



THE JUDICIAL QUALIFICATIONS COMMISSION OF GEORGIA 2021 ANNUAL REPORT

INTRODUCTION

The Judicial Qualifications Commission (“Commission”) is a constitutionally created independent State Commission responsible for monitoring and enforcing standards for ethical conduct of judges and judicial candidates. The Commission reviews and investigates allegations of judicial misconduct and judicial incapacity. When necessary, the Commission conducts hearings to determine whether a judge’s alleged misconduct violates the Georgia Code of Judicial Conduct (“Code”) and, if so, recommends discipline and the appropriate level of sanction. The Commission also assists the judiciary by providing education on the Code and responding to requests for advice regarding judicial ethics and the Code.

This calendar year was a time of evolution and growth for the Commission, both in mission and service to the Judiciary and the State of Georgia, all while faced with the continuing difficulties presented by the COVID-19 pandemic and continuing Judicial Emergency. First, this Report outlines the composition of the Commission, as we bid a fond farewell to two Investigative Panel members and welcomed their replacement members to the Commission. Second, this Report discusses the Commission’s continuing commitment to judicial education and assisting judges who proactively seek guidance on issues which intersect with or implicate the Code.

Third, this Report provides administrative information regarding Commission meetings, Staff infrastructure, and much-needed enhancements to the efficiency and effectiveness of staff operations. In 2021, the Commission completed several internal projects related to the daily operations of the Commission. Further, this section discusses the Commission’s FY 2022 budget.

Fourth, this Report covers complaint statistics and other data detailing the Commission’s 2021 caseload. In 2021, the Commission received 542 formal complaints, 98 of which required further investigation and analysis, including the filing of formal charges in six different matters.

PART ONE: COMMISSION COMPOSITION

I. Hearing Panel Members

In 2017, the Commission was reconstituted and divided into two Panels, the Investigative Panel and the Hearing Panel. That year, the initial members of the Commission were appointed to varying terms, pursuant to O.C.G.A. 15-1-21 (g). After the service of initial terms, Commission members serve four-year terms going forward.

The Hearing Panel consists of three members and adjudicates formal charges, makes recommendations to the Supreme Court as to disciplinary and incapacity findings, and issues formal advisory opinions. Judge Robert McBurney, a Superior Court Judge for the Atlanta Judicial Circuit, has served as the judge-member and presiding officer for the Hearing Panel since 2017. Judge McBurney was most recently re-appointed by the Supreme Court for a term that began on July 1, 2020 and ends on June 30, 2024.

Ms. Jamala McFadden has served as the Hearing Panel attorney-member since 2017. Ms. McFadden was re-appointed by the Supreme Court to serve another four-year term that began July 1, 2018 and ends June 30, 2022.

Mr. Richard Hyde serves as the citizen-member of the Hearing Panel. Mr. Hyde was most recently re-appointed by Governor Brian Kemp to serve a term that began on July 1, 2021 and ends on June 30, 2025. Mr. Hyde is the Commission's longest-serving member, having served the State in various roles for the Commission since 2004.

II. Investigative Panel Members

The Investigative Panel consists of seven members and oversees the investigation and prosecution of complaints regarding judicial misconduct and judicial incapacity. The Investigative Panel is also responsible for the administrative functions of the Commission.

Mr. Bob Barr serves as the Chair of the Investigative Panel, having been elected by his fellow Investigative Panel members to the position on May 21, 2021. Mr. Barr serves as an attorney-member, having been appointed by Governor Kemp. Mr. Barr was initially appointed to the Commission on July 19, 2019, and his current term expires on June 30, 2023. As Chair, Mr. Barr has been an invaluable asset to the Commission and Staff as the agency navigated a number of external and internal improvements.

Judge Stacey Hydrick, a Superior Court Judge for the Stone Mountain Judicial Circuit, serves as Vice-Chair of the Investigative Panel. Judge Hydrick was initially appointed as a

judge-member in 2017 and was most recently re-appointed by the Supreme Court to a term that began on July 1, 2021 and ends on June 30, 2025.

Justice Verda M. Colvin served as the other judge-member of the Investigative Panel until her appointment to the Supreme Court of Georgia on July 20, 2021 by Governor Brian Kemp. Justice Colvin was sworn in to the Supreme Court of Georgia on July 29, 2021, resulting in a judge-member vacancy on the Investigative Panel. The Supreme Court of Georgia filled that vacancy by appointing Judge Victoria S. Darrisaw of the Dougherty County Superior Court to complete Justice Colvin's term on the Investigative Panel, which ends on June 30, 2023.

Mr. W. Pope Langdale, III, serves as an attorney-member of the Investigative Panel. Mr. Langdale served two years as Chair of the Investigative Panel, until Mr. Barr was elected Chair in 2021. Mr. Langdale's leadership as Chair was vital to steering the reconstituted Commission in a positive direction and building the credibility of the agency. Mr. Langdale was most recently re-appointed by Lieutenant Governor Geoff Duncan as an attorney-member on July 1, 2021 and his current term expires on June 30, 2025.

Mr. James Balli also serves as an attorney-member on the Commission's Investigative Panel. Mr. Balli was initially appointed as an attorney-member in 2017 and was re-appointed by Speaker of the Georgia House of Representatives David Ralston to a term that began on July 1, 2020 and ends on June 30, 2024.

Mr. Warren Selby serves as a citizen-member on the Commission's Investigative Panel. Mr. Selby was initially appointed as a citizen-member in 2017 and was re-appointed by then-Lieutenant Governor Casey Cagle to a term that began on July 1, 2018 and ends on June 30, 2022.

Fannin County Sherriff Dane Kirby served admirably as the other citizen-member of the Investigative Panel until his resignation in August 2021. Sheriff Kirby's resignation created a citizen-member vacancy, and on September 29, 2021, Speaker Ralston appointed Mr. Alexander "Lex" Rainey to fill the vacancy. Mr. Rainey's current term expires June 30, 2023.

III. Commission Staff

Mr. Charles Boring completed his second full year as Director, having taken over as Director in December 2019. Mrs. Courtney Veal completed her first full year as Deputy Director, having been hired in March 2020 shortly after the onset of the COVID-19 pandemic. Ms. Kristen Bertsch completed her first full year as the Commission's Executive Administrator, having been hired in September 2020.

In May 2021, the Commission welcomed Mr. John Gosart as its first full-time Chief Investigator. Mr. Gosart's experience as an investigator for the Clayton County Police Department and Clayton County District Attorney's Office since 2009, which included leading numerous high profile and complex investigations, is a welcome addition to the Staff.

In July 2021, the Commission welcomed Ms. Yosra Khalifa as its Staff Attorney. Ms. Khalifa graduated from Georgia State University College of Law in 2016. While in law school, she served as the Chief of Staff for the Senate Majority Leader at the State Capitol. Ms. Khalifa has already proved to be an incredible asset to the Staff.

In July 2021, the Commission also hired Mr. Jeff Davis as part-time Investigative Counsel. Mr. Davis served as the Commission's Director from 2010-2014 and brings with him a wealth of institutional knowledge regarding judicial ethics and the Code. Mr. Davis provides legal services to the Commission on the investigation and prosecution of specific complaints.

The Commission is excited for this new chapter for the Staff and is optimistic of its continued growth and success moving forward.

PART TWO: JUDICIAL EDUCATION AND ASSISTANCE

IV. Continuing Judicial Education

One of the most important functions of the Commission is educating judges on the Code and issues related to judicial ethics and professionalism. The Commission recognizes the importance of judicial education in preventing ethical violations. Accordingly in 2021, Director Boring, Deputy Director Veal, Staff Attorney Khalifa, and various Commission members presented at various trainings and conferences hosted by the Institute of Continuing Judicial Education ("ICJE").¹ These presentations provided an overview of the Commission's role, structure, and function, as well as practical considerations for issues implicating the Code and judicial ethics. During 2021, presentations were made to Superior Court, State Court, Magistrate Court, Municipal Court, and Juvenile Court judges. The following is a list of trainings and conferences in which the Commission presented:

¹ 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 Georgia's judiciary and other court personnel. More information about the ICJE is available on its website, <http://icje.uga.edu>.

Date	Conference	Topic	Speaker
January 25, 2021	State Court New Judges Orientation	Judicial Ethics	Director Boring
February 25, 2021	Magistrate Court Judges 40 Hour Criminal Basic Certification	JQC Update	Director Boring
April 28, 2021	Magistrate Court Judges Spring Recertification	JQC Update	Director Boring
May 3, 2021	Juvenile Court Judges Spring Conference	Professionalism and JQC Update	Director Boring and Deputy Director Veal
May 13, 2021	State Court Judges Spring Conference	JQC Update	Judge Stacey Hydrick
May 26, 2021	Probate Court Judges Traffic Conference	Professionalism for Probate Traffic Judges and JQC Update	Deputy Director Veal and Justice Verda Colvin
June 24, 2021	Municipal Court Judges Law and Practice Update	Professionalism for Judges and JQC Update	Director Boring and Deputy Director Veal
July 13, 2021	ICJE Multi-Class of Court - Judicial Ethics and its Impact on Others Seminar	Professionalism for Judges	Director Boring
July 28, 2021	Superior Court Summer Conference and Educational Sessions	JQC Update	Director Boring and Judge Robert McBurney
September 15, 2021	40 Hour Civil Basics Certification for New, Non-Attorney Magistrates	JQC Update	Director Boring

October 7, 2021	Municipal Court Judges Law and Practice Update	Professionalism for Judges and the JQC Process	Deputy Director Veal and Staff Attorney Khalifa
October 25, 2021	Magistrate Judges Fall Recertification	JQC Update	Director Boring
October 26, 2021	Juvenile Court Judges Fall Conference	JQC Update	Director Boring
December 15, 2021	Superior Court New Judge Orientation	JQC Update	Director Boring

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

Pursuant to Judicial Qualifications Commissions Rule 28, the Commission’s Director, or any other staff member designated by the Director, may render an informal opinion (i.e., a “Director’s Opinion”) regarding 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 circumstances. Director’s Opinions address the submitting party’s concerns by providing guidance and analysis related to the inquiry and the Code. Once an inquiry has been received, the Director or Staff typically issue an opinion within one week. Some inquiries, however, require more extensive research and a deeper examination of the issues raised, and therefore an opinion may not be issued for more than one week.

In 2021, the Staff rendered numerous Director’s Opinions on a myriad 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 Director’s Opinions document how the Director informally interprets the Code, help develop institutional knowledge to be used in coming years, and can serve as the basis for new Formal Advisory Opinions. In 2021 alone, the Director and Staff rendered at least 131 Director’s Opinions, which does not include the numerous informal requests for advice from judges who do not request a written Director’s Opinion.

PART THREE: COMMISSION MEETINGS AND INFRASTRUCTURE IMPROVEMENTS

VI. Monthly Meetings of the Investigative Panel

In 2021, the Commission's Investigative Panel met monthly to discuss various disciplinary, incapacity, and administrative matters. Due to the impact of the COVID-19 pandemic, the Commission conducted some of its meetings virtually, however, most were held at Taylor English Duma, LLP in Atlanta, GA.

In advance of these meetings, Investigative Panel members received materials prepared by Staff related to pending investigations of judicial misconduct and judicial incapacity. During these meetings, Investigative Panel members and Staff discussed the status and disposition of matters, had judges and various witnesses appear, and handled administrative matters.

VII. Commission Accessibility

Each month, the Commission posts informational items on its website. These items include meeting notices, as well as previous meeting minutes and agendas. The Commission also posts information related to pending matters in which formal charges have been filed or when an investigation is public in nature. Such information is posted in hopes of fostering agency transparency.

VIII. Commission Budget

The Commission is an independent agency within the judicial branch and is funded through a line-item in the annual State Budget. During the 2021 Legislative Session, Director Boring presented requests for a budget increase to both the Georgia Senate and Georgia House of Representatives. Director Boring's requests were approved, and the Commission was able to increase staffing levels to bring the Staff more in line with other states with populations and workloads similar to our Commission. In Fiscal Year 2022, the Commission received an appropriation of \$1,053,729, which was an increase of over \$200,000 from the prior year's budget. The Commission is very appreciative of the consideration given by the members of the Senate and the House, as well as by the Governor, in providing a much-needed increase in resources to help move the agency forward.

IX. Infrastructure Improvements

The Staff worked with the Administrative Office of the Courts to build a new, updated, and more efficient website for the Commission (www.gajqc.gov). The new website allows individuals to submit complaints, contact the Staff, and request Director's Opinions electronically.

The Staff has also implemented an updated method for tracking incoming complaints and requests for Director's Opinions. This new system will create an efficient and thorough method

of record keeping. The Staff continues to explore and implement new ways to increase the efficiency of its operations and service to the public.

X. Commission Investigations

There are three general stages of investigation: screening, preliminary investigation, and full investigation. During the screening stage, Staff docket complaints and begin an initial review to determine if the allegations should be investigated further. In a preliminary investigation, the Staff will often interview the complainant and possible witnesses, obtain documents and records relevant to the complaint, and occasionally ask the judge for information related to the allegations of misconduct. Oftentimes, a preliminary investigation will show that a complaint is unfounded. Other times, a preliminary investigation will show that allegations of judicial misconduct warrant further investigation. The Investigative Panel may then vote to initiate a full investigation, which gives the Director 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.²

XI. Formal Charges and Motions for Interim Suspension

In 2021, the Director filed formal charges related to twelve separate complaints, eight of which involve the same judge.

A Superior Court Judge was alleged to have violated the Code by calling a private citizen into his court chambers and chastising the citizen for publicly criticizing the judge's decisions in a criminal case, ignoring the citizen's requests for an attorney and to leave the judge's chambers. In November 2021, a final hearing was held on this matter, and the Hearing Panel rendered a decision finding that the judge violated the Code and recommending that discipline be imposed. That matter is currently before the Supreme Court of Georgia for a final decision.

A Magistrate Court Judge violated the Code by physically grabbing a handcuffed inmate, after engaging in a verbal altercation with the inmate, and pushing him into and up against a wall in the hallway of a Sheriff's Department. This matter was completed in 2022, with the Supreme Court of Georgia ordering a 30-day suspension without pay and a public reprimand.

A Probate Court Judge is alleged to have violated the Code on multiple occasions, beginning while she was a practicing attorney. One of the alleged violations includes disobeying local security protocol by allowing civilians to enter the courthouse after hours for a wedding ceremony and denying access to public records. A second alleged violation includes inappropriate social media conduct, including posts to a public account using the position as a judge-elect to solicit cash gifts and promote events at bars and nightclubs. A third alleged

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

violation includes improperly jailing a citizen who sought to correct an entry on her marriage application from years prior. All of these matters remain pending with the Hearing Panel.

A Superior Court Judge is alleged to have violated the Code by posting on his social media about a matter over which his court had jurisdiction. This matter remains pending with the Hearing Panel.

A Superior Court Judge is alleged to have violated the Code on multiple occasions. The alleged violations include engaging in a romantic relationship with a courthouse employee who occasionally appeared in front of the judge, giving preferential treatment to a Drug Court participant who was known to the judge, and for being untruthful with the Investigative Panel when appearing to address the allegations. This matter remains pending with the Hearing Panel.

The Director and Staff, with the approval of the Investigative Panel, filed five motions for interim suspension pursuant JQC Rule 15. These motions involved judges from different levels of court, including judges from the Georgia Court of Appeals, Magistrate Courts, and Probate Courts. These motions were filed directly with the Supreme Court of Georgia. As a result of the filing of these motions, the Supreme Court of Georgia suspended one judge and two other judges were suspended with the consent of the judges. The Supreme Court denied two motions for interim suspension.

XII. Commission Hearings and Appellate Matters

In 2021, the Director and Staff prosecuted the Commission's first final disciplinary hearing in almost three years. The hearing was in front of the Commission's Hearing Panel and involved the presentation of evidence against a sitting Superior Court Judge. The Hearing Panel found the judge had violated the Code as alleged in the formal Charges and made a recommended discipline to the Supreme Court. The matter is now pending with the Supreme Court for a final decision.

The Director also successfully conducted a bench trial regarding a Quo Warranto Petition that was filed alleging that Commission members were not properly appointed and confirmed as public officials. The trial court ruled in favor of the Director and the Commission members, denying the petition and finding that the members had been properly appointed and confirmed. The case was appealed to the Georgia Court of Appeals, who affirmed the trial court's decision.

Additionally, the Director and Staff submitted appellate briefs to both the Georgia Court of Appeals and the Supreme Court of Georgia on a range of legal issues related to the work of the Commission.

PART FOUR: CASE NUMBERS AND DATA FROM 2021

XIII. Complaint Data

The charts and numbers below reflect the complaints received and processed in 2021. This data does not reflect complaints that the Commission has not processed or acted upon.

a. Complaints

Complaints Filed	542 ³
Complaints Dismissed by Director after Screening	444
Complaints still in Screening	33
Complaints referred to the Investigative Panel for Preliminary Investigation	65
Complaints resolved after Preliminary Investigation o Letter of Instruction included: 8	22
Complaints resolved after Full Investigation o Resignation/Retirement: 4 o Deferred Discipline Agreement: 1 o Private Admonition: 5 o Letter of Instruction: 6 o Dismissed: 6	22
Complaints with Formal Charges filed after Full Investigation	13 ⁴
Complaints resolved with Full Hearing	1

b. Complaints – Class of Judge

Superior Court	298
Magistrate Court	108
Probate Court	46
State Court	36
Municipal Court	28
Juvenile Court	19
Federal Court	5
Supreme Court	2

³ Of the 542 complaints filed, 35 were JQC initiated.

⁴ Of the 13 complaints which resulted in the filing of formal charges after Full Investigation, 8 of them involve the same judge. The remaining 5 involve different judges

c. Categories of Complaints

Judicial Decision/Discretion	140
Failure to Follow Law	104
Bias/Prejudice/Partiality	84
Failure to Timely Rule	79
Denial of Fair Hearing	51
Demeanor/Injudicious Temperament	29
Ex-Parte Communication	25
Conflict of Interest/Failure to Recuse	16
Use of Judicial Position for Personal Gain	9
Mental Impairment/Incapacity	5

XIV. Requests for Director’s Opinion pursuant to JQC Rule 28

a. Requests for Director’s Opinion

Requests Received	131 ⁵
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b. Requests for Director’s Opinion – Class of Judge

Superior Court	31
Magistrate Court	30
State Court	15
Juvenile Court	15
Probate Court	11
Municipal Court	9

⁵ Of the 131 requests received, 111 were from judges and 20 were from attorneys.

CONCLUSION: LOOKING TOWARDS THE FUTURE

2021 was a year of evolution and growth for the Commission. Similar to previous years, the Commission saw an increase in the number of complaints received. That trend is expected to continue in 2022, as courts attempt to resume regular business and the complaint process is now more readily available to the public via the new Commission website. 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.

/s/CHARLES P. BORING
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Director
Judicial Qualifications Commission

April 1, 2022