

# THE NORTH CAROLINA JUDICIAL STANDARDS COMMISSION



## 2011 ANNUAL REPORT

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This report provides statistical data of the activities of the Commission in 2011. 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 or the North Carolina Court of Appeals. 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).

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 2011

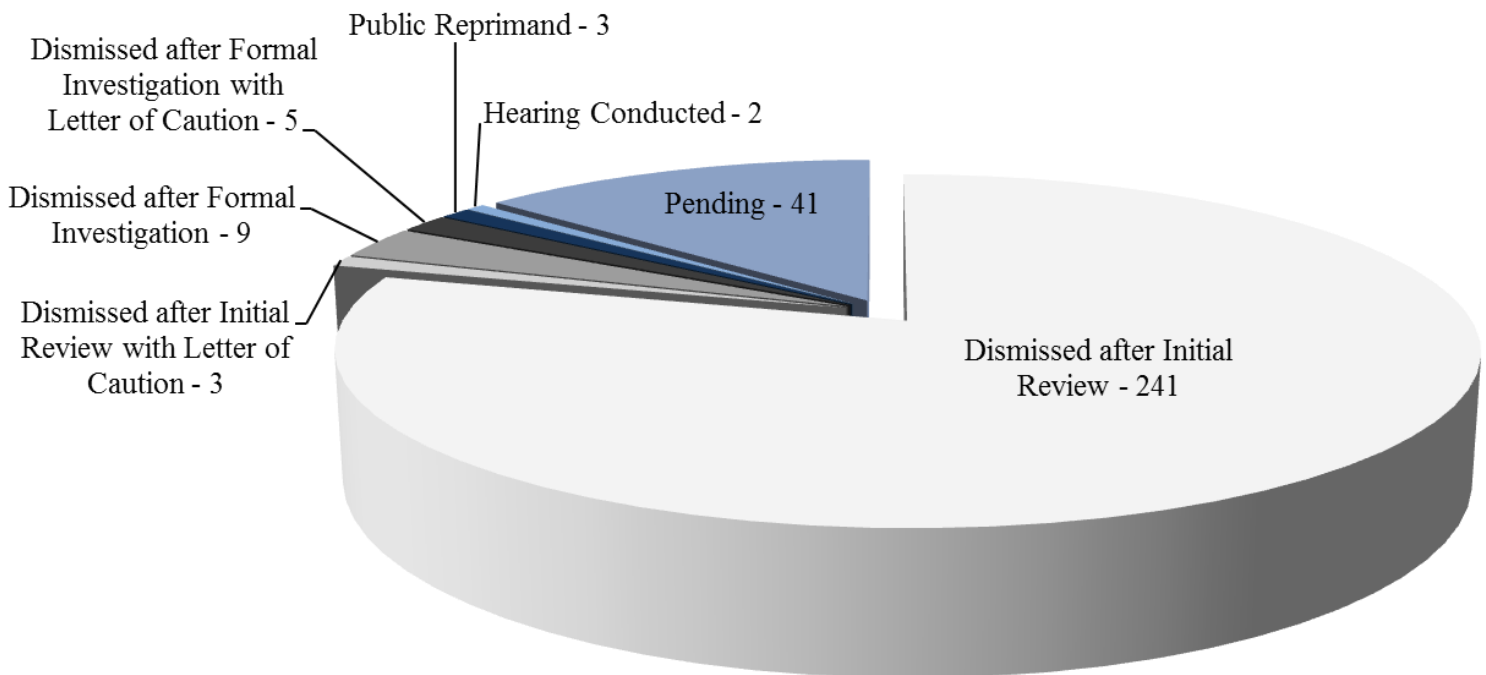
Inquiries concerning allegations of misconduct are initiated by written complaints from members of the public or opened by the Commission acting on its own motion. 22 such complaints were pending at the beginning of 2011: 15 awaiting initial review or receipt of additional information and 7 under formal investigation. During the year, 282 new complaints were filed or initiated by the Commission on its own motion. Formal investigations were ordered in 20 complaints. Three public reprimands were ordered regarding 3 complaints. The Commission initiated formal disciplinary proceedings by filing a Statement of Charges in 2 inquiries. As indicated below, 41 matters were left pending at the end of 2011: 33 complaints awaiting initial review or the receipt of additional information and 8 complaints under formal investigation.

### CASELOAD 2011

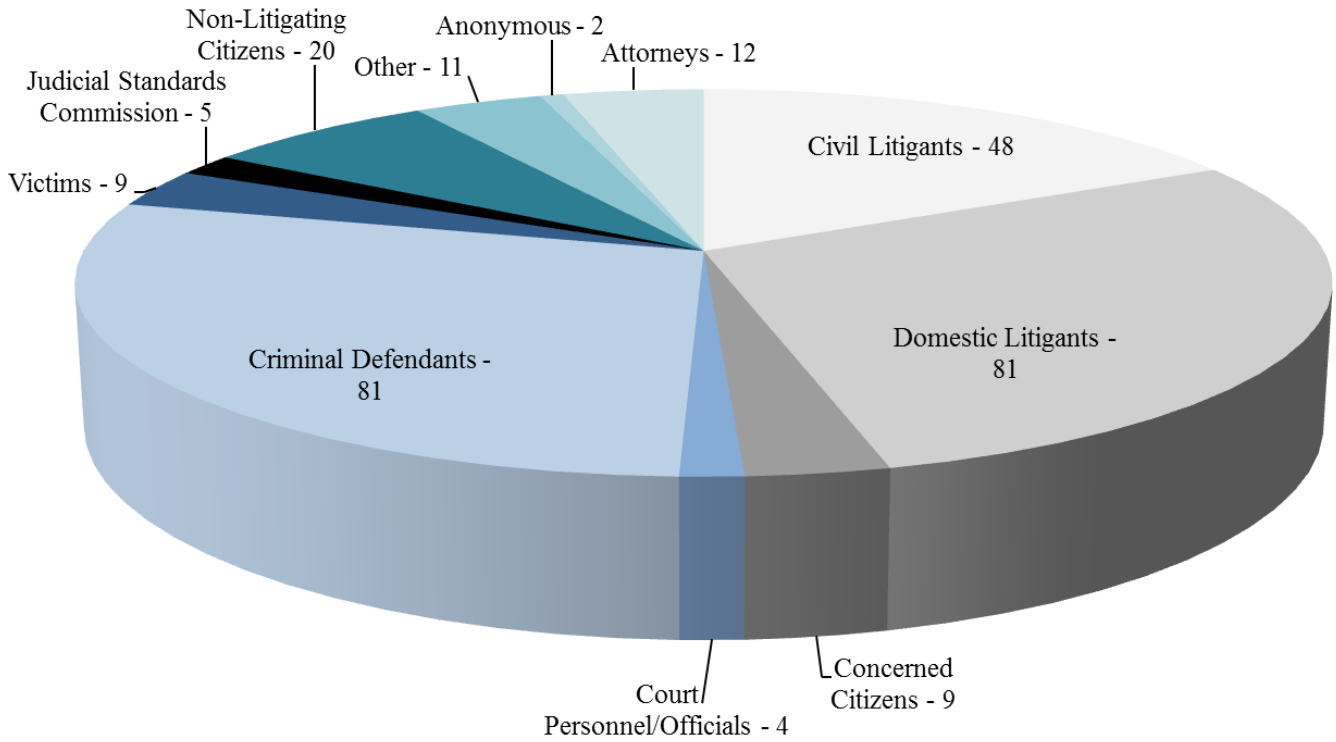
Matters pending 1/1/11	22
2011 Complaints	282
Total Workload	304
Complaints Disposed in 2011	263
Matters Pending 12/31/11	41

As in previous years, the majority of complaints were closed by the Commission after initial review. Of the 263 complaints disposed of during the year, 241 were dismissed after initial review, 3 were dismissed after initial review with a letter of caution, 9 were dismissed after formal investigations, and 5 were dismissed after a formal investigation with a letter of caution. Three public reprimands were ordered by the Commission. Two disciplinary proceedings were filed in 2011, with hearings conducted in each. The hearings resulted in recommendations for discipline being filed with the Supreme Court of North Carolina, one for suspension and one for censure.

### COMPLAINT DISPOSITION 2011

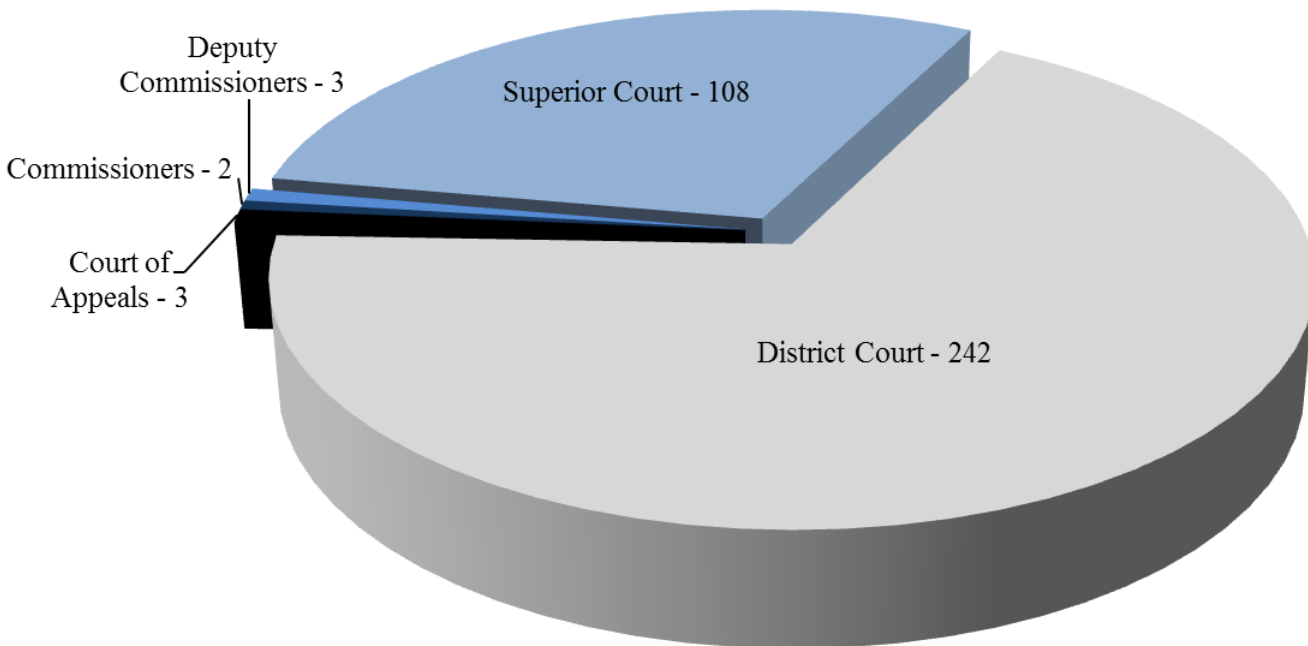


**SOURCES OF COMPLAINTS**



Some complaints were provided by more than one complainant.

**CATEGORIES OF RESPONDENT JUDGES**



Some complaints named more than one judge or justice.

**COMPLAINT ALLEGATIONS**

Abuse of Power	63
Bias	104
Campaign conduct	1
Conflict of Interest	8
Criminal Conduct	4
Delay	37
Demeanor	33
Denied Fair Hearing	36
Disability	2
Ex Parte Communication	35
Failed Administrative Duty	4
Fraud/Corruption	5
Inappropriate Comments	34
Legal/Procedural Error	219
Other	16
Prestige Misuse	9
<b>TOTAL</b>	<b>611</b>

Some complaints contained 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
2011	22	282	41	241	20	9	9 $\neq$	3	2	0	2	0	2
2010	25	241	22	220	21	12	7	1	0	1(4) $\pm$	0	0	0
2009	47	279	25	259	25	19	11	4	3(8)	2(3)*	2(4)	1	1(3)
2008	37	306	47	257	33	11	22	3	5	0	3	3	1
2007	67	262	37	260	15	8	4	3	15	1	3	1	2
Total		1370		1237	114	59	53	14	25	4	10	5	6
Avg		274		247.4	22.8	11.8	10.6	2.8	5	.8	2	1	1.2

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

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

*$\pm$  dismissed due to removal of the respondent judge*

*$\neq$  a letter of caution was issued in one matter, while other issues remained under 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 \*

**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 \*

**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. \*

\* *current member*

**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. \*

**Citizens Appointed by the General Assembly**

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



## 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)