

STATE OF ALASKA
COMMISSION ON JUDICIAL CONDUCT



2012 ANNUAL REPORT

510 L Street, Suite 585 (As of 9/01/2012)
Anchorage, Alaska 99501
(907) 272-1033
(800) 478-1033
Fax: (907) 272-9309

**ALASKA COMMISSION ON
JUDICIAL CONDUCT
2012 Roster**

Judge Members

Judge Keith Levy
Alaska District Court
P.O. Box 114100
Juneau, Alaska 99811-4100
(Term expires February 1, 2015)

Judge Philip R. Volland
Alaska Superior Court
825 W. 4th Avenue
Anchorage, Alaska 99501-2004
(Term expires February 1, 2015)

Judge Ben Esch
Alaska Superior Court
Box 1110
Palmer, Alaska 99645
(Term expires February 1, 2016)
(Chairperson)

Attorney Members

Robert Groseclose
714 4th Ave., Suite 200
Fairbanks, Alaska 99701
(Term expires March 1, 2016)

Amy Gurton Mead
155 S. Seward Street
Juneau, Alaska 9980
(Term expires March 1, 2016)

Jan S. Ostrovsky
605 W. 4th Avenue, 138
Anchorage, Alaska 99501
(Term expires March 1, 2013)

Public Members

Amy L. Demboski
PO Box 672114
Chugiak, Alaska 99567
(Term expires March 1, 2015)

Robert Sheldon
1029 W. 3rd Avenue, Suite 550
Anchorage, Alaska 99501
(Term expires March 1, 2016)

Chris Brown
1029 W. 3rd Avenue, Suite 550
Anchorage, Alaska 99501
(Term expires March 1, 2013)

TABLE OF CONTENTS

<u>Contents</u>	<u>Page No.</u>
Introduction	1
Commissioner Biographies	2
I. The Commission's Role and Function	5
A. Judicial Officers Who Come Under the Commission's Authority	5
B. Types of Complaints the Commission Can Address	6
II. How the Commission Operates	9
A. Filing a Complaint	9
B. Complaint Investigation	10
III. Calendar Year 2012 Activities	13
A. Summary of Complaints	13
B. Commission Meetings	30
C. Outreach	30
D. Formal Proceedings	31
E. Rules of Procedure	31
F. Staffing	31

TABLE OF CONTENTS

(Continued)

<u>Contents</u>	<u>Page No.</u>
IV. Commission Finances and Budget	32
A. Fiscal Year 2014	32
B. Fiscal Year 2012	32
V. Future Activities	32
A. Commission Meetings	32
B. Caseload	33
C. Legislation	33
D. Formal Ethics Opinions	33
E. Formal Advisory Opinions	34
F. Other Activities	34

LIST OF TABLES

<u>Table</u>		<u>Page</u>
1	2012 Complaint Filings	14
2	Comparison With Previous Years	15
3	Complaint Sources (2008 - 2012)	17
4	2012 Complaint Closures	18
5	2012 Complaint Dispositions	19
6	Comparison With Previous Years Closures	21
7	Complaints Pending By Year Filed	23
8	Actions Taken (2007 - 2012)	24
9	Court Levels Involved (2007 - 2012)	26
10	Types Of Allegations	27
11	Recusals By Commissioners	29

LIST OF FIGURES

<u>Figure</u>		<u>Page</u>
1	2012 Complaint Filings	14
2	Comparison With Prior Year Filings	16
3	Complaint Sources 2008 – 2012	17
4	2012 Complaint Closures By Year Filed	18
5-A	Non-Jurisdictional Complaints Processed in 2012	20
5-B	Jurisdictional Complaint Processing	20
6	Jurisdictional Complaints Closed	22
8	Actions Taken	25
9	Complaints By Court Level (2007 - 2012)	26
10	Allegations By Type in 2012	28

LIST OF APPENDICES

Appendix

Constitutional Provisions Relating to the Commission on Judicial Conduct	A
Statutory Provisions Relating to the Commission on Judicial Conduct	B
Appellate Rule 406	C
Code of Judicial Conduct	D
Alaska Statute Relating to Judicial Disqualification	E
Complaint Form	F
Formal Ethics Opinions	G
Formal Advisory Opinions	H
Commission Rules of Procedure	I
List of Published Alaska Judicial Conduct Opinions	J

INTRODUCTION

Alaska's Commission on Judicial Conduct was created by amendment to the state constitution in 1968. The Commission is composed of three state court judges, three attorneys who have practiced law in the state for at least ten years, and three members of the public. This group of nine individuals from differing backgrounds and geographical areas addresses problems of judicial conduct and disability. Complaints alleging judicial misconduct may be filed by any person.

COMMISSIONER BIOGRAPHIES

Judicial Members (2012)

HONORABLE KEITH B. LEVY was appointed to the District Court in 2005. He chairs the Newer Judge Development Committee and presides over the Juneau Therapeutic Court, a program for the rehabilitation of individuals convicted of felony driving under the influence of alcohol. He graduated from the State University of New York at Binghamton and received his law degree from the University of Santa Clara Law School. Before being appointed to the bench he worked in private practice and held a variety of public service positions including staff attorney to the Alaska Court of Appeals, legal counsel to the Alaska Legislative Affairs Agency, and assistant attorney general with the Alaska Department of Law. He served on the Board of Governors of the Alaska Bar Association, including a term as president.

HONORABLE BEN ESCH is a graduate of Arizona State University School of Law. He has lived in Alaska since 1973 and served as a judge of the Superior Court in Nome, Alaska since 1996. The Chief Justice of the Alaska Supreme Court appointed him the presiding judge for the Second Judicial District in January 2008.

HONORABLE PHILLIP R. VOLLAND is the Deputy Presiding Judge for Criminal Matters for the Third Judicial District in Anchorage, Alaska. Judge Volland was appointed to the bench in 2002 following nearly 30 years in private practice. He is presently Chair of the Criminal Rules Committee and is a former president of the Alaska Bar Association. Judge Volland formerly served on the Civil Rules Committee, the Special Committee to Review the Code of Judicial Conduct, the Law Related Education Committee, the Sentencing Commission and the Alaska Public Offices Commission. Judge Volland received his legal training at New York University School of Law where he was a Root-Tilden Scholar. He was admitted to state and federal practice in Alaska in 1977.

Attorney Members (2012)

JAN OSTROVSKY is the Clerk of the Bankruptcy Court for the District of Alaska. He has been an attorney since 1975 practicing in small and large firms and as an appointed official of the U.S. Department of Justice. Mr. Ostrovsky has previously served as a board member of the Consumer Education and Training Services (CENTS Project) in Seattle, as the United States Trustee for the northwest states, and as a professional fee examiner in the Enron bankruptcies. He is a contributing author to the Collier Bankruptcy Treatise and co-author of the "Collier Compensation, Employment and Appointment of Trustees and Professionals" volume.

AMY GURTON MEAD currently practices law in Juneau as an Assistant City and Borough Attorney. She holds a J.D. Degree from Tulane Law School, in addition to a B.A. in Psychology from Boston University. Ms. Gurton Mead has served as a Judicial Clerk for the Hon. Thomas A. Jahnke, an Assistant District Attorney in Ketchikan (1996-1998), as an Assistant Attorney General in Juneau (2000-2001) and as the City and Borough Attorney for Wrangell (2008-2010). Prior to joining the CBJ Law Department, she was in a private practice in Juneau. She's been a member of the Alaska Bar Association since 1997.

ROBERT "BOB" GROSECLOSE has practiced law in Fairbanks since 1976. He received a Bachelor of Arts in Economics from the University of Oregon in 1971, including his completion of a course of study at the Netherlands International School of Business (currently known as Nyenrode University). He received his law degree from the Columbus School of Law, Catholic University of America, in December 1975. Other than a 1974 summer clerkship with the Alaska Superior Court in Fairbanks, Bob has been in private practice since 1976. He is a shareholder with COOK SCHUHMANN & GROSECLOSE, Inc. in Fairbanks. Bob served on the Alaska Judicial Council (2000-2006) and has served in various Alaska Bar Association committee capacities since receiving his bar license in 1976.

Public Members (2012)

JAMES C. (CHRIS) BROWN has lived in Alaska since 2004, and has a 30+ year career in the telecommunications industry. Mr. Brown was born in Canada and grew up in the Southeastern US, where he received an electrical engineering degree from the University of South Florida and an MBA from Emory University in Atlanta, Georgia. Mr. Brown's professional career spans both domestic and international telecommunications, including senior management positions with Sprint, British Telecom and currently AT&T Alaska. Chris and Margaret, his wife of 33 years have one son, Matthew, who is a student at the University of Alaska - Anchorage. Chris's interests include amateur radio, photography, and music. He was appointed to the Commission in 2009.

AMY DEMBOSKI was raised in a military family and moved to Eagle River in 1989. She graduated from Chugiak High School in 1994. Amy has Bachelor degrees in Justice and History from UAA, and an MBA in finance from Columbia Southern University. Amy has worked for 15 years in the healthcare industry. During the latter part of that career her focus was on business development and management, building and managing two businesses. Now, she is working at a law firm focusing on estate, tax, and business planning. Amy and her husband, Ben, have two children. Their daughter, Kennedy, is a junior at Chugiak High School and son Riley is a 7th grader at Mirror Lake Middle School. Amy spends much of her time volunteering in the Chugiak and Eagle River area as a member of the local community council, the parks and recreation board, and as a member of the Lions club.

ROBERT D. SHELDON is a lifelong Alaskan who was raised in Talkeetna. He has a Bachelor of Science Degree in Finance, and a minor in Economics, from Colorado State University. Robert has served as a director or partner for privately held organizations in aviation, banking and finance. He also is a volunteer in the business community facilitating, financing and encouraging relationships and is a member of Omicron Delta Epsilon, an international economics society. His broad interest in finance and economics extends into understanding interconnections with the judiciary. Robert has been married to Marne Sheldon for 17 years and has three sons. Robert was appointed to the Conduct Commission in 2008. His interests include family, remote rafting, exploration, and coaching.

I. THE COMMISSION'S ROLE AND FUNCTION

A. Judicial Officers Who Come Under the Commission's Authority

Alaska's Commission on Judicial Conduct oversees the conduct of justices of the Alaska Supreme Court, judges of the state court of appeals, state superior court judges, and state district court judges. The commission may not handle complaints against magistrates, masters, attorneys, or federal judicial officers.

Complaints against state magistrates and masters are handled by the presiding superior court judge for their respective judicial districts:

First Judicial District

Honorable Trevor Stephens
Alaska Superior Court
415 Main Street, Room 400
Ketchikan, Alaska 99901

Second Judicial District

Honorable Michael Jeffery
Alaska Superior Court
Box 270
Barrow, Alaska 99723

Third Judicial District

Honorable Sen Tan
Alaska Superior Court
825 W. Fourth Avenue
Anchorage, Alaska 99501

Fourth Judicial District

Honorable Michael MacDonald
Alaska Superior Court
101 Lacey Street
Fairbanks, AK 99701

Complaints against attorneys can be directed to:

Stephen J. Van Goor, Bar Counsel
Alaska Bar Association
Box 100279
Anchorage, Alaska 99510

Complaints against federal judges in Alaska are handled by:

Assistant Circuit Executive
United States Court of Appeals
P.O. Box 193939
San Francisco, California 94119
Telephone (415) 556-6100

B. Types of Complaints the Commission May Address

1. Misconduct

The broadest category of conduct complaints against judges falls under the term "misconduct." Judicial misconduct has a very specific meaning under the Code of Judicial Conduct. The Code of Judicial Conduct generally governs the activities of judges both on and off the bench. It is a comprehensive statement of appropriate judicial behavior and has been adopted by the Alaska Supreme Court as part of the Rules of Court. Judicial misconduct can be divided into several categories.

(a) Improper Courtroom Behavior

At times complaints against judges allege improper behavior in the courtroom during a trial. Allegations of improper courtroom behavior may include: improper consideration and treatment of attorneys, parties, witnesses, and others in the hearing; improper physical conduct; or persistent failure to dispose of business promptly and responsibly.

Examples of improper courtroom behavior include: racist or sexist comments by a judge and sleeping or drunkenness on the bench. Judges can also be disciplined for administrative failures such as taking an excessive amount of time to make a decision.

(b) Improper or Illegal Influence

Judges must be independent from all outside influences that may affect their abilities to be fair and impartial. Consequently, judges are restricted as to the types of activities in which they can participate. At a minimum, judges cannot allow family, social, or political relationships to influence any judicial decision. Judges also should not hear a matter in which the judge has a personal interest in the outcome. Extreme examples of improper influence would include the giving or receiving of gifts, bribes, loans, or favors. To help assure judicial independence, judges are required to file financial disclosure statements with the court and other financial statements with the Alaska Public Offices Commission.

(c) Impropriety Off the Bench

Judges are required to live an exemplary life off the bench, as well. Consequently, the commission has the authority and responsibility to look at judges' activities outside of the courtroom. Complaints dealing with off-the-bench conduct might allege: misuse of public employees or misappropriation of property or money for personal purposes; improper speech or associations; interference with a pending or impending lawsuit; lewd or corrupt personal life; or use of the judicial position to extort or embezzle funds. Clearly, off-the-bench conduct includes a wide range of behavior from merely inappropriate actions to criminal violations.

(d) Other Improper Activities

Judges are also subject to restrictions in other aspects of their positions. These include prohibitions against: conducting proceedings or discussions involving one party to a legal dispute; interfering with the attorney-client relationship; bias; improper campaign activities; abusing the prestige of the judicial office; obstructing justice; and criminal behavior.

2. Physical or Mental Disability

Apart from allegations of misconduct in office, the Commission also has the authority and responsibility to address allegations of judges' physical and mental disabilities. Disabilities may include: alcohol or drug abuse; senility; serious physical illness; or mental illness.

The Commission can require medical examinations as part of its investigation and also can recommend counseling when appropriate.

3. Complaints the Commission May Not Address

The most common complaints that the commission has no authority to address involve questions of law. Frequently, complaints allege dissatisfaction with decisions that judges make in their judicial capacity. For example, individuals often complain of wrong child custody awards or sentences that judges impose in criminal cases. The Commission may not enter into cases or reverse judicial decisions. That role belongs to the appellate courts.

II. HOW THE COMMISSION OPERATES

A. Filing a Complaint

While the Commission may initiate its own investigation, any person may also file a complaint against a state judge with the Commission. A blank complaint form is in **Appendix F** of this report. A form is not necessary, but the complaint should be in writing and should include enough information to enable the Commission staff to begin an investigation. Necessary information includes: the judge's name, the conduct complained of, a case number if it involves a court case, and the names of others present or aware of the facts. Complaints should be sent to:

**Alaska Commission on Judicial Conduct
510 L Street, Suite 585
Anchorage, Alaska 99501**

Commission staff will be happy to assist anyone in writing a complaint.

B. Complaint Investigation

Soon after a complaint is filed, the Commission will review the accusation. Commission staff will often interview the person who filed the complaint to determine the facts giving rise to the complaint. After the initial inquiry, the Commission may conduct a full investigation. All complaints within the Commission's legal authority are investigated further. If the charge is found to be without merit, an accusation against a judge may be dismissed by the Commission during the investigation. If a preliminary investigation supports the complaint, a formal investigation begins. It is at this stage that the judge involved is informed of the complaint. A formal investigation includes an interview with the judge.

Complaints filed with the Commission and all Commission inquiries and investigations are confidential. If the Commission finds that probable cause exists that a judge has committed misconduct that warrants action more serious than a private admonishment or counseling, a formal statement of charges is issued. The statement of charges is public information. Some time after the formal charges issue, the Commission will hold an open public formal hearing on the matter. At that hearing, Special Counsel (hired by the Commission) presents the case against the judge. The judge is often represented by an attorney who presents that judge's defenses. The full Commission usually sits as decision-makers in the matter and renders a decision that may include recommendations to the Alaska Supreme Court for sanctions against the judge. The results of a Commission proceeding are public when Commission recommendations are made to the supreme court.

The Commission's decision may be to exonerate the judge of the charge or charges, recommend counseling or recommend that the supreme court take formal action. The Alaska Supreme Court may impose one of the following sanctions against the judge: suspension, removal, retirement, public or private censure, reprimand,* or admonishment.

*The Commission on Judicial Conduct originally had statutory authority to issue reprimands without action by the Alaska Supreme Court. That power was held to be unconstitutional by Inquiry Concerning a Judge, 762 P.2d 1292 (1988).

COMMISSION COMPLAINT PROCESS

The complaint process begins when a written complaint is received by Commission staff. If the complaint falls *outside the Commission's authority*, such as a complaint about an attorney or about a judge's legal decision, the complaint is *dismissed*.* If the complaint appears to be *within the Commission's authority*, a case number is assigned to the complaint and an initial *investigation* is begun.

During the initial *investigation* stage, a complaint is examined to determine if there is enough evidence to warrant a further investigation. Generally, this process includes close examination of the written complaint (including any evidence or explanation attached), and an inspection of any relevant court documents.

If the Commission determines that there is no reliable evidence supporting the complaint, it is *dismissed*.*

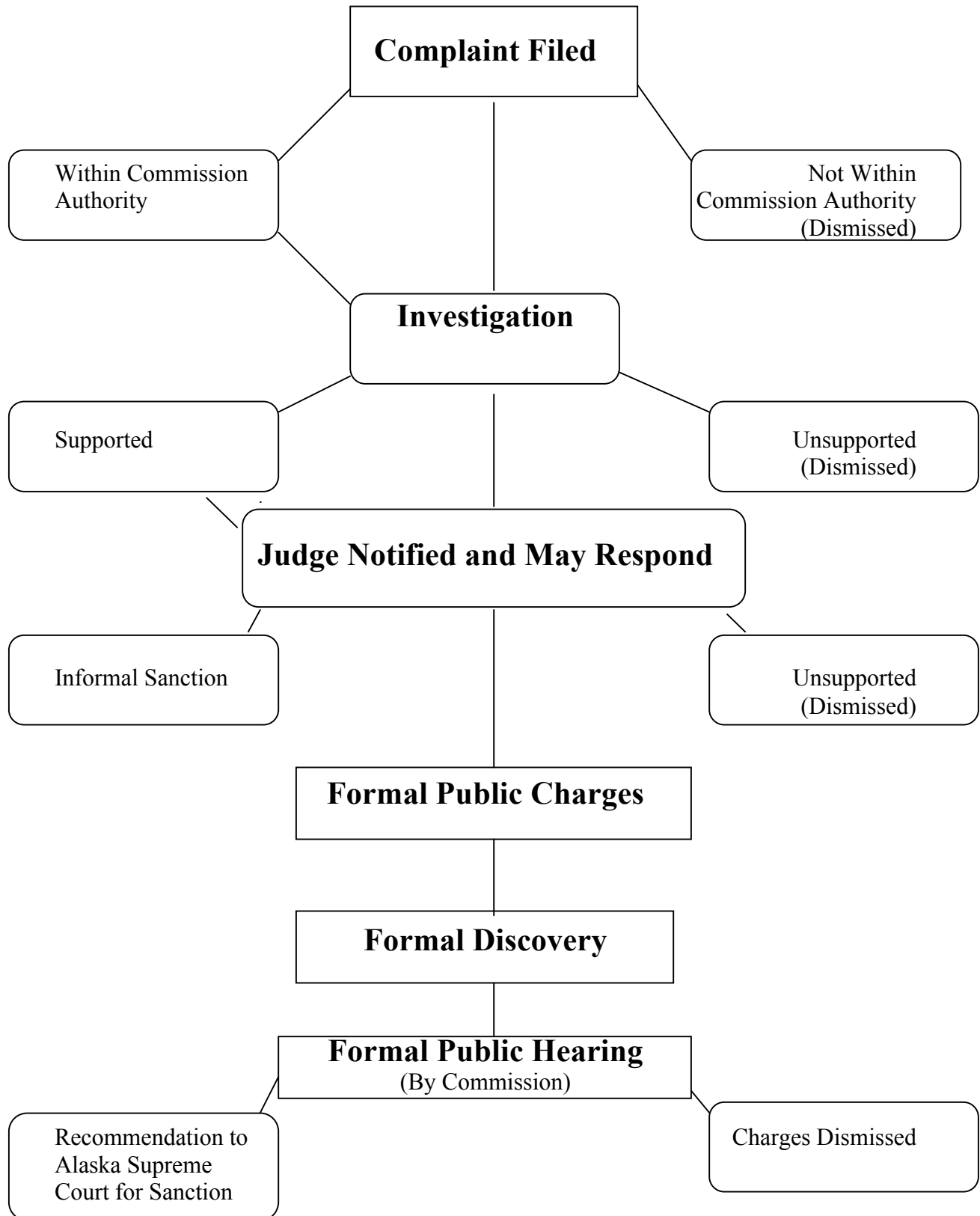
If the Commission determines that the complaint has enough substance to warrant action, the *judge in question is notified and given an opportunity to respond*. During this stage, the judge may receive a private *informal adjustment*, *private discipline*, or, after a determination of probable cause, *formal charges* may issue. If the investigation reveals that the complaint was unfounded, the complaint will be *dismissed*.* The *issuing* of formal charges by the Commission starts a period of *formal discovery*, where both the Special Counsel hired by the Commission and the accused judge gather evidence and information to support their respective positions.

After the formal discovery period, a *public hearing* is held. The hearing is usually conducted by the Commission (but it is possible that a Special Master could be appointed). Special Counsel presents the case against the judge and the judge will often hire an attorney for his or her defense. There are two possible outcomes from the public hearing; either the charges are dismissed, or the Commission finds the judge guilty of misconduct and *recommends sanctions to the Alaska Supreme Court*.

The Alaska Supreme Court may carry out the Commission's recommended sanctions, modify them, or overturn the Commission's decision.

* Prior to dismissal by the Commission, staff notifies the complainant in writing of the staff recommendation to dismiss.

Commission Complaint Process



III. CALENDAR YEAR 2012 ACTIVITIES

A. Summary of Complaints

The tables that follow summarize the current Commission caseload. Complaint filing numbers reflect only written complaints received by the Commission and do not reflect the numerous telephone inquiries staff receives. In 2012, staff responded in writing to 56 inquiries and approximately 150 verbal and e-mail inquiries.

In 2012, staff continued to make a concerted effort to screen many complaints before they actually were filed with the Commission. Twelve new jurisdictional complaints were filed this year. Of those jurisdictional complaints, four were eventually dismissed, leaving eight 2012 jurisdictional complaints that will require investigation. In addition to the 2012 jurisdictional complaints, one jurisdictional complaint from previous years was acted on.

The Commission opens approximately two complaints a month that require staff investigation. In August of 1991, the Commission adopted a policy of processing all new incoming complaints within 90 days. In addition, the Commission established a minimum goal of fully investigating three complaints per month.

Table 1

2012 Complaint Filings

Complaint Filings

Within the Commission's Authority	<i>Jurisdictional</i>	12
Not Within the Commission's Authority	<i>Non-Jurisdictional</i>	61
Total New Complaints		73

Figure 1

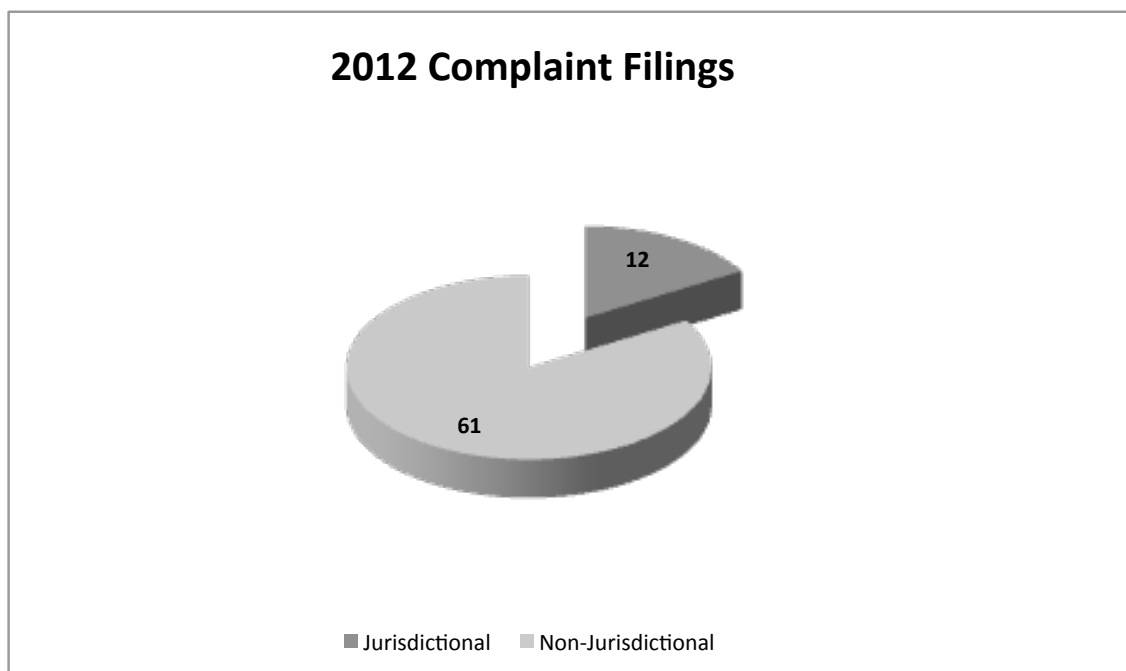


Table 2

Comparison With Previous Years'

Total Accusations Filed by Calendar Year

(includes complaints both within the Commission's Authority and those not within the Commissions authority that were not screened out prior to receipt)

2012	73
2011	72
2010	52
2009	49
2008	61
2007	32
2006	58
2005	48
2004	64
2003	46
2002	44
2001	52
2000	63
1999	48
1998	57
1997	49
1996	38
1995	50
1994	27
1993	54
1992	40
1991	43
1990	38

* Beginning in 1990, Commission staff have made a concerted effort to actively screen accusations that are outside the Commission's authority prior to filing. This active screening process accounts for the apparent drop in accusation filings since 1989.

Figure 2

Comparison with Prior Years' Filings

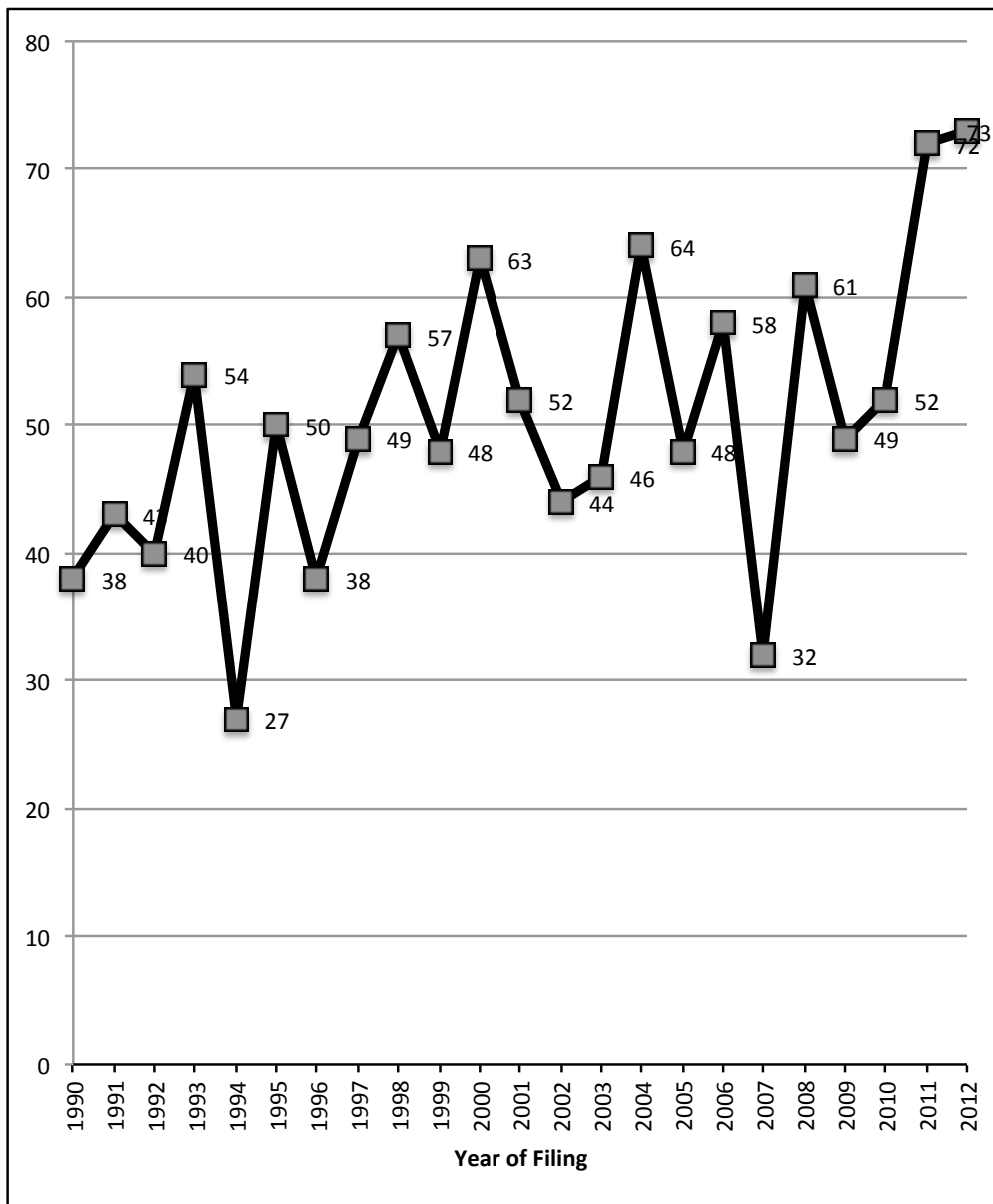


Table 3

Complaint Sources 2008-2012

(Jurisdictional and Non-Jurisdictional)

Complaint Sources	2008*	2009	2010	2011	2012**
Litigants	54	44	55	62	67
Non-Litigants	6	2	6	4	4
Attorneys/Judges	2	1	1	4	0
Commission Initiated	1	1	1	2	1
Court Personnel	0	1	1	0	0

*In 2008: There was a non-litigant and a litigant that filed the same complaint. Also, a lawyer and a non-litigant that filed the same complaint

**In 2012: One complaint was filed by an unidentified complaint source.

Figure 3

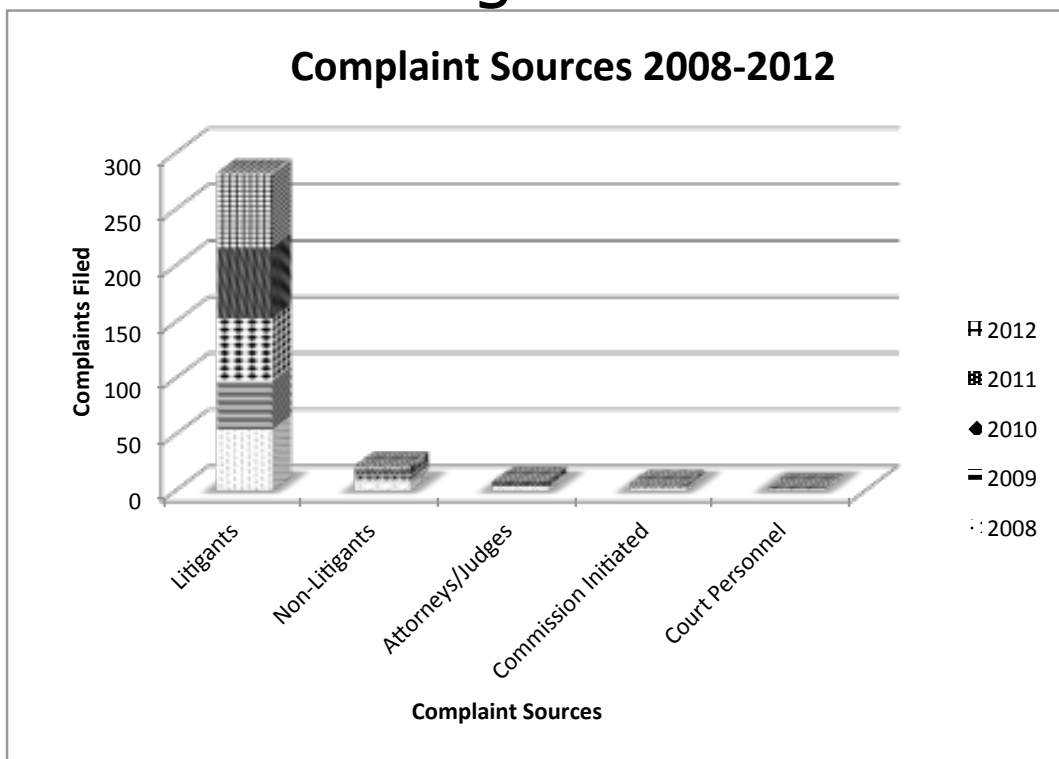


Table 4

2012 Complaint Closures

2011	1
2012	4

Figure 4



Table 5

2012 Complaint Dispositions

Complaints Outside the Commission's Authority

Dissatisfaction with Legal Ruling	56
Complaints Against a Magistrate or Master	1
Complaints Against an Attorney	1
Other	3
Total Non-Jurisdictional Complaints Processed	61

Complaints Within the Commission's Authority

Complainant Did Not Provide Further Information	0
Complainant Withdrew Complaint	0
Investigated then Dismissed	4 *
Other Commission Action	1
Total Jurisdictional Complaints Processed	5 *

* 1 filed in 2011 and acted on in 2012

Figure 5A

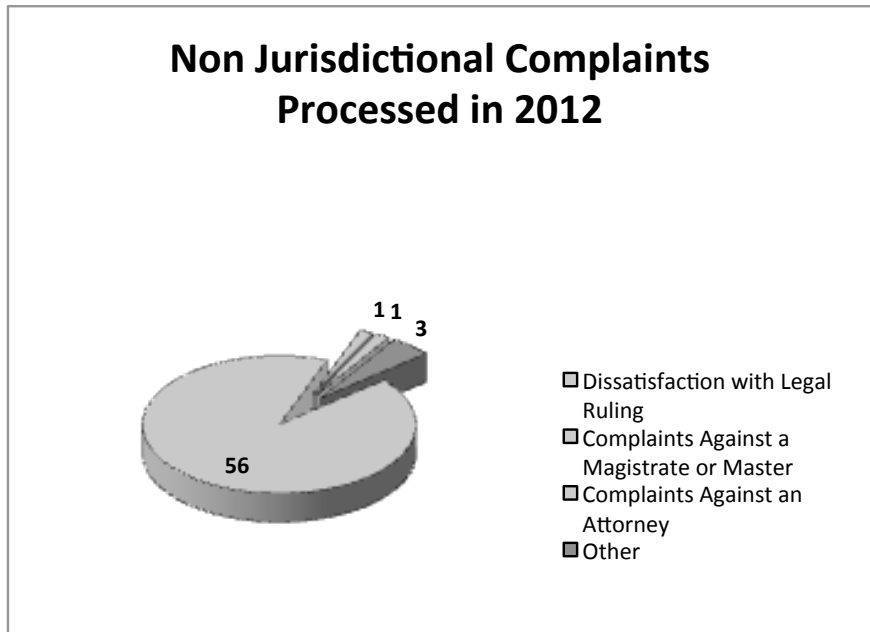


Figure 5B



Table 6

Comparison With Previous Years Closures*

Total Jurisdictional Complaints Closed

2012	5
2011	22
2010	14
2009	13
2008	8
2007	11
2006	11
2005	10
2004	17
2003	17
2002	14
2001	14
2000	19
1999	32
1998	21
1997	15
1996	15
1995	20
1994	30
1993	23
1992	39
1990	53
1989	63

* Prior to 1989, it was the Commission's Policy to open a complaint for every inquiry made with the Commission's office. After 1989, the Commission opened files only for those matters that, on their face, were within the Commission's authority. Therefore, the numbers before 1989 are not directly comparable to those during 1989 and after.

Figure 6

Jurisdictional Complaints Closed Compared to Prior Years

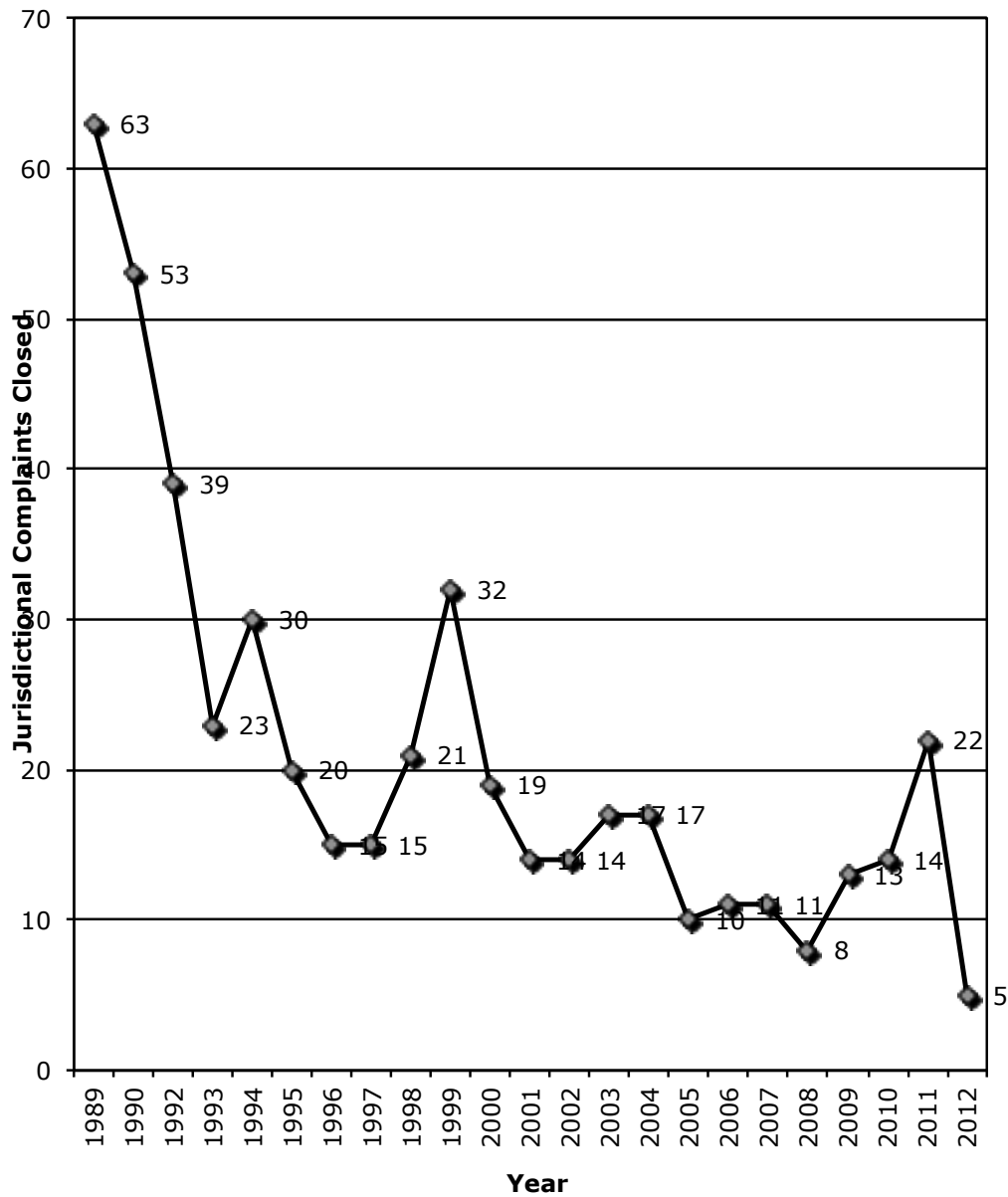


Table 7

Pending Jurisdictional Complaints By Year Filed

(As of December 31, 2012)

2012	8
2011	3

Table 8

Actions Taken 2007-2012

Actions Taken	2007	2008	2009	2010	2011	2012
Complaints Investigated	11	9	13	14	22	14
Judges asked to Respond in writing to alleged misconduct	1	1	1	4	3	1
Judges summoned to explain alleged Misconduct	0	1	2	3	0	2
Cases Dismissed before formal hearing	0	0	0	0	0	0
Cases dismissed as unsubstantiated	0	0	0	0	0	0
Cases dismissed for lack of jurisdiction	32	14	33	53	62	61
Cases dismissed for insufficient evidence after investigation	9	8	10	11	20	1
Private censures, admonishments, reprimands and cautionary letters	1	0	1	1	2	1
Discipline recommended to the Alaska Supreme Court	1	1	0	2	0	1

Figure 8

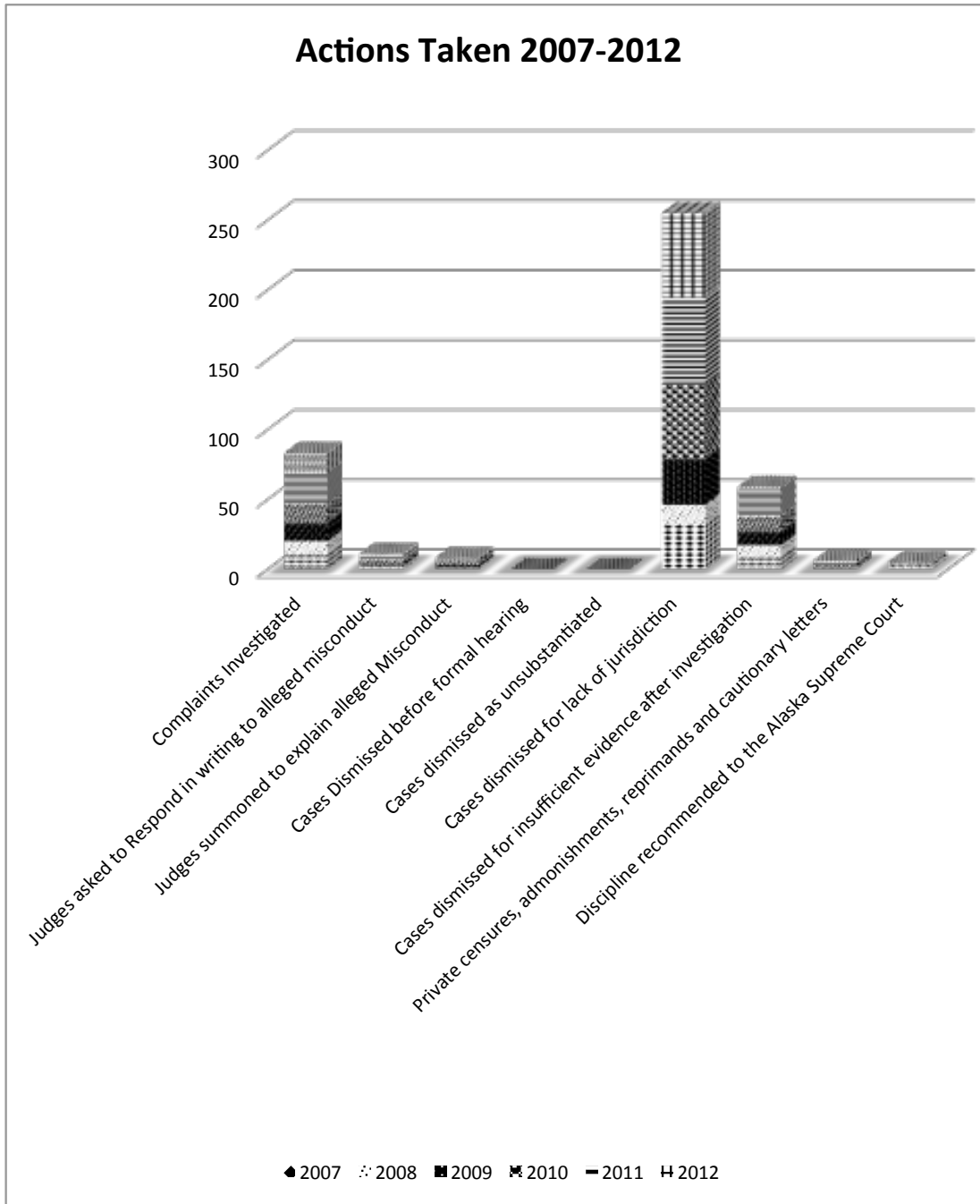


Table 9

Court Levels Involved Jurisdictional Complaints 2007-2012

Court Levels Involved	2007*	2008*	2009*	2010*	2011*	2012*
District Court Judges	0	4	4	6	6	2
Superior Court Judges	7	13	6	8	16	8
Court of Appeals Judges	0	0	0	0	0	0
Supreme Court Justices	0	0	0	0	0	1
Pro-Tem Judges	0	0	0	1	0	1

*Not a total of the category. Some complaints include more than one judge/justice

Figure 9

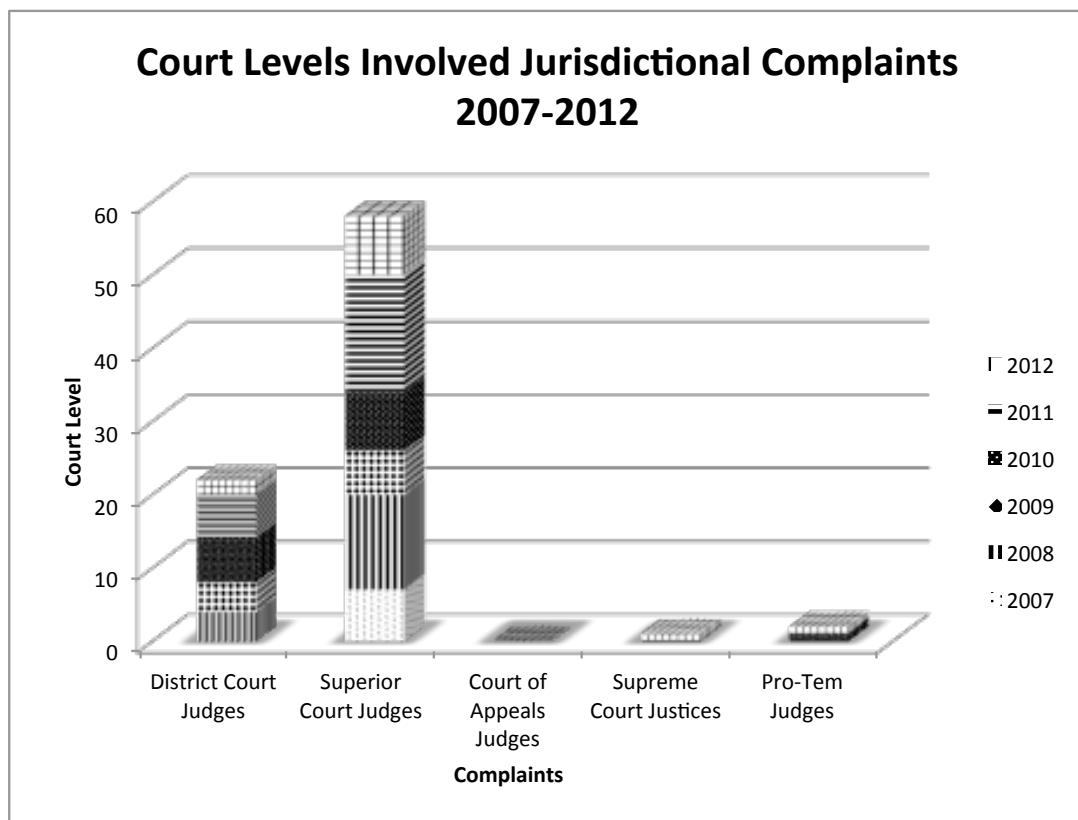


Table 10

Types of Allegations Filed in 2012

(Jurisdictional and Non-Jurisdictional)

Types of Allegations	2012
Dissatisfaction with Legal Ruling	58
Racial, Ethnic, or Gender Bias	0
Ex Parte Communications	2
Abuse of Judicial Power	2
Injudicious Courtroom Decorum	2
Administrative Inefficiency	0
Conflict of Interest/Failure to Disqualify	1
Criminal Activity	0
Personal Misconduct Off the Bench	0
Appearance of Impropriety	1
Other/General Misconduct/Non-Judges	3
Demeanor	1
General Bias	1
Delay	2
Vague Assertion of Bias	0
Complaint Against Custody Investigator	0
Disability	0
Administrative Failure	2

* some complaints have more than one type of allegation

Figure 10

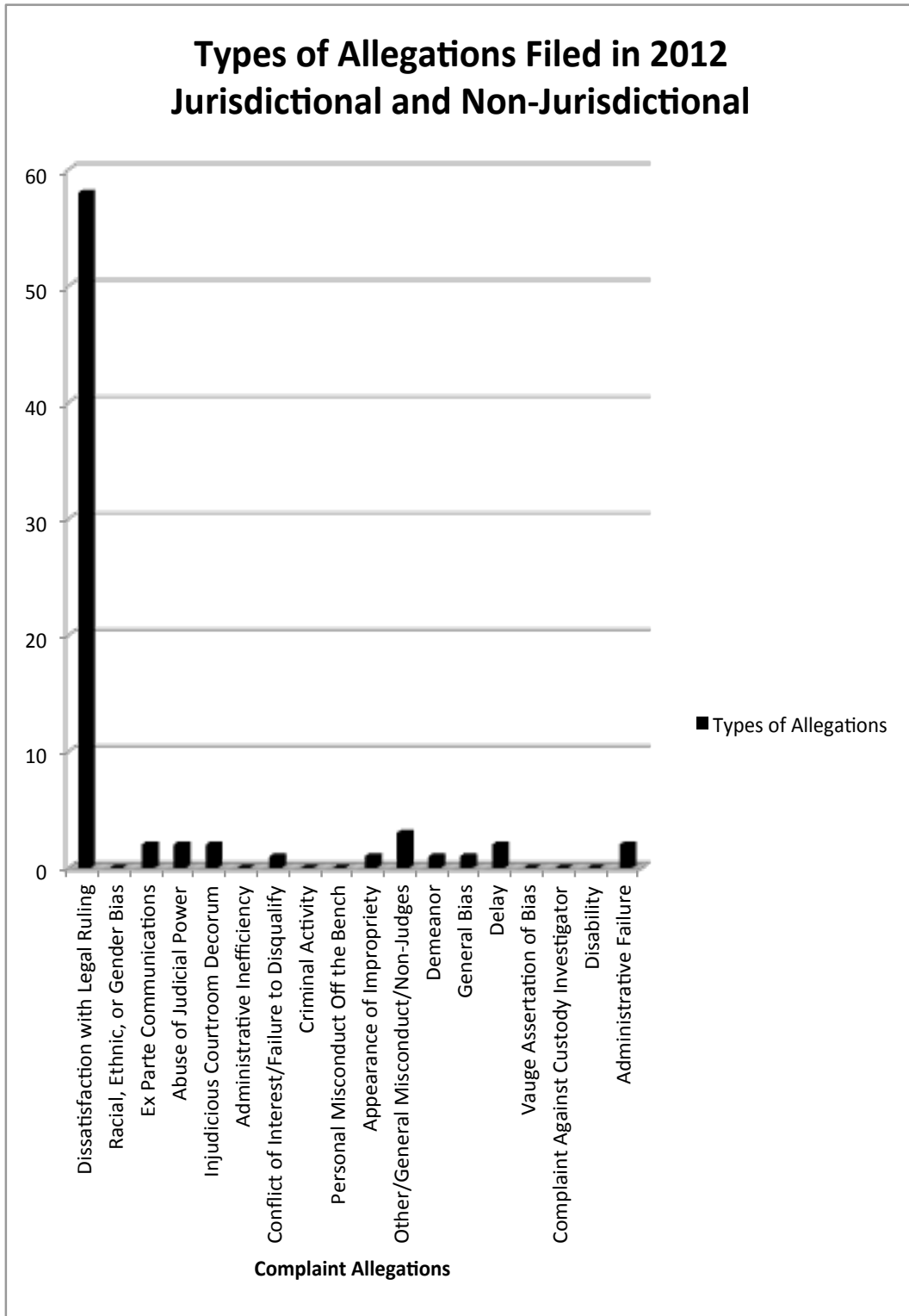


Table 11

2012 Recusals By Commissioners and Staff

Total Complaints Voted on in 2012 **57**

Judge Member Recusals	1
Attorney Member Recusals	1
Public Member Recusals	0
Staff Member Recusals	1

B. Commission Meetings

During 2012, the Commission held two regular meetings. With a full-time staff of two, the Commission continues to increase its case processing and fine-tune its procedures. Staff consistently works to increase staff responsiveness. Increased responsiveness increases the Commission's accessibility and has resulted in increased interaction with the public. Current funding levels allow for four regular meetings a year in Anchorage.

2012 Regular Meeting Locations

March 16 & 17 2012	Anchorage
Oct 8, 2012	Anchorage

2012 Special Meetings Locations

No special meetings were held in 2012

C. Outreach

Commission brochures inform the public of its purpose and functions. Brochures are available to the general public free of charge, through the Commission's office. In addition, Commission members and staff address bar associations, court administrators, local community groups, and judicial programs. The Commission also maintains membership in the American Judicature Society's Center for Judicial Conduct Organizations.

D. Formal Proceedings

The Commission held one formal proceeding in March 2012. The hearing resulted in a recommendation of removal from office. The recommendation was filed with the Alaska Supreme Court April 3, 2012 (In re Cummings).

E. Rules of Procedure

The Commission's operations are governed by its own Rules of Procedure. While the statutes relating to the Commission broadly outline the Commission's responsibilities, the Rules of Procedure define how the Commission operates. In 1991, the Commission revised its rules clarifying many rules and increasing their scope. In 1998 a committee consisting of four commission members, one attorney member, one public member, and two judge members, was established for the purpose of refining and modifying the Rules of Procedure. The Commission adopted this revision on December 1, 2000.

The Rules Revision Committee's work focused on enhancing the rules in the areas such as discovery, evidence, motions, role of the chair, executive director's role and authority, standards for reopening complaints, deliberative process, the formal hearing, and settlement. In June 2003, the Notice Rule was revised to allow notice to a judge in anticipation of action at an upcoming meeting. Most recently, Rule 5(e) was revised to specify the form that information would be released pursuant to a waiver.

The rules revisions are circulated for public comment prior to their adoption. The Commission's efforts are directed toward improving its public responsiveness, creating the fairest procedures, and fulfilling its directive under the state constitution. The Commission's current Rules of Procedure are included in **Appendix I**.

F. Staffing

The Commission staff currently consists of an executive director and an administrative assistant.

IV. COMMISSION FINANCES AND BUDGET

The Commission's finances are planned according to the state fiscal year (July 1 - June 30). Each year the Commission on Judicial Conduct submits its budget request to the legislature. The Commission's resources are appropriated from the state general operating fund.

A. Fiscal Year 2014 Budget

In FY 2013, the legislature appropriated \$388,600.00 to the commission. This money enables the Commission to operate a staff of one executive director and one administrative assistant.

B. Fiscal Year 2012 Activity

All but one of the previous year's pending complaints were closed in 2012; however, eight 2012 complaints are pending investigation.

V. FUTURE ACTIVITIES

A. Commission Meetings

January 18, 2013	Anchorage
April 26, 2013	Anchorage
July 2013	Anchorage
October 2013	Anchorage

B. Caseload

In 2013, the Commission anticipates receiving approximately 60 complaints against judicial officers, of which 20 may require staff investigation.

C. Legislation

At the Commission's request, the House Judiciary Committee introduced a bill in 1989 that opened the Commission's formal hearings to the public. House Bill 268, passed in May 1990, also established a standard deadline of six years for complaints against judges to be filed with the Commission. (The former law required a period of not more than six years before the start of the judge's current term; creating different time limits for different judges.) The law also explicitly includes part-time or temporary judges within the Commission's authority. That law's enactment also made all Commission formal hearings and recommendations to the Alaska Supreme Court open to the public. In 1997, the Commission conducted its first public hearing under this legislation.

D. Formal Ethics Opinions

In 1991, the Commission issued its first Formal Ethics Opinions. These opinions are based on actual Commission complaints that resulted in some form of private informal action. Formal Ethics Opinions are reported in a way that protects confidentiality. Only the minimum facts necessary to an understanding of the opinion are reported. The Commission continues to adopt new formal ethics opinions as the situations arise. These opinions are included in **Appendix G**.

E. Advisory Opinions

At the March 1, 1996, meeting, the Commission adopted a rule authorizing the issuance of advisory opinions to judges who would like guidance regarding ethical dilemmas. Special committees of the Commission draft opinions in response to written requests. A final opinion issues from the Commission and is confidential unless the requesting judge asks that it be public. In 2012, the Commission did not adopt any new advisory opinions. Advisory opinions are included in **Appendix H**.

Staff also provided over 100 informal ethics opinions to judicial officers and court personnel.

F. Other Activities

In 2013, the Commission will continue developing and conducting educational programs for judicial officers on various judicial conduct issues. While advisory opinions provide guidance to individual judges addressing specific ethical issues, there is an ongoing need to provide general guidance to all judges in this changing field.

Again in 2012, the Commission provided self-study materials, covering a variety of ethics topics for both new and experienced judges. In addition, the Commission continues to participate with the court system's judicial education committee and presents judicial programs periodically addressing a variety of ethical issues.

In 2000, the Commission jointly published Alaska Judicial Applicant Guidelines with the Alaska Judicial Council and the Alaska Bar Association. The publication gives guidance to judicial applicants and their supporters regarding the ethical considerations when soliciting support from others. There are suggestions for preferred methods and tone of communications as well as an appendix of resource materials. This publication was reprinted in 2003.

Other outreach activities will continue and expand to further general public awareness of the Commission functions. Staff will continue to address community groups and meet individually with members of the general public. In addition, the Commission will periodically pay for display newspaper advertisements that highlight the Commission's purpose and invite public participation.

The Commission also hopes to continue work with the state and local bar associations to identify areas of concern that attorneys have encountered. A very small percentage of current complaints against judges are filed by attorneys.