

# **GEORGIA JUDICIAL QUALIFICATIONS COMMISSION**

## **2020 ANNUAL REPORT**

### **INTRODUCTION**

The Judicial Qualifications Commission is a constitutionally created independent State Commission responsible for enforcing standards for ethical conduct of judges and judicial candidates by investigating complaints of judicial misconduct and/or judicial incapacity and prosecuting and disciplining judges in the State of Georgia.

This calendar year was a time of transition and growth for the Commission, which was navigated successfully in the face of the COVID-19 pandemic and accompanying Judicial Emergency. The Commission welcomed new Panel members and Staff which will be highlighted in the first section of this Report. Second, this Report discusses the Commission's continuing commitment to judicial education and assistance to judges who proactively seek our input and guidance. Despite the COVID-19 pandemic, Commission members and JQC Staff have continued to present at various conferences across the State to discuss the Code of Judicial Conduct, and the JQC Staff continues to provide guidance and support to judges and citizens across the state when requested.

Third, this Report provides information on Commission meetings and updates to the Commission's website and JQC Staff infrastructure. In 2020, the Commission and JQC Staff began and completed various internal projects and improvements to the daily operations of the Commission. This Report also discusses the Commission budget for FY 2020. The Commission continues to be one of the more efficient and active judicial conduct commissions in the country.

Fourth, this Report covers complaint statistics and other data detailing the Commission's caseload in 2020. In 2020, the Commission received 535 formal complaints. The Commission resolved 410 matters, including the resignations of nine judges that had pending JQC investigations open at the time of their resignations. The Director also filed Formal Charges against three judges during 2020.

### **PART ONE: COMMISSION COMPOSITION**

#### **I. Hearing Panel Members**

Pursuant to O.C.G.A. 15-1-21 (g), members of the Commission serve four-year terms with initial appointments of shorter duration. Initial appointments in 2017 were for one-, two-, and three-year terms.

In 2019, former Cobb County Public Safety Director Michael Register stepped down from his post on the Hearing Panel after two years of valued service. On January 14, 2020, Governor Kemp appointed then-Investigative Panel member Richard Hyde to the Hearing Panel as the citizen member to fill the rest of Mr. Register's term, which expires on June 30, 2021. Mr. Hyde was confirmed by the Senate on February 5, 2020. Mr. Hyde is the Commission's longest standing member and brings with him a wealth of institutional knowledge regarding judicial ethics and the JQC Rules.

Additionally, the Supreme Court of Georgia re-appointed Judge Robert McBurney as the judge-member and Presiding Judge for the Hearing Panel. Judge McBurney's initial term expired on June 30, 2020, and Judge McBurney was re-appointed to a second term that began on July 1, 2020 and ends on June 30, 2024.

## **II. Investigative Panel Members**

The appointment of Mr. Hyde to the Hearing Panel created a corresponding citizen-member vacancy on the Commission's Investigative Panel. On January 14, 2020, Speaker of the House of Representatives David Ralston appointed Sheriff Dane Kirby as a citizen-member of the Investigative Panel to fill the vacancy resulting from Mr. Hyde's departure. Sheriff Kirby's current term expires on June 30, 2023. Sheriff Kirby has served as the Sheriff for Fannin County since 2009 and has served Georgia as a sworn law enforcement officer since 1988. The Senate confirmed Sheriff's Kirby's appointment on February 5, 2020. Speaker Ralston re-appointed Mr. James Balli as an attorney-member of the Investigative Panel. Mr. Balli's new term expires on June 30, 2024.

The Senate also confirmed two Investigative Panel member appointments made during 2019. On February 5, 2020, the Senate confirmed the Supreme Court of Georgia's appointment of the Honorable Judge Verda Colvin, a judge-member, and Governor Kemp's appointment of the Honorable Bob Barr, an attorney-member, to the Investigative Panel. The terms for both Judge Colvin and Mr. Barr expire on June 30, 2023.

Additionally, W. Pope Langdale, III, was re-elected as Investigative Panel Chair by a unanimous vote of the Investigative Panel Commission Members.

## **III. Commission Staff**

Mr. Charles Boring completed his first full year as Commission Director in 2020, having taken over as Director in December 2019. In early 2020, Mr. Boring immediately began a restructuring of the JQC Staff, hiring attorney Courtney Veal as Deputy Director for the Commission. Mrs. Veal brought with her over eight years of experience as an attorney and

prosecutor, which immediately assisted in the evolution of the Commission’s operations. Further, as she has successfully led the investigation and prosecution of some of the most serious and sensitive matters in the criminal justice system, Mrs. Veal’s talent and experience in navigating complex allegations of misconduct will serve the Commission well.

In September 2020, the Commission welcomed Kristen Bertsch as its Executive Administrator. Ms. Bertsch’s experience as a Victim Witness Advocate for the Cobb County District Attorney’s Office since 2015, which included high-volume case management efforts and the coordination of numerous high-level and confidential prosecutions, will no doubt benefit the Commission for years to come.

## **PART TWO: JUDICIAL EDUCATION AND ASSISTANCE**

### **IV. Continuing Judicial Education**

One of the most important functions of the Commission, in addition to enforcing the Code of Judicial Conduct, is to educate judges. Accordingly, Commission members and Mr. Boring presented at numerous conferences hosted by the Institute of Continuing Judicial Education (“ICJE”) in 2020.<sup>1</sup> Commission members present an overview of the Commission’s role, structure, and functions and provide examples of judicial misconduct, common pitfalls for judges, and answer questions. These conferences have included, among others, presentations to Superior Court, State Court, Magistrate Court, Municipal Court, and Juvenile Court judges. The Commission recognizes the importance of judicial education in preventing ethical violations. The Commission hopes that its continued role in these conferences provides a useful educational component for the judiciary.

### **V. Guidance for Judges and Judicial Candidates: Director’s Opinions and Formal Advisory Opinions**

Pursuant to Commission Rule 28, the Commission’s Director, or any other staff member designated by the Director, may render an Opinion (i.e., a “Director’s Opinion”) regarding his or her interpretation of the Code of Judicial Conduct as applied to a given state of facts. Judges, judicial candidates, or other interested parties are often faced with time-sensitive ethical dilemmas. Director’s Opinions help answer such dilemmas, and judges or judicial candidates are encouraged to reach out to the Director or Deputy Director via e-mail or phone. Once an inquiry

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<sup>1</sup> The ICJE is a “resource consortium” of the Georgia Judicial Branch, the State Bar, and Georgia’s accredited law schools. Significantly, the ICJE bears the main responsibility for providing training and continuing education for the state’s judges and other court personnel. More information about the ICJE is available at its website, <http://icje.uga.edu>.

has been received, the Director or Deputy Director typically issue an opinion within one week of the request.

In 2020, the JQC Staff rendered numerous Director's Opinions on a wide range of judicial ethics topics including: part-time judges practicing law, judges serving on charitable and community boards, judges engaging in political activity, ex-parte communications, judges appearing and speaking at community protests and marches, and fundraising activities. These opinions record how the Director informally interprets the Code, help develop institutional knowledge over the coming years, and can serve as the basis for new Formal Advisory Opinions. Additionally, Mr. Boring and Mrs. Veal received and responded to hundreds of informal requests for guidance on matters involving the Code of Judicial Conduct and the duties of judges from across the state.

### **PART THREE: COMMISSION MEETINGS AND INFRASTRUCTURE IMPROVEMENTS**

#### **VI. Monthly Meetings of the Investigative Panel**

This past year, the Investigative Panel of the Commission met approximately once a month. Like the rest of the world, the impact of COVID-19 was also felt by the Commission. Many of the meetings were held virtually via Zoom, which allowed for the Commission to conduct its business while also adhering to responsible procedures to ensure the safety of all involved.

In advance of these meetings, Investigative Panel members received materials related to various ongoing investigations of judicial misconduct. Members reviewed these materials in preparation for the meeting itself. During these meetings, members discussed the status of the various cases, voted on the disposition of cases, met with judges, and dealt with other administrative matters.

#### **VII. Commission Accessibility**

Each month, the Commission posts a variety of informational items on its website. These items include the date, time, and location of Commission meetings, as well as previous meeting minutes and agendas for the portion of the meeting open to the public. The Commission hopes that in so doing it will continue to foster agency transparency and help members of the public stay up to date on internal development.

#### **VIII. Commission Budget**

The Commission is an independent office within the Judicial Branch, funded through a line-item in the budget of the Judicial Council. The Commission received an appropriation of

\$826,943 for fiscal year 2020. The Commission also received an additional \$40,000 in the 2020 amended fiscal year budget.

## **IX. Infrastructure Improvements**

The JQC Staff moved into new office space on July 1, 2020. The JQC Staff office is now located at 1995 North Park Place, Suite 570, Atlanta, Georgia 30339. The move was accompanied by the JQC Staff transitioning to a completely new, updated, and more efficient internal case management system. Additionally, the Commission moved to a new and official .gov website, which can be found at [www.gajqc.gov](http://www.gajqc.gov). The JQC Staff continues to explore and implement new ways to increase the efficiency of its operations and service to the public.

## **X. Commission Investigations**

At any given time, the Commission's Investigative Panel is conducting between fifteen to forty active investigations into judicial misconduct. There are two general stages of investigation: preliminary investigation and full investigation. In a preliminary investigation, the JQC Staff will often interview the complainant, any witnesses, and/or ask a judge to respond to allegations of misconduct. Oftentimes, a preliminary investigation will show that a complaint is unfounded. Other times, however, a preliminary investigation will show that allegations of judicial misconduct warrant further and more involved investigation. The Investigative Panel may then vote to initiate a full investigation, which gives the Director and Staff subpoena power. Typically, half of the Commission's pending investigations are at the preliminary investigative stage and the other half are at the full investigative stage.<sup>2</sup>

## **XI. Formal Charges**

In 2020, the Director filed formal charges in three separate matters.

A Court of Appeals Judge is alleged to have committed numerous violations of the Code of Judicial Conduct, including misconduct committed before becoming a judge, while the judge was a candidate for judicial office, and after taking the bench. The judge is alleged to have drafted wills and loans for a client that improperly benefitted the judge and his family. The allegations also involve unethical behavior on the part of the judge in dealing with the client after the improprieties came to light, dishonest financial dealings, and illegal campaign finance activities. That matter is currently pending before the Hearing Panel.

A Superior Court Judge is alleged to have violated the Code of Judicial Conduct by calling a private citizen into his court chambers and chastising the citizen for exercising his First Amendment rights in criticizing the judge's decisions in a criminal case. The judge is also

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<sup>2</sup> Pursuant to Commission Rule 11, Commission investigations are confidential until the filing of Formal Charges with the Hearing Panel.

alleged to have threatened the citizen with adverse work consequences as a result of the citizen’s exercise of his free speech rights. That matter is currently ongoing.

A Municipal Court Judge is alleged to have violated the Code of Judicial Conduct by using court resources for the judge’s private benefit, creating a hostile work environment, and attempting to improperly influence administrative decisions of that court’s city solicitor. That matter is currently ongoing.

## **XII. Commission Hearings**

The Director conducted a number of hearings during 2020, before and after the onset of the Judicial Emergency, and both in-person and virtually. These hearings included both substantive and procedural matters on pending cases. Additionally, the Director submitted several appellate briefs to both the Georgia Court of Appeals and the Supreme Court of Georgia in 2020 and conducted oral argument before the Georgia Court of Appeals in January 2020.

### **PART FOUR: CASE NUMBERS AND DATA FROM 2020**

## **XIII. Complaint Data**

The charts and numbers are reflective of the 535 complaints received in 2020 and the cases disposed of in 2020. This data does not reflect complaints that have not been processed or acted upon.

### **a. Classes of Judges/Types of Court<sup>3</sup>**

Juvenile	20
Magistrate	75
Municipal/Recorder’s	17
Probate	38
State	57
Superior	314
Judicial Candidate	6
Supreme	2

<sup>3</sup> The Commission also received several complaints that improperly sought action against individuals that were not judges and/or not subject to the jurisdiction of the Commission.

b. Disposition of Complaints<sup>4</sup>

Rejected after initial review	328
Dismissed after preliminary investigation	61
Concluded with Instruction/Caution to Judge	10
Concluded with Admonishment to Judge (now a “Private Admonition” under Commission Rule 6.B)	2
Judge Resigned During Investigation	9

**CONCLUSION: LOOKING TOWARDS THE FUTURE**

In 2020, the Commission bid farewell to Panel members and JQC Staff and welcomed new Panel members and JQC Staff as the Commission continued to grow and evolve. The Commission saw yet another increase in the number of complaints in spite of the world slowing due to a global pandemic. That trend is expected to continue in 2021, as courts continue to open back up and jury trials begin anew. The Commission continues to explore ways in which it can best serve the State of Georgia, the Judiciary, and the public. The Commission remains dedicated to protecting the public and to helping judges maintain the highest standards of ethical conduct.

For more information, please visit the Commission’s website, [www.gajqc.gov](http://www.gajqc.gov).

/s/CHARLES P. BORING  
Charles P. Boring  
Director  
Judicial Qualifications Commission

March 31, 2021

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<sup>4</sup> Numbers in this table do not correspond with the number of docketed cases for 2020 as cases from previous years were resolved in 2020 and many cases docketed in 2020 continued forward into 2021.