

# THE NORTH CAROLINA JUDICIAL STANDARDS COMMISSION



## 2013 ANNUAL REPORT

Post Office Box 1122  
Raleigh, North Carolina 27602  
(919) 831-3630

## CONTENTS

	<u>Page</u>
Introduction.....	2
Activities in 2013.....	2
Five Year Comparative Analysis.....	6
APPENDIX A - Past and Present Members of the Judicial Standards Commission.....	7
APPENDIX B - Supreme Court Opinions Regarding Recommendations from the Judicial Standards Commission.....	8

This report provides statistical data of the activities of the Commission in 2013. For further information please visit the Judicial Standards Commission’s web site at:

<http://www.nccourts.org/Courts/CRS/Councils/JudicialStandards/Default.asp>

## **INTRODUCTION**

The North Carolina Judicial Standards Commission was created in 1973 by virtue of an amendment to Article IV, Section 17 of the Constitution of North Carolina and the enactment of Article 30 of Chapter 7A of the General Statutes. The purpose of the Commission has been repeatedly stated by the Supreme Court, but was first voiced by Justice Exum in *In re Crutchfield*, 289 N.C. 597, 602, 223 S.E.2d 822, 825 (1975):

“[A proceeding before the Judicial Standards Commission] is neither criminal nor civil in nature. It is an inquiry into the conduct of a judicial officer, the purpose of which is not primarily to punish any individual but to maintain due and proper administration of justice in our State's courts, public confidence in its judicial system, and the honor and integrity of its judges.”

The Commission exists as the appropriate agency “for the investigation and resolution of inquiries concerning the qualifications or conduct of any justice or judge of the General Court of Justice” N.C.G.S. §7A-374.1. Jurisdiction was expanded in 2011 to include commissioners and deputy commissioners of the NC Industrial Commission by N.C.G.S. §97.78.1. It receives and investigates complaints of judicial misconduct or disability, institutes disciplinary proceedings, conducts hearings, and recommends appropriate disciplinary action to the North Carolina Supreme Court. The Commission itself can neither censure nor remove. It functions to aid in determining whether a justice or judge is unfit or unsuitable, and it is for the court to actually assess the disciplinary sanctions provided in N.C.G.S. §7A-376. *In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977). Confidentiality of Commission activities was expanded by the General Assembly in 2013 to include all phases of disciplinary hearings. Upon the issuance of a disciplinary sanction by the Court, confidentiality ceases as to the pleadings, recommendation and record.

The Commission also provides formal advisory opinions in response to written requests. The executive director and Commission counsel provide informal advisory opinions upon request and participate in new judge training and continuing judicial education.

The membership of the Commission consists of one Court of Appeals judge, who serves as the chairperson, two superior court judges, and two district court judges, each appointed by the Chief Justice of the Supreme Court; four members of the Bar, elected by the Council of The North Carolina State Bar; and four citizens who are neither judges, active or retired, nor attorneys, two appointed by the Governor, one appointed by the Speaker of the North Carolina House of Representatives and one appointed by the President Pro Tempore of the North Carolina Senate.

## **ACTIVITIES IN 2013**

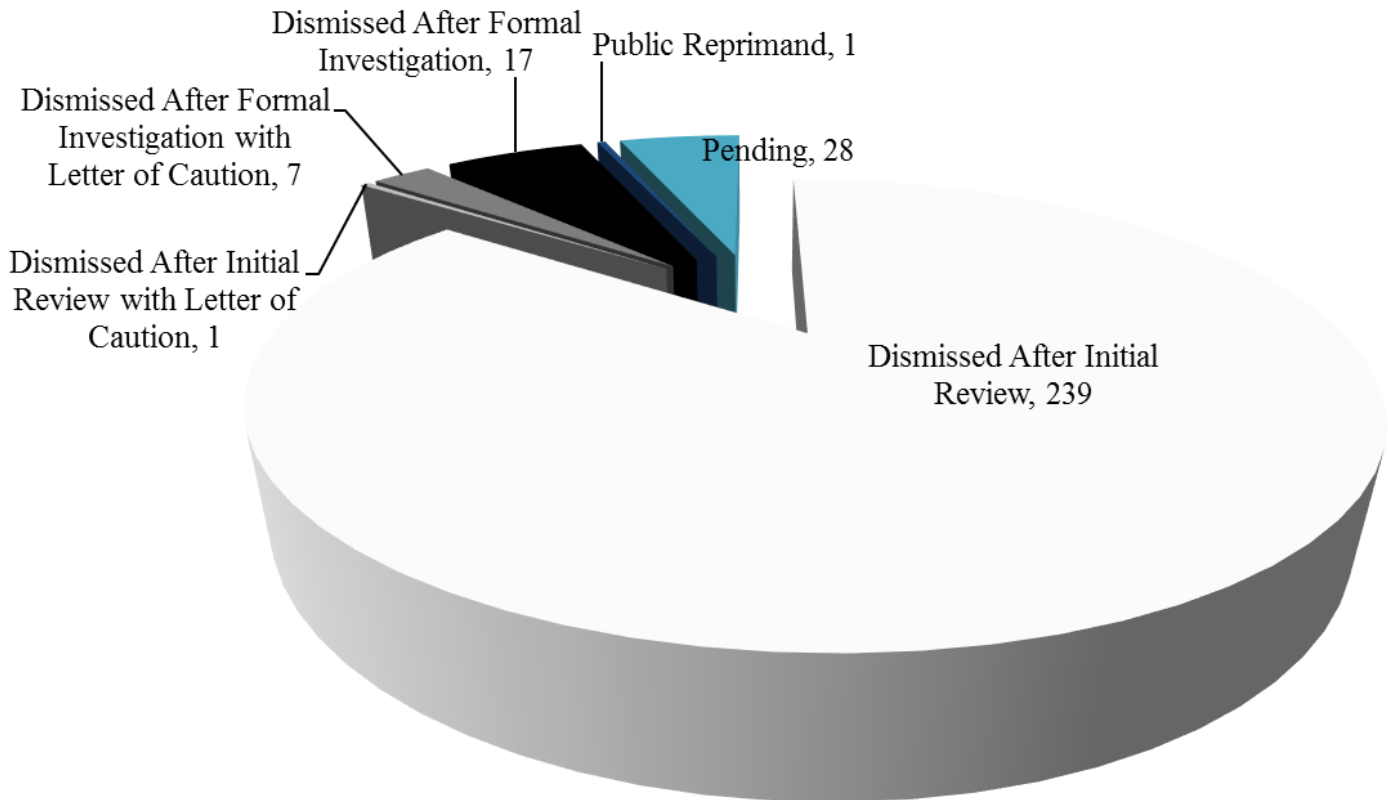
Inquiries concerning allegations of misconduct are initiated by written complaints from members of the public or opened by the Commission acting on its own motion. 57 such complaints were pending at the beginning of 2013: 50 awaiting initial review or receipt of additional information and 7 under formal investigation. During the year, 235 new complaints were filed or initiated by

the Commission on its own motion. Formal investigations were ordered in 25 complaints. The Commission initiated formal disciplinary proceedings by filing a Statement of Charges in 1 inquiry. The Statement of Charges was subsequently withdrawn following the judge's acceptance of a Public Reprimand. As indicated below, 28 matters were left pending at the end of 2013: 21 complaints awaiting initial review or the receipt of additional information, 6 complaints under formal investigation and one matter awaiting the filing of a Statement of Charges following and investigative panel's determination to initiate disciplinary proceedings.

### **CASELOAD 2013**

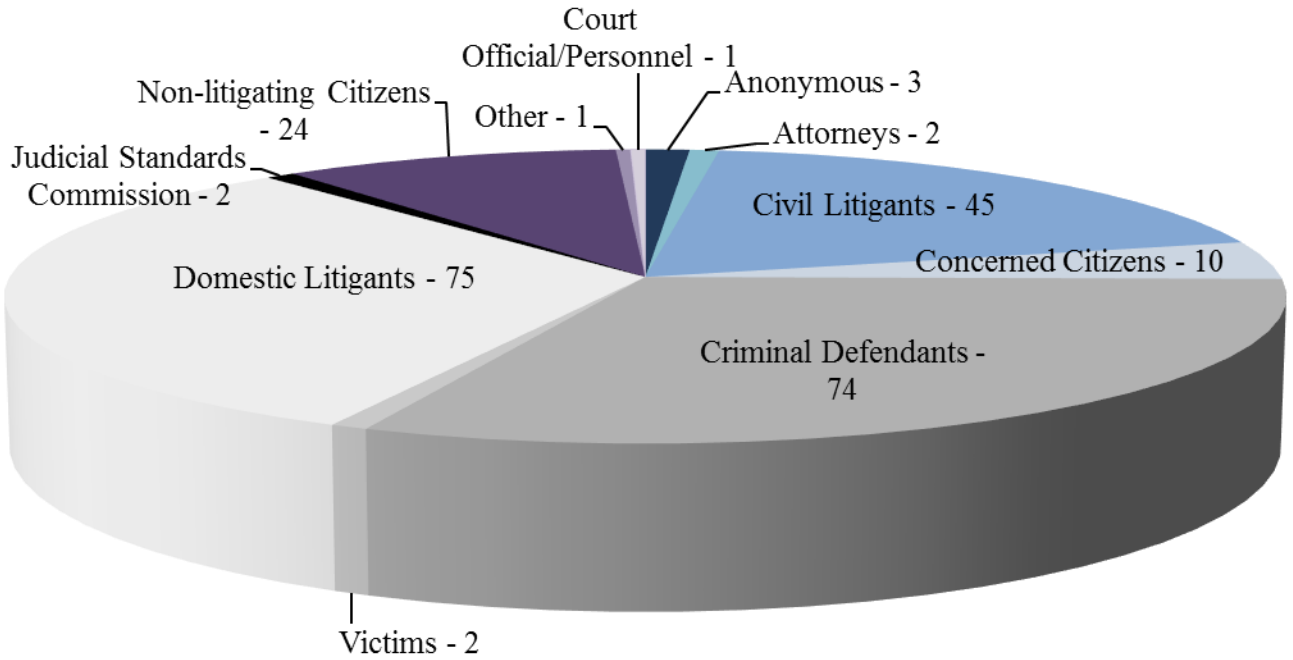
Matters pending 1/1/13	57
2013 Complaints	235
Total Workload	292
Complaints Disposed in 2013	264
Matters Pending 12/31/13	28

### **COMPLAINT DISPOSITION 2013**



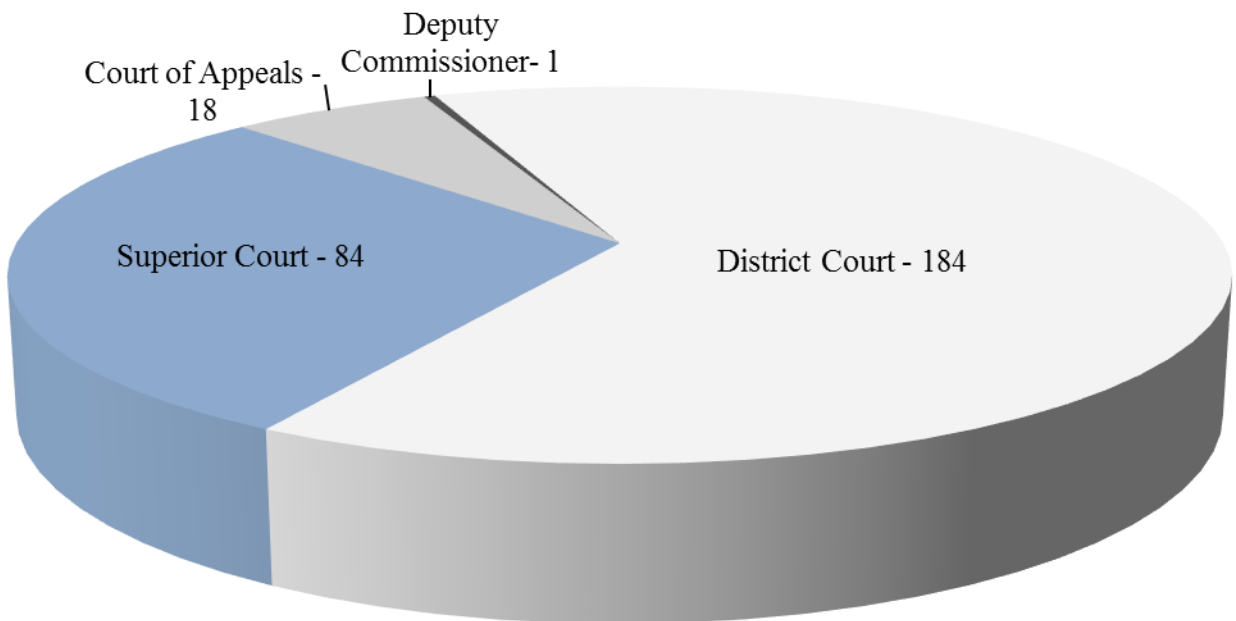
Complaints involving multiple judicial officials may involve more than one type of disposition.

**SOURCES OF COMPLAINTS**



Some complaints were provided by more than one complainant.

**CATEGORIES OF RESPONDENT JUDGES**



Some complaints named more than one judicial official.

**COMPLAINT ALLEGATIONS**

Abuse of Power	18
Bias	94
Campaign conduct	1
Conflict of Interest	18
Criminal Conduct	5
Delay	33
Demeanor	33
Denied Fair Hearing	25
Disability	1
Ex Parte Communication	33
Failed Administrative Duty	19
Fraud/Corruption	8
Inappropriate Comments	32
Legal/Procedural Error	176
Other	14
Prestige Misuse	4
<b>TOTAL</b>	<b>514</b>

Complaints may contain more than one allegation.

**FIVE YEAR COMPARATIVE ANALYSIS**

Year	Pending from Previous Years	New	Pending at Year End	Dismissed After Initial Review	Formal Investigation Ordered	Dismissed After Formal Investigation	Private Letter of Caution	Public Reprimand	Statement of Charges Filed	Stipulated Dismissal	Hearing Conducted	Dismissed After Hearing	Recommendation For Discipline Filed
2013	57	235	28	239	25	17	8	1	1+	0	0	0	0
2012	41	312	57	260	30	20	14	2	0	0	0	0	0
2011	22	282	41	241	20	9	9≠	3	2	0	2	0	2
2010	25	241	22	220	21	12	7	1	0	1(4)±	0	0	0
2009	47	279	25	259	25	19	11	4	3(8)	2(3)*	2(4)	1	1(3)
Total	192	1349	173	1219	121	77	49	11	6	3	4	1	3
Avg	38.4	269.8	36.4	243.8	24.2	15.4	9.8	2.2	1.2	0.6	0.8	0.2	0.6

*number in ( ) indicates total number of complaints addressed*

*\* dismissed due to death of the respondent judge*

*± dismissed due to removal of the respondent judge*

*≠ a letter of caution was issued in one matter, while other issues remained under investigation*

*+ withdrawn following the judge's acceptance of a public reprimand*

## 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 \*

**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 \*

**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 \*

**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. William H. Jones, Jr. \*  
 Mr. Fred H. Moody, Jr. \*

**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  
 Mr. T. Ray Warren  
 Mrs. Linda Brown Douglas  
 Mr. Arthur B. Schools, Jr. \*  
 Ms. Lorraine Stephens \*

**Citizens Appointed by the General Assembly**

Hon. Todd W. Tilley  
 Mr. R. Wayne Troutman \*  
 Mr. Gregory H. Greene \*

\* 2013 members



## APPENDIX B

**SUPREME COURT OPINIONS**  
**REGARDING RECOMMENDATIONS OF THE**  
**JUDICIAL STANDARDS COMMISSION**

*In re Crutchfield*, 289 N.C. 597, 223 S.E.2d 822 (1975)  
*In re Edens*, 290 N.C. 299, 226 S.E.2d 5 (1976)  
*In re Stuhl*, 292 N.C. 379, 233 S.E.2d 562 (1977)  
*In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977)  
*In re Hardy*, 294 N.C. 90, 240 S.E.2d 367 (1978)  
*In re Martin*, 295 N.C. 291, 245 S.E.2d 766 (1978)  
*In re Peoples*, 296 N.C. 109, 250 S.E.2d 890 (1978)  
*In re Martin* 302 N.C. 299, 275 S.E.2d 412 (1981)  
*In re Hunt*, 308 N.C. 328, 302 S.E.2d 235 (1983)  
*In re Kivett*, 309 N.C. 635, 309 S.E.2d 422 (1983)  
*In re Wright*, 313 N.C. 495, 329 S.E.2d 668 (1985)  
*In re Griffin*, 320 N.C. 163, 357 S.E.2d 682 (1987)  
*In re Bullock*, 324 N.C. 320, 377 S.E.2d 743 (1989)  
*In re Hair*, 324 N.C. 324, 377 S.E.2d 749 (1989)  
*In re Greene*, 328 N.C. 639, 403 S.E.2d 257 (1991)  
*In re Bullock*, 328 N.C. 712, 403 S.E.2d 264 (1991)  
*In re Sherrill*, 328 N.C. 719, 403 S.E.2d 255 (1991)  
*In re Harrell*, 331 N.C. 105, 414 S.E.2d 36 (1992)  
*In re Martin*, 333 N.C. 242, 424 S.E.2d 118 (1993)  
*In re Bissell*, 333 N.C. 766, 429 S.E.2d 731 (1993)  
*In re Hair*, 335 N.C. 150, 436 S.E.2d 128 (1993)  
*In re Cornelius*, 335 N.C. 198, 436 S.E.2d 836 (1993)  
*In re Bullock*, 336 N.C. 586, 444 S.E.2d 299 (1994)  
*In re Leonard*, 339 N.C. 596, 453 S.E.2d 521 (1995)  
*In re Martin*, 340 N.C. 248, 456 S.E.2d 517 (1995)  
*In re Greene*, 340 N.C. 251, 456 S.E.2d 516 (1995)

*In re Ammons*, 344 N.C. 195, 473 S.E.2d 326 (1996)  
*In re Fuller*, 345 N.C. 157, 478 S.E.2d 641 (1996)  
*In re Martin*, 345 N.C. 167, 478 S.E.2d 186 (1996)  
*In re Renfer*, 345 N.C. 632, 482 S.E.2d 540 (1997)  
*In re Renfer*, 347 N.C. 382, 493 S.E.2d 434 (1997)  
*In re Tucker*, 348 N.C. 677, 501 S.E.2d 67 (1998)  
*In re Tucker*, 350 N.C. 649, 516 S.E.2d 593 (1999)  
*In re Brown*, 351 N.C. 601, 527 S.E.2d 651 (2000)  
*In re Hayes*, 353 N.C. 511, 546 S.E.2d 376 (2001)  
*In re Stephenson*, 354 N.C. 201, 552 S.E.2d 137 (2001)  
*In re Brown*, 356 N.C. 278, 570 S.E.2d 102 (2002)  
*In re Hayes*, 356 N.C. 389, 584 S.E.2d 260 (2002)  
*In re Hill*, 357 N.C. 559, 591 S.E.2d 859 (2003)  
*In re Brown*, 358 N.C. 711, 599 S.E.2d 502 (2004)  
*In re Braswell*, 358 N.C. 721, 600 S.E.2d 849 (2004)  
*In re Hill*, 359 N.C. 308; 609 S.E.2d 221 (2005)  
*In re Harrison*, 359 N.C. 415; 611 S.E.2d 834 (2005)  
*In re Daisy*, 359 N.C. 622, 622 S.E.2d 529 (2005)  
*In re Ballance*, 361 N.C. 338, 643 S.E.2d 584 (2007)  
*In re Royster*, 361 N.C. 560, 648 S.E.2d 837 (2007)  
*In re Allen*, 362 N.C. 73, 653 S.E.2d 423 (2007)  
*In re Badgett*, 362 N.C. 202, 657 S.E.2d 346 (2008)  
*In re Badgett*, 362 N.C. 482, 666 S.E.2d 743 (2008)  
*In re Belk*, 364 N.C.114, 691 S.E.2d 685 (2010)  
*In re Hartsfield*, 365 N.C. 418, 722 S.E.2d 496 (2012)  
*In re Totten*, 365 N.C. 458, 722 S.E.2d 783 (2012)