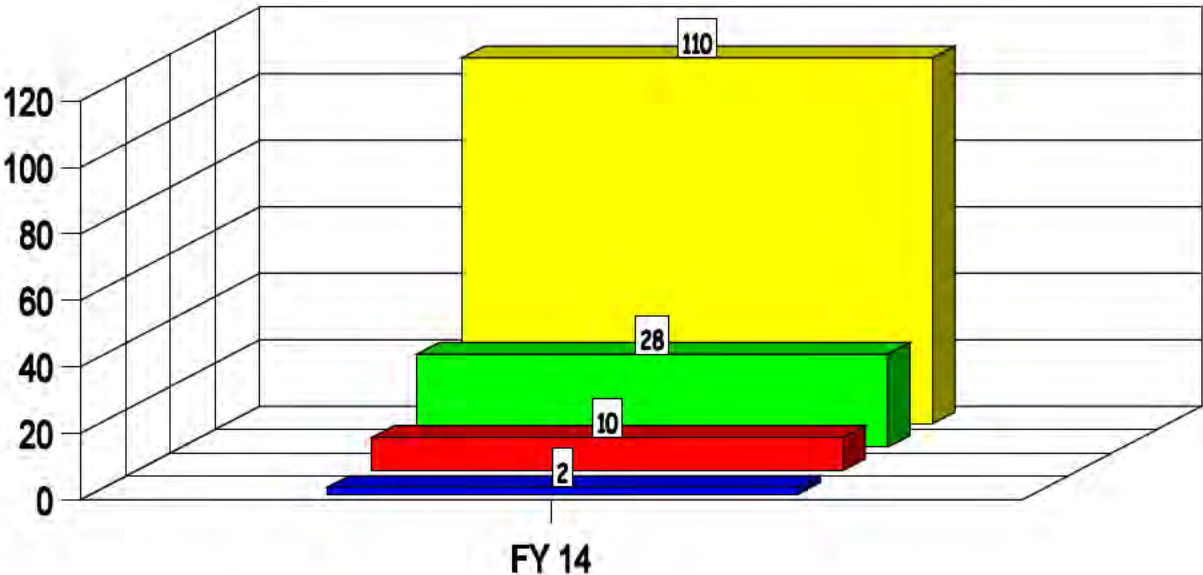
Note: The number of complaints completed which were older than 18 months includes a significant number of cases from prior fiscal years.

NUMBER OF COMPLAINTS PENDING
ENDING OF FISCAL YEAR 2015 (June 30, 2015)



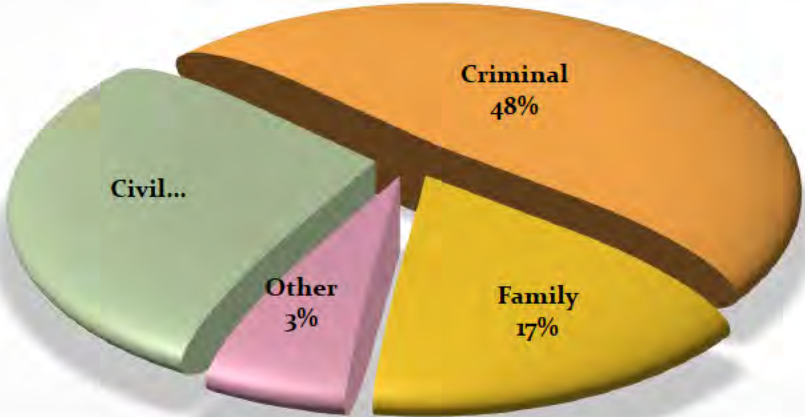
-  Number of Complaints Pending for 6 months or less
-  Number of Complaints pending for 7 to 12 months
-  Number of Complaints pending for 13 to 18 mos
-  Number of Complaints Pending longer than 18 mos

NUMBER OF COMPLAINTS PENDING
ENDING OF FISCAL YEAR 2014 (June 30, 2014)



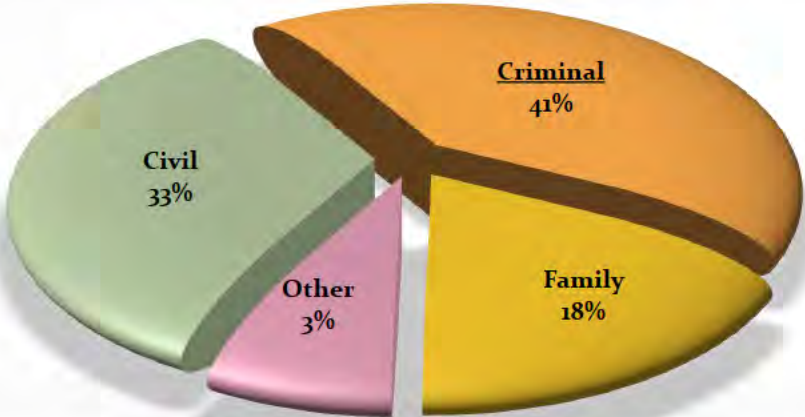
- Number of Complaints Pending for 6 months or less
- Number of Complaints pending for 7 to 12 months
- Number of Complaints pending for 13 to 18 mos
- Number of Complaints Pending longer than 18 mos

**Types of Courts - Complaint Origination
FY 2014**



- Civil
- Criminal
- Family
- Other

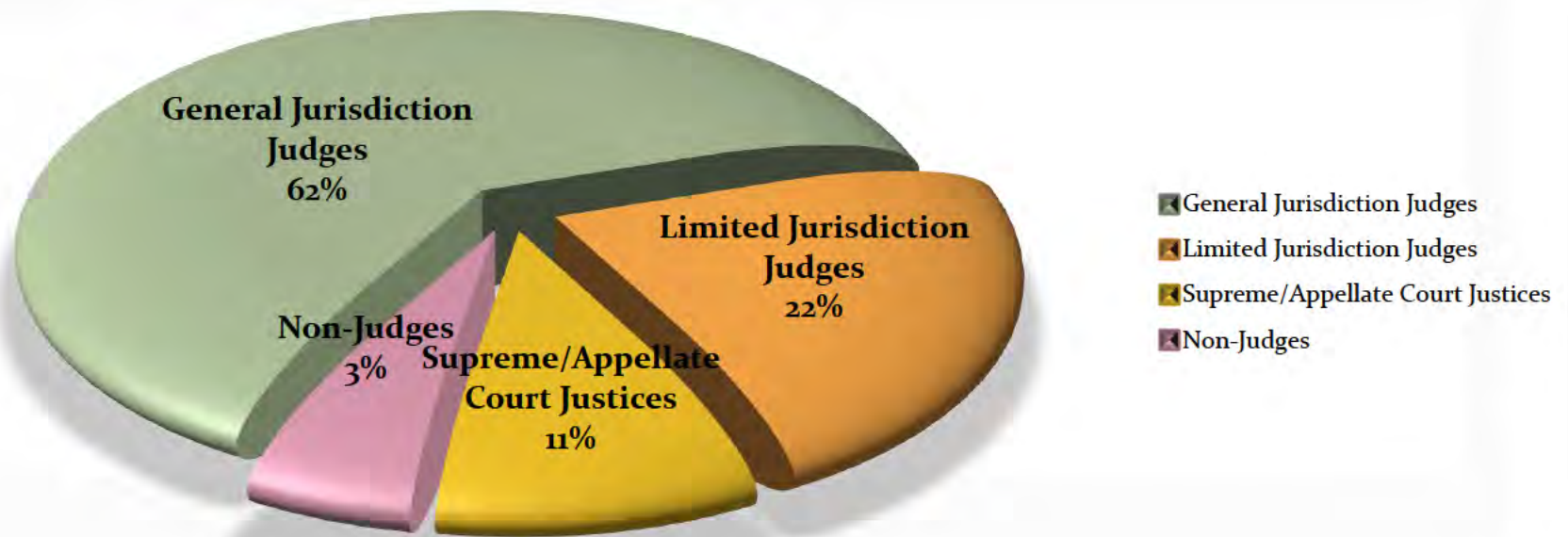
**Types of Courts - Complaint Origination
FY 2015**



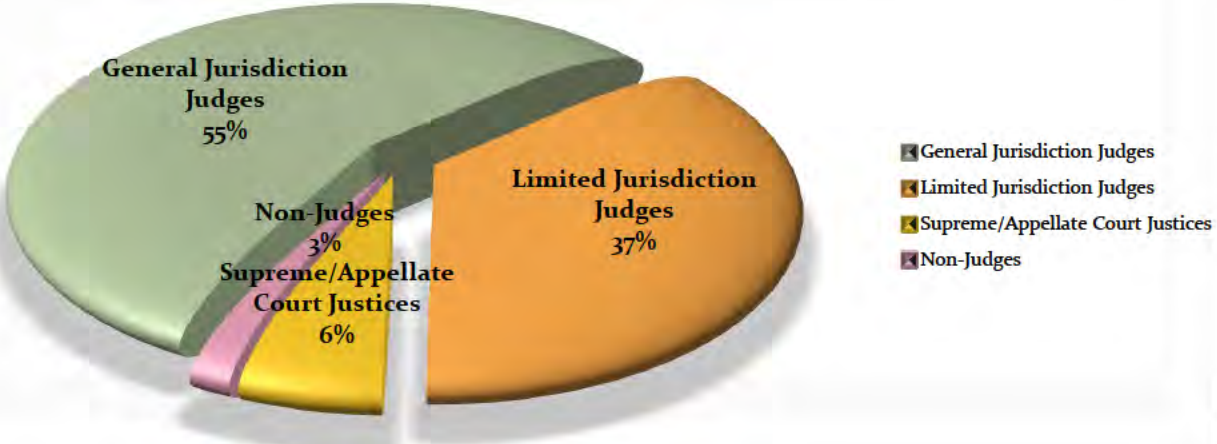
- Civil
- Criminal
- Family
- Other

Category	Number of Complaints
General Jurisdiction Judges	121
Limited Jurisdiction Judges	43
Supreme/Appellate Court Justices	21
Non-Judges	11
Total	196

Types of Judges Complained Against FY 2014

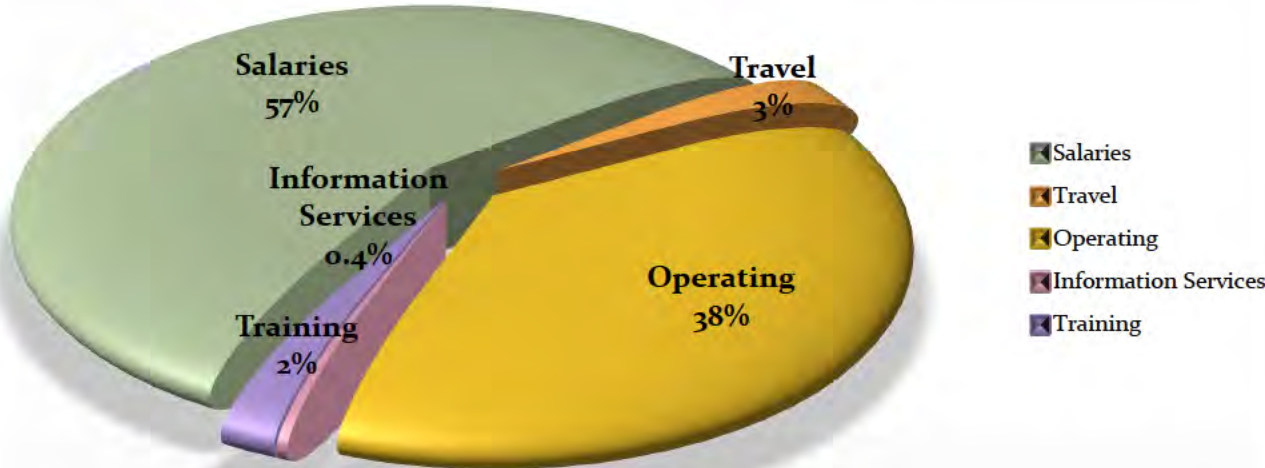


Types of Judges Complained Against FY 2015



APPENDIX C

Commission Budget Legislatively Approved FY 2014



Category	Amount
Salaries	\$ 353,057
Travel	\$ 15,725
Operating	\$ 239,865
Information Services	\$ 2,592
Training	\$ 5,370
Total	\$ 616,718

Commission Budget Legislatively Approved FY 2015

