

# **GEORGIA JUDICIAL QUALIFICATIONS COMMISSION**

## **2019 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 disciplining judges in the State of Georgia.

This calendar year, the Commission welcomed several new members as well as a new Director, 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. Commission members and staff have presented at various conferences across the State to discuss the Code of Judicial Conduct.

Third, this Report provides information on Commission meetings and updates to the Commission's website. In 2019, the Commission began and completed various internal projects, such as an informational video and an updated document retention policy. This section also provides a brief overview of the digital data breach at the Administrative Office of the Courts which impacted the Commission, and then 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 2019. In 2019, the Commission received 525 formal complaints. Of those 525 that were screened and reviewed, 86 warranted further investigation. In addition, the Commission held its first formal proceeding before the newly-created Hearing Panel, resulting in the recommended removal of a Superior Court Judge.

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

#### **I. Investigative 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.

The Commission's Investigative Panel saw three of its members complete their tenure in 2019. Attorney Edward Tolley, appointed by the Governor, finished his term in June 2019. As

the Commission Chair, Mr. Tolley played a significant role for the Investigative Panel by presiding over its monthly meetings. Mr. Tolley was replaced as Commission Chair by W. Pope Langdale, III, by a unanimous vote of the Investigative Panel Commission Members. As Mr. Langdale was already an attorney-member of the Commission, the Governor appointed former U.S. Congressman, Bob Barr, to Mr. Tolley's seat on the Commission. Mr. Barr's extensive legal background and dedication to public service will certainly serve the Commission well during his term.

Judge Louisa Abbot also completed her tenure on the Investigative Panel in June 2019. As a Supreme Court appointee, Judge Abbot played an important role on the Investigative Panel as one of its two Judge members. After Judge Abbot's departure, the Supreme Court appointed Superior Court Judge Verda Colvin of the Macon Judicial Circuit to the Commission. Judge Colvin's extensive experience as a Federal and State prosecutor and her numerous years on the Superior Court bench will be a valued addition to the Investigative Panel.

Mr. Richard Hyde's term also expired in June 2019. Subsequently, the Speaker of the House of Representatives re-appointed Mr. Hyde to a second term on the Investigative Panel. Mr. Hyde is the Commission's longest standing member and brings a wealth of institutional knowledge regarding past and present procedures and investigations.

## **II. Hearing Panel Members**

In 2019, former Cobb County Public Safety Director Michael Register stepped down from his post on the Commission after two years of valued service. As of December 31, 2019, that seat remained vacant. The seat will be filled by Governor Kemp in 2020.

The Commission welcomes new members Judge Colvin and Mr. Barr and is grateful to Mr. Tolley, Judge Abbot, and Mr. Register for their service.

## **III. Commission Staff**

In 2019, Ben Easterlin retired as Director of the Commission. Mr. Easterlin was hired in 2017 to assist in the formation of the newly reconstituted Commission. As a former Chair of the JQC, Mr. Easterlin brought vast experience and leadership to the position of Director as the reconfigured JQC found its footing under the new statutory scheme. The Investigative Panel selected Charles Boring as the new Commission Director, and Mr. Boring took over in December 2019. Mr. Boring brings nearly two decades of experience as a prosecutor to the Commission, which will assist him in investigating judges, responding to ethical questions, and helping to educate judges on the Code of Judicial Conduct.

The Commission is excited for this new chapter and optimistic of its continued growth and success under Mr. Boring's direction.

## **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, is to help educate judges. Accordingly, Commission members and staff presented at numerous conferences hosted by the Institute of Continuing Judicial Education ("ICJE") in 2019.<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 problems. 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 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 via e-mail or phone. Once an inquiry has been received, the Director typically issues an opinion within one week of said request.

In 2019, the Director rendered approximately fifty written opinions on a wide range of ethics topics including: part-time judges practicing law, judges serving on charitable and community boards, judges engaging in political activity, ex-parte communications, and fundraising activities. These opinions will 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.

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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 in 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>.

## **PART THREE: COMMISSION MEETINGS AND ACCESSIBILITY**

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

This past year, the Investigative Panel of the Commission met approximately once a month. These meetings typically occurred at the State Bar of Georgia Conference Center in Atlanta, Georgia.

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.

This practice of monthly meetings at the State Bar was the historical practice of the Commission under the old rules and continues to work well. The Investigative Panel plans to continue these meetings in the future at the State Bar with occasional meetings at other locations around the State.

### **VII. Meeting with Georgia Supreme Court Liaisons**

In October 2019, members of both the Hearing and Investigative Panels met with Supreme Court Commission Liaisons Justice Michael Boggs and Presiding Justice David Nahmias. The meeting focused on procedural matters concerning Commission Rules and the Code of Judicial Conduct. Because of the constant interchange between these bodies and the various role each plays in amending, revising, and promulgating these governing doctrines, it is useful to periodically meet so as to ensure the Commission continues to function smoothly and to provide an opportunity to address procedural issues as they arise.

### **VIII. Commission Video**

In 2019, the Commission created a new informational video which is accessible on its website. Among other things, this video provides a brief history and background of the Commission, answers frequently asked questions regarding its jurisdiction and the investigatory process, and provides step-by-step guidance on how to file a complaint. This video marks the latest development in the Commission's ongoing effort to help educate the public on its processes and procedures.

### **IX. Commission Accessibility**

Each month, the Commission posts a variety of informational items on its website. These items include 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.

#### **X. Document Retention Policy**

In 2019, the Commission initiated drafting a new record retention policy for complaints received. The Commission's policy is based on other similar Government agencies that utilize successful document retention practices. The proper retention of Commission records reduces wasteful storage and helps preserve essential Commission documents.

#### **XI. 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.

#### **XII. Cyber Attack**

In June 2019, the Administrative Office of the Courts suffered a ransomware attack that caused a major disruption to its computer network. The Commission was affected by the cyber breach because it is located in the Administrative Office of the Courts and utilizes that agency's servers to house its electronic documents. While the cyber breach has prevented Commission staff from accessing various electronic files, none of information contained therein was exposed to external parties during the attack. Nevertheless, in an effort to prevent similar cyber threats in the future, the Commission commenced upgrading its server security and reevaluating its digital retention system.

### **PART FOUR: CASE NUMBERS AND DATA FROM 2019**

#### **XIII. Commission Investigations**

At any given time, the Commission's Investigative Panel is conducting between fifteen to forty active investigations of judicial misconduct. There are two general stages of investigation: preliminary investigations and full investigations. In a preliminary investigation, the Investigative Panel 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 are true or at least warrant further and more in-depth investigation. If that is the case, the Investigative Panel can 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 a full investigative stage.<sup>2</sup>

#### **XIV. Commission Trials**

The Investigative Panel filed formal charges in a case in 2018 which resulted in a trial before the Hearing Panel in February 2019. The Charges in that matter stemmed from a Superior Court Judge improperly converting over \$15,000.00 from the Court registry for his personal expenditure. Based on the evidence and testimony presented by the Director at the hearing, the Hearing Panel found the judge guilty of the formal charges and recommended that the judge be removed from office. That matter is currently stayed in the Georgia Supreme Court pending the disposition of a related appeal in the Georgia Court of Appeals.

#### **XV. Formal Charges**

In 2019, the Investigative Panel of the Commission authorized the Director to file formal charges in two inquires.

A Magistrate Court Judge was alleged to have engaged in an extra-judicial relationship with a litigant following her appearance before the Judge and when this litigant subsequently appeared before the judge for another matter, the Judge did not disclose his previous interactions with the litigant. Shortly after filing Formal Charges, the Director and the Judge reached an agreed-to discipline to resolve the case.

A Municipal Court Judge was alleged to have failed to properly perform her judicial duties through her habitual tardiness and absenteeism and general abuse of the power of the judicial office exhibited through her official and unofficial conduct. That matter is currently ongoing.

### **PART FOUR: CASE NUMBERS AND DATA FROM 2019**

#### **XVI. Complaint Data**

The charts and numbers below reflect the complaints received and processed in 2019. This data does not reflect complaints that the Commission has not processed or acted upon.<sup>3</sup>

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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.

<sup>3</sup> A portion of the digital records concerning complaints and their corresponding investigatory information was lost because of the cyberattack on the Administrative Office of the Courts. Consequently, some portions of the charts in the Complaint Data section of this Report are incomplete.

Number of Complaints Received	525
Number of Complaints Rejected due to no merit or lack of jurisdiction	387
Number of Complaints Investigated	83

a. Classification of Complaints

Litigants, Friends, Relatives	199
Inmates	90
Judges	2
Attorneys	11
Media/Public Information/Comm. Initiated	17
Self-Report	2
Court personnel	1
Law enforcement/Prosecutors	0

b. Classes of Judges/Types of Court

Juvenile	28
Magistrate	70
Municipal/Recorder's	17
Probate	32
State	41
Superior	298
Judicial Candidate	0
Supreme	12

c. Categories of Complaints

Judicial Decision/Discretion	48
Mental Impairment/Incapacity	5
Bias/Prejudice/ Partiality	45
Failure to Timely Dispose/Rule	32
Ex-parte communication	4
Conflict of interest/ Failure to Recuse	10
Denial of fair hearing	27
Demeanor/ Injudicious Temperament	10
Mistreats lawyers/litigants	5
Campaign Activity	
Failure to follow law	121
Use of judicial position for personal gain	6

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

Rejected after initial review	387
Dismissed after preliminary investigation	54
Concluded with Instruction/Caution to Judge	5
Concluded with Admonishment to Judge (now a “Private Admonition” under Commission Rule 6.B)	2
Judge Resigned During Investigation	3
Pending	17

**CONCLUSION: LOOKING TOWARDS THE FUTURE**

In 2019, the Commission bid farewell to members and key staff, and welcomed new members and a new Director ushering in a promising era for the Commission. The Commission saw a significant increase in the number of complaints received this year, likely due to the streamlined filing procedure via the Commission website. That trend is expected to continue in 2020. In addition, the Commission held its first trial before the Hearing Panel. The new trial proceeding structure exemplifies the Commission’s commitment to protecting judge’s due process rights and fostering transparency in Government by ensuring that these hearings are open to the public. To that end, the Commission also enhanced public accesses to information on its website by posting upcoming and past meeting materials. 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.com](http://www.gajqc.com).

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

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<sup>4</sup> Numbers in this table do not correspond with the number of docketed cases as dockets from previous years are resolved in the present year and other dockets continue forward.