

# **STATE COMMISSION ON JUDICIAL CONDUCT**



**ANNUAL REPORT FOR FISCAL YEAR 2016**

# **STATE COMMISSION ON JUDICIAL CONDUCT**

## **COMMISSION MEMBERS**

**Valerie E. Ertz, Chair**

**Douglas S. Lang, Vice Chair**

**Ricky A. Raven, Secretary**

**Patti H. Johnson**

**Martha M. Hernandez**

**Diane D. Threadgill**

**Demetrius K. Bivins**

**Orlinda L. Naranjo**

**David M. Russell**

**David M. Patronella**

**David C. Hall**

**Catherine N. Wylie**

**Tramer J. Woytek**

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# COMMISSIONER INFORMATION

## OFFICERS

### CHAIR

#### Ms. Valerie E. Ertz

Public Member, Dallas  
Appointed by Governor  
Term Expires: 11/19/2017

### VICE-CHAIR

#### Hon. Douglas S. Lang

Appellate Justice, Dallas  
Appointed by Texas Supreme Court  
Term Expires: 11/19/2019

### SECRETARY

#### Mr. Ricky A. Raven

Attorney, Houston  
Appointed by State Bar of Texas  
Term Expires: 11/19/2017

## MEMBERS

#### Ms. Patti H. Johnson

Public Member, Canyon Lake  
Appointed by Governor  
Term Expires: 11/19/2017

#### Mr. David M. Russell

Public Member, Dripping Springs  
Appointed by Governor  
Term Expires: 11/19/2019

#### Ms. Martha M. Hernandez

Public Member, Diboll  
Appointed by Governor  
Term Expires: 11/19/2015

#### Hon. David M. Patronella

Justice of the Peace, Houston  
Appointed by Texas Supreme Court  
Term Expires: 11/19/2021

#### Ms. Diane D. Threadgill

Public Member, Midlothian  
Appointed by Governor  
Term Expires: 11/19/2015

#### Hon. David C. Hall

County Court at Law Judge, Sweetwater  
Appointed by Texas Supreme Court  
Term Expires: 11/19/2021

#### Mr. Demetrius K. Bivins

Attorney, Houston  
Appointed by State Bar of Texas  
Term Expires: 11/19/2019

#### Hon. Catherine N. Wylie

Municipal Court Judge, Houston  
Appointed by Texas Supreme Court  
Term Expires: 11/19/2021

#### Hon. Orlinda L. Naranjo

District Judge, Austin  
Appointed by Texas Supreme Court  
Term Expires: 11/19/2017

#### Hon. Tramer J. Woytek

County Judge, Hallettsville  
Appointed by Texas Supreme Court  
Term Expires: 11/19/2017

# STATE COMMISSION ON JUDICIAL CONDUCT

## COMMISSION STAFF

**Seana Willing**, Executive Director

**Eric Vinson**, Deputy Director

**Jacqueline Habersham**, Senior Commission Counsel

**Royce Lemoine**, Senior Commission Counsel

**Erik Nielsen**, Commission Counsel

**Anthony Martinez**, Commission Counsel

**Lorin Hayes**, Commission Counsel

**Ron Bennett**, Chief Investigator

**Victor Hidalgo**, Senior Investigator

**Katherine Mitchell**, Senior Investigator

**Terri Counts**, Staff Services Officer

**Judy Morgan**, Legal Assistant/Intake

**Connie Paredes**, Administrative Assistant

**Rachel Perez**, Administrative Assistant

## **STATEMENT FROM THE CHAIR**

On behalf of the State Commission on Judicial Conduct, I am pleased to present the Annual Report for fiscal year 2016.

The mission of the State Commission on Judicial Conduct is to protect the public, promote public confidence in the integrity, independence, competence, and impartiality of the judiciary, and encourage judges to maintain high standards of conduct both on and off the bench.

The Commission accomplishes this mission through its investigation of allegations of judicial misconduct or incapacity. In cases where a judge is found to have engaged in misconduct or to be permanently incapacitated, the Texas Constitution authorizes the Commission to take appropriate disciplinary action, including issuing sanctions, censures, suspensions, or recommendations for removal from office.

The Commission consists of 13 members. Five members are appointed by the Governor, six members are appointed by the Texas Supreme Court and two members are appointed by the State Bar of Texas. This unique mix of members with varying professional backgrounds provides an opportunity for diverse opinions and decisions. The Commission members believe every case that is filed deserves to be reviewed and investigated thoroughly and timely.

The dedicated, professional Commission staff members continue to improve our internal systems and reporting. In order to assist the public, the Commission website has been updated and is much more user-friendly. One of the newest improvements is the ability to file complaints on-line. The staff is committed to reviewing all cases and presenting them to the Commission in a timely manner.

As technology and social media platforms continue to flourish, the Commission continues to face decisions related to the right of free speech of an individual and how those rights balance with the Judicial Canons. We will continue to discuss and review these cases as they evolve.

This year the Commission dealt with some very public and tough cases. We were strong, thorough and confident during our deliberations keeping the mission of the Commission in mind – protecting the public and promoting public confidence in the judiciary.

There are many individuals who make the Commission successful – the staff, mentor judges, outside counsel and members of the Special Courts of Review. We appreciate their services and thank them for their invaluable input.

It is an honor to serve on the Commission and I look forward to our continued success and service to the citizens of Texas.

A handwritten signature in cursive script that reads "Valerie E. Ertz". The signature is written in black ink and is positioned above a horizontal line.

Valerie E. Ertz, Chair  
State Commission on Judicial Conduct

# PHILOSOPHY

The members of the State Commission on Judicial Conduct and Commission staff take their duties to the citizens and judges of Texas very seriously. Neither the political affiliation, gender, ethnic or religious background, sexual orientation, socioeconomic status, geographical location, nor the position of a complainant or a judge are considered in the review of cases pending before the Commission. The Commission's ability to fulfill its constitutional mandate requires that each Commissioner and staff member act with honesty, fairness, professionalism and diligence.

The Commission reviews every allegation of misconduct made against a Texas judge. Each complaint alleging misconduct on its face is thoroughly investigated and analyzed by Commission staff before being presented to the Commissioners. This procedure is an essential safeguard to preserve the public's confidence in the integrity of the judicial process. Judges are held to the highest standards of ethical conduct, both on and off the bench, and the Commission and its employees strive to conduct themselves in a similar manner.

# OVERVIEW OF THE COMMISSION

## **Authority of the Commission**

The State Commission on Judicial Conduct was created in 1965 by an amendment to Article V of the Texas Constitution. The Commission is the independent judicial branch agency responsible for investigating allegations of judicial misconduct or permanent disability, and for disciplining judges.

The Commission's jurisdiction includes all sitting Texas judges, including municipal judges, justices of the peace, criminal magistrates, county judges, county courts-at-law judges, statutory probate judges, district judges, appellate judges, masters, associate judges, referees, retired and former judges who consent to sit by assignment, and judges *pro tempore*. The Commission has no jurisdiction over federal judges and magistrates, administrative hearing officers for state agencies or the State Office of Administrative Hearings, or private mediators or arbitrators. Although judicial candidates are required to comply with the Texas Code of Judicial Conduct, the Commission does not have the authority to sanction anyone who was not a sitting judge at the time an offense occurred. Therefore, violations of the canons by candidates for judicial office who were not judges at the time of the alleged misconduct are subject to review and appropriate action by other authorities such as the State Bar, the Attorney General, the Secretary of State, or the local District Attorney.

## **Members of the Commission**

There are thirteen members of the Commission, serving staggered six-year terms, as follows:

- Six judges appointed by the Supreme Court of Texas, one from each of the following court levels: appellate, district, county court-at-law, constitutional county, justice of the peace and municipal,
- Five citizen members who are neither attorneys nor judges, appointed by the Governor, and
- Two attorneys who are not judges, appointed by the State Bar of Texas.

By law, the appellate, district, constitutional and statutory county judges and the two attorney members who serve on the Commission must be appointed from different appellate districts in Texas; the justice of the peace, municipal court judge and public members are selected at-large. The Texas Senate confirms all appointees. Commissioners meet approximately six times each year and receive no pay for their service.

## **Laws Governing the Commission**

The Commission is governed by Article V, Section 1-a, of the Texas Constitution, Chapter 33 of the Texas Government Code, the Texas Procedural Rules for the Removal or Retirement of Judges, and the Texas Code of Judicial Conduct. As part of the judicial branch and as an entity having its own constitutional and statutory provisions regarding confidentiality of papers, records and proceedings, the Commission is not governed by the Texas Public Information Act, the Texas Open Meetings Act, or the Texas Administrative Procedures Act.



## **Defining Judicial Misconduct**

Article V, Section 1-a(6)A of the Texas Constitution defines judicial misconduct as the “willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of [the judge’s] duties or casts public discredit upon the judiciary or administration of justice.”

Judicial misconduct could arise from a violation of the Texas Constitution, the Texas Penal Code, the Texas Code of Judicial Conduct, or rules promulgated by the Supreme Court of Texas. It could occur through the judge’s failure to cooperate with the Commission. Other examples of judicial misconduct include inappropriate or demeaning courtroom conduct, such as yelling, profanity, gender bias or racial slurs. It could be improper *ex parte* communications with only one of the parties or attorneys in a case, a public comment regarding a pending case, or a refusal by a judge to recuse or disqualify in a case where the judge has an interest in the outcome. It could involve ruling in a case in which the parties, attorneys or appointees are related within a prohibited degree of kinship to the judge. Judicial misconduct could occur through a judge’s failure to cooperate with respect to his or her obligations arising from a Commission inquiry, or failure to abide by any provision of a voluntary agreement to resign in lieu of disciplinary action.

Judicial misconduct could also arise from out-of-court activities, including criminal conduct, engaging in improper financial or business dealings, improper fundraising activities, sexual harassment or official oppression, and is subject to the same review by the Commission.

## **Sources of Complaints and Allegations**

The Commission has the duty to consider allegations from any source, including an individual, a news article or information received in the course of an investigation. Complaints may be made anonymously, or the complainant may request confidentiality; however, in those instances, the Commission may be restricted in its ability to fully investigate the allegations.

## **Commission Limitations**

The Commission cannot exercise appellate review over a case or change the decision or ruling of any court, nor can the Commission intervene in a pending case or proceeding. For example, if the Commission finds that a judge has committed misconduct, the Commission can only issue a sanction against the judge or seek the judge’s removal from the bench. However, even removal would not change the judge’s ruling in the underlying case. Only the appellate process can change the decision of a court.

Likewise, the Commission cannot provide individual legal assistance or advice to a complainant. The Commission cannot remove a judge from a case. The Commission cannot award damages or provide monetary relief to complainants.

## **Commission Investigations and Actions**

Cases are reviewed, analyzed and investigated by the Commission staff. An investigation may include a letter of inquiry to the judge, a review of court records, or interviews with the complainant, attorneys and other witnesses. The Commission then considers the results of the investigation in its decision. The Commission has several options available when deciding whether to take action on a case. The types of actions include dismissal, sanction, suspension, acceptance of a voluntary agreement to resign from judicial office in lieu of disciplinary action, and formal proceedings. Failure to cooperate with the investigation by a complainant, attorney, or

witness greatly impairs the agency's ability to investigate a complaint and will typically result in dismissal of the case.

## **Commission Organization and Staff**

In fiscal year 2016, the Commission had fourteen (14) authorized staff positions (FTEs). For the year, Commission staff included the Executive Director, the Deputy Director, five staff attorneys, three investigators, one legal assistant, a staff services officer, and two administrative assistants. All Commission staff members are full-time State employees.

The Commission's legal staff, which consists of attorneys, investigators, and the legal assistant, is responsible for the evaluation and investigation of complaints. The investigators handle in-house and on-site investigations. The legal assistant screens all new cases and is also responsible for preparing legal documents and assisting the attorneys in the prosecution of disciplinary proceedings. The attorneys are responsible for investigating allegations of judicial misconduct or incapacity, presenting cases to the Commission, prosecuting disciplinary cases before Special Courts of Review, Special Masters, and Review Tribunals, responding to ethics calls, and speaking about judicial ethics at judicial educational/training seminars.

The Commission staff attorneys serve as Examiners, or trial counsel, during formal proceedings and on appeals from Commission actions. The Examiner is responsible for preparing cases for hearing and presenting the evidence that supports the charges before the Commission, a Special Master, a Special Court of Review or a Review Tribunal. The Examiner handles briefing regarding special masters' reports, and presents cases orally and in writing in hearings before the Commission and appointees of the Texas Supreme Court. In many cases, the Commission employs Special Counsel, chosen from distinguished members of the bar, to assist staff in preparing and presenting these cases. Attorneys from the Office of the Attorney General have also represented the Commission as Special Counsel in formal proceedings.

The Executive Director heads the agency and reports directly to the Commission. The Executive Director is also the primary liaison between the Commission and the judiciary, legislators, other government officials, the public and the media.

## ***Amicus Curiae***

Started in 2001, *Amicus Curiae* ("Amicus") is a judicial disciplinary and education program intended to address a growing concern, often generated by scandals reported by the media, of judicial misconduct caused by impairment. Before the Commission started this program, complaints of judicial misconduct relating to impairment, such as drug or alcohol abuse or mental illness, resulted in sanctions or were dismissed if unfounded. The underlying impairment was never addressed. *Amicus* affords a third option under the Commission's authority to order additional training and education to a judge found to have violated a canon of judicial conduct. *Amicus* offers assistance to the judge to address the underlying personal impairment causally connected to the misconduct.

Although the confidential referral to *Amicus* by the Commission through the disciplinary process does not shield the judge from any sanction that the Commission deems appropriate, the Commission recognizes that not all impairment issues result in misconduct. In order to reach out to those judges who may be suffering in silence and who may not be the subject of a complaint as a result of their impairment, *Amicus* offers a self-referral component to its program, which affords judges an opportunity to seek assistance, in confidence, outside the disciplinary process.

## **Outreach and Education**

In fiscal year 2016, the Executive Director and staff attorneys participated in approximately 25 presentations at judicial training courses, bar conferences, outreach programs for foreign judges and prosecutors, and court staff workshops, describing the Commission and its operations and discussing various forms of judicial misconduct.

## **Ethics Calls**

In fiscal year 2016, the Executive Director and staff attorneys responded to over 1,000 inquiries from judges, judicial candidates, attorneys, legislators, the media and citizens regarding judicial ethics. Callers are cautioned that Commission staff cannot issue an opinion on behalf of the Commission, and that the Commission is not bound by any comments made during the conversation. In many cases, the caller's question is researched before the call is returned so that the specific canon, statute, rule or ethics opinion can be identified. When appropriate, staff will send the caller a Complaint Form (in English or Spanish) and other relevant material. In some instances, staff may refer callers to other resources or agencies to better address their concerns.

## **Commission Website**

The Commission's website, which is maintained by the State Office of Court Administration, is located at [www.scjc.texas.gov](http://www.scjc.texas.gov). In March 2016, the Commission launched an online portal through its website that allows users to electronically file complaints with the agency. By the end of fiscal year 2016, over 12% of all complaints filed were received electronically. The website also provides downloadable complaint forms in English and Spanish. The website offers bilingual answers to frequently-asked questions regarding the Commission, such as its composition, structure and jurisdiction; the judicial complaint process; a description of the range of decisions the Commission can make, from dismissal to sanction; and explanations of the procedures for a judge to appeal the Commission's decision, and for a complainant to seek the Commission's reconsideration. Further, the website provides statistical information about the Commission and updated sanctions, resignations, suspensions, and Opinions issued by Special Courts of Review and Review Tribunals.

Also included are the Commission's governing provisions: The Texas Code of Judicial Conduct; Article V, Section 1-a of the Texas Constitution; Chapter 33 of the Texas Government Code; and the Texas Procedural Rules for the Removal or Retirement of Judges.

## **Public Information**

The availability of information and records maintained by the Commission is governed by Rule 12 of the Texas Rules of Judicial Administration, the Texas Constitution and the Texas Government Code. Commission records are not subject to public disclosure pursuant to the Public Information Act (formerly the Open Records Act) or the Freedom of Information Act.

Generally, Commission records are confidential, with the following exceptions:

- Constitution: Article V, Section 1-a(10) of the Texas Constitution provides that "All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by the law..."

- Government Code:
  - In the event the Commission issues a public sanction against a judge, Section 33.032 of the Texas Government Code provides for the release of information previously withheld as confidential.
  - Also under this Section, suspension orders and related proceedings as well as voluntary agreements to resign in lieu of disciplinary proceedings are available to the public.
  - Section 33.032 also authorizes the release to the public of papers filed in a formal proceeding upon the filing of formal charges.
- Judicial Administration: Rule 12 of the Texas Rules of Judicial Administration provides for public access to certain records made or maintained by a judicial agency in its regular course of business *but not pertaining to its adjudicative function*. Commission records relating to complaints, investigations, and its proceedings are not judicial records and are not subject to public disclosure pursuant to Rule 12.

When the Commission takes action on a complaint, whether dismissing it, issuing a private or public sanction, accepting a voluntary agreement to resign in lieu of disciplinary action, or voting formal proceedings, the complainant is notified in writing. However, the Texas Government Code requires that the Commission omit the judge's name from the notice to the complainant, unless a public sanction has been issued. The complainant has some privacy rights as well: at the complainant's request, his or her name may be withheld from the judge and kept confidential.

Additionally, the Constitution provides that in instances where issues concerning either a judge or the Commission have been made public by sources other than the Commission, the Commission may make a public statement. In such a situation, the Commission determines whether the best interests of a judge or the public will be served by issuing the statement. No public statements were issued in fiscal year 2016.

# THE COMPLAINT PROCESS

## Introduction

Each complaint stating an allegation of judicial misconduct is thoroughly reviewed, investigated and analyzed by the Commission staff. Complaints must be filed with the Commission in writing. Complaints sent by fax or through e-mail are generally not accepted; however, complaints will be accepted electronically through the agency's online portal.

Although it is not mandatory that a complainant submit his or her allegation on the Commission's complaint form, the specific information sought is essential to the efficient handling of a complaint. Complaint forms are available in English and Spanish from the following sources:

- Complete and submit electronically through the Commission's online portal at [www.scjc.texas.gov/public-information/complaint-form.aspx](http://www.scjc.texas.gov/public-information/complaint-form.aspx)
- Download from the Commission's website at [www.scjc.texas.gov](http://www.scjc.texas.gov); and
- Telephone requests to the Commission at (512) 463-5533 or toll free at (877) 228-5750

The Commission may also initiate the complaint process itself upon a review of information from the media, court documents, the Internet or other sources. The complainant may request that the Commission keep his or her identity confidential, and anonymous complaints are also accepted.

When a complaint is filed, the Commission sends the complainant an acknowledgment letter and staff begins its investigation and analysis of the allegations. The complainant may be asked to provide additional information or documents. Staff then reviews each allegation or complaint thoroughly. In some cases, legal research may be conducted, and witnesses or the judge may be contacted. For complex matters, an attorney or investigator may travel to the judge's county for further investigation and interviews.

When the investigation is completed, the case is presented to the Commission for its consideration. In some cases, the Commission may invite the judge to appear and discuss the complainant's allegations; under certain circumstances, the Commission may invite the complainant or other material witnesses to appear. Based on the specific constitutional provisions, statutes and canons under which the Commission operates, it considers and votes on each matter on a case-by-case basis.

If the Commission votes to issue a public sanction, the appropriate order is prepared and distributed to the respondent judge, with a copy provided to the complainant; the order is then publicly disseminated as required by law to ensure public awareness. If, however, the Commission votes to issue a private sanction, the appropriate order is prepared and tendered to the respondent judge, and the complainant is notified by letter of the Commission's action. Because the Commission is controlled by constitutional and statutory provisions that prohibit the release of information regarding investigation and resolution of a case, no other details will be released to the public. However, in cases where a judge has voluntarily agreed to resign in lieu of disciplinary action, that agreement becomes public upon the Commission's acceptance of it, and the complainant is so notified.

Likewise, whenever the Commission suspends a judge after he or she has been indicted for a criminal offense, or charged with a misdemeanor involving official misconduct, the Commission releases to the public the order of suspension and all records related to any post-suspension proceedings.

## **Commission Decisions**

Commission members review, deliberate and vote on each complaint. This may result in a dismissal, a public or private order of additional education either alone or in combination with a public or private sanction, a public or private admonition, warning or reprimand, the acceptance of a voluntary agreement to resign from judicial office in lieu of disciplinary action, or formal proceedings for removal or retirement of the judge from the bench. If appropriate, the Commission may defer its action and refer the judge to the *Amicus Curiae* Program. If the judge appeals a decision of the Commission, the Texas Supreme Court appoints three appellate judges to serve as a Special Court of Review. That Court's final decision-making authority includes dismissal, affirmation of the Commission decision, imposition of a greater or lesser sanction, or the initiation of formal proceedings. The decision of the Special Court of Review is final and may not be appealed.

The Commission's decisions and actions in responding to allegations or complaints of judicial misconduct fall into one of the following categories:

### **1. Administrative Dismissal Report**

A case is dismissed administratively when a complainant's writing fails to state an allegation that, if true, would constitute one or more of the following: (a) a willful or persistent violation of rules promulgated by the Supreme Court of Texas, (b) incompetence in performing the duties of the office, (c) willful violation of the Texas Code of Judicial Conduct, or (d) willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice. Generally, the fact that a judge made an error while ruling on a motion, an objection, the admission or exclusion of evidence, or in the ultimate outcome of the case, does not constitute judicial misconduct unless there is evidence of bad faith, persistent legal error, or the legal error was egregious. In fact, only an appellate court has the power to review and change a judge's decision in any case. In addition, gratuitous claims of misconduct that are unsupported by any facts or evidence will often be administratively dismissed. These cases, which are reviewed by the Commission, are dismissed following an initial review and without an investigation. In letters of dismissal sent to these complainants, the Commission provides a specific explanation for the decision.

### **2. Dismissal**

The Commission may dismiss a case after conducting a preliminary investigation of the allegations. Reasons for these dismissals include insufficient or no evidence of misconduct,<sup>1</sup> the judge demonstrated that he or she took appropriate actions to correct the conduct at issue, or the conduct, though problematic, did not rise to the level of sanctionable misconduct. In letters of dismissal sent to these complainants, the Commission provides a specific explanation for the dismissal, and describes the steps the complainant may take for the Commission to reconsider its decision. The Commission may also include cautionary advice to judges whose complaints have been dismissed after the judge has taken appropriate corrective action or in those cases where disciplinary action was deemed unwarranted given the facts and circumstances surrounding the infraction.

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<sup>1</sup> In contrast to cases dismissed administratively following an initial review, cases dismissed following a preliminary investigation in which it was determined that there was no evidence of judicial misconduct are classified as "frivolous" pursuant to Section 33.022 of the Texas Government Code.

### 3. Order of Additional Education

Legal and procedural issues are often complex, so it is not surprising that some judges, particularly non-lawyer judges, take judicial action that may exceed their authority or that is contrary to procedural rules. In these situations, the Commission may find that the judge has demonstrated a deficiency in a particular area of the law warranting an order of additional education. The Commission then contacts the appropriate judicial training center, where the respondent judge may attend a particular training program or a mentor judge may be appointed for one-on-one instruction with the judge, to be completed within a specified time on particular subjects. The mentor judge then reports to the Commission on the respondent judge's progress. The Commission may also order the judge to obtain education on other issues, such as anger management, gender or racial sensitivity, or sexual harassment. The Commission may issue an order of additional education alone or as part of a private or public sanction.

### 4. Private or Public Sanction

Sanctions are issued by the Commission when a preponderance of evidence is provided that supports a finding of judicial misconduct. The most severe disciplinary action available to the Commission is a *public censure*, which may be issued only after formal proceedings have been initiated by the Commission. If, after a public fact-finding trial, the Commission determines that the underlying allegations of the complaint are true but do not support a recommendation for removal from office, a *censure* may be issued as a public denunciation of the judge's conduct. Alternatively, the Commission may also issue a public reprimand, warning, or admonition following a formal proceeding.

The next most severe sanction is a *public reprimand*. A *reprimand* is the most severe sanction available to the Commission at the informal stage of disciplinary proceedings. A less severe sanction is a *public warning*, followed by a *public admonition*. A *warning* puts the judge on notice that the actions identified in the sanction are improper. An *admonition* is the lowest level sanction. As noted above, except after a formal proceeding or an appeal, sanctions may be public or private, and may be combined with orders of education.

A judge may appeal any sanction and a public censure to a Special Court of Review. The process for appealing a public censure, reprimand, warning or admonition issued by the Commission after formal proceedings is different than that of a *de novo* review of a sanction issued after informal proceedings. The Texas Supreme Court has been charged with the responsibility of promulgating the written procedures for the appeal of a public censure or sanction following formal proceedings; however, to date, these procedures have not been created.

If a *public sanction* or *censure* is issued, all information considered by the Commission, including the judge's name, is made public. Public sanctions are issued not only to identify the specific conduct, but to educate judges that such conduct is inappropriate. This also ensures that the public is made aware of actions that violate the Code of Judicial Conduct. When the Commission issues a *private sanction*, the judge's name and all information considered by the Commission are kept confidential.

### 5. Suspension

The Commission has the power to suspend a judge from office, with or without pay, after the judge has been either indicted by a grand jury for a felony, or charged with a misdemeanor involving official misconduct. The suspended judge has the right to a post-suspension hearing before one or more of the Commission members or the Executive Director, as designated by the Commission Chair.

In cases other than for alleged criminal behavior, the Commission, upon the filing of a sworn complaint and after giving the judge notice and an opportunity to appear before the Commission, may recommend to the

Supreme Court of Texas that the judge be suspended from office, with or without pay, for persistent violation of rules promulgated by the Supreme Court, incompetence in performing the duties of office, willful violation of the Code of Judicial Conduct, or willful and persistent conduct that is clearly inconsistent with the proper performance of his or her duties, or that casts public discredit on the judiciary or the administration of justice.

## 6. Voluntary Agreement to Resign

In some cases, a judge against whom a complaint has been made may decide to resign in lieu of disciplinary action. In that event, the judge may tender to the Commission a voluntary agreement to resign from judicial office. Upon the Commission's acceptance, the agreement is made public and the judge vacates the bench. The agreement and any agreed statement of facts relating to it are admissible in subsequent proceedings before the Commission. While the agreement is public, any records relating to the underlying case remain confidential and may only be released to the public if the judge violates a term of the agreement.

## 7. Formal Proceedings

In certain circumstances, the Commission may decide that a complaint against a judge is so egregious that it should be handled and resolved through a formal proceeding. The Commission itself may conduct such a fact-finding hearing or it may ask the Supreme Court of Texas to appoint a Special Master (who must be a sitting or retired district or appellate judge) to hear the matter. Such proceedings are governed by the Texas Rules of Civil Procedure and the Texas Rules of Evidence to the extent practicable.

Although there is no right to a trial by jury in a formal proceeding, the judge is afforded certain other rights under the Texas Procedural Rules for the Removal or Retirement of Judges, including the following:

- To be confronted by the judge's accusers;
- To introduce evidence;
- To be represented by counsel;
- To examine and cross-examine witnesses;
- To subpoena witnesses; and
- To obtain a copy of the reporter's record of testimony.

If the formal proceeding has been conducted before a Special Master, he or she reports the findings of fact to the Commission. If either party files objections to the Master's Report, the Commission will hold a public hearing to consider the report of the Special Master and any objections. The Commission may adopt the Special Master's findings in whole or in part, modify the findings, totally reject them and enter its own findings, or order a hearing for the taking of additional evidence.

After adopting findings of fact, the Commission issues its conclusions of law. The Commission may dismiss the case, issue a public censure, reprimand, warning or admonition, or recommend removal or involuntary retirement to a seven-member Review Tribunal appointed by the Supreme Court of Texas. The Commission itself cannot remove a judge; only the Review Tribunal can order a judge removed from the bench. The Review Tribunal may also enter an order prohibiting the judge from ever holding a judicial office again.

Although the Commission's recommendation for removal cannot be appealed, the judge may appeal the decision of the Review Tribunal to the Texas Supreme Court. A judge may also appeal the Commission's decision to issue a public censure or sanction to a Special Court of Review.<sup>2</sup>

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<sup>2</sup> In 2009, Section 33.034 of the Texas Government Code was amended to provide judges the right to appeal a public censure issued by the Commission following a formal proceeding. In 2013, Section 33.034 was amended further to provide the right to



## **Appellate Review of Commission Action**

A judge may appeal the Commission's issuance of any public or private sanction, order of additional education, or public censure within thirty (30) days of the date the Commission issues the sanction by filing a written notice with the Chief Justice of the Supreme Court of Texas and requesting the appointment of three appellate justices to act as a Special Court of Review.

Within fifteen (15) days after the Special Court of Review is appointed, the Commission, through its Examiner, must file with the Clerk of the Texas Supreme Court a "charging document," which includes a copy of the sanction issued, as well as any additional charges to be considered in the *de novo* proceeding.<sup>3</sup> These records become public upon filing with the Clerk, who is responsible for furnishing a copy to the petitioning judge and to each justice on the Special Court of Review.

In an appeal of a sanction issued following the informal proceeding stage, a trial *de novo* is held within thirty (30) days after the charging document is filed. The Special Court of Review considers the case from the beginning, as if the Commission had taken no previous action. The Texas Rules of Civil Procedure apply, except that the judge is not entitled to a jury trial. All documents filed and evidence received in the review process are public.

The Special Court of Review may dismiss or affirm the Commission's decision, impose a greater or lesser sanction, or order the Commission to file formal proceedings against the subject judge for removal or involuntary retirement. The decision of the Special Court of Review is final and cannot be appealed.

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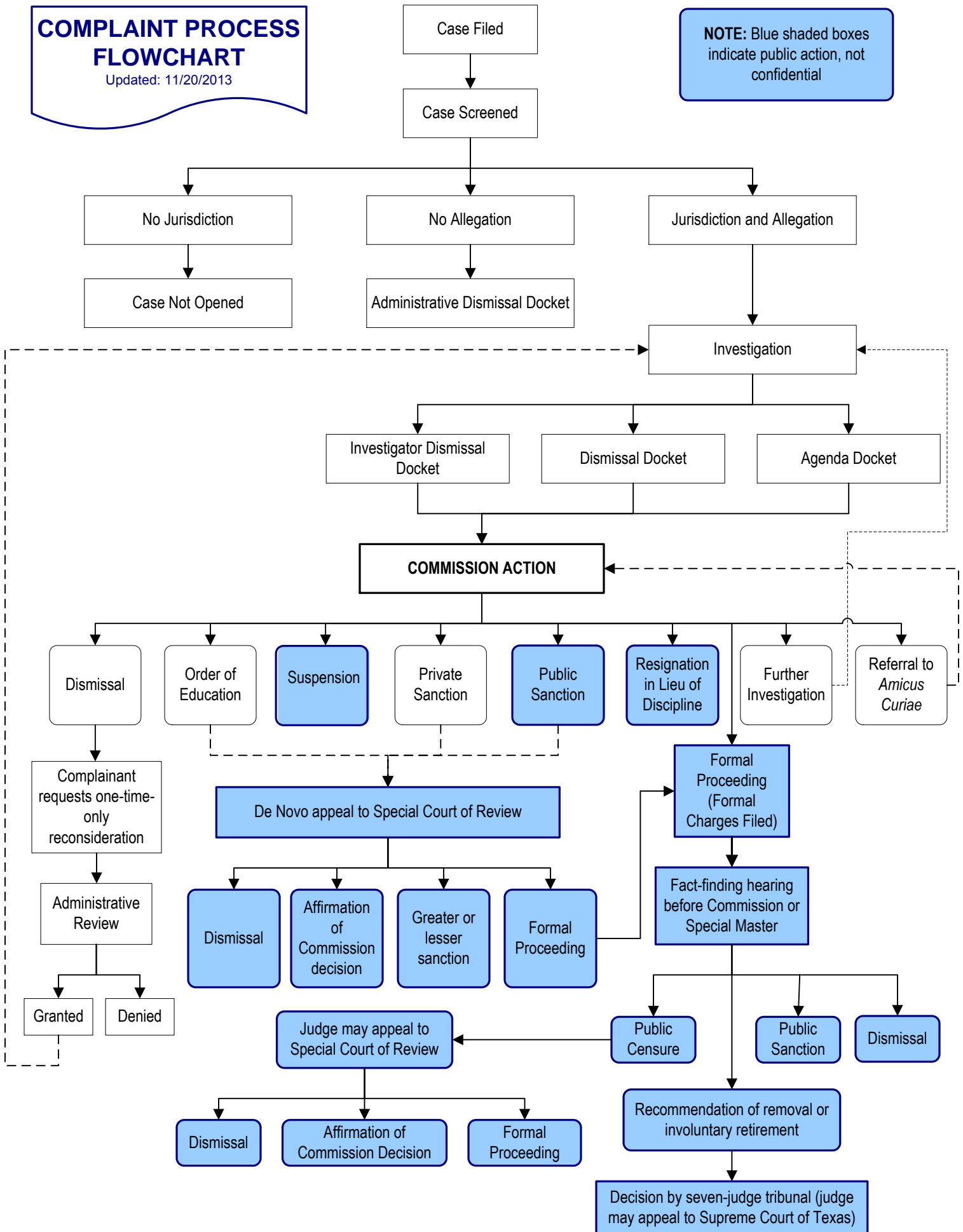
appeal a public reprimand, warning, or admonition issued after a formal proceeding. The Texas Supreme Court has been charged with the responsibility of drafting the procedural rules that will govern this process. As of the date of this publication, however, no written procedures are in place for such an appeal.

<sup>3</sup> Sanctions issued in the informal proceeding stage may be reviewed in a trial *de novo*, in the same way that a case tried in a justice court may be appealed to a county court. By contrast, the appeal of a sanction or censure issued following a formal proceeding is a "review of the record of the proceedings that resulted in the sanction or censure and is based on the law and facts that were presented in the proceedings and any additional evidence that the Special Court of Review in its discretion may, for good cause shown, permit." *See* Section 33.034(e)(1), Texas Government Code.

# COMPLAINT PROCESS FLOWCHART

Updated: 11/20/2013

**NOTE:** Blue shaded boxes indicate public action, not confidential



# STATISTICAL ANALYSIS

An outline of the statistical activity for the Commission through the end of fiscal year 2016 is shown in **Table 1** immediately following this section. Graphic representations of the data are also presented in **Figures 1** through **7** to further illustrate the activities of the Commission.

In fiscal year 2016, according to Office of Court Administration records, approximately 3,741 judges were under the jurisdiction of the Commission. **Figure 1** illustrates the Texas judiciary by the total number of judges and by the number of judges in each category. **Figure 2** shows the number and percentage of cases filed with the Commission against each judge type. In fiscal year 2016, the Commission opened 1,191 cases, which was about a 10% increase over the number of filings in fiscal year 2015. **Figure 3** shows the number and percentage of disciplinary actions taken by the Commission against each judge type. Of note in fiscal year 2016: justices of the peace received 18% of the complaints filed, and accounted for 18% of all discipline issued by the Commission, which is significantly lower than the percentage of discipline (32%) issued in fiscal year 2015. Disciplinary actions against district judges rose from 32% to 38% in fiscal year 2016, and actions against County Court at Law Judges fell slightly from 22% to 18% this past year. Municipal court judges received 6% of the complaints filed in fiscal year 2016 and accounted for 18% of all discipline issued by the Commission for the year, reflecting an increase of more than 50% from fiscal year 2015. In fiscal year 2016, 49% of all cases filed were against district judges, which is slightly higher than fiscal years 2014 and 2015.

**Figure 4** illustrates by number and percentage the various sources of complaints and reports to the Commission. In fiscal year 2016, of the 1,049 cases disposed by the Commission, 53% had been filed by civil litigants, their friends or family members, or by *pro se* (self-represented) litigants. Criminal defendants, including traffic defendants and inmates, accounted for approximately 33% of the cases. Just 2% of the cases were filed anonymously and only 18 cases (2%) were Commission-initiated. **Figures 5a** and **5b** compare the number of cases filed with the number of cases disposed for fiscal years 2013 through 2016.

In fiscal year 2016, the Commission took action in 69 cases against Texas judges. The Commission disposed of 55 cases through public sanction, private sanction, orders of additional education or a combination of a sanction with an order of additional education. In addition, 11 cases were disposed through voluntary agreements to resign from judicial office. Three judges were suspended from office in fiscal year 2016. A comparison of public discipline, private discipline and interim actions taken by the Commission in fiscal years 2013 through 2016 is shown in **Figures 6a** and **6b**.

In fiscal year 2016, the Commission had a total disposition rate of just over 88%, due in large part to the increase in the number of cases received that year. Of the 1,049 cases closed last year, 44 were dismissed with language advising the judge about technical or *de minimus* violations, or violations of aspirational canons, and cautioning the judge to avoid similar conduct in the future. Additionally, 7 cases were dismissed after the judge demonstrated that he or she took appropriate measures to correct the conduct that resulted in a complaint. Approximately 62% of the cases closed in fiscal year 2016 alleged no judicial misconduct. The number of cases closed following a preliminary investigation fell to 19%, as did the number of full investigations requiring a response from the judge. A comparison of initial, preliminary and full investigations conducted by the Commission in fiscal years 2013 through 2016 is shown in **Figures 7a** and **7b**.

In compliance with Section 33.005 of the Texas Government Code, the chart on **Table 2** provides a breakdown of the disposition of the 1,049 cases closed in fiscal year 2016, including the number of cases dismissed following preliminary investigation with a determination that the allegation was frivolous or

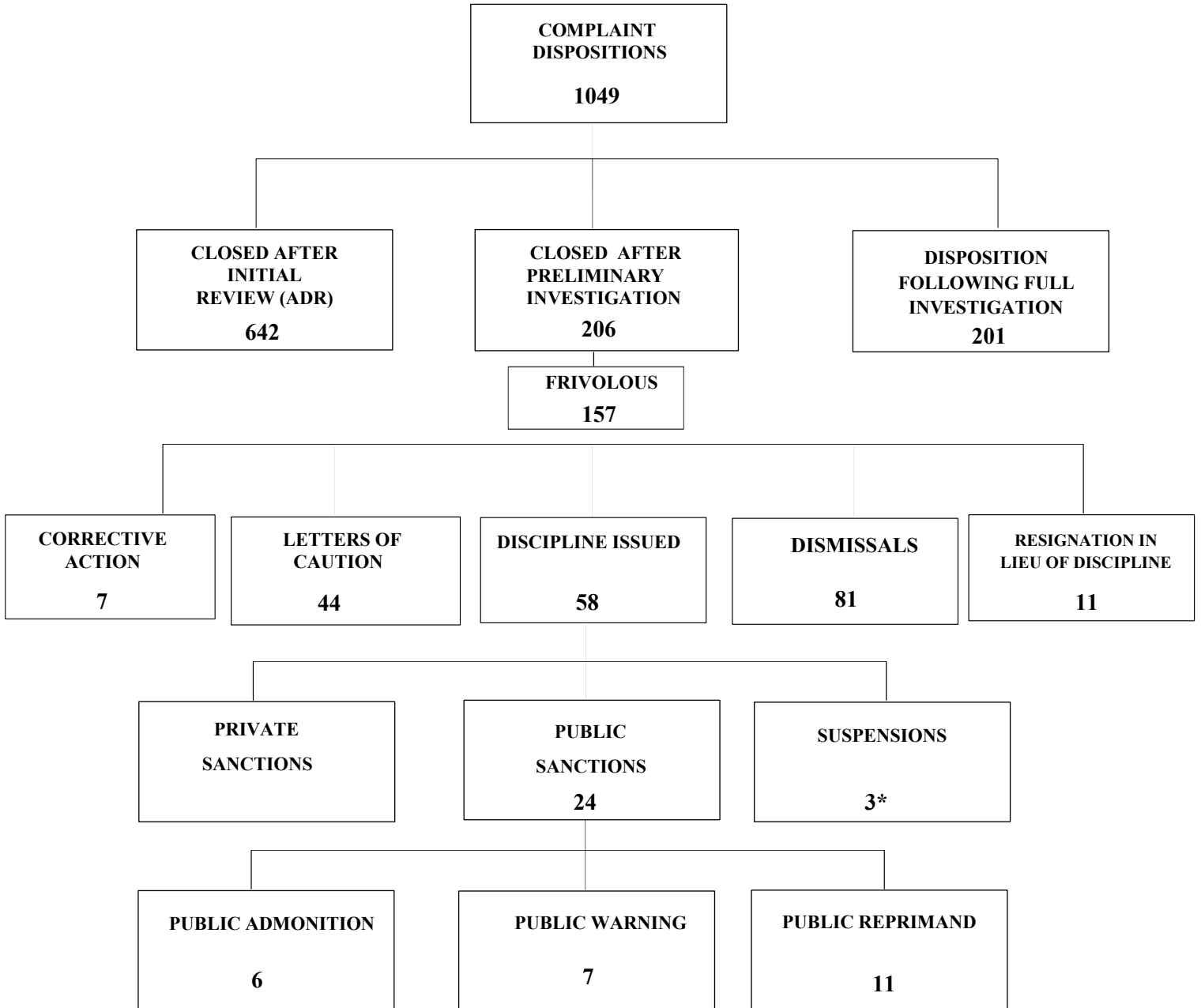
unfounded, or because the facts alleged did not constitute judicial misconduct or the evidence did not support the allegation of judicial misconduct. **Table 3** shows, in order of prevalence, the types of allegations or canon violations that resulted in disciplinary action during fiscal year 2016.

Finally, it should be noted that the Commission receives hundreds of pieces of mail every year that do not pertain to the conduct of Texas judges. In fiscal year 2016, close to 350 people wrote to the Commission complaining of individuals or entities that were outside of the Commission's jurisdiction. Each of those complainants was provided additional written information and referred to other resources to assist in resolving their concerns.

**Table 1: Commission Activity**

	2013	2014	2015	2016
<b>Cases Pending (Beginning FY/Ending FY)</b>	566/586	586/646	646/465	465/479
<b>Cases Filed</b>	1130	1139	1068	1191
<b>Total Number of Cases Disposed</b>	1109	1080	1242	1049
<b>% of Cases Disposed</b>	98.14%	94.82%	116.51%	88.08%
<b>Average Age of Cases Disposed</b>	6.5 Months	6.3 Months	6.9 Months	5.9 Months
<b>SCJC Actions (total)</b>	42	63	96	69
<b>Cases Disposed through:</b>				
Criminal Conviction	0	0	0	0
Review Tribunal Order	0	0	0	0
Voluntarily Agreement to Resign in Lieu of Disciplinary Action	5	6	14	11
<b>Disciplinary Actions:</b>				
Public Censure	0	0	0	0
Public Censure and Order of Additional Education	0	0	0	0
Public Reprimand	0	9	25	10
Public Warning	1	2	1	0
Public Admonition	0	1	7	0
Public Sanction and Order of Additional Education	0	3	16	14
Private Reprimand	6	3	9	2
Private Warning	5	4	1	5
Private Admonition	6	12	5	4
Private Sanction and Order of Additional Education	6	15	13	18
Public Order of Additional Education	0	0	0	0
Private Order of Additional Education	6	5	0	2
<b>Interim Actions:</b>				
Order of Suspension [15(a)]	7	3	5	2
Recommendation of Suspension to Supreme Court [15(b)]	0	0	0	1
Cases in Formal Proceedings	0	0	0	0
Amicus Referral	0	0	0	0
<b>Dismissals</b>	1072	1018	1151	983
<b>Request for Reconsideration Received</b>	76	70	54	28
Reconsideration Granted	1	2	0	2
Reconsideration Denied	71	56	51	23
Pending	8	22	3	3
<b>Cases Appealed to Special Court of Review</b>	6	1	5	0
<b>Informal Hearing Set</b>	9	14	15	19
<b>Public Statements Issued</b>	0	0	0	0

**TABLE 2**  
**2016 COMPLAINT DISPOSITIONS**



\* Not a final disposition

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**TABLE 3 – TYPES OF CONDUCT RESULTING IN DISCIPLINE  
IN FISCAL YEAR 201(**

The types of conduct are listed in order of prevalence. The numbers indicate the number of times each type of conduct resulted in discipline. A single act of misconduct was counted once and assigned to the category most descriptive of the misconduct. If multiple types of misconduct were involved in a single case, each different type of conduct was counted and assigned to the appropriate category. However, if the same type of conduct occurred on multiple occasions in a single case, it was counted only once.

*Failed to Comply with Law*  
[26]

*Incompetence*  
[1]

*Willful or Persistent Conduct  
Casting Public Discredit*  
[+]

*Improper Demeanor*  
[6]

*Using Prestige of Judicial Office*  
[0]

*General Bias/Prejudice*  
[0]

*Denied Right to be Heard*  
[5]

*Influential Relationship*  
[0]

*Improper Ex Parte  
Communications*  
[3]

*Swayed by ~~SWdaXBgT~~U  
Clamor/Criticism*  
[0]

*Extra-Judicial Conduct Raised  
Doubts about Judge's  
Impartiality*  
[0]

*Failure to Maintain  
Order or Decorum*  
[1]

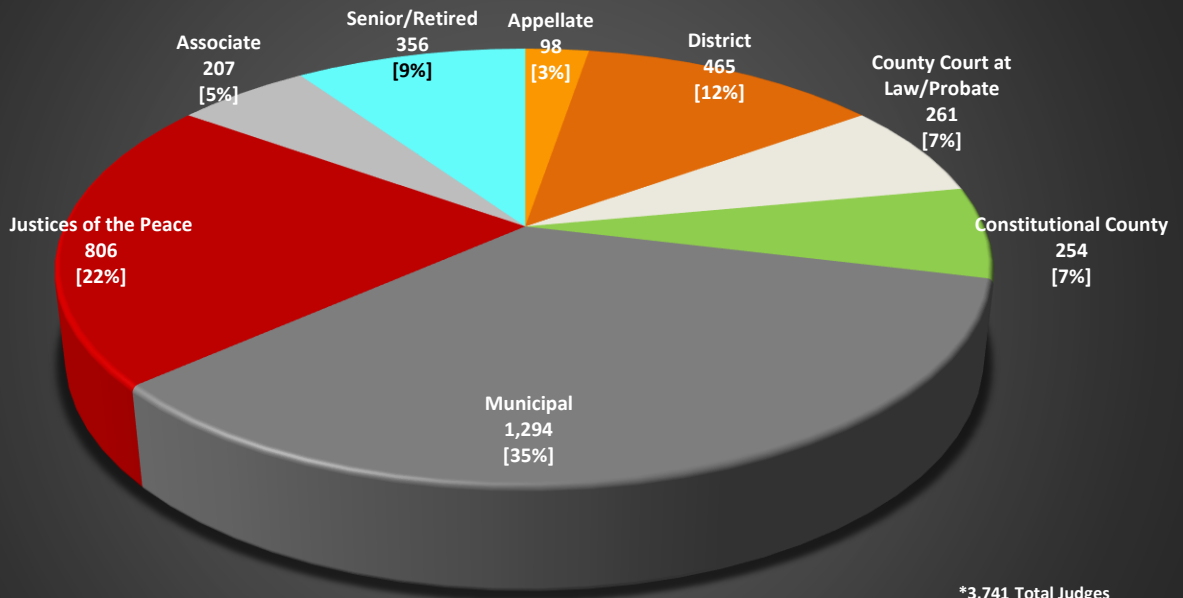
*Mishandled Recusal/  
Disqualification*  
[2]

*Public Comment on Pending/  
Impending Case*  
[2]

*Political Endorsements*  
[1]

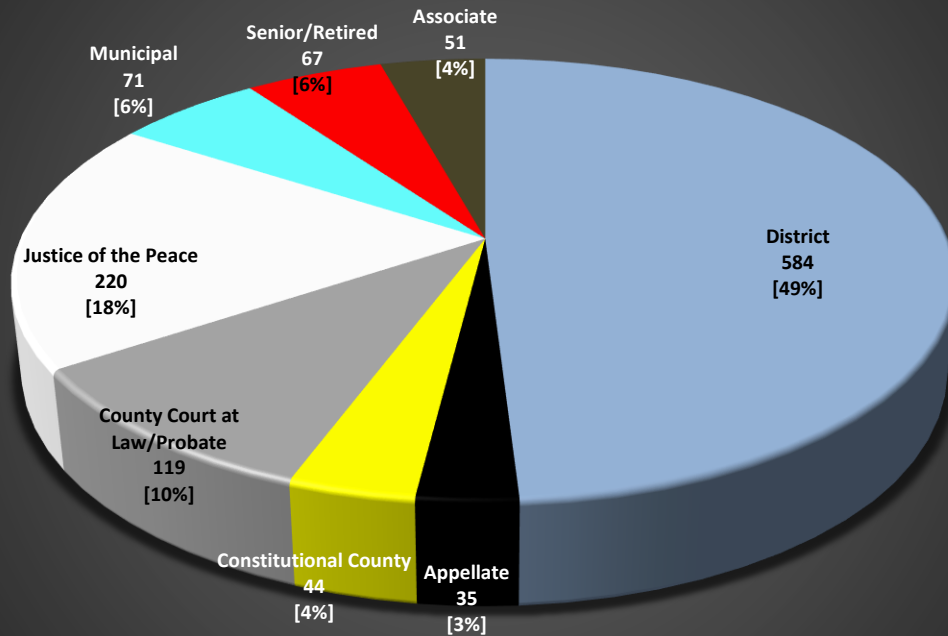
*Financial Conflicts of Interest*  
[1]

**Fig. 1 Total Number of Texas Judges\***



\*3,741 Total Judges  
 Source: Office of Court Administration  
 (September 2016)

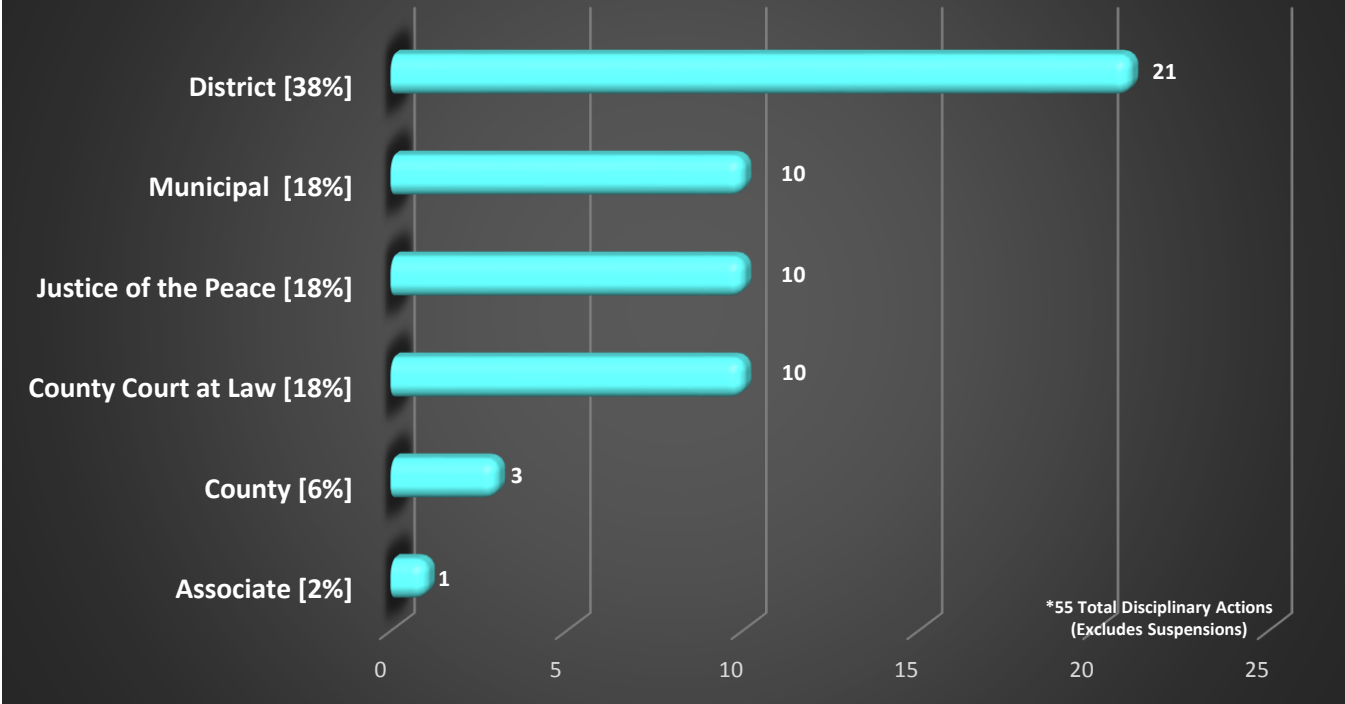
**Fig 2. Number and Percentage of Cases filed by Judge Type\***



\*1,191 Total Complaints Filed in FY 2016



**Fig. 3 Number and Percentage of Disciplinary Actions by Judge Type\***



**Fig. 4 Number of Cases Disposed By Complainant Type\***

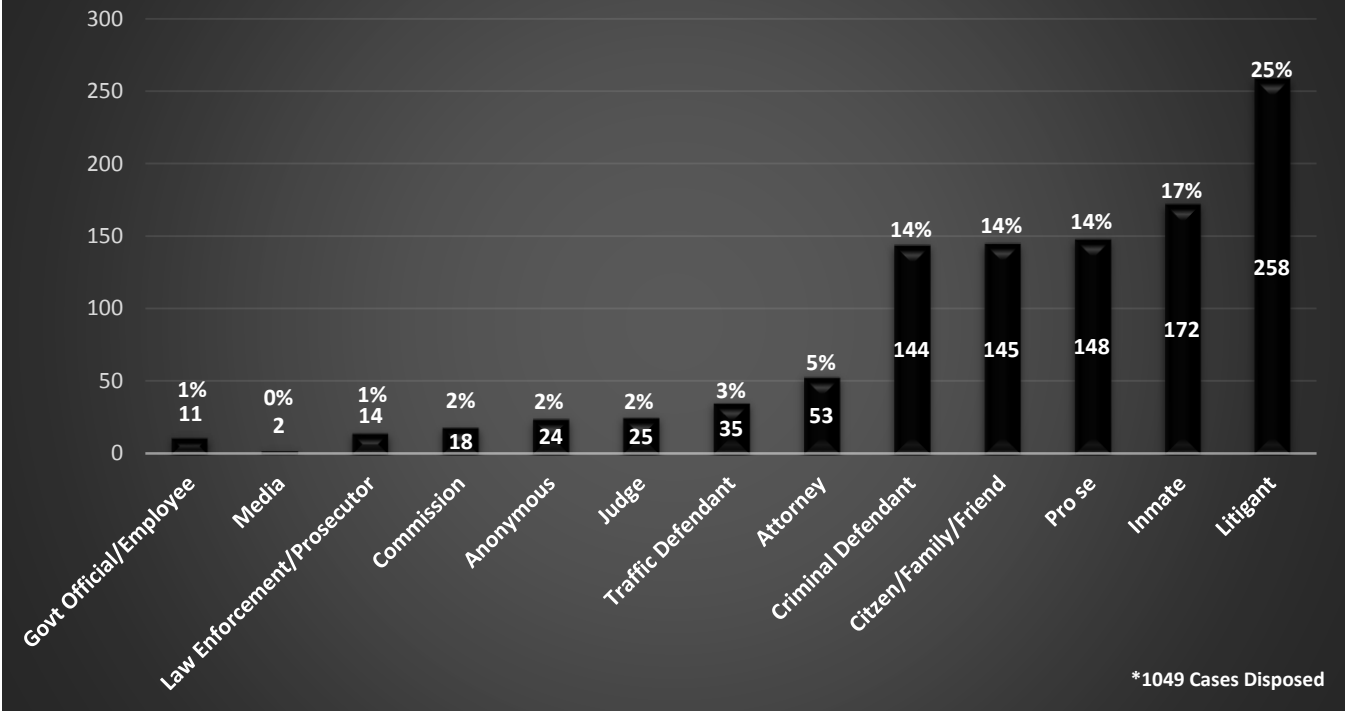


Fig. 5a Cases Filed and Disposed (FY 2013 - FY 2016)

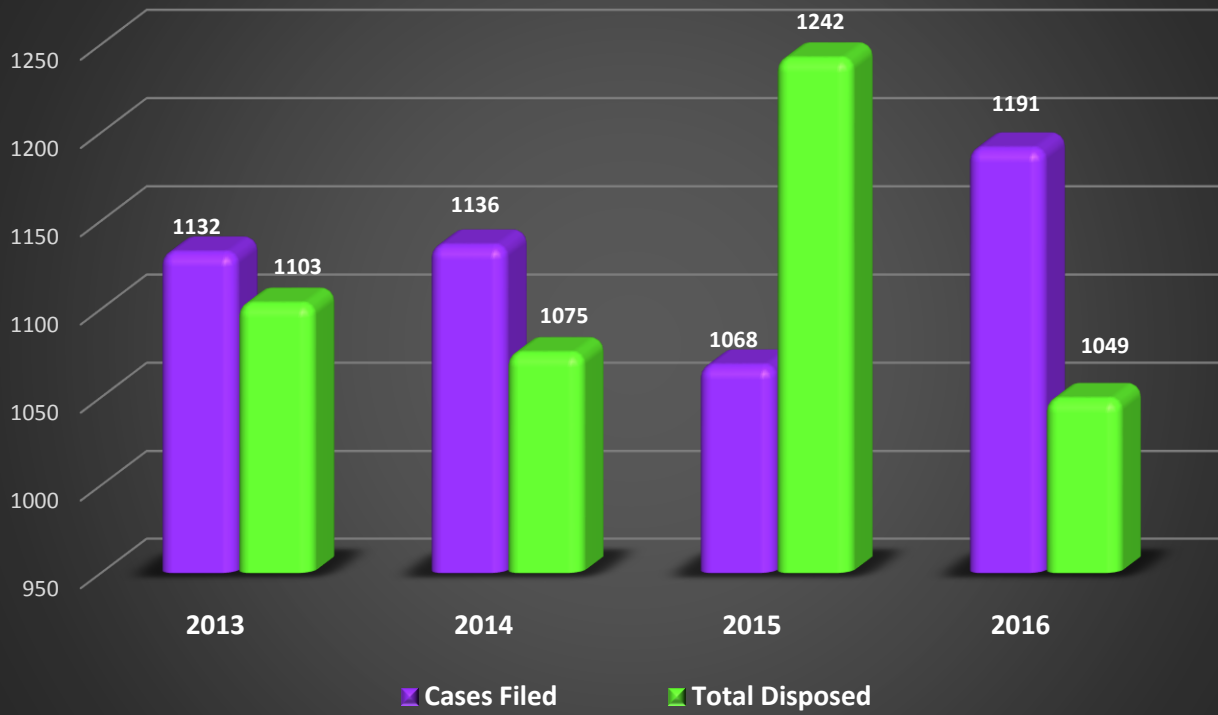
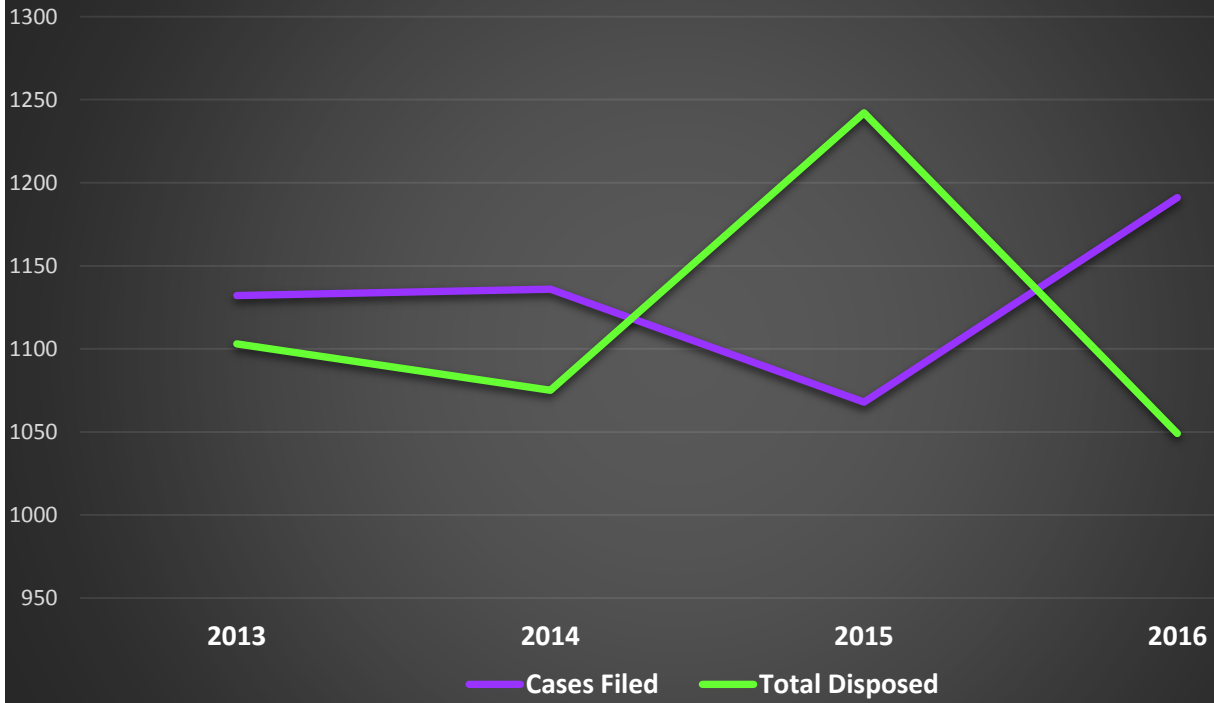


Fig. 5b Case Filing and Disposition Trend (FY 2013 - FY 2016)



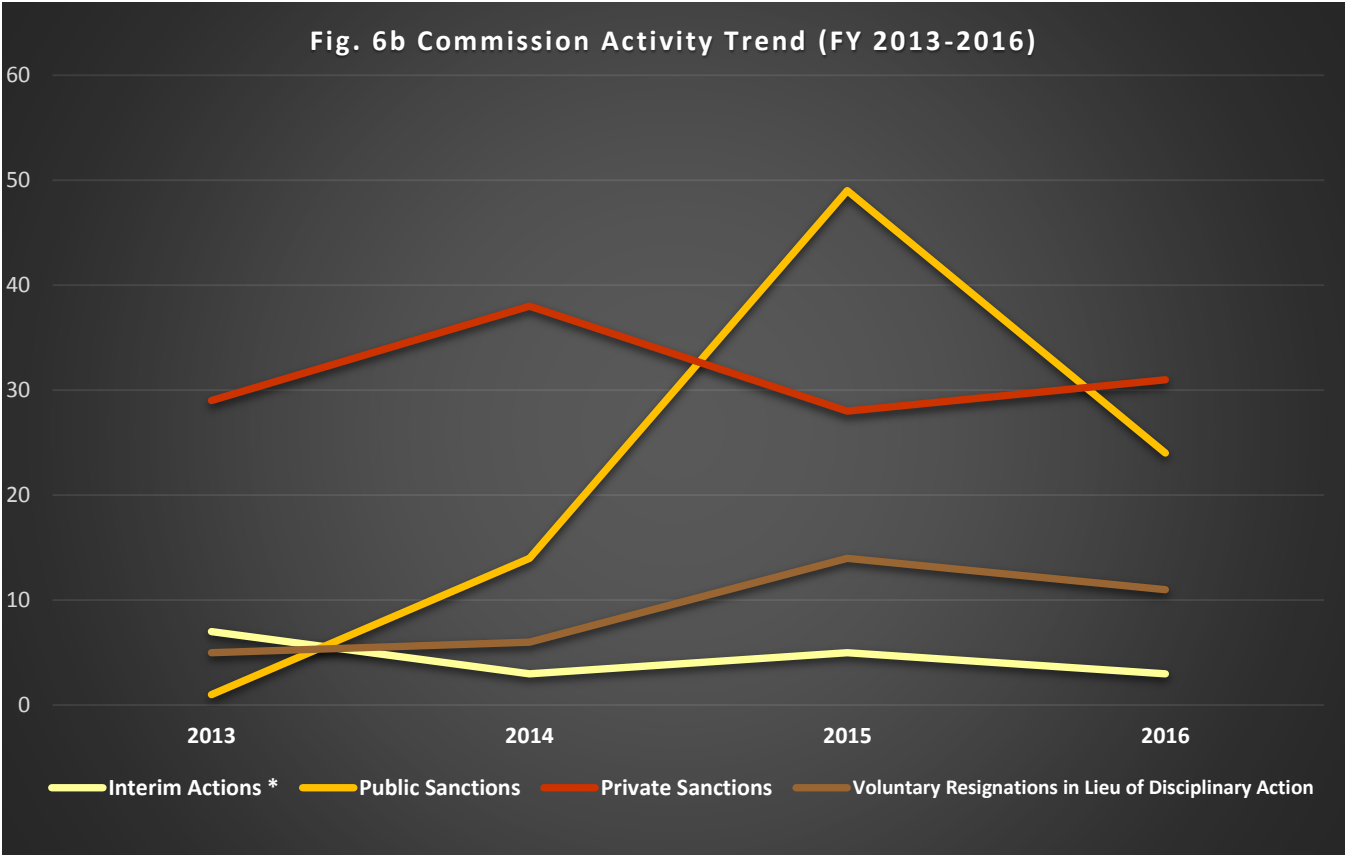
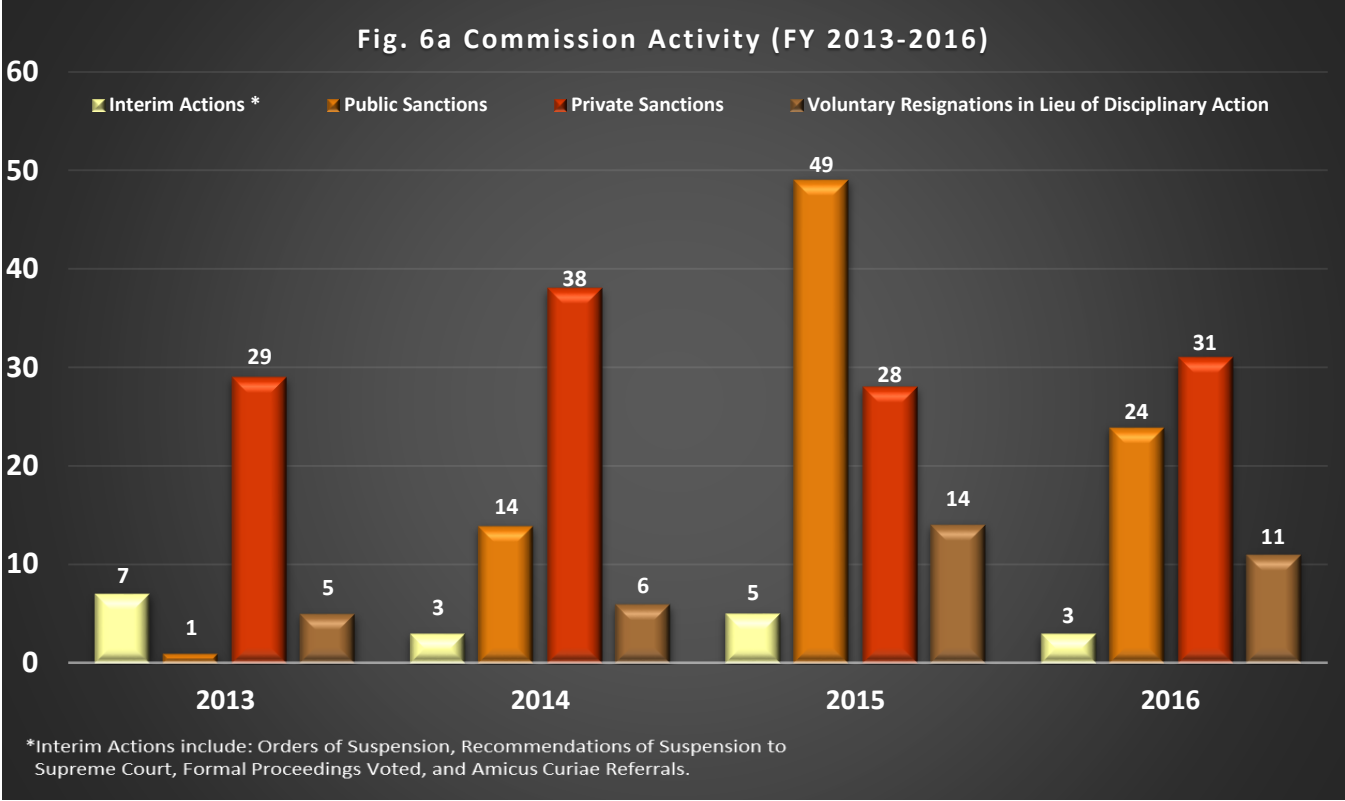


Fig. 7a Comparison of Investigations by Type (2013-2016)

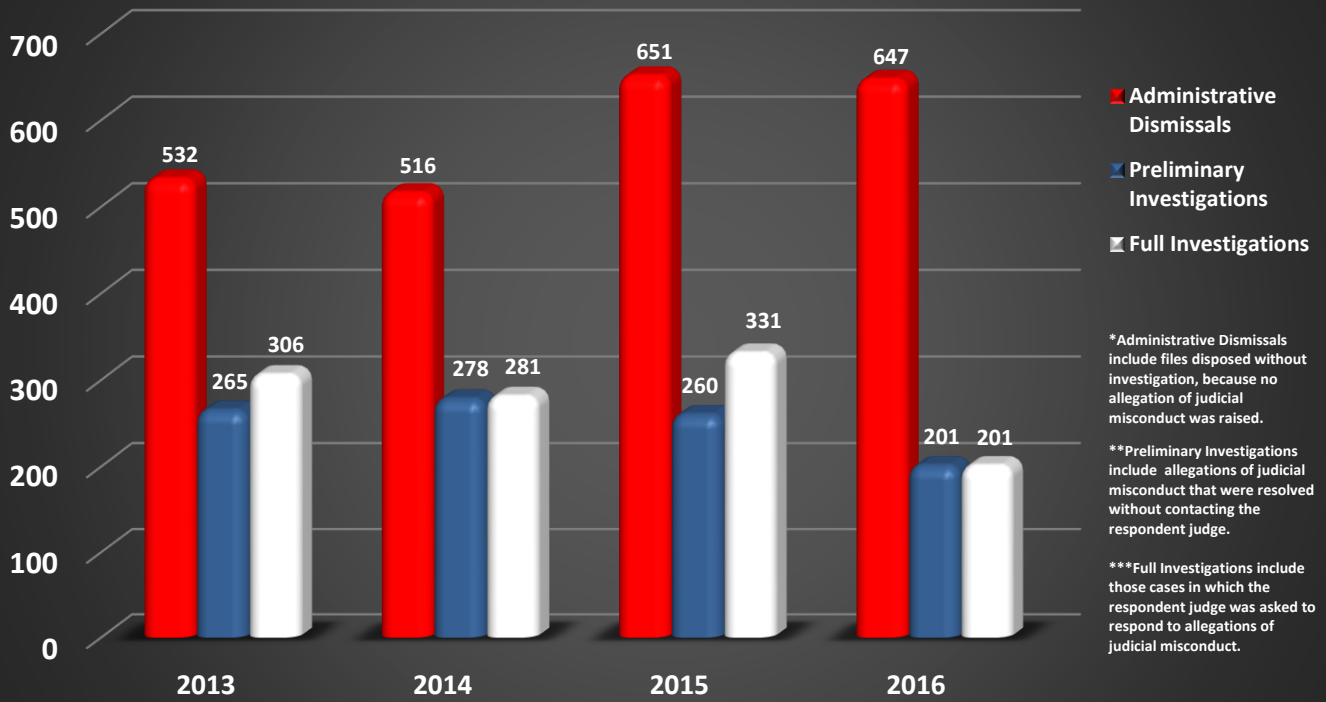
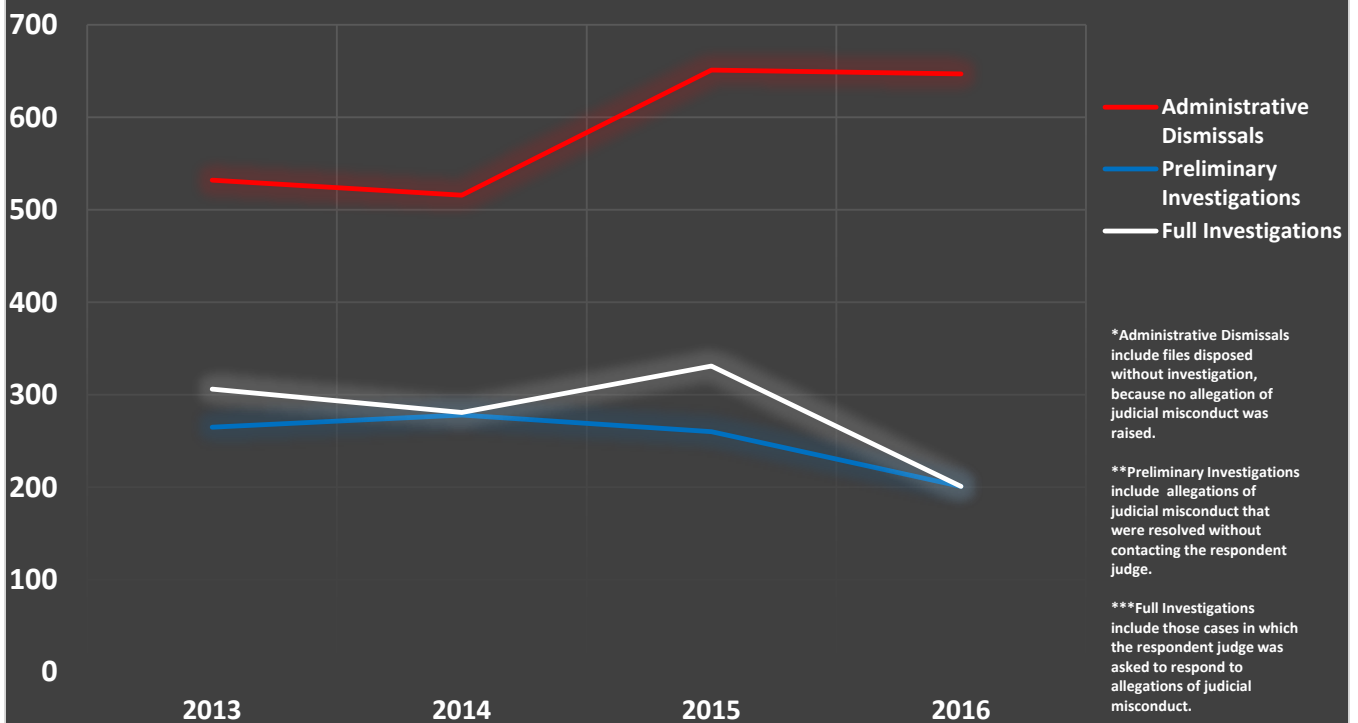


Fig. 7b Comparison of Investigations by Type Trend (2013-2016)



# EXAMPLES OF IMPROPER JUDICIAL CONDUCT

The following are examples of judicial misconduct that resulted in disciplinary action by the Commission in fiscal year 2016. These are illustrative examples of misconduct and may not represent every disciplinary action taken by the Commission in fiscal year 2016. The summaries below are listed in relation to specific violations of the Texas Code of Judicial Conduct, the Texas Constitution, and other statutes or rules. They are also listed in descending order of the severity of the disciplinary action imposed, and may involve more than one violation. The full text of any public sanction is published on the Commission website. A copy of any public disciplinary record may also be requested by contacting the Commission.

These sanction summaries are provided with the intent to educate and inform the judiciary and the public regarding misconduct that the Commission found to warrant disciplinary action in fiscal year 2016. The reader should note that the summaries provide only general information and may omit mitigating or aggravating facts that the Commission considered when determining the level of sanction to be imposed. Additionally, the reader should not make any inference from the fact situations provided in these summaries.

It is important to remember that the purpose of judicial discipline is not to punish the judge for engaging in misconduct but to protect the public by alerting them that conduct that violates the public trust will not be condoned. However, the reader should note that not every transgression reported to the Commission will, or should, result in disciplinary action. The Commission has broad discretion to determine whether disciplinary action is appropriate, and the degree of discipline to be imposed. Factors such as the seriousness of the transgression, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system, will inform and impact the Commission's decision in each case. It is the Commission's sincere desire that providing this information will protect and preserve the public's confidence in the competence, integrity, impartiality and independence of the judiciary and further assist the judiciary in establishing, maintaining and enforcing the highest standards of conduct – both on the bench and in their personal lives.

## **CANON 2A: A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.**

- Among other misconduct, the judge failed to comply with the law and failed to maintain professional competence in the law by (a) failing to immediately transfer his own divorce case out of his court, (b) filing motions in his own court in connection with his pending divorce action, (c) failing to timely rule on or refer recusal motions, and (d) attempting to intervene in proceedings relating to his own recusal by having an attorney file motions asking the judges presiding over the recusals to reconsider their decisions or grant a new trial. [Violation of Canons 2A, 2B, 3B(1), 3B(2) and 3B(5) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Reprimand and Order of Additional Education of a District Court Judge.* (02/25/16)
- The judge failed to comply with the law and failed to maintain professional competence in the law when, after a bench trial, he (a) took the case under advisement, (b) entered a written judgment that

was inconsistent with the amount of damages sought and presented at trial, (c) failed to provide notice of the entry of the lower judgment amount to the parties, (d) failed to afford the parties an opportunity to be heard on the legal issue that resulted in the lower judgment amount, and (e) failed to announce the final judgment in open court as required by law. [Violation of Canons 2A, 3B(2) and 3B(8) of the Texas Code of Judicial Conduct.] *Public Admonition and Order of Additional Education of a Justice of the Peace*. (01/28/16)

- The judge failed to comply with the law, failed to maintain professional competence in the law, and failed to show proper deference to appellate court decisions by persistently failing to follow clear directives issued by the appellate court. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Private Reprimand and Order of Additional Education of a County Court at Law Judge*. (04/19/16)
- The judge failed to comply with the law and demonstrated a lack of professional competence in the law by enforcing local rules that unfairly punished defendants for the dilatory conduct of their attorneys and by enforcing such rules in an unreasonable, inconsistent, arbitrary and inflexible manner. The judge also failed to comply with the law and demonstrated a lack of professional competence in the law by intervening in the judge's own recusal. [Violation of Canons 2A, 3B(2) and 3B(8) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Municipal Court Judge*. (09/01/15)
- The judge failed to follow the law and demonstrated a lack of professional competence in the law by denying litigants and members of the public, including Commission staff, access to the courtroom while judicial proceedings were taking place. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace*. (11/06/15)
- The judge failed to comply with the law and demonstrated a lack of professional competence in the law by temporarily barring a Community Supervisions Officer from attending court proceedings in his court. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a County Judge*. (03/07/16)
- The judge failed to comply with the law and demonstrated a lack of professional competence in the law to the extent that the judge used the peace bond process to improperly enjoin a litigant from exercising her rights to free speech under the United States and Texas Constitutions. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a Justice of the Peace*. (03/29/16)
- The judge failed to comply with the law by driving while intoxicated, a criminal offense to which she later pled guilty. [Violation of Canon 2A of the Texas Code of Judicial Conduct.] *Private Warning of a Former Associate Judge*. (05/02/16)
- The judges failed to comply with the law when they participated in proceedings relating to their own recusals by having attorneys attempt to depose the State's attorneys and actively challenge the State's efforts to have them recused. The judges pursued the challenge to the recusal motions out of a fear that their reputations would be harmed by false allegations set forth in the motions. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Warnings of a Municipal Court Judge and a Former Municipal Court Judge*. (08/26/16)
- The judge failed to comply with the law and demonstrated a lack of professional competence in the law when she summoned two witnesses to court using writs of attachment and punished the witnesses with incarceration for violating her orders despite the fact that the witnesses were no longer subject to active

subpoenas after the trial date in the case had been continued. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a District Court Judge*. (08/05/16)

- The judge failed to comply with the law and failed to maintain professional competence in the law by not accepting a letter as a plea of not guilty and instead instructing the defendant that the only option to resolve outstanding warrants was to pay the fines and costs. The letters between the judge and the defendant, which were not shared with the prosecutor, constituted improper ex parte communications concerning the merits of the pending case. [Violation of Canons 2A, 3B(2) and 6C(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education to a Justice of the Peace*. (07/13/16)
- The judge failed to comply with the law and failed to maintain professional competence in the law by not securing a written jury trial waiver from a litigant or creating a contemporaneous record indicating that the litigant knowingly and voluntarily waived the right orally. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Municipal Court Judge*. (07/18/16)

**CANON 2B: A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge.**

- The judge failed to comply with the law by driving while intoxicated, a criminal offense to which he entered a plea of “no contest.” Although the judge insisted that he was not looking for special treatment during the traffic stop, the numerous invocations of his judicial position would lead a reasonable person to conclude that he was trying to influence the officer’s investigation. [Violation of Canons 2A and 2B of the Texas Code of Judicial Conduct.] *Public Admonition and Order of Additional Education of a County Court at Law Judge*. (07/12/16)
- The judge’s email to a colleague presiding over a custody case involving members of the judge’s own family constituted an improper use of the prestige of judicial office to advance the private interests of the judge’s family and raised concerns that the judge was using the prestige of judicial office to influence another judge to rule favorably on a pending motion. [Violation of Canon 2B of the Texas Code of Judicial Conduct]. *Private Reprimand and Order of Additional Education of a District Court Judge*. (09/10/15)
- The judge failed to maintain professional competence in the law, allowed a family member’s relationship to influence the judge’s judgment and conduct, acted with bias toward the family member, and took action in a judicial proceeding in which the judge was disqualified by law when the judge: (1) magistrated the family member; (2) issued the family member a PR bond and (3) secured the family member’s release after 5:00 p.m. without the Sheriff’s authorization. [Violation of Canons 2A, 2B, 3B(1), 3B(2) and 3B(5) of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional Education of a Justice of Peace*. (07/28/16)
- The judge lent the prestige of judicial office to advance the private interests of a defendant by permitting court staff to send letters and other communications to another judge in a manner that was perceived by the recipient as an improper attempt to obtain favorable or special treatment for the

defendant. [Violation of Canon 2B of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a District Court Judge.* (03/09/16)

**CANON 3B(3): A judge shall require order and decorum in proceedings before the judge.**

- The judge's policy and practice of handling litigants whose cell phones go off in court failed to maintain proper courtroom decorum and failed to treat individuals with the appropriate dignity and courtesy required of a judicial officer. [Violation of Canons 3B(3) and 3B(4) of the Texas Code of Judicial Conduct.] *Private Warning and Order of Additional Education of a County Court at Law Judge.* (04/25/16)

**CANON 3B(4): A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.**

- Among other misconduct, the judge failed to treat litigants and others with the dignity and courtesy expected of a judicial officer due to his frequent and extended absences from the court, which also interfered with the proper performance of his judicial duties. [Violation of Canons 2A, 3B(2), and 3B(4) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Reprimand of a Former Justice of the Peace.* (02/29/16)
- Among other misconduct, the judge failed to treat a litigant with the requisite dignity and courtesy expected of a judicial officer when he left her a voicemail message that any reasonable person would find threatening, intimidating, and harassing. [Violation of Canons 2A, 3B(2), 3B(4) and 6C(2) of the Texas Code of Judicial Conduct.] *Public Reprimand of a Municipal Court Judge.* (07/18/16)
- The judge failed to be patient, dignified, and courteous toward litigants and failed to afford these litigants the right to be heard according to law. [Violation of Canons 3B(4) and 3B(8) of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional Education of a Municipal Court Judge.* (09/21/15)
- The judge failed to treat an attorney and his client with the patience, dignity and courtesy expected of a judicial officer. Additionally, the judge's private, in-chambers meeting with the victim in the case raised questions that the judge might be unduly influenced or swayed by information obtained through such an improper independent investigation. [Violation of Canons 2A, 3B(4) and 3B(8) of the Texas Code of Judicial Conduct.] *Private Reprimand and Order of Additional Education of a District Court Judge.* (02/23/16)

**CANON 3B(10): A judge shall abstain from public comment about a pending or impending proceeding which may come before the judge's court in a manner which suggests to a reasonable person the judge's probable decision on any particular case.**

- The judge undermined the public's confidence in her impartiality and independence by defending her rulings in the press, giving rise to a legitimate concern that she would not be fair or impartial in other cases involving victims of sexual assault. The judge's reckless and inaccurate public statements about the victim re-victimized her and other victims of sexual assault, undermined public confidence in the



judiciary, and cast public discredit upon the administration of justice. [Violation of Canon 3B(10) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Warning and Order of Additional Education of a District Court Judge.* (09/05/15)

**CANON 4A(1) and (2): A judge shall conduct all of the judge's extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as a judge; or interfere with the proper performance of judicial duties.**

- The judge sent an email to the local county party chair offering a “win/win solution” that purported to confer benefits of legal impunity, paid legal expenses, and political endorsement in return for her opponent’s withdrawal of a legal challenge to the judge’s candidacy. In a Facebook post about her opponent, the judge used offensive or profane terms that cast public discredit upon the judiciary and cast doubt on her capacity to act impartially as a judge. [Violations of Canons 2A and 4A(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Warning and Order of Additional Education of a Justice of the Peace.* (09/22/15)
- The judge used public resources to retaliate against a political opponent and to pressure colleagues into interceding on the judge’s behalf in the opponent’s political campaign. The judge’s conduct toward the political opponent outweighed any matters of legitimate public concern raised by the judge in a press conference, described by the media as “bizarre,” and undermined public confidence in the judiciary and administration of justice. [Violation of Canons 2A, 2B, 3B(2), 3B(4) and 4A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Private Reprimand of a District Court Judge.* (09/01/15)
- The judge lent the prestige of judicial office to advance the private interests of a particular advocacy group and engaged in extra-judicial conduct that raised a question as to the judge’s capacity to be fair and impartial by refusing to remove the courtroom display of an award received from the organization after defense attorneys complained and other judges expressed that the display was problematic. [Violation of Canons 2B and 4A(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Private Admonition of a County Criminal Court at Law Judge.* (02/19/16)

**CANON 4D(2): A judge shall not be an officer, director or manager of a publicly owned business. For purposes of this Canon, a “publicly owned business” is a business having more than ten owners who are not related to the judge by consanguinity or affinity within the third degree of relationship.**

- Among other misconduct, the judge allowed his name and judicial title to be used to promote the private interests of a local bank and continued to serve as a director of the bank, a publicly owned business, after he assumed the bench. [Violation of Canons 2A, 2B, 3B(1), 3B(2), 3B(4), 3B(5), 3B(8), 3B(10) and 4D(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Reprimand of a District Court Judge.* (09/05/15)

**CANON 5(2): A judge or judicial candidate shall not authorize the public use of his or her name endorsing another candidate for any public office, except that either may indicate support for a political party. A judge or judicial candidate may attend political events and express his or her views on political matters in accord with this Canon and Canon 3B(10).**

- The judge authorized candidates to use the judge's name and judicial title in campaign literature that constituted public endorsements of various candidates for public office. [Violation of Canon 5(2) of the Texas Code of Judicial Conduct.] *Private Warning of a Former County Judge.* (11/06/15)

**ARTICLE V, §1-a(6)A: A judge may be disciplined for willful or persistent violation of the rules promulgated by the Supreme Court of Texas, willful violation of the code of Judicial Conduct, incompetence in performing the duties of office, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or the administration of justice.**

- The judge failed to comply with the law and failed to maintain professional competence in the law by failing to review plea paperwork from the special prosecutor and by approving pleas that assessed fines that exceeded amounts allowed by law. The judge's acceptance of the special prosecutor's assurances that the pleas and fines were legal, even after concerns about the prosecutor's plea practice had been brought to his attention by the Commission in its investigation of earlier complaints, was inconsistent with the proper performance of his judicial duties and cast public discredit upon the judiciary and the administration of justice. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Warning and Order of Additional Education of a County Judge.* (02/29/16)
- The judge's attempt to pull over a motorist for reckless driving and his threats to have the motorist incarcerated without legal justification for alleged contempt of court occurring outside the courtroom (and outside the county) demonstrated a failure to comply with the law, a failure to maintain professional competence in the law, and cast public discredit upon the judiciary and the administration of justice. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Public Warning and Order of Additional Education of a Justice of the Peace.* (03/03/16)
- The judge engaged in willful conduct that was inconsistent with the proper performance of his duties and cast public discredit upon the judiciary and the administration of justice when, in the absence of any legal authority, he ordered a defendant to get married and to write Bible verses as a condition of probation in lieu of serving time in jail. [Violation of Article V, §1-a(6)A of the Texas Constitution.] *Private Admonition of a County Court at Law Judge.* (03/07/16)