

JUDICIAL PERSPECTIVES ON JUDICIAL DISCIPLINE

TRENDS AND OUTLOOKS

JUDICIAL DISCIPLINE COMMISSION

- ▣ Two judges or justices appointed by the Nevada Supreme Court
- ▣ Two attorney members appointed by the State Bar Board of Governors
- ▣ Three non-lawyers appointed by the Governor
 - Chair to be selected from lay members

JUDICIAL DISCIPLINE COMMISSION

Regular Members	Alternate Members
Gary Vause, Chair Owner Little Scholar Child Care	Joseph Sanford Retired Lyon County Undersheriff
Stefanie Humphrey, Co-Chair Ret. State of Nevada	Judge Richard Glasson (Tahoe JC) Judge Stephen Bishop (Ely JC)
John Krmpotic President, KLS Planning & Design	Judge Natalie Tyrell (NLV JC)
Judge Mark Denton (8 th JD)	Judge Thomas Gregory (9 th JD)
Judge David Hardy (2 nd JD)	Judge Thomas Stockard (10 th JD)
Karl Armstrong, Esq. Nev. Department of Administration	Judge Kristin Lewis (Carson Muni/JC) Judge Dorothy Nash Holmes (Reno Muni)
Donald Christensen, Esq Christensen Law Group	Bill C. Hammer, Esq Christopher Laurent, Esq.

JUDICIAL DISCIPLINE STAFF

- ▣ Paul Deyhle
 - General Counsel & Executive Director
- ▣ Three Associate Counsel
- ▣ Three Staff Members

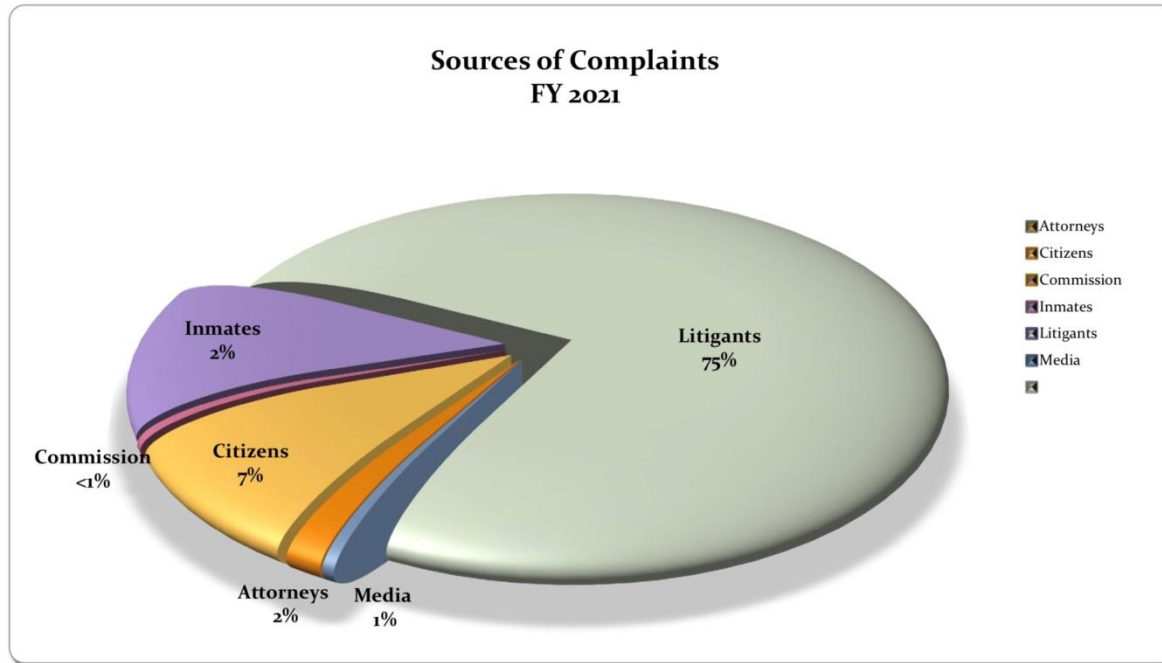


WHERE DO COMPLAINTS COME FROM?

- ▣ Complaints in the mail
 - Most from litigants
 - Anonymous complaints generally not considered
- ▣ Executive Director can bring a complaint with approval of commission (does not make him complainant)

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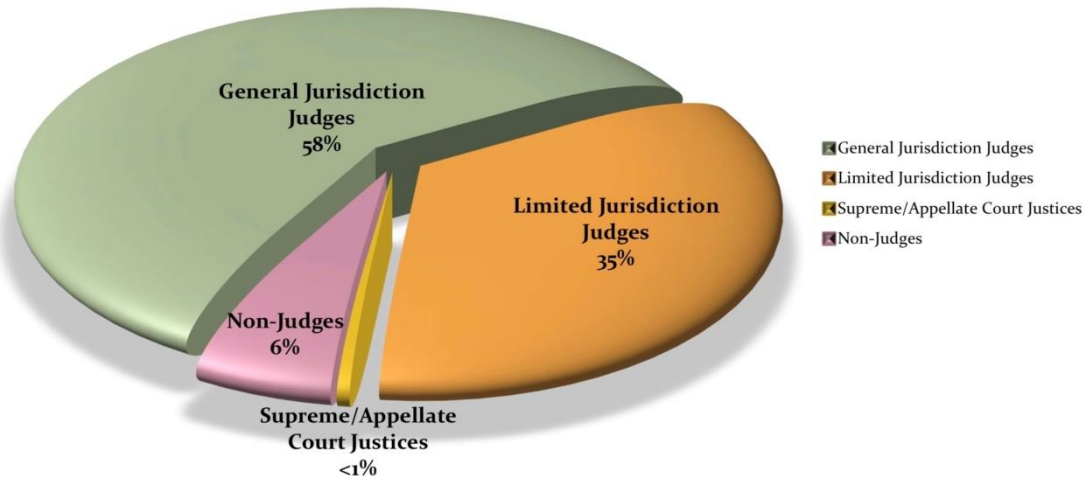
Category	Amount
Attorneys	3
Citizens	18
Commission	1
Inmates	22
Litigants	138
Media	1
Total	183



WHO RECEIVES COMPLAINTS?

Category	Number of Complaints
General Jurisdiction Judges	107
Limited Jurisdiction Judges	64
Supreme/Appellate Court Justices	1
Non-Judges	11
Total	183

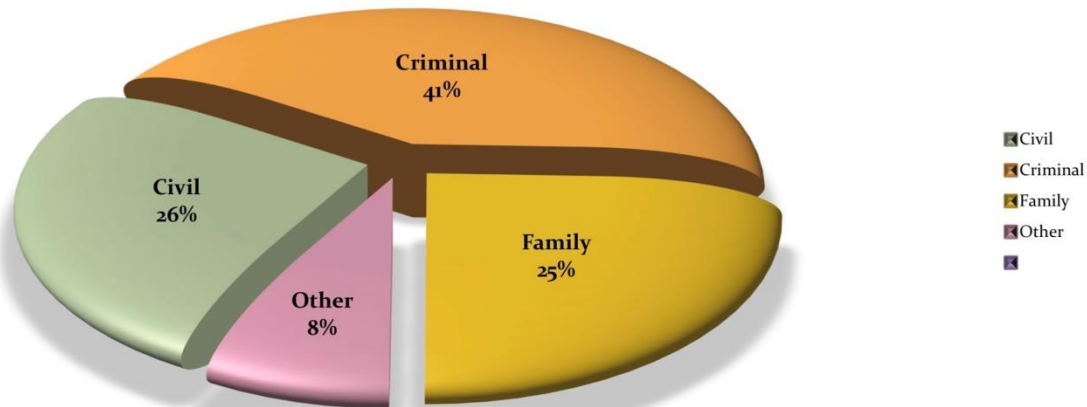
**Types of Judges Complained Against
FY 2021**



WHAT KIND OF CASES?

Category	Number of Complaints
Civil	47
Criminal	76
Family	45
Other	15
Total	183

Area of Law- Complaint Origination
FY 2021



WHAT NEXT?

- ▣ Complaint is scanned in
 - Staff orders docket/video, etc.
- ▣ File is assigned to one of the four lawyers to review
 - Check for need to process on emergency basis
 - Attorney reviews and makes recommendation
 - General Counsel reviews all recommendations

COMMISSION CONSIDERS ALL COMPLAINTS

- ▣ Commission meets quarterly
- ▣ Special meetings for emergencies
- ▣ Commission members get everything judicial discipline has including complaint, memo from lawyer with recommendation and any additional information attached.

POSSIBLE ACTIONS

- ▣ Dismissal
- ▣ Dismissal with Letter of Caution
- ▣ Investigation



**I WANT TO
BELIEVE**

MESSAGE FROM THE EXCU

- ▣ Commission respects what judges do.
- ▣ Commission works as a team.
 - Executive Director only acts with approval of the Commission
- ▣ Commission understands that sometimes complainants abuse the process, but also understands that sometimes judges are abusive.

MOST COMPLAINTS DISMISSED

CASE DISPOSITIONS¹ FISCAL YEAR 2021

Disposition of Complaints	Number
Dismissed after initial review	148
Dismissed after investigation - no action taken	10
Dismissed with cautionary letter*	7
Proceed to Formal Statement of Charges*	5
Deferment of Formal Disciplinary Action	1
Total=	171

HOW ARE COMPLAINTS DISMISSED

- ▣ Administrative dismissal (complaint filed against a federal judge or attorney) by Executive Director
- ▣ All other dismissals require action by the commission.
 - Complaint not supported by evidence (for example, complaint that judge yelled is inconsistent with video)
 - Complaint is a disagreement with judicial decision making

DISMISSAL

- ▣ The judge does not receive notice
 - Avoid retaliation in active cases
 - Chilling effect for complaints
 - Commission resources
- ▣ Complainant receives letter that the complaint has been dismissed and recourse is to appeal.

LETTER OF CAUTION

- ▣ Commission makes a determination no discipline is warranted.
- ▣ Letter is not public and judge not provided opportunity to respond prior to issuance.
- ▣ Stays in file and can be used in future discipline of related conduct within 5 years of letter

RESPONSE TO LETTER

- ▣ Letter of Caution can rub judges the wrong way sometimes.
 - Considered a nudge to judge to bring issue to their attention without any public proceeding
- ▣ Option is to request the Commission to reconsider.
- ▣ Reconsideration can go either way, and could result in investigation.

INVESTIGATION

- ▣ If commission determines there is issue of concern, will authorize investigation.
- ▣ Judicial discipline lawyers will meet with the investigator and discuss the scope.
- ▣ Investigators are contractors.
- ▣ Investigator provided the entire file.

AFTER INVESTIGATION

- ▣ Judicial Discipline attorney will review results of investigation and make a new recommendation.
- ▣ Commissioners have access to all the reports.
- ▣ Options at this point are dismissal, dismissal with letter of caution, or ordering judge to answer the complaint.

STANDARD

- ▣ Standard to require answer from judge is clear and convincing evidence that misconduct occurred.
- ▣ Majority of commissioners (4 out of 7) must vote in favor of requiring an answer.

ANSWER

- ▣ Still in confidential phase.
- ▣ Judge will receive letter advising of complaint and will receive a flash drive with all documents except judicial discipline work product.
- ▣ Judge has 30 days to answer
 - No format - can be letter or pleading.
 - Last opportunity to provide mitigation before complaint is public.

AFTER ANSWER

- ▣ Commission reviews answer.
- ▣ At that point, commission can:
 - Dismiss
 - Dismiss with letter of caution
 - Require follow-up investigation
 - Approve formal charges

PROSECUTOR

- ▣ Executive Director contacts prosecutor
 - Typically from different jurisdiction than judge but not always
 - List created by informal process
 - Must be attorney in good standing
 - \$300/hr
- ▣ Prosecutor does not make resolution decisions and can only negotiate to extent approved by Commission.

FORMAL CHARGES

- ▣ Unless judge files writ of prohibition during confidential phase, once prosecutor appointed process becomes public.
- ▣ Formal complaint filed.
- ▣ Formal answer filed.
- ▣ Trial set.
 - Rules require Commission to appoint presiding judge to deal with pretrial motions. Will not be lay person.

CONFLICT?

- ▣ Same people approving complaint making ultimate determination.
 - Not always
 - Majority of commissions around the country operate in the same way.
 - Found constitutional in our state.

STANDARD AFTER FORMAL CHARGES

- ▣ Standard is clear and convincing evidence.
- ▣ Commission determines:
 - (1) Is there a violation of the code?
 - (2) What discipline is appropriate?

DETERMINATION OF DISCIPLINE

- ▣ Commission deliberates
- ▣ 7 must deliberate and 5 must agree on outcome.
- ▣ If a commissioner is absent, alternate appointed to sit.
- ▣ If judge from limited jurisdiction court, alternate from that type of court will be appointed to assist.

DISCIPLINE OPTIONS


- ▣ Public Admonishment
- ▣ Reprimand
- ▣ Censure
- ▣ Fines
- ▣ Mental health or substance abuse evaluation and/or treatment
- ▣ Probationary period
- ▣ Suspension with or without pay
- ▣ Removal but can run again
- ▣ Removal and barred from running

RECOURSE

- ▣ Judge can file writ of prohibition at any time during process.
- ▣ Judge can appeal discipline decision to the Nevada Supreme Court.
- ▣ Discipline action does not go away because someone resigns.

CONCERNS OF COMMISSION

- ▣ Lack of written orders
 - Minutes are not enforceable orders
 - Rulings must be followed up with order in writing filed in the case in a timely manner.
- ▣ Delay in decision-making
- ▣ Social media



THE TRUTH IS OUT THERE

https://judicial.nv.gov/Discipline/Commission_Home/