

**STATE OF ALASKA**  
**COMMISSION ON JUDICIAL CONDUCT**



**2008 ANNUAL REPORT**  
**Without Appendices**

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**Anchorage, Alaska 99501**  
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**(800) 478-1033**  
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**ALASKA COMMISSION ON  
JUDICIAL CONDUCT  
2008 Roster**

**Judge Members**

**Judge Jane F. Kauvar**

Alaska District Court  
101 Lacey St  
Fairbanks, Alaska 99701  
*(Term expires February 1, 2012)*

**Judge Patricia A. Collins**

Superior Court Courthouse  
Box 114100  
Juneau, Alaska 99811  
*(Term expires February 1, 2011)*

**Judge Ben J. Esch**

Alaska Superior Court  
Box 1110  
Nome, AK 99762  
*(Term expires February 1, 2012)*  
(Chairperson)

**Attorney Members**

**Peter Aschenbrenner**

P.O. Box 73998  
Fairbanks, Alaska 99707  
*(Term expires March 1, 2012)*

**Thomas Nave**

227 7<sup>th</sup> Street  
Juneau, Alaska 99801  
*(Term expires March 1, 2012)*

**Jan S. Ostrovsky**

605 W. Fourth Ave. 138  
Anchorage, Alaska 99501  
*(Term expires March 1, 2013)*

**Public Members**

**Henry Novak**

1029 W. 3<sup>rd</sup> Avenue, Suite 550  
Anchorage, AK 99501  
*(Term expires March 1, 2011)*

**Robert Sheldon**

1029 W. 3<sup>rd</sup> Avenue, Suite 550  
Anchorage, Alaska 99501  
*(Term expires March 1, 2012)*

**Chris Brown**

1029 W. 3<sup>rd</sup> Avenue, Suite 550  
Anchorage, Alaska 99501  
*(Term expires March 1, 2013)*

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# **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

## Current Judicial Members

**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 PATRICIA COLLINS** is a graduate of Gonzaga University School of Law. Judge Collins has served as a judge since 1995 and currently serves as a superior court judge in Juneau.

**HONORABLE JANE KAUVAR** is a graduate of Boalt Hall School of Law, Berkeley, California. She came to Alaska in 1973 to clerk for Chief Justice Jay Rabinowitz and then worked for the District Attorney's Office and the Public Defender Agency, before being appointed to the Fairbanks District Court bench in 1981. During a sabbatical in 2001, Judge Kauvar earned a Master of Laws at the University of Queensland, Brisbane, Australia.



## Current Attorney Members

**JAMES J. FAYETTE** is the Chief of the State Department of Law, Special Prosecutions Office. He is a 1985 graduate of the University of Vermont and a 1988 graduate of Boston University School of Law. Fayette has been a member of the Massachusetts bar since 1988, and of the Alaska bar since 1991. Mr. Fayette came to Alaska in 1989 as a U.S. Army Judge Advocate. Fayette was assigned as Fort Richardson's sole court-martial prosecutor for most of his active duty tour. Fayette is a 1989 graduate of the U.S. Army Airborne (basic parachutist) School, and a recipient of the U.S. Army Meritorious Service Medal. After leaving active duty, Fayette served as an assistant district attorney at the Anchorage District Attorney's Office from 1993-2004. After a short period of private practice at the firm of Delaney, Wiles, Hayes, Gerety, Ellis & Young, Fayette returned to work as a prosecutor with the Office of Special Prosecutions in early 2005. Fayette is a frequent lecturer at State Trooper and municipal police academies. He has served as a volunteer instructor for Anchorage Youth Court for more than ten years, and as its board president from 1996-1998. In May 2001, Fayette received Victims for Justice's annual recognition award for outstanding community service to crime victims.

**PETER J. ASCHENBRENNER** practices law in Fairbanks and Anchorage as a business lawyer and civil litigator. He holds a J.D. degree from the University of California at Berkeley; he served as the first court rules attorney for the Alaska Supreme Court (1973-1974), as United States Magistrate Judge in Alaska (1974 – 1991), and has published ten books on Alaska legal topics. He is a member of the Alaska Bar Association since 1972 and currently Alaska chair of the United States Supreme Court Historical Society.

**THOMAS G. NAVE** is a graduate of Northwestern School of Law at Lewis and Clark College in Portland, Oregon, and has been a member of the Alaska Bar Association since 1977. He was an associate in private practice for two years before joining the Public Defender Agency as a trial lawyer in 1979. In 1981, he became the deputy director for the agency and remained so until 1985. In 1985 he formed and practiced with the firm of Gullufsen and Nave until 1991. Since that time he has been a sole practitioner in the area of criminal defense, personal injury and legal malpractice. He previously served on the Alaska Judicial Council for six years and has served on the Commission since August 2004.

## **Current Public Members**

**HENRY K. NOVAK** was born in Clarks Point, Alaska July 11, 1950. Henry is of German/ Eskimo heritage. He was raised in Bristol Bay and Anchorage, Alaska and lived over much of the State of Alaska. He has a Bachelor of Science Degree in Psychology and has been the Director of Cook Inlet Council on Alcohol and Drug Abuse on the Kenai Peninsula for 12 years with offices in Kenai and Homer. His work with the drug and alcohol field has kept him in close contact with the legal system as drug and alcohol abuse plays a great part in the caseload of the legal system. Henry has been married to Susan Novak for over 37 years and has one son who is grown and married with one daughter. Henry was appointed to the Conduct Commission in 2007. His interests include flying, boating, gardening and being out in Alaska to enjoy the state we live in.

**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. He is a Principal of Arbor Capital Management, Inc., which he co-founded in 1996, a volunteer in the business community facilitating, financing and 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 13 years and has three sons. Robert was appointed to the Conduct Commission in 2008. His interests include family, remote rafting, exploration, and coaching.

**THIRD POSITION WAS VACANT DURING 2008**

# **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 Patricia A. Collins  
Alaska Superior Court  
P.O. Box 114100  
Juneau, Alaska 99811

### **Second Judicial District**

Honorable Ben Esch  
Alaska Superior Court  
Box 1110  
Nome, Alaska 99762

### **Third Judicial District**

Honorable Morgan Christen  
Alaska Superior Court  
825 W. Fourth Avenue  
Anchorage, Alaska 99501

### **Fourth Judicial District**

Honorable Douglas Blankenship  
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  
1029 W. 3<sup>rd</sup> Ave., Suite 550  
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.

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\*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.

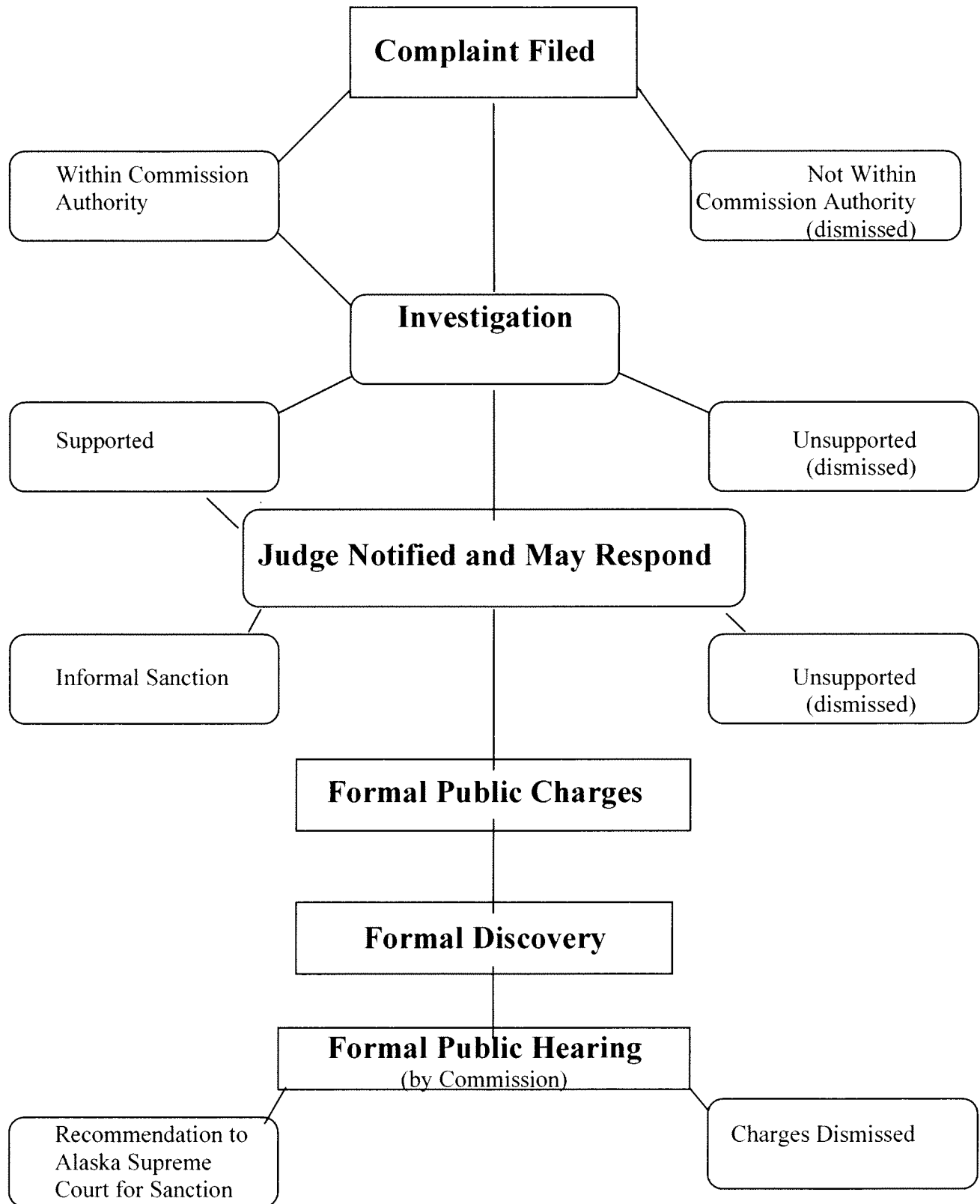
After the formal discovery period, a *public hearing* is held. The hearing is usually conducted by the Commission (but it is possible that a Special Master could be appointed). Special Counsel presents the case against the judge and the judge will often hire an attorney for his or her defense. There 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.

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

# Commission Complaint Process



### **III. CALENDAR YEAR 2008 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 2008, staff responded in writing to 57 inquiries and approximately 150 verbal and e-mail inquiries.

In 2008, staff continued to make a concerted effort to screen many complaints before they actually were filed with the Commission. Seventeen new jurisdictional complaints were filed this year. Of those jurisdictional complaints, five were eventually dismissed, leaving twelve 2008 jurisdictional complaints that will require investigation. In addition to the 2008 jurisdictional complaints, three jurisdictional complaints from previous years were 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

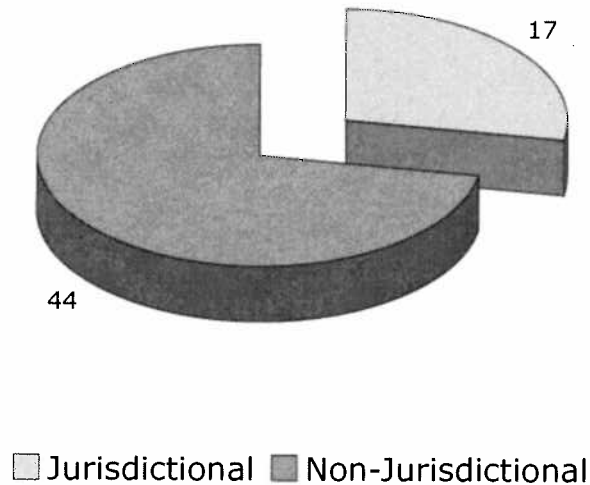
## 2008 Complaint Filings

### Complaint Filings

Within the Commission's Authority	<i>Jurisdictional</i>	17
Not Within the Commission's Authority	<i>Non-Jurisdictional</i>	44
<b>Total New Complaints</b>		<b>61</b>

## Figure 1

### 2008 Complaint Filings



# Table 2

## Comparison With Previous Years' Filings

### Total Accusations Filed by Calendar Year

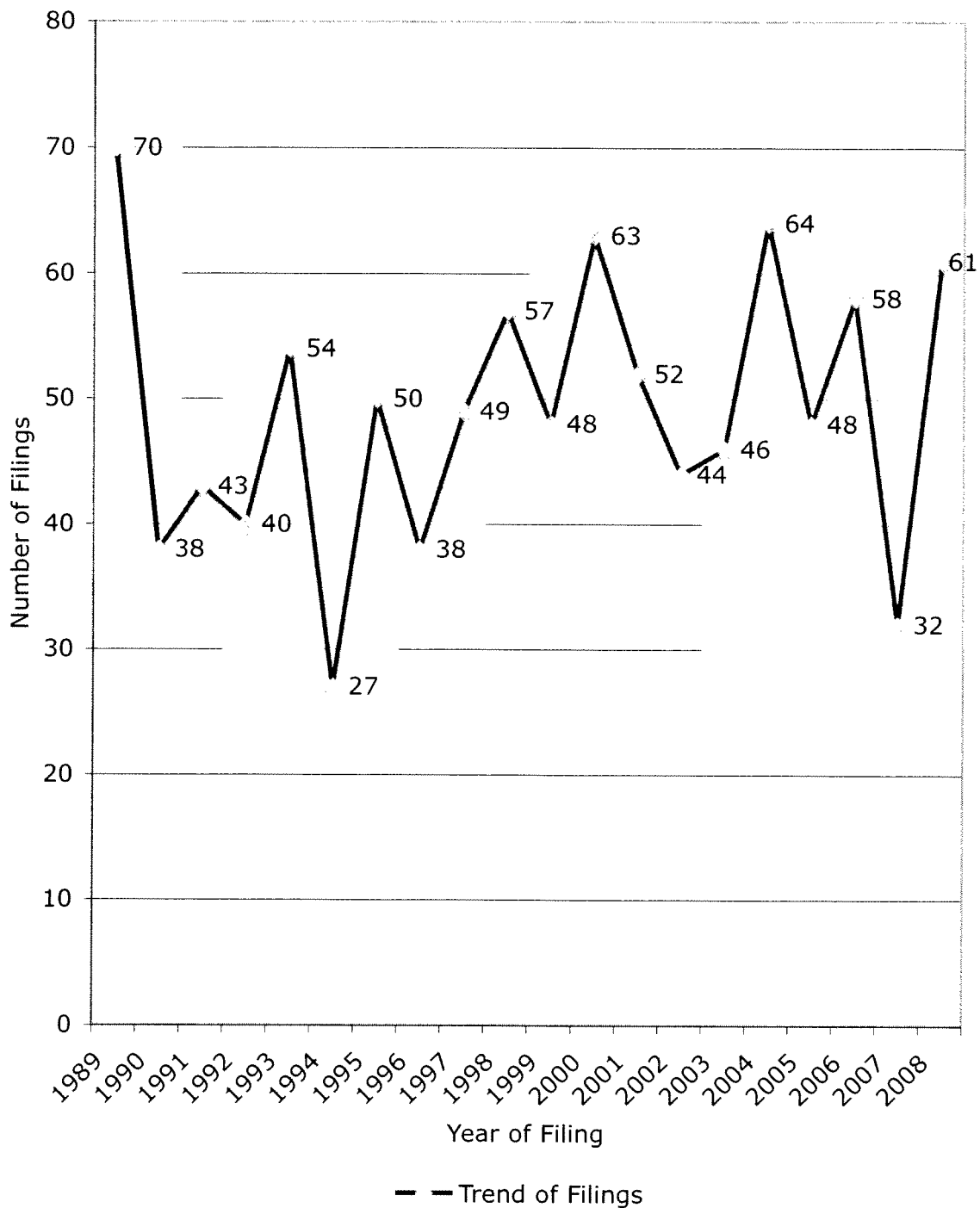
(includes complaints both within the Commission's Authority and those not within the Commissions authority that were not screened out prior to receipt)

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
1989	70

\* 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 2003-2008

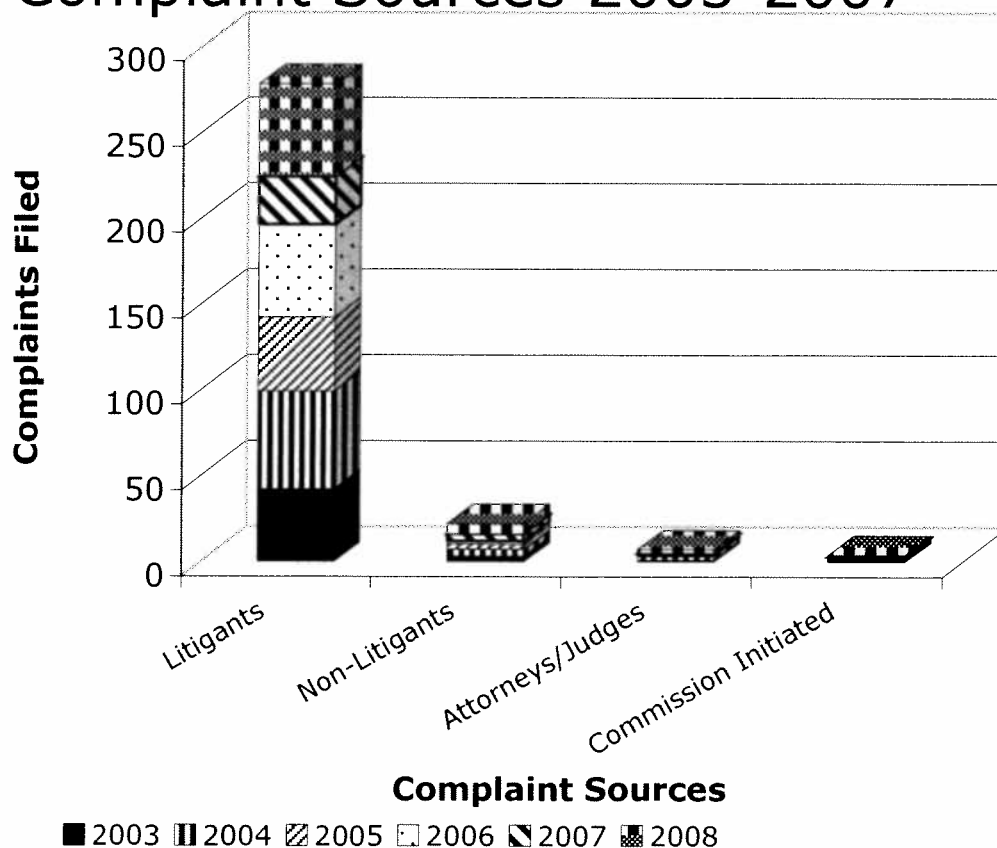
(Jurisdictional and Non-Jurisdictional)

<b>Complaint Sources</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008*</b>
Litigants	42	57	43	54	28	54
Non-Litigants	3	4	3	2	4	6
Attorneys/Judges	1	2	1	1	0	2
Commission Initiated	0	1	1	1	0	1

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

## Figure 3

### Complaint Sources 2003-2007



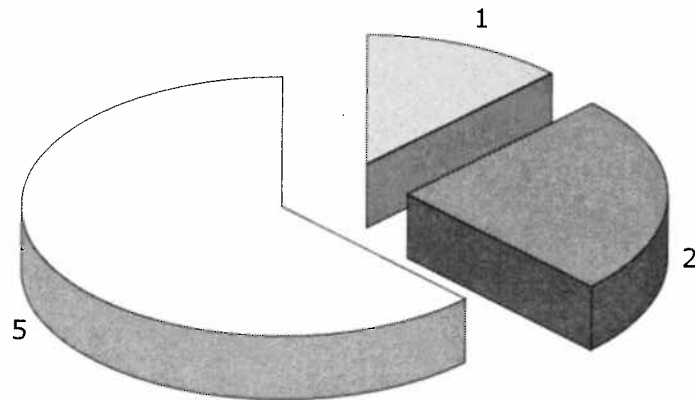
# Table 4

## 2008 Complaint Closures

2006	1
2007	2
2008	5

# Figure 4

## 2008 Complaint Closures



2006 2007 2008



# Table 5

## 2008 Complaint Dispositions

### *Complaints Outside the Commission's Authority*

Dissatisfaction with Legal Ruling	14
Complaints Against a Magistrate or Master	9 *
Complaints Against an Attorney	0
Other	0
<b>Total Non-Jurisdictional Complaints Processed</b>	<b>14</b>

### *Complaints Within the Commission's Authority*

Complainant Did Not Provide Further Information	0
Complainant Withdrew Complaint	0
Investigated then Dismissed	8
Consolidated with Other Complaints	0
Referred to Supreme Court	1 **
Other Commission Action	0
<b>Total Jurisdictional Complaints Processed</b>	<b>8 ***</b>

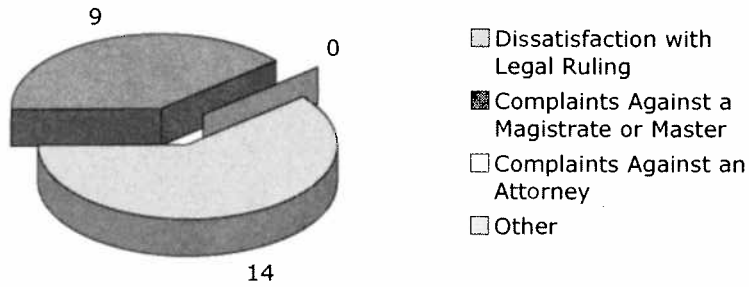
\* Referred to the Presiding Judge for Action

\*\* was not completely processed in 2008

\*\*\* 1 was filed in 2006, 2 were filed in 2007, and were acted on in 2008

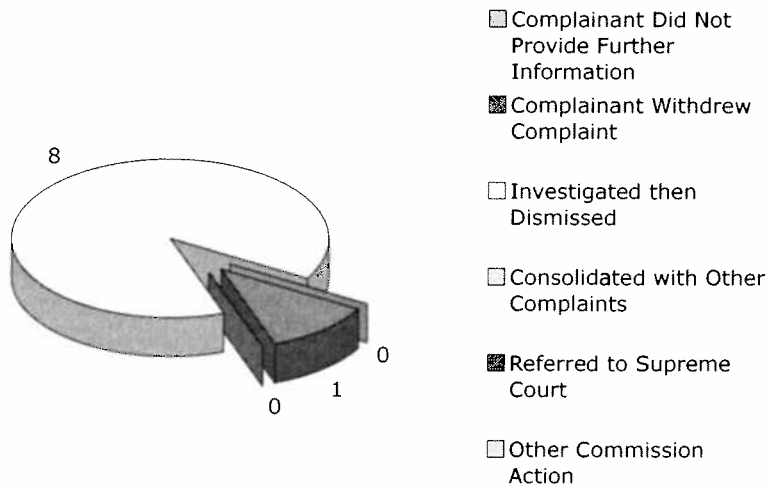
# Figure 5A

## Non Jurisdictional Complaints Processed in 2008



# Figure 5B

## Jurisdictional Complaints Processed in 2008



# Table 6

## Comparison With Previous Years Closures\*

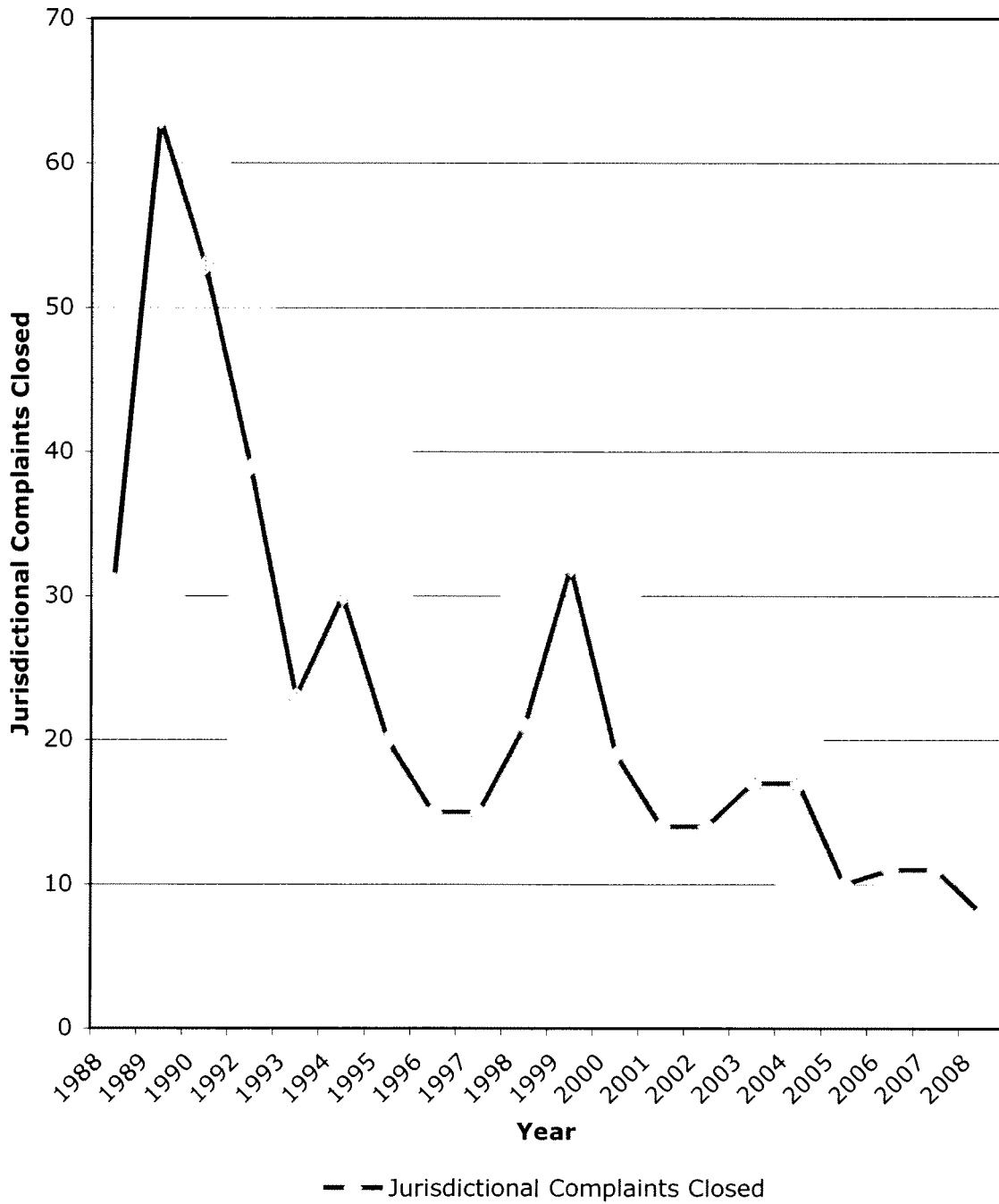
### Total Jurisdictional Complaints Closed

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
1988	31

\* 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, 2008)

2008	12
2007	0
2006	0
2005	0

## Table 8

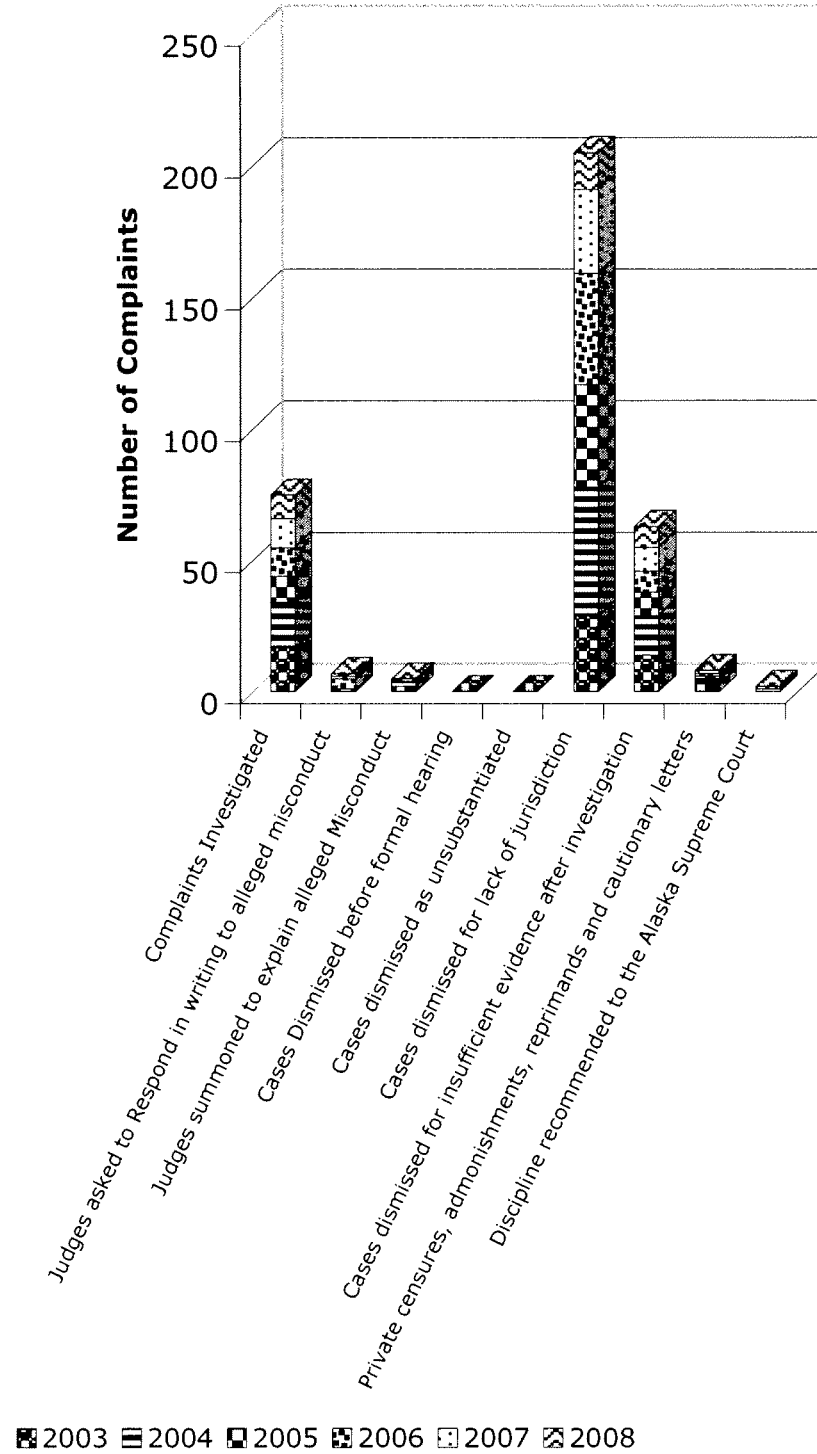
### Actions Taken 2003-2008

<b>Actions Taken</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Complaints Investigated	17	17	10	11	11	9
Judges asked to Respond in writing to alleged misconduct	0	0	1	4	1	1 *
Judges summoned to explain alleged Misconduct	2	2	0	0	0	1 *
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	29	49	39	42	32	14
Cases dismissed for insufficient evidence after investigation	14	15	9	8	9	8
Private censures, admonishments, reprimands and cautionary letters	3	2	1	1	1	0
Discipline recommended to the Alaska Supreme Court	0	0	0	0	1	1 *

\* Pertains to a single case

# Figure 8

## Actions Taken 2003-2008



# Table 9

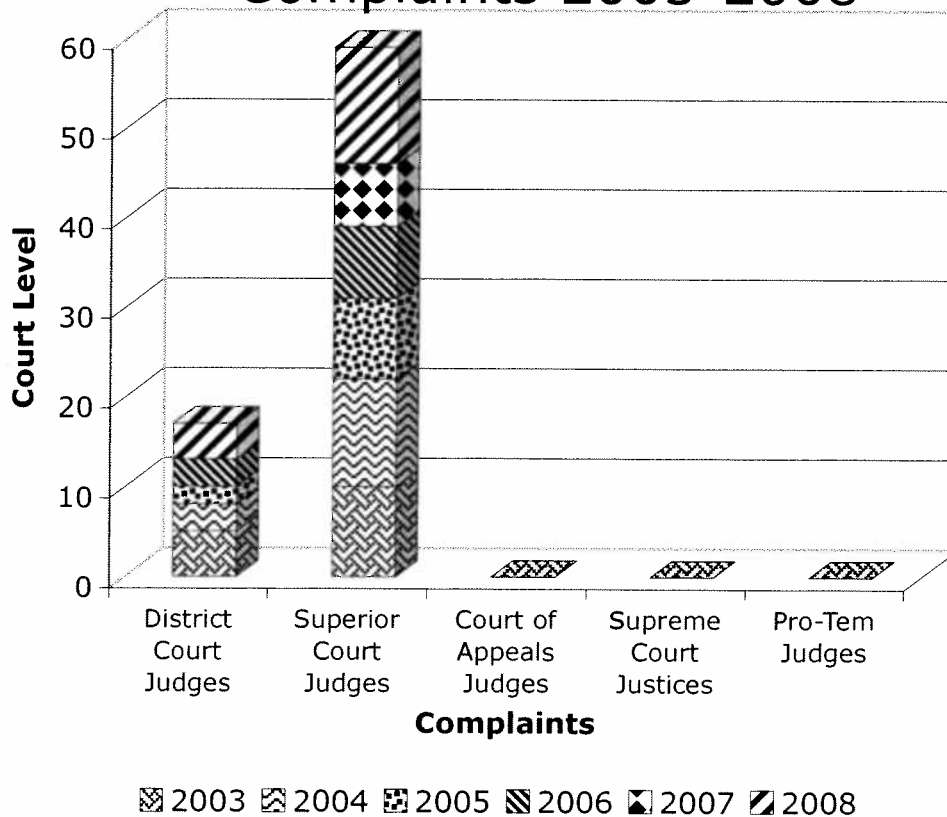
## Court Levels Involved Jurisdictional Complaints 2003-2008

<b>Court Levels Involved</b>	<b>2003*</b>	<b>2004*</b>	<b>2005*</b>	<b>2006*</b>	<b>2007*</b>	<b>2008*</b>
District Court Judges	5	3	2	3	0	4
Superior Court Judges	10	12	9	8	7	13
Court of Appeals Judges	0	0	0	0	0	0
Supreme Court Justices	0	0	0	0	0	0
Pro-Tem Judges	0	0	0	0	0	0

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

## Figure 9

### Court Levels Involved Jurisdictional Complaints 2003-2008





# Table 10

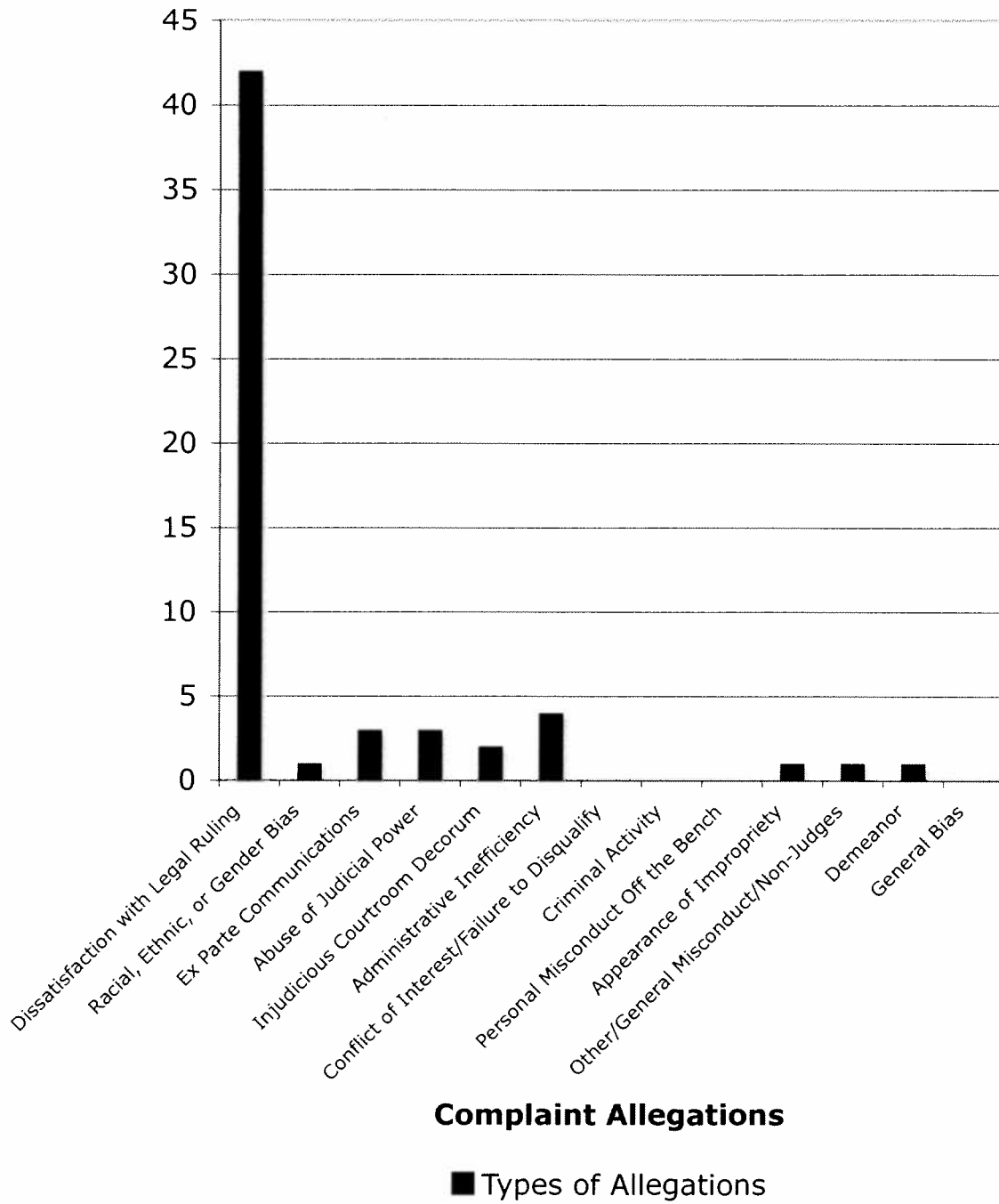
## Types of Allegations Filed in 2008

(Jurisdictional and Non-Jurisdictional)

<b>Types of Allegations</b>	<b>2008</b>
Dissatisfaction with Legal Ruling	42
Racial, Ethnic, or Gender Bias	1
Ex Parte Communications	3
Abuse of Judicial Power	3
Injudicious Courtroom Decorum	2
Administrative Inefficiency	4
Conflict of Interest/Failure to Disqualify	0
Criminal Activity	0
Personal Misconduct Off the Bench	0
Appearance of Impropriety	1
Other/General Misconduct/Non-Judges	1
Demeanor	1
General Bias	0

# Figure 10

Types of Allegations 2008  
Jurisdictional and Non-Jurisdictional



# Table 11

## 2008 Recusals By Commissioners and Staff

**Total Complaints Voted on in 2008** **22**

Judge Member Recusals	2
Attorney Member Recusals	1
Public Member Recusals	0
Staff Member Recusals	1

## **B. Commission Meetings**

During 2008, the Commission held two regular meetings and two teleconference 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.

### **2008 Regular Meeting Locations**

January 25, 2008	Anchorage
May 19, 2008	Anchorage

### **2008 Special Meetings Locations**

March 20, 2008	Teleconference
June 19, 2008	Teleconference

## **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 November 2008. The hearing resulted in a recommendation of suspension and is pending before the Alaska Supreme Court.

## **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.

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 2009 Budget**

In FY 2008, the legislature appropriated \$325,200.00 to the commission. This money enables the Commission to operate a staff of one executive director and one administrative assistant.

### **B. Fiscal Year 2008 Activity**

All previous year's pending complaints were closed in 2008, however, twelve 2008 complaints are pending investigation.

## **V. FUTURE ACTIVITIES**

### **A. Commission Meetings**

January 26, 2009	Anchorage
April 13, 2009	Anchorage
June 29, 2009	Anchorage
October, 2009	Anchorage

## **B. Caseload**

In 2009, 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 2007, the Commission adopted one new Advisory Opinion. 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 2009, 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 2008, 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.