

BIENNIAL REPORT

FY 2022-
FY 2023



STATE OF NEVADA COMMISSION ON JUDICIAL DISCIPLINE & STANDING COMMITTEE ON JUDICIAL ETHICS

Judicial.nv.gov
P.O. Box 18123
Reno, NV 89511

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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 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 fiscal year, and a list of the Commission members and alternate 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 Commission staff. The website, found at <https://judicial.nv.gov/> 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 form. It also contains the Commission’s disciplinary decisions, an index of the decisions, case references, statistics, and other information. The same is true for the Standing Committee portion of the website which contains the explanation of the Standing Committee’s responsibilities, all published advisory opinions, an index of advisory opinions by topic, and a list 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 2023

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. Disciplinary decisions 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 Revised Code of Judicial Conduct which the Nevada Supreme Court has adopted. 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 adopted sections 1.425 - 1.4695 of the Nevada Revised Statutes which supplement the constitutional provisions. and provide 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 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 procedural rules governing the Commission. The website also includes all of the Commission's public decisions and orders, as well as information regarding members and staff.

Membership.

The Commission is comprised 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 NRS 1.445. 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 Stefanie Humphrey (Republican, Carson City), John Krmpotic (Republican, Washoe County), Dana Endacott (Alternate) (Republican, Churchill County), Christine McGill (Alternate) (Democrat, Douglas County), and Joseph Sanford (alternate) (Democrat, Lyon County).

Two District Court judge members are appointed by the Nevada Supreme Court. District Court judge alternates are appointed to serve when the regular member is disqualified, unable to serve, or when a vacancy exists. 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 Mark Denton (Eighth Judicial District, Clark County), David Hardy (Second Judicial District, Washoe County), Thomas Gregory (alternate) (Ninth Judicial District, Douglas County) and Thomas Stockard (alternate) (Tenth Judicial District, Churchill County). Justice Court alternate members are Kendra Bertschy (Reno Justice Court), Stephen J. Bishop (Ely Township Justice Court), Richard Glasson (Tahoe Justice Court), Harmony Letizia (Las Vegas Justice Court), and Natalie Tyrrell (North Las Vegas Justice Court). The Municipal Court alternate member is Kristin Luis (Carson City Justice/Municipal Court).

Two lawyer members are appointed by the State Bar of Nevada. Alternates are appointed to serve when the regular member is disqualified, unable to serve, or when a vacancy exists. Current lawyer members are Karl Armstrong (Las Vegas), Don Christensen (Reno), Patricia Halstead (alternate) (Reno), Bill Hammer (alternate) (Las Vegas), and Christopher Laurent (alternate) (Las Vegas)

Process.

Complaints are filed with the Clerk of the Commission. The Commission may authorize the Executive Director to file a complaint 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 authorize an investigation. The Executive Director contracts with a private investigative agency to perform independent 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.” The Special Counsel independently reviews the evidence and files a Formal Statement of 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 Revised Code of Judicial Conduct occurred.

Other possible dispositions include summary dismissal without investigation, 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.

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, 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, or requirement to undergo monitoring by the Commission and mentoring by an appropriate individual. Judges can also be required to issue public and private apologies to affected individuals. Judges can further 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 Revised Nevada Code of Judicial Conduct. The Commission applies the same standard.

No appeals were filed by a judicial officer in Fiscal Years 2022 and 2023.

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, with some disciplinary actions taking place based on conduct committed many years prior and sometimes even 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 workflow. The Commission meets either in person, by telephone, or video conference many times during the year to review complaints, 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 regarding policy and meeting matters.

Formal Proceedings/Public Actions

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.

In December 2019, the Commission held a two-day consolidated interim suspension hearing regarding the Honorable Melanie Andress-Tobiasson and the Honorable Amy Chelini, Justices of the Peace, Las Vegas Justice Court, regarding allegations of judicial misconduct that posed a substantial threat of serious harm to the public or the administration of justice. Following the hearing, the Commission issued an Order Continuing Commission Investigations. On September 30, 2020, the Commission entered into a Stipulation and Order of Consent to Resignation ("Stipulation and Order") in which Judge Andress-Tobiasson agreed to resign from her judicial position and neither seek nor accept judicial office in the State of Nevada at any time in the future. Further, in August 2021, the Commission entered into a Stipulation and Order of Consent to Public Reprimand regarding the Honorable Amy Chelini, Justice of the Peace, Las Vegas Justice Court. Judge Chelini admitted that she committed violations of Canon 1, Rule 1.1; and Canon 2, Rules 2.5(B) and 2.8(B), and accepted the Commission's public reprimand.

In August 2022, the Commission entered into a Stipulation and Order of Consent to Public Reprimand regarding the Honorable Nancy Saitta, Senior Judge, Eighth Judicial District Court, Clark County. Judge Saitta admitted that she committed violations of Canon 1, Rule 1.1; and Canon 2, Rule 2.5(A), and accepted the Commission's public reprimand.

In November 2022, the Commission entered into a Stipulation and Order of Consent to Bar from Serving in a Judicial Office in the Future regarding the Honorable Douglas E. Smith, former District Court Judge, Eighth Judicial District Court, Clark County. Judge Smith admitted that he committed violations of Canon 1, Rules 1.1 and 1.2, and Canon 2, Rules 2.2, 2.5(A) and 2.9(A), and accepted the Commission's bar from serving in a judicial office in the future.

In December 2022, the Commission entered into a Stipulation and Order of Consent to Public Reprimand regarding the Honorable Adam Vander Heyden, Pro Tem Judge, Las Vegas Justice Court, Clark County. Judge Vander Heyden admitted that he committed violations of Canon 1, Rules 1.1, 1.2 and 1.3, and Canon 2, Rules 2.8(A) and 2.10(A), and accepted the Commission's public reprimand.

In December 2022, the Commission entered into a Stipulation and Order of Consent to Public Reprimand regarding the Honorable Kathleen Delaney, District Court Judge, Eighth Judicial District Court, Clark County. Judge Delaney admitted that she committed violations of Canon 1, Rule 1.1 and Canon 2, Rule 2.5(A), and accepted the Commission's public reprimand.

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 Revised 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 Fiscal Years 2022 and 2023, the Commission did not impose any informal discipline. When such nonpublic discipline is imposed, those matters 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 and 13. 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 letters of caution in 5 cases during FY 2022.

- The Commission issued a cautionary letter to a district court judge regarding compliance with the law and timeliness of rulings.

- The Commission issued a cautionary letter to a district court judge regarding compliance with the law.
- The Commission issued a cautionary letter to a district court judge regarding maintaining the appearance of impartiality and maintaining proper demeanor toward litigants.
- The Commission issued a cautionary letter to a district court judge regarding compliance with the law, maintaining the appearance of impartiality, and maintaining proper demeanor toward litigants.
- The Commission issued a cautionary letter to a district court judge regarding compliance with the law and timeliness of rulings.

The Commission issued 8 letters of caution during FY 2023.

- The Commission issued a cautionary letter to a justice court judge regarding compliance with the law and maintaining the appearance of impartiality.
- The Commission issued a cautionary letter to a district court judge regarding compliance with the law and maintaining the appearance of impartiality.
- The Commission issued a cautionary letter to a district court judge regarding compliance with the law, maintaining proper decorum in and out of the courtroom, and maintaining the appearance of impartiality.
- The Commission issued a cautionary letter to a district court judge regarding timeliness of rulings.
- The Commission issued a cautionary letter to a district court judge regarding compliance with the law.
- The Commission issued a cautionary letter to a justice court judge regarding compliance with the law and maintaining proper decorum in and out of the courtroom.
- The Commission issued a cautionary letter to a district court judge regarding compliance with the law.

- The Commission issued a cautionary letter to a district court judge regarding compliance with the law.

Statistical Information

The large majority of complaints filed with the Commission regarding judicial conduct result in a dismissal. This is primarily 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 matters. 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. A percentage breakdown of the types of complainants who filed judicial complaints in FY 2022 and FY 2023 can be reviewed in Appendix B.

It should also be pointed out that there are over 600 judges, judicial officers, continuing part-time judges, *pro tempore* part-time judges, and retired judges subject to recall for service over which the Commission has jurisdiction. During election years, this figure climbs even higher since the Commission's jurisdiction extends to not only sitting judicial officers, but also all candidates for judicial office as well. Currently, there are 7 Supreme Court Justices, 3 Court of Appeals judges, 90 district court judges, 67 justices of the peace and 31 municipal court judges (9 of which also serve as Justices of the Peace). Additional judicial officers include senior justices and judges (70), part-time judges (240), and numerous hearing/special masters, commissioners and referees.

During FY 2022, the Commission received 186 new complaints, considered 8 requests for reconsideration, authorized 12 investigations, initiated 3 public cases and completed 189 cases. The Commission's number of open cases as of June 30, 2022 (end of FY 2022) was 50. As of September 30, 2022, the date of publication of the 2022 Annual Report, the number of open cases was 105, most of which were considered by the Commission at its quarterly meeting held in October 2022. For FY 2022, the average case duration¹ was 116 days, the average length of time to complete investigations was 62 days, the percentage of the operating budget expended on investigations was 12%, and the total number of complaints resulting in discipline was 1.²

¹ Calculated from the date a complaint is received by the Commission until the complaint is either dismissed or the Commission determines that a formal statement of charges is to be filed.

² The Fiscal Year 2022 Annual Report incorrectly stated there were 2 complaints resulting in discipline. The additional case resulting in discipline occurred in FY 2023 and is captured in those statistics appropriately.

During FY 2023, the Commission received 228 new complaints, considered 4 requests for reconsideration, authorized 13 investigations, initiated 9 public cases and completed 230 cases. The Commission's number of open cases as of June 30, 2023 (end of FY 2023) was 49. As of September 29, 2023, the date of publication of this Biennial Report, the number of open cases was 87, most of which will be considered by the Commission at its quarterly meeting to be held in October 2023. For FY 2023, the average case duration³ was 98 days, the average length of time to complete investigations was 73 days, the percentage of operating budget expended on investigations was approximately 11%, and the total number of complaints resulting in discipline was 5.

See additional statistical information in Appendix B.

Budget and Staff

The Legislature approved a budget of \$1,188,545 for FY 2022. This amount includes \$290,515 in operating funds. The Commission's total expenditures were \$874,156 allowing \$314,389 to be reverted to the General Fund.

The Legislature initially approved a budget of \$1,223,585 for FY 2023. This amount included \$280,340 in operating funds. The Commission's total expenditures were \$1,045,795 allowing \$177,790 to be reverted to the General Fund.

The Commission's staff consists of the General Counsel/Executive Director ("GCED"), two Associate General Counsels, two Management Analysts and an Administrative Services Officer III/Deputy Director. The Commission contracts with private Special Counsel and private investigators as necessary to comply with its constitutional and statutory mandates. In addition to providing legal counsel to the Commission, the GCED is also responsible for the administrative duties of the Commission and the Standing Committee on Judicial Ethics.

See Appendix C for organizational and budget charts.

Current Litigation

None.

³ Calculated from the date a complaint is received by the Commission until the complaint is either dismissed or the Commission determines that a formal statement of charges is to be filed.

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 to fulfill the constitutional and statutory duties of the Commission. The current members of the Commission are as follows:

| Regular Commission Members | Alternate Commission Members |
|-----------------------------------|-------------------------------------|
| Gary Vause, Chair | Honorable Kendra Bertschy |
| Stefanie Humphrey, Vice-Chair | Honorable Stephen Bishop |
| Karl Armstrong, Esq. | Honorable Richard Glasson |
| Donald Christensen, Esq. | Honorable Thomas Gregory |
| Honorable Mark R. Denton | Honorable Harmony Letizia |
| Honorable David Hardy | Honorable Kristin Luis |
| John Krmpotic | Honorable Thomas Stockard |
| | Honorable Natalie Tyrrell |
| | Bill Hammer, Esq. |
| | Christopher Laurent, Esq. |
| | Dana Endacott |
| | Christine McGill |
| | Joseph Sanford |

IV. The Standing Committee on Judicial Ethics.

The Standing Committee on Judicial Ethics was created by Nevada Supreme Court Rules, Part VIII, in 1997. The Standing 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 GCED of the Commission also serves as the Executive Director of the Standing Committee.

The Standing Committee renders non-binding advisory opinions on hypothetical questions regarding the Revised 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 Revised Nevada Code of Judicial Conduct or other laws governing the conduct of judges and judicial candidates.

The Standing Committee is comprised 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

Chairperson and one of whom is the Vice-Chair. The current Chairperson is Todd Reese, Esq. (Office of the Carson City District Attorney) and the current Vice-Chair is Rost Olsen, Esq. (Nevada Public Utilities Commission). The officers are appointed by the Commission on Judicial Discipline following nomination by the members of the Standing Committee. Members are appointed to two-year terms with a limit of no more than four consecutive full terms.

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. However, 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 October 5, 2015.

Ethical Inquiries.

A judge or judicial candidate may contact Standing Committee staff with an ethical inquiry. Staff receives several inquiries per week, which often require research to address. If an ethical inquiry has not been addressed by the Standing Committee in previously issued advisory opinions, staff may suggest that a formal advisory opinion request be submitted.

In striving to be more proactive than reactive, and to foster the Commission's and Standing Committee's "teach rather than catch" philosophy, the Executive Director welcomes and encourages open communication with the judiciary. Numerous judicial ethics inquiries and requests for guidance are received every year from the judiciary and judicial office candidates. During the biennium, approximately 46 inquiries were received, many of which required detailed research, follow-up discussions and numerous staff hours to address.

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 Standing 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 or video conference and vote whether to issue an opinion or not and what the conclusion will be. The Chair or Vice-Chair drafts the opinion or

assigns the task to another attorney member of the panel. 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 at <https://judicial.nv.gov/>.

Limitations.

The Standing 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 Standing 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 <https://judicial.nv.gov/>. 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 by Topic
- g. Committee Members and Staff
- h. Committee Openings

This portion of the website is an excellent reference for those who may have judicial ethics questions. The Revised Nevada Code of Judicial Conduct is set forth in full as are all advisory opinions 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 2022 - Advisory Opinions:

The Committee issued 2 advisory opinions during FY 2022.

JE21-001 May a Justice of the Peace amend misdemeanor charges, dismiss misdemeanor cases, and/or participate in misdemeanor plea negotiations without substantive District Attorney involvement?

JE21-002 May a sitting judicial officer: (1) maintain a blog containing articles on various legal topics written by the officer and published prior to their ascent to the bench; (2) after taking the bench, continue selling and receiving royalties from books they authored prior to taking the bench; (3) after taking the bench, refer to their judicial office when providing biographical information in the body of a book they intend to sell; (4) after taking the bench, advertise books on legal topics they have authored for sale as long as they do not refer to their office in the advertisements; and (5) after taking the bench, author and publish books from which they hope to profit through sale or royalty?

Fiscal Year 2023 - Advisory Opinions

The Committee issued 1 advisory opinion during FY 2023.

JE23-001 May a sitting judicial officer participate in court programs to: (1) “accept” donations from court employees to donate to non-profit organizations in the community; (2) provide service as a group by volunteering with various service organizations; and (3) participate as a group in various team-building events?

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 below.

Judicial Members

Honorable Scott Freeman
Second Judicial District Court

Honorable Scott E. Pearson
Reno Justice Court

Honorable Joanna Kishner
Eighth Judicial District Court

Honorable Elana Lee Graham
Las Vegas Justice Court

Honorable Chris Lee
North Las Vegas Municipal Court

Honorable Jim C. Shirley
Eleventh Judicial District Court

Attorney Members

Todd Reese, Esq., Chair
Carson City District Attorney's Office

Kendall Lovell, Esq.
Fennemore Craig, P.C.

Rost C. Olsen, Esq., Vice-Chair
Nevada Public Utilities Commission

Denice McKay, Esq.
Nevada Dept. of Administration

Susan Bush, Esq.
Clark County

Janet Pancoast, Esq.
Pancoast Law, Chtd.

Angela Dows, Esq.
Cory Reade Dows & Shafer

Amanda Robert, Esq.
Roberts Stoffel Family Law

Homero Gonzalez, Esq.
Gonzolaw

Nicole Ting, Esq.
State of Nevada

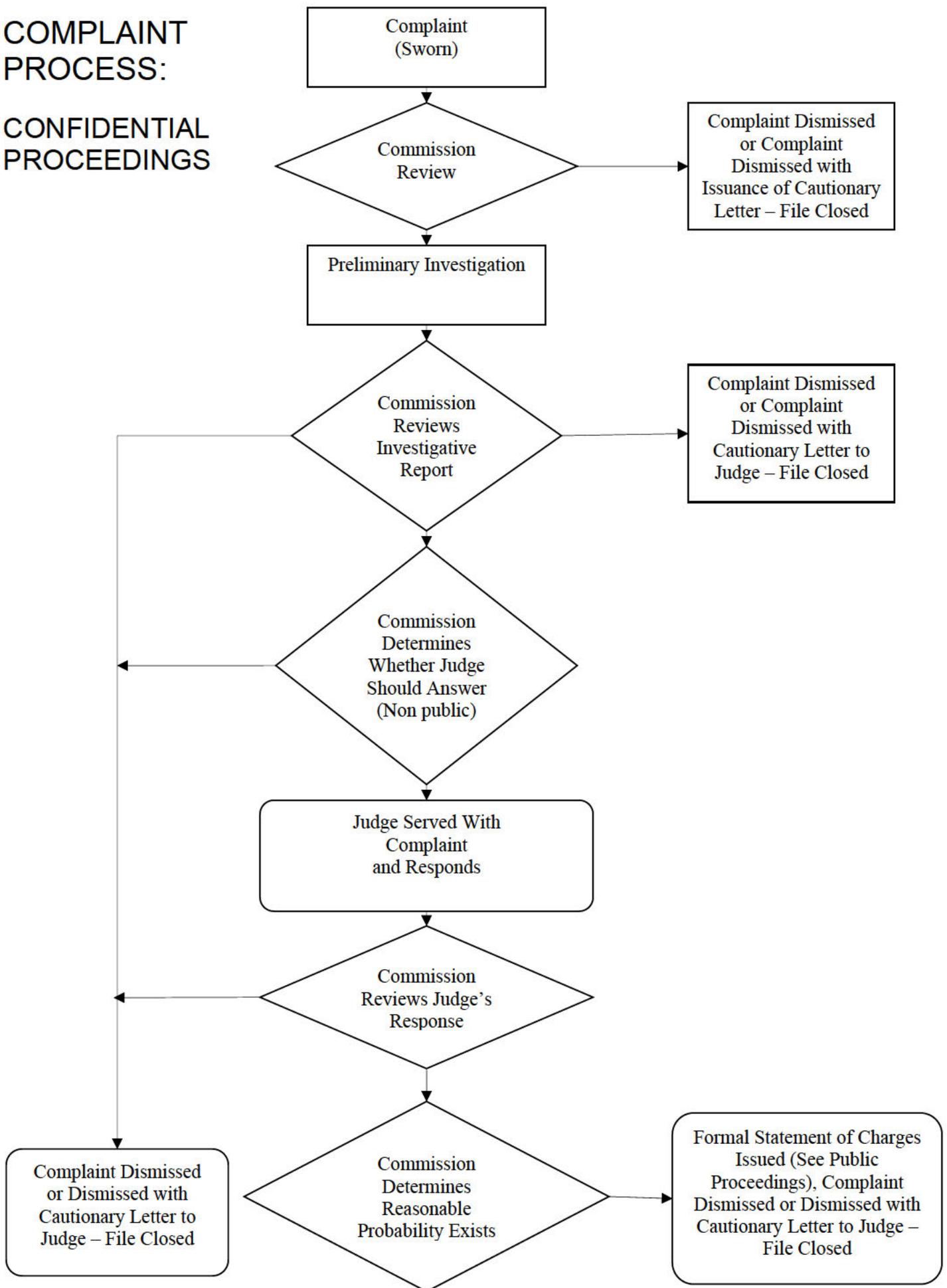
Jeannie N. Hua, Esq.
Law Office of Jeannie N. Hua

Lance White, Esq.
Lance White Law

APPENDIX A

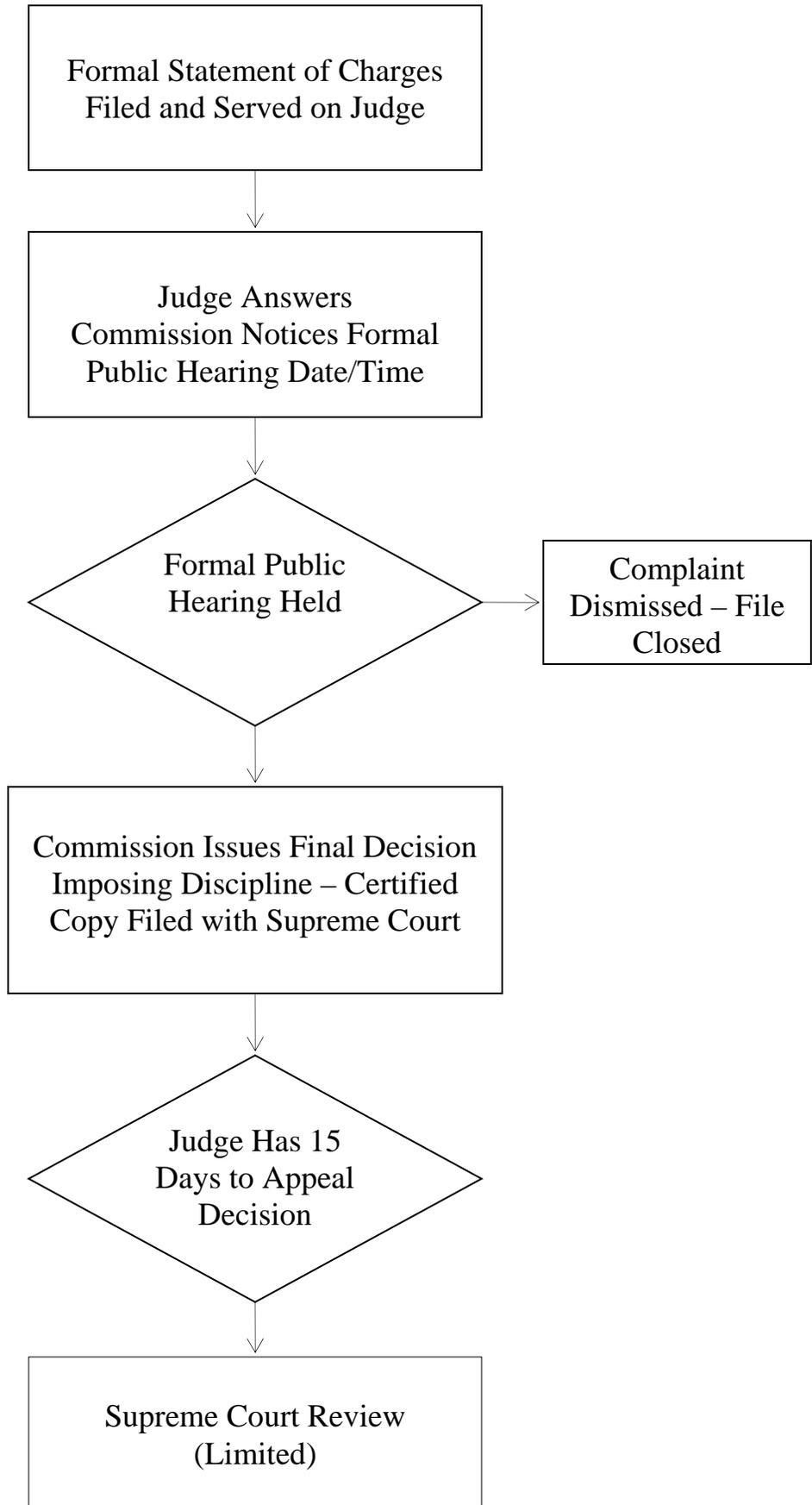
COMPLAINT PROCESS:

CONFIDENTIAL PROCEEDINGS



**COMPLAINT
PROCESS:**

**FORMAL
PUBLIC
PROCEEDINGS**



APPENDIX B

CASE DISPOSITIONS¹
FISCAL YEAR 2022

| Disposition of Complaints | Number |
|--|--------|
| Dismissed after initial review | 173 |
| Dismissed after investigation - no action taken | 8 |
| Dismissed with cautionary letter | 5 |
| Proceed to Formal Statement of Charges or Stipulated Agreement | 3 |
| Total= | 189 |

| Discipline Imposed/Disposition of Formal Statement of Charges | Number |
|---|--------|
| Fines | 0 |
| Judicial education | 0 |
| Informal discipline ² | 0 |
| Public admonishment | 0 |
| Public charges dismissed | 0 |
| Public reprimand ³ | 1 |
| Public censure | 0 |
| Psychiatric evaluation | 0 |
| Written apologies | 0 |
| Suspension without pay | 0 |
| Removal/Barred from holding judicial office | 0 |
| Resignation | 0 |

¹Case dispositions do not represent the number of complaints filed with the Commission in any given fiscal year. Rather, they indicate the actions taken by the Commission at the various stages of the judicial discipline process.

²Includes deferred discipline agreements.

³The Fiscal Year 2022 Annual Report incorrectly stated there were 2 complaints resulting in discipline. The additional case resulting in discipline occurred in FY 2023 and is captured in those statistics appropriately.

CASE DISPOSITIONS¹
FISCAL YEAR 2023

| Disposition of Complaints | Number |
|---|--------|
| Dismissed after initial review | 211 |
| Dismissed after investigation - no action taken | 2 |
| Dismissed with cautionary letter | 8 |
| Proceed to Formal Statement of Charges or Stipulated Agreement* | 9 |
| Total= | 230 |

| Discipline Imposed/Disposition of Formal Statement of Charges | Number |
|---|--------|
| Fines | 0 |
| Judicial education* | 2 |
| Informal discipline ² | 0 |
| Public admonishment | 0 |
| Public charges dismissed | 0 |
| Public reprimand* | 4 |
| Public censure | 0 |
| Psychiatric evaluation | 0 |
| Written apologies | 0 |
| Suspension without pay | 0 |
| Removal/Barred from holding judicial office | 1 |
| Resignation | 0 |

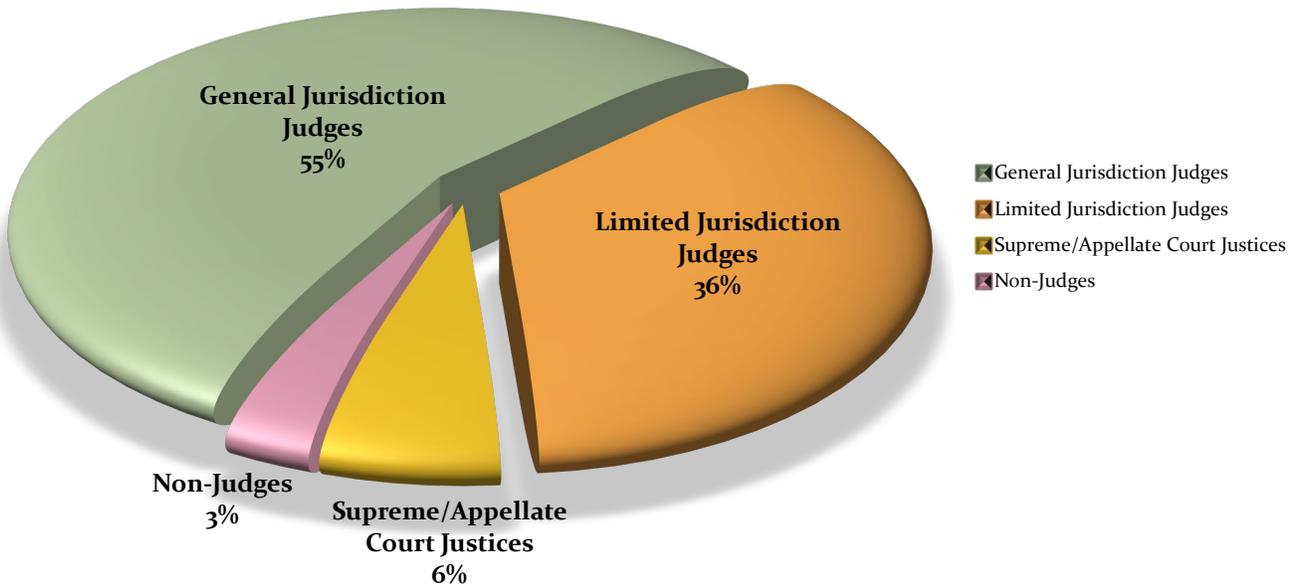
*Includes consolidated matters

¹Case dispositions do not represent the number of complaints filed with the Commission in any given fiscal year. Rather, they indicate the actions taken by the Commission at the various stages of the judicial discipline process.

²Includes deferred discipline agreements.

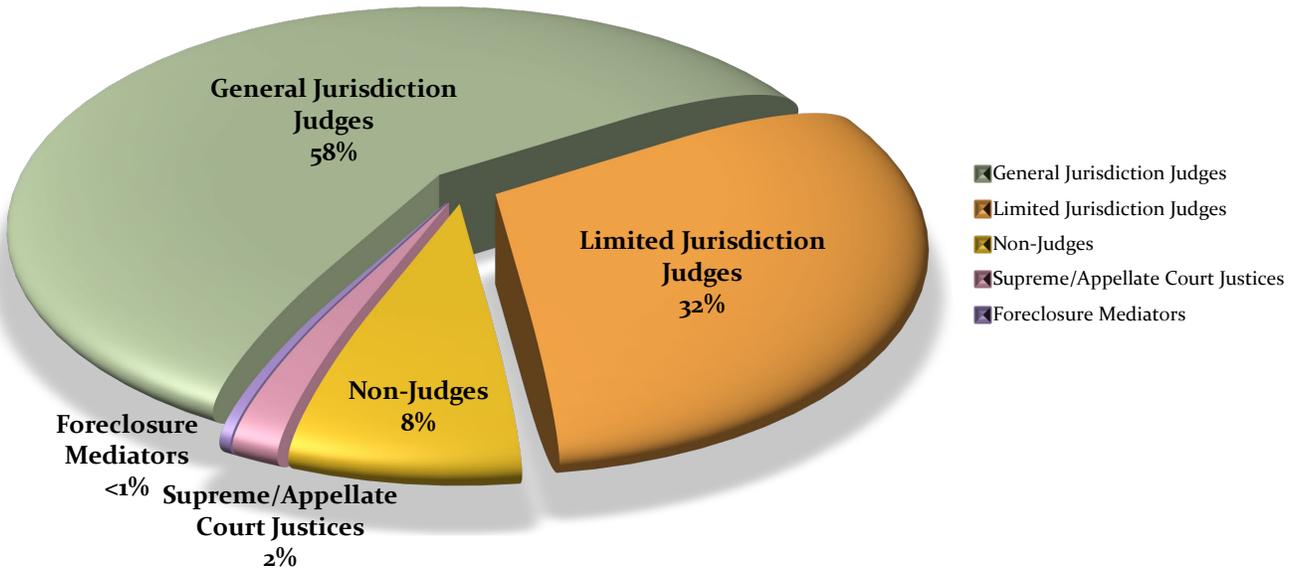
| Category | Number of Complaints |
|----------------------------------|----------------------|
| General Jurisdiction Judges | 102 |
| Limited Jurisdiction Judges | 66 |
| Supreme/Appellate Court Justices | 12 |
| Non-Judges | 6 |
| Total | 186 |

Types of Judges Complained Against FY 2022



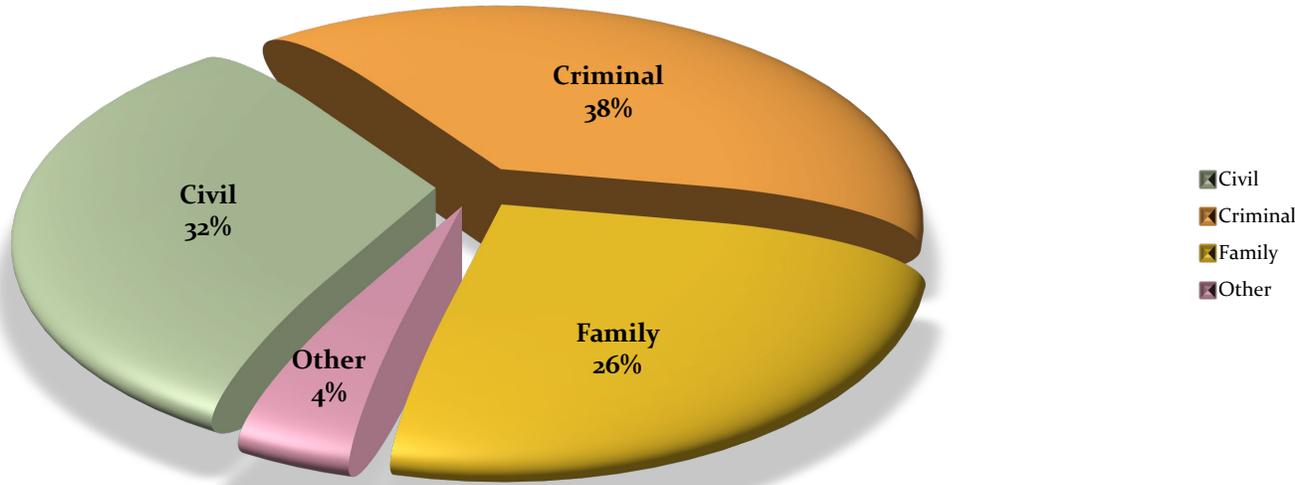
| Category | Number of Complaints |
|----------------------------------|----------------------|
| General Jurisdiction Judges | 132 |
| Limited Jurisdiction Judges | 72 |
| Non-Judges | 19 |
| Supreme/Appellate Court Justices | 4 |
| Foreclosure Mediators | 1 |
| Total | 228 |

Types of Judges Complained Against FY 2023



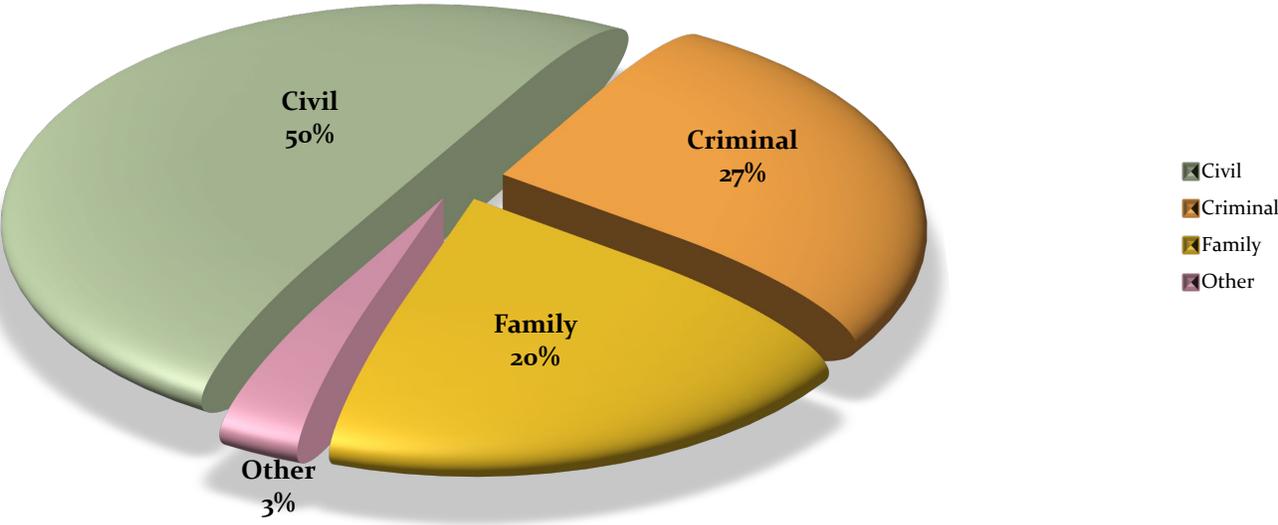
| Category | Number of Complaints |
|----------|----------------------|
| Civil | 59 |
| Criminal | 70 |
| Family | 49 |
| Other | 8 |
| Total | 186 |

Area of Law- Complaint Origination FY 2022



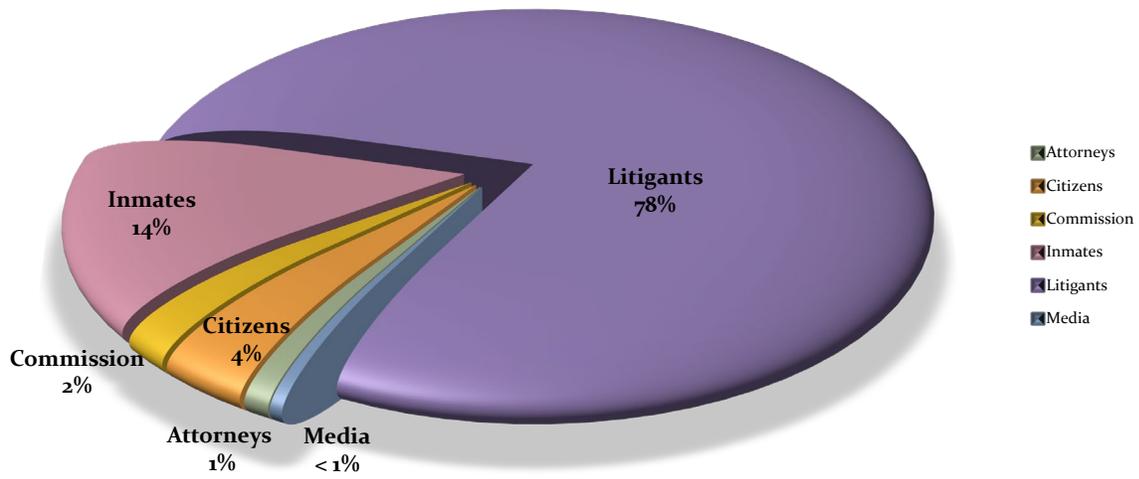
| Category | Number of Complaints |
|----------|----------------------|
| Civil | 114 |
| Criminal | 61 |
| Family | 46 |
| Other | 7 |
| Total | 228 |

Area of Law- Complaint Origination FY 2023



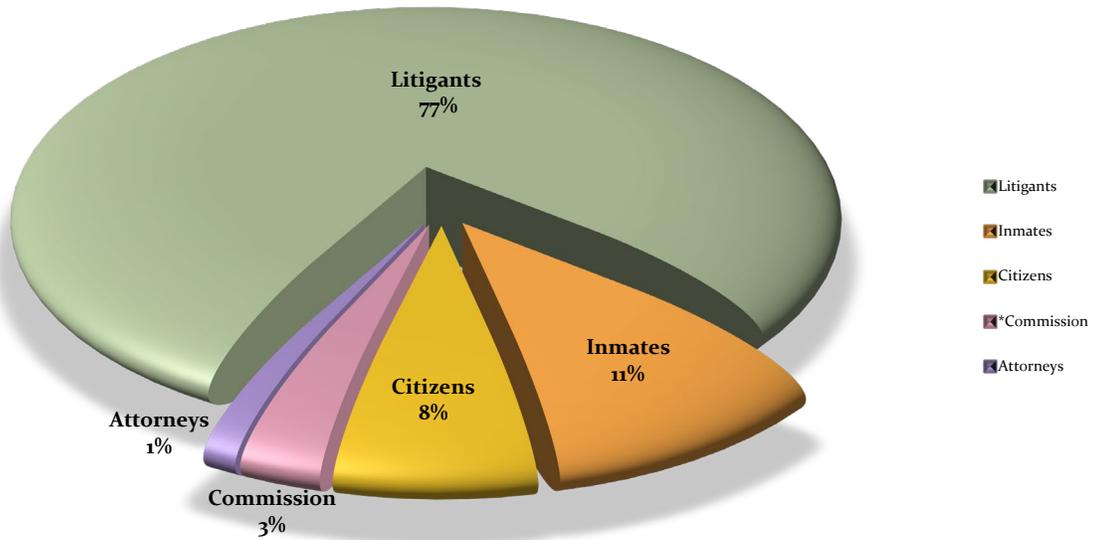
| Category | Amount |
|--------------|------------|
| Attorneys | 2 |
| Citizens | 7 |
| Commission | 4 |
| Inmates | 26 |
| Litigants | 146 |
| Media | 1 |
| Total | 186 |

**Sources of Complaints
FY 2022**



| Category | Amount |
|-------------|--------|
| Litigants | 176 |
| Inmates | 25 |
| Citizens | 17 |
| *Commission | 7 |
| Attorneys | 3 |
| Total | 228 |

Sources of Complaints FY 2023

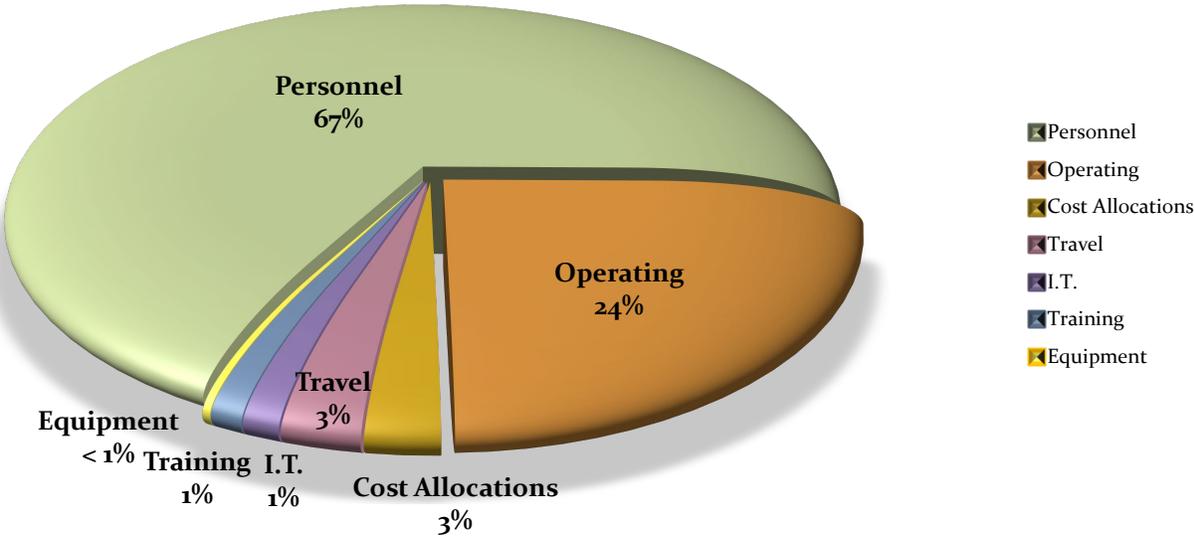


* Pursuant to NCJD Case No. 2014-122-P, *In the Matter of the Honorable Sean Hoeffgen*, and Canon 2, Rule 2.15(A) of the Revised Nevada Code of Judicial Conduct, judges have a duty to inform the Commission if he/she has knowledge that another judge has committed a violation of the Code. In FY23, the Commission received 6 reports of potential judicial misconduct from judges. Those matters were initially considered by the Commission as "administrative matters." Of those 6 reports, 3 were closed by the Commission for lack of objectively verifiable evidence of misconduct, and 3 were authorized by the Commission to be filed as complaints by the Executive Director, and to be investigated for potential misconduct.

APPENDIX C

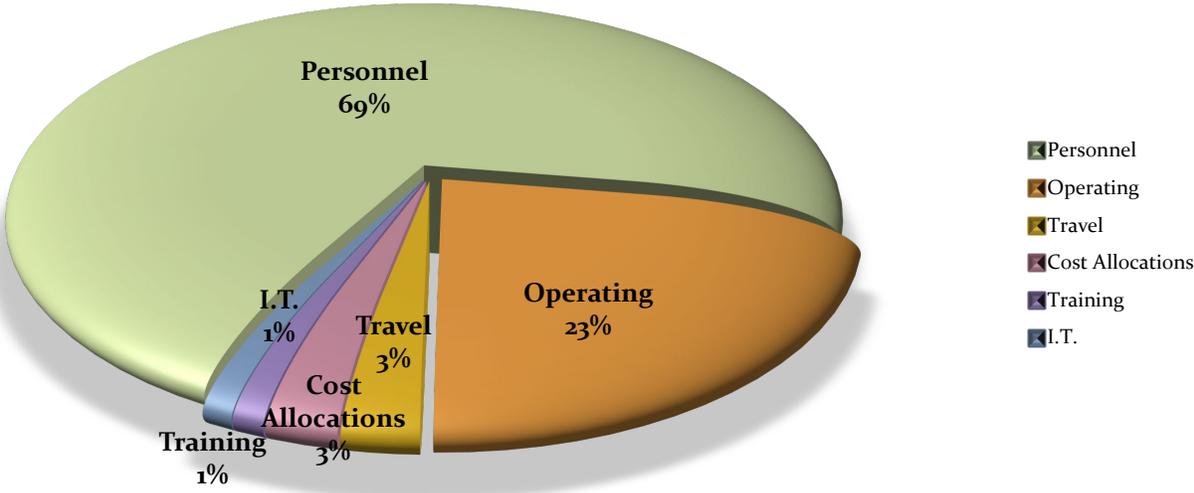
| Category | Amount |
|------------------|---------------------|
| Personnel | \$ 794,176 |
| Operating | \$ 290,515 |
| Cost Allocations | \$ 33,209 |
| Travel | \$ 35,298 |
| I.T. | \$ 16,635 |
| Training | \$ 14,854 |
| Equipment | \$ 3,858 |
| Total | \$ 1,188,545 |

Commission Budget Legislatively Approved FY 2022



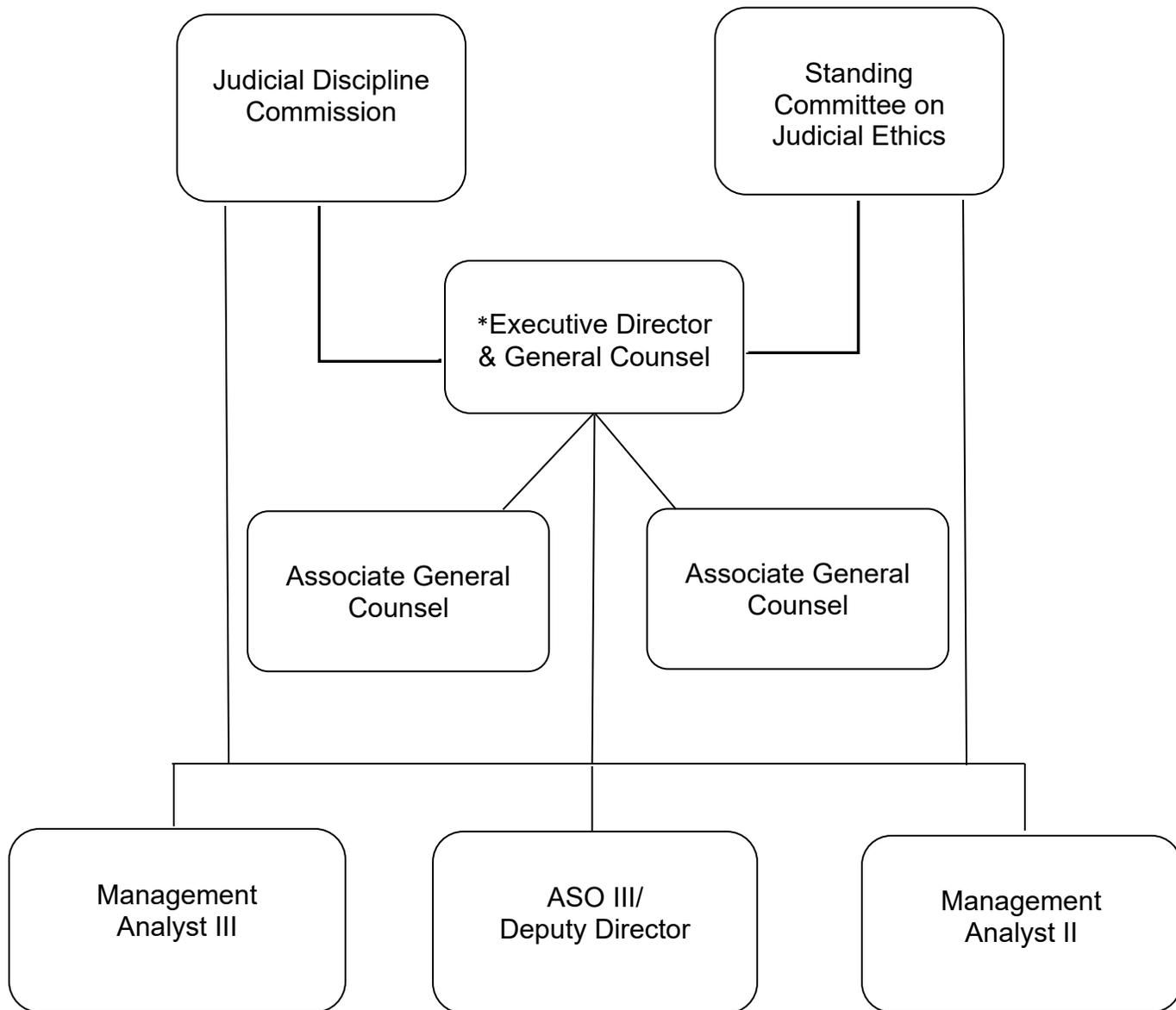
| Category | Amount |
|------------------|---------------------|
| Personnel | \$ 845,380 |
| Operating | \$ 280,340 |
| Travel | \$ 35,298 |
| Cost Allocations | \$ 33,189 |
| Training | \$ 14,854 |
| I.T. | \$ 14,524 |
| Total | \$ 1,223,585 |

Commission Budget Legislatively Approved FY 2023



ORGANIZATIONAL CHART

Budget Account 1497



*This position serves as both the Executive Director and General Counsel to the Commission on Judicial Discipline, but only serves as Executive Director to the Standing Committee on Judicial Ethics. The Standing Committee does not have a General Counsel.