

# NORTH CAROLINA JUDICIAL STANDARDS COMMISSION



IMPARTIALITY INDEPENDENCE INTEGRITY

## ANNUAL REPORT 2023

HON. JEFF CARPENTER  
CHAIR

HON. JULEE FLOOD  
VICE CHAIR

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This report provides statistical data of the activities of the Commission in 2023. For further information, please visit the Judicial Standards Commission’s website at:

<http://ncjsc.gov>

## A MESSAGE FROM THE COMMISSION CHAIR

Greetings:

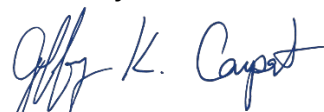
The Judicial Standards Commission presents its 2023 Annual Report.

This year was one of significant change and progress for the Commission. Efforts made by the Commission and its staff to reframe the work of the Commission as not only a disciplinary, but also an advisory and training body, led to a marked increase in the overall workload. In doing so, our staff continued making themselves available to respond to inquiries from judges across the State and provided hundreds of confidential informal ethics opinions. This day-to-day work of Commission staff continues to go a long way to help our judiciary to function without favor, denial, or delay. The Commission also continued meeting monthly to evaluate and hear complaints from our citizenry regarding the conduct of our judicial officers, as well as review the advisory opinions provided to judges across the State. Commission staff also prepared and presented in-person education to not only judges, but also elected clerks, assistant and deputy clerks, commissioners and deputy commissioners of the Industrial Commission, legal fellows, and more. To assist with this added workload, Commission staff improved many of its internal processes, to include the creation of an electronic records retention policy.

In 2023, the General Assembly also changed the makeup of the Commission, adding two new superior and two new district court judges appointed by the General Assembly to the Commission in place of the four attorney members formerly appointed by the State Bar. Further, at the end of 2023, the Chief Justice appointed the former Chair, Judge Chris Dillon, to serve as the Chief Judge of the Court of Appeals, I was named as the new Chair of the Commission, and Court of Appeals Judge Julee Flood was appointed to serve as the new Vice-Chair. Judge Flood has extensive experience in the appellate courts of four states, including North Carolina, and before serving as a judge, earned her Ph.D. in Education, Law, and Policy and served as a professor at Elon School of Law. Both Judge Flood and I are excited to serve in these new roles and look forward to continuing the work of the Commission in the coming year.

Please know that the Commission and its dedicated staff remain committed to serving our judiciary and our State in a fair, consistent, and bipartisan way.

Sincerely,



Jeff Carpenter  
Judge, North Carolina Court of Appeals

## INTRODUCTION

The Judicial Standards Commission was established in 1973 by our General Assembly to assist in “the investigation and resolution of inquiries concerning the qualification or conduct of any judge[.]” NCGS § 7A-374.1. To that end, the Commission evaluates and investigates complaints regarding judicial conduct and allegations/concerns regarding the lack of physical or mental capacity of a judge, whether temporary or permanent, which interferes with the performance of the judge’s duties.

The Commission also serves as North Carolina’s judicial ethics advisory committee. In this role, the Commission provides both public formal ethics opinions and confidential informal ethics advice to judicial officers. Commission staff provides training and develops educational materials relating to the Code of Judicial Conduct, promulgated by our Supreme Court.

The Commission serves a critical function in our Judicial Branch to promote the highest ethical and professional standards among North Carolina’s judges and to ensure continued public trust and confidence in the fair and efficient administration of justice.

## COMMISSION MEMBERS AND STRUCTURE

The Commission has fourteen members, consisting of judges, attorneys, and non-attorneys, each serving six-year terms. Each branch of our State government has a role in appointing the Commission’s members.

The Judicial Branch, through our Chief Justice, appoints six judicial members, two from our Court of Appeals who serve as Chair and Vice-Chair of the Commission, along with two superior court judges and two district court judges. Due to legislative changes in October 2023, the Legislative Branch now also appoints two superior court judges and two district court judges. The final four members are members of the public (either attorneys or lay people), appointed by our Legislative and Executive Branches: two appointed by the Governor and one appointed by each house of the General Assembly

A list of all past members of the Commission is provided in Appendix A and a current list of Commission members and staff is available on the Commission’s website.

## COMMISSION FUNCTIONS

The Judicial Standards Commission is governed by the authority set forth in Article 30 of Chapter 7A of the North Carolina General Statutes and the Rules of the Judicial Standards Commission, which are adopted by order of our Supreme Court. The standards for judicial conduct in North Carolina are set forth in the Code, also promulgated and adopted by order of our Supreme Court pursuant to its statutory authority set forth in NCGS § 7A-10.1.

### **Investigatory and Disciplinary Jurisdiction**

The Commission serves our Supreme Court by performing four essential functions related to evaluating complaints regarding judicial conduct and disability or lack of capacity:

- (1) receiving and reviewing complaints or information concerning alleged judicial conduct in violation of the Code of Judicial Conduct or disability;
- (2) conducting investigations in appropriate cases;
- (3) if a minor violation of the Code of Judicial Conduct is found to have occurred, taking confidential remedial action to prevent a recurrence of the issue;
- (4) if necessary, based on the nature of the conduct or disability, conducting disciplinary or disability proceedings to hear evidence and make recommendations to the North Carolina Supreme Court for disposition of the matter. The Commission's recommendation is advisory and not binding on the North Carolina Supreme Court, which exercises its own independent review of the evidence and determines whether public discipline or removal from office is warranted based on clear and convincing evidence of misconduct, or whether suspension or removal based on incapacity is necessary.

According to NCGS § 7A-376(b), our Supreme Court may sanction or remove a judge on the following grounds:

- (1) willful misconduct in office;
- (2) willful and persistent failure to perform the judge's duties;
- (3) habitual intemperance;
- (4) conviction of a crime involving moral turpitude; or
- (5) conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

Pursuant to the Preamble to the Code, a violation of the Code may be considered grounds for discipline under Chapter 7A Article 30. With respect to disability proceedings, NCGS § 7A-376(c) provides that our Supreme Court can suspend or remove a judge based upon a physical or mental incapacity interfering with the performance of the judge's duties which is or is likely to become permanent.

The Commission's investigatory and disciplinary jurisdiction covers judges of the General Court of Justice, including justices of the North Carolina Supreme Court, judges of the North Carolina Court of Appeals, judges of the North Carolina Superior Courts and District Courts, and judges who serve as emergency or recalled judges. Pursuant to NCGS § 97-78.1, Commissioners and Deputy Commissioners of the North Carolina Industrial Commission also fall under the Commission's jurisdiction.

By statute, the Commission lacks authority to investigate complaints based substantially on a legal ruling of a trial court when that ruling has not been reviewed or ruled upon by the North Carolina Court of Appeals or the North Carolina Supreme Court. Pursuant to the terms of the Code, there is also a three-year statute of limitations on the Commission's authority to initiate disciplinary proceedings based on most cases of judicial misconduct.

Although decisions of our Supreme Court to impose public discipline on a judge are matters of public record, NCGS § 7A-377 provides that all papers filed with the Commission and all proceedings before the Commission are confidential with limited exceptions. In those circumstances, the statement of charges, pleadings, and recommendations of the Commission to our Supreme Court, as well as the record filed in support of the Commission's recommendations, are no longer considered confidential. The Commission's investigative files and internal work product, however, remain confidential.

To ensure fairness to any judge who is the subject of a Commission investigation or disciplinary proceeding, the Commission is divided into two panels that meet in alternating months. Under this structure, an investigation and charges ordered by one panel must be referred to the other panel for an independent hearing to accept evidence into the record, allow for the testimony and cross-examination of witnesses, and make a recommendation to our Supreme Court for disposition based on the hearing panel's findings of fact and conclusions of law.

### **Advisory Jurisdiction**

In addition to its investigatory and disciplinary functions, the Commission also serves as North Carolina's judicial ethics advisory commission. Article 30 of Chapter 7A of the General Statutes provides the Commission with authority to provide advisory opinions to judges in accordance with the Commission's rules.

Under Commission Rule 8(a), the Commission may consider requests from any person for issuance of a published formal advisory opinion to address application of the North Carolina Code of Judicial Conduct to a specific situation where it is not specifically addressed in the express language of the Code itself. Such Formal Advisory Opinions are published by the Supreme Court's Office of the Appellate Reporter and are posted on the Commission's website.

According to Commission Rule 8(b), those subject to the Code of Judicial Conduct may also seek written confidential informal ethics advice from the Commission and its staff. These opinions are reviewed regularly at the Commission's monthly panel meetings to ensure

consistency and approval of the Commission members. If a reviewing panel wishes to amend or revise any informal advice provided by Commission staff, the judge is immediately notified of any changes. Until such notice is provided, a judge is presumed to act in good faith and in compliance with the Code of Judicial Conduct if he or she acts in conformity with the written opinion.

## **Education and Training**

The Commission and its staff also take part in multiple educational and training programs each year relating to the North Carolina Code of Judicial Conduct, the work of the Commission, and judicial ethics more generally. The Commission staff also continues to develop and regularly update written educational and training materials that are made available at training programs or posted on the Commission's website.

## **2023 WORKLOAD STATISTICS**

### **Advisory Opinions and Educational Programs**

In 2023, the Commission shifted its focus to its advisory and educational functions by doing more outreach to judges, providing more trainings, and otherwise encouraging judicial officers to actively reach out to the Commission. This is being done with hopes to prevent ethical issues from happening on the front end of things, rather than being reactionary.

As such, the number of written informal advisory opinions went up considerably from 283 in 2022 to 483 in 2023. The most common areas of inquiry continue to be questions relating to recusals, participating in civic and charitable activities, providing recommendation letters, and engaging in political conduct. Two new published formal advisory opinions were issued in 2023 memorializing advisory memoranda the Commission had previously published regarding the use of the judicial title and letterhead and tips for new judges.

The Commission also provided approximately 20 trainings in 2023, not only addressing judges and other judicial officers, but also those that may be impacted by Judicial Standards investigations or are otherwise expected to abide by the Code of Judicial Conduct.

## Review and Investigation of Complaints

A summary of the Commission's workload in 2023 is provided in Table 1.

**TABLE 1: 2023 COMPLAINT AND WORKLOAD SUMMARY**

<b>2023 Total Workload</b>	<b>755</b>
<b>New complaints filed in 2023</b>	653
<b>Reopened Matters in 2023</b>	1
<b>Matters carried over from 2022</b>	102
<ul style="list-style-type: none"><li>• 75 complaints awaiting initial review</li><li>• 2 pending formal investigations</li><li>• 16 pending preliminary investigations</li><li>• 4 pending disciplinary proceedings</li><li>• 5 pending recommendations at the Supreme Court</li></ul>	

Table 2 sets forth the Commission's disposition of the 755 pending matters in 2023.

**TABLE 2: 2023 DISPOSITION SUMMARY**

<b>Summary of Commission Action in 2023</b>	<b>755</b>
<b>Dismissed After Initial Review</b>	580
<b>Dismissed After Preliminary Investigation</b>	70
<b>Dismissed After Formal Investigation</b>	12
<b>Dismissed with Letter of Caution</b>	13
<b>Pending Preliminary Investigation Carried to 2024</b>	6
<b>Pending Formal Investigation Carried to 2024</b>	7
<b>Pending Disciplinary Proceedings Carried to 2024</b>	2
<b>Recommendations Pending in the Supreme Court</b>	2
<b>Supreme Court Orders Issued</b>	3
<b>Complaints Awaiting Initial Review in 2024</b>	60

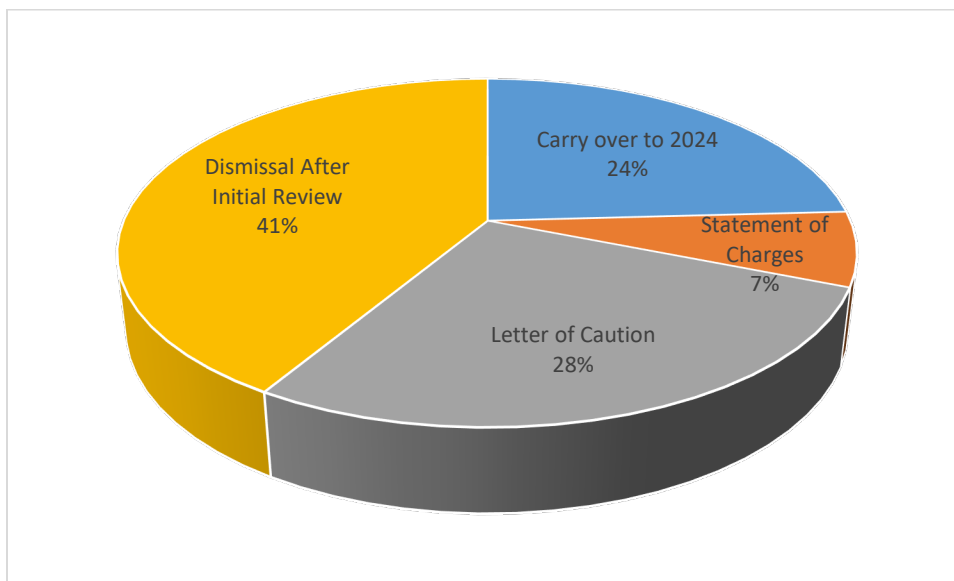
Based upon Table 2, there were 755 complaints disposed of in 2023. Of this number, approximately 77% were dismissed without investigation, and approximately 12% were dismissed after a preliminary investigation to evaluate the credibility of the allegations. These dismissals occurred most often because the complaint alleged legal error that the Commission has no jurisdiction to investigate, the allegations were too vague to evaluate, or a preliminary investigation revealed that the allegations in the complaint lacked credibility or could not be substantiated after a review of the records of the subject court proceedings.

Complaints that are not dismissed after an initial review or after a preliminary investigation proceed to a formal investigation in which the judge is notified of the Commission's investigation and the nature of the complaint. The judge is not contacted or interviewed by



the Commission regarding a pending matter until a formal investigation has begun. The identity of the complainant remains confidential unless a statement of charges is issued at the conclusion of the formal investigation. In 2023, the Commission considered 29 formal investigations: 26 new formal investigations ordered in 2023 and 3 pending formal investigations carried over from 2022.<sup>1</sup> At the conclusion of these 29 formal investigations: 12 were dismissed without further action by the Commission; 8 were dismissed with a private letter of caution; 2 resulted in the initiation of disciplinary proceedings through the issuance of statements of charges, and 7 were carried over to 2024 for review. Table 3 sets forth this data in statistical form.

**TABLE 3: 2023 DISPOSITION OF FORMAL INVESTIGATIONS**



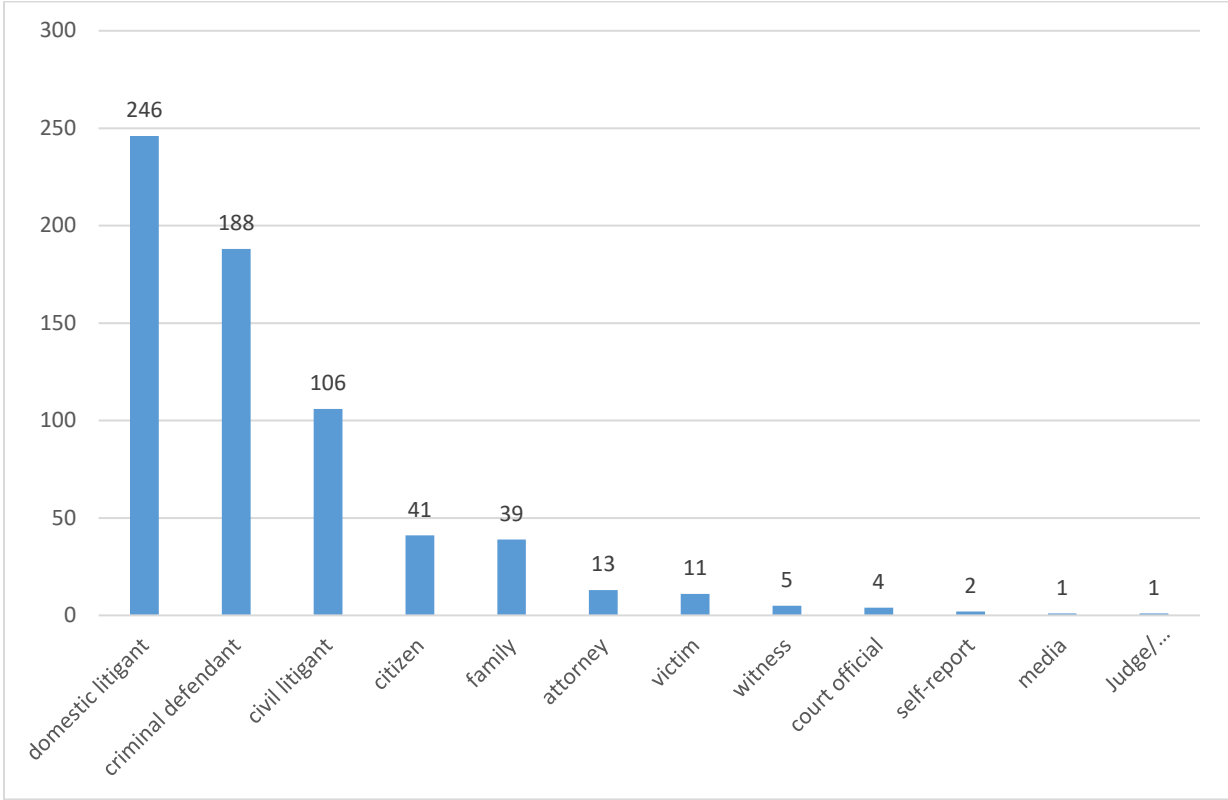
### **Nature of Complaints Considered by the Commission**

Most written complaints filed with the Commission are received from individuals involved in criminal or civil proceedings before the judge in question. The Commission also has the authority to initiate a complaint on its own motion on the discovery of credible information of potential misconduct. Table 4 identifies the categories of complainants who filed complaints with the Commission in 2023.

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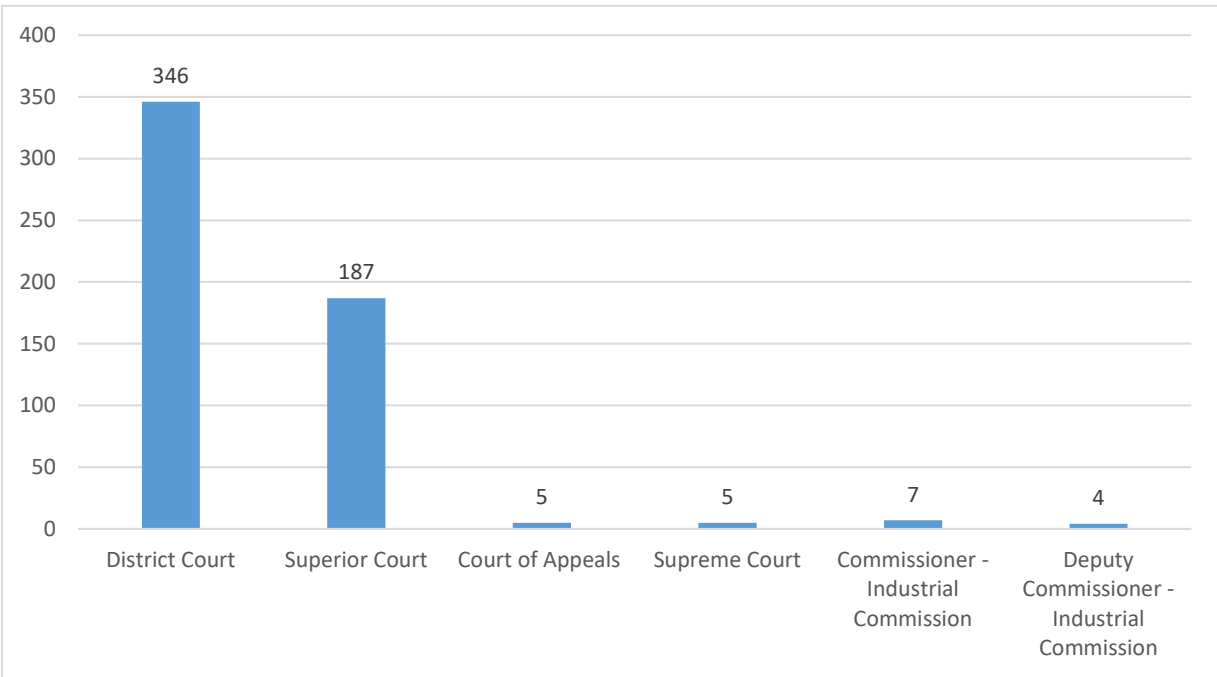
<sup>1</sup> Commission Staff utilized updated methods to calculate this data upon review of internal practices and procedures to more accurately reflect the Commission’s work.

**TABLE 4: CATEGORIES OF COMPLAINANTS**



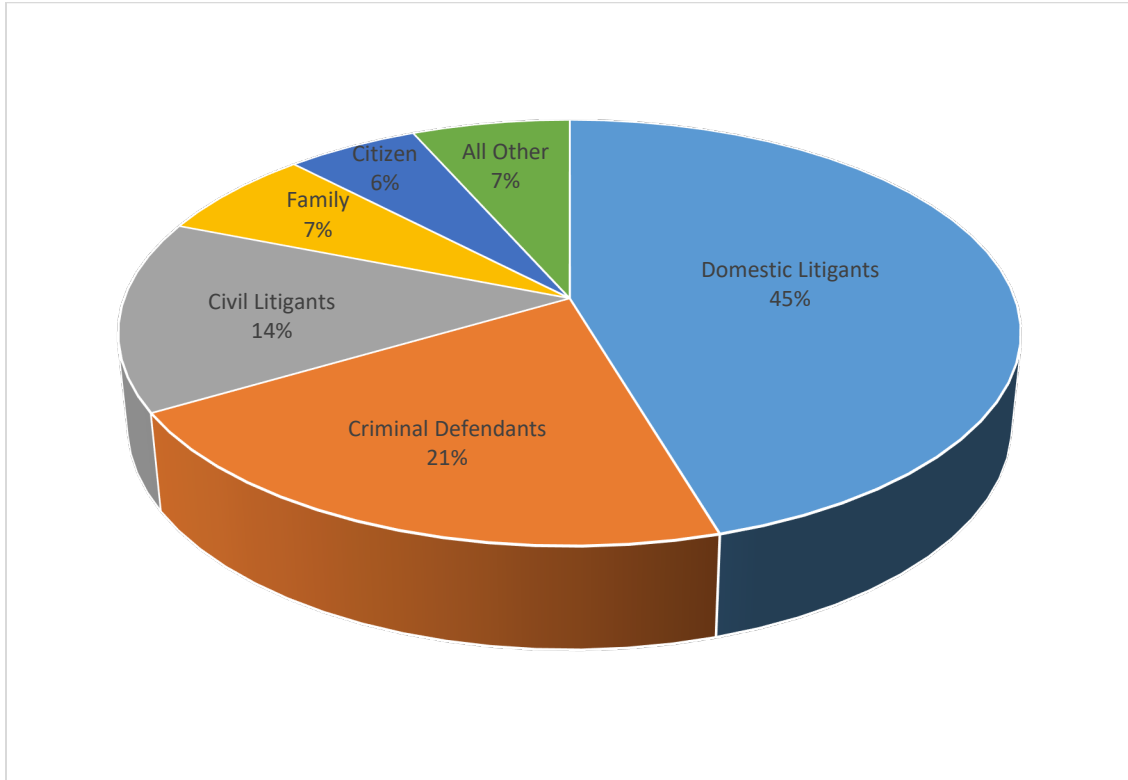
Complaints filed with the Commission most often arise out of courtroom proceedings in front of trial judges. A single complaint may also allege misconduct by multiple judges, particularly in complaints against the appellate courts, where a single complaint may name every judge of the Court of Appeals or every justice of the Supreme Court. Table 5 sets forth the types of judicial officers about whom complaints were received.

**TABLE 5: COMPLAINTS AGAINST JUDGES AND COMMISSIONERS BY OFFICE**

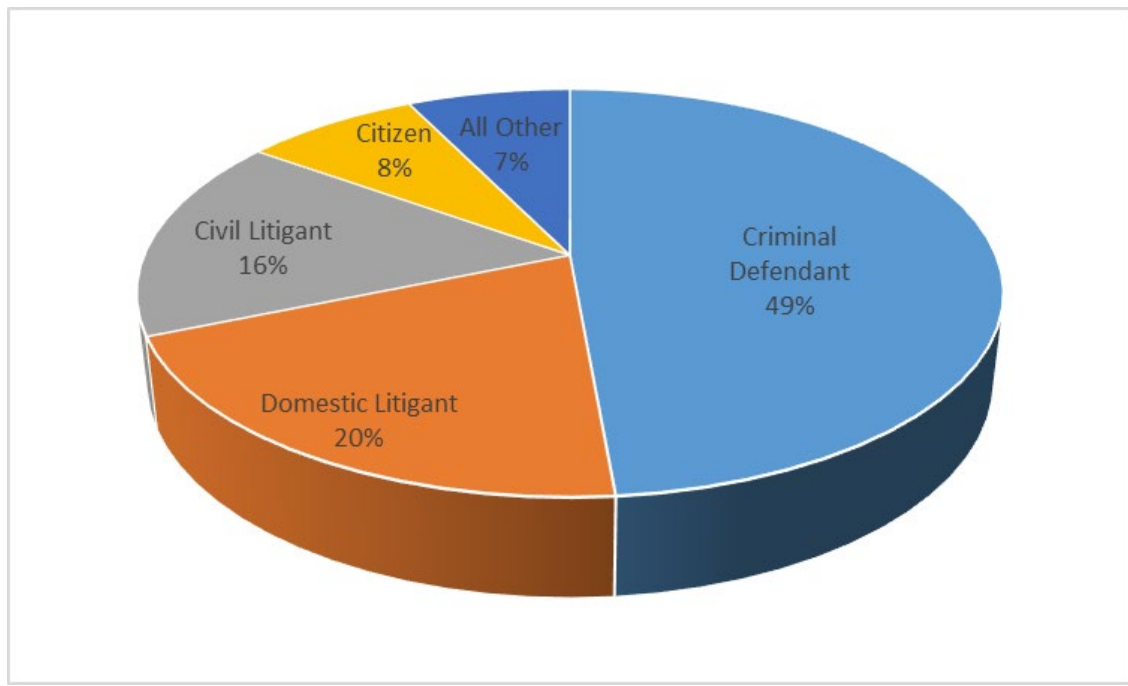


This data is set forth in Tables 6 and 7 to show the breakdown of the types of complaints for the trial level judges.

**TABLE 6: COMPLAINTS AGAINST DISTRICT COURT JUDGES**

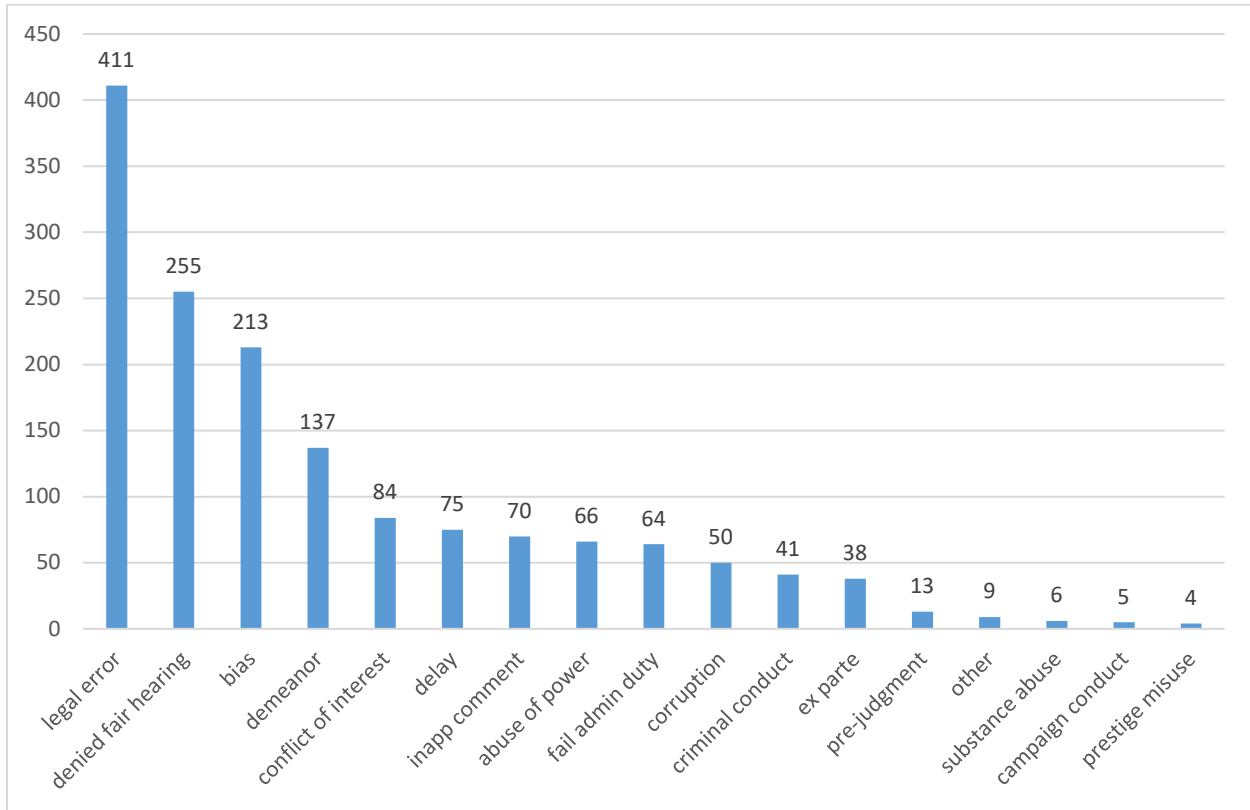


**TABLE 7: COMPLAINTS AGAINST SUPERIOR COURT JUDGES**



The types of complaints received are set forth in Table 8. The data below indicate the number of times a particular allegation appeared in a complaint in 2023 (note that a single complaint may raise multiple allegations).

**TABLE 8: TYPES OF JUDICIAL MISCONDUCT ALLEGED**



## **Five-Year Trends in Investigatory and Disciplinary Workload**

The workload of the Commission reflects an overall trend of increasing complaints to be reviewed and considered by the Commission and its staff during the last five years.

**TABLE 9: COMPLAINTS, INVESTIGATIONS AND PROCEEDINGS - FIVE YEAR TRENDS**

	<b>2023</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>
<b>Matters Pending<sup>1</sup></b>	755	560	524	432	475
<b>Preliminary Investigations Ordered</b>	67	82	98	43	75
<b>Formal Investigations Ordered</b>	26	22	7	22	18
<b>Total Investigations Ordered</b>	93	104	105	65	93
<b>Dismissed Without Formal Investigation<sup>2</sup></b>	650	443	432	339	403
<b>Dismissed After Formal Investigation</b>	12	7	2	14	2
<b>Private Letters of Caution Issued</b>	13	8	1	12	10
<b>Statements of Charges Authorized</b>	2	11	1	2	4
<b>Disciplinary Hearings Conducted</b>	3	3	0	2	6
<b>Recommendations for Public Discipline Issued</b>	3	0	0	2	4

<sup>1</sup>Includes matters carried over from previous year as well as new complaints filed.

<sup>2</sup>Includes complaints dismissed after initial review or after preliminary investigation.

**APPENDIX A**  
**PAST AND PRESENT MEMBERS OF THE JUDICIAL STANDARDS COMMISSION**

**Judges Appointed by the Chief Justice:**

*Court of Appeals*

Hon. Walter E. Brock  
Hon. Edward B. Clark  
Hon. Gerald Arnold  
Hon. Clifton E. Johnson  
Hon. Sidney S. Eagles, Jr.  
Hon. Jack L. Cozort  
Hon. John B. Lewis, Jr.  
Hon. John C. Martin  
Hon. Wanda G. Bryant  
Hon. Chris Dillon  
Hon. Jeff Carpenter\*  
Hon. Julee Flood\*

*Superior Court*

Hon. George M. Fountain  
Hon. W. Douglas Albright  
Hon. James M. Long  
Hon. Robert D. Lewis  
Hon. Marvin K. Gray  
Hon. James L. Baker, Jr.  
Hon. Richard D. Boner  
Hon. Paul L. Jones  
Hon. Tanya T. Wallace  
Hon. Cy A. Grant  
Hon. W. Douglas Parsons  
Hon. R. Stuart Albright  
Hon. Athena F. Brooks  
Hon. Jeffery B. Foster  
Hon. Dawn M. Layton\*  
Hon. Edwin G. Wilson\*

*District Court*

Hon. E. D. Kuykendall, Jr.  
Hon. C. Walter Allen  
Hon. L. T. Hammond, Jr.  
Hon. W. S. Harris, Jr.  
Hon. A. Elizabeth Keever  
Hon. Joyce A. Hamilton  
Hon. Tanya T. Wallace  
Hon. Rebecca B. Knight  
Hon. Alexander Lyerly  
Hon. Rebecca Blackmore  
Hon. Wayne L. Michael  
Hon. Sherri W. Elliott  
Hon. James H. Faison III  
Hon. Teresa H. Vincent\*  
Hon. Scott L. Ussery\*

**Attorneys Elected by the State Bar Council:**

Mr. Emerson T. Sanders  
Mr. Harold K. Bennett  
Mr. Robert G. Sanders  
Mr. Jerome B. Clark, Jr.  
Mr. E. K. Powe  
Mr. Rivers D. Johnson, Jr.  
Mr. Louis J. Fisher, Jr.  
Mr. William K. Davis  
Mr. Z. Creighton Brinson  
Mr. Charles M. Davis  
Mr. Ronald Barbee  
Mr. William O. King  
Mr. Steven Michael  
Mr. Dudley Humphrey  
Mr. L.P. Hornthal, Jr.  
Mr. Edward T. Hinson, Jr.  
Mr. Fred H. Moody, Jr.  
Mr. Andy Penry  
Mr. William H. Jones, Jr.  
Mr. Forrest Ferrell  
Mr. Lonnie M. Player, Jr.  
Ms. Allison Mullins  
Mr. Michael A. Grace  
Mr. Michael Crowell

**Citizens Appointed by the Governor:**

Mr. Marvin B. Koonce, Jr.  
Mrs. George L. Hundley  
Ms. N. Susan Whittington  
Mrs. Veatrice C. Davis  
Ms. Pamela S. Gaither  
Mr. Albert E. Partridge, Jr.  
Mrs. Margaret H. Almond  
Mr. Melvin C. Swann, Jr.  
Mr. Roland W. Leary  
Mr. James L. Mebane  
Hon. T. Ray Warren  
Mrs. Linda Brown Douglas  
Hon. Arthur B. Schools, Jr.  
Ms. Lorraine Stephens  
Mr. Cresswell Elmore  
Ms. Talece Y. Hunter  
Mr. Donald L. Porter  
Mr. Michael A. Grace\*  
Mr. Mark Calloway\*

**Citizens Appointed by the General Assembly:**

Hon. Todd W. Tilley  
Mr. R. Wayne Troutman  
Mr. James P. Testa  
Mr. Gregory H. Greene  
Mr. Dean Jordan  
Mr. Grady Hawkins  
Mr. Ronald L. Smith\*  
Mr. John M. Check\*

**Judges Appointed by the General Assembly:**

Hon. C. Ashley Gore\*  
Hon. R. Andrew Womble\*  
Hon. Rashad A. Hauter\*  
Hon. Justin K. Brackett\*

\*Denotes current member