



New York State Commission on Judicial Conduct

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Legal Authorities

Constitution: *Art. VI, §22*

Judiciary Law: *§§40-48*

Rules Governing Judicial Conduct:

22 NYCRR Part 100

Commission Operating Procedures & Rules:

22 NYCRR Parts 7000, 7001

Commission Policy Manual

Appointment to the Commission

11 Commission Members

Governor
(appoints 4 members)

- 1 must be a judge
- 1 must be a lawyer
- 2 must be non-lawyers

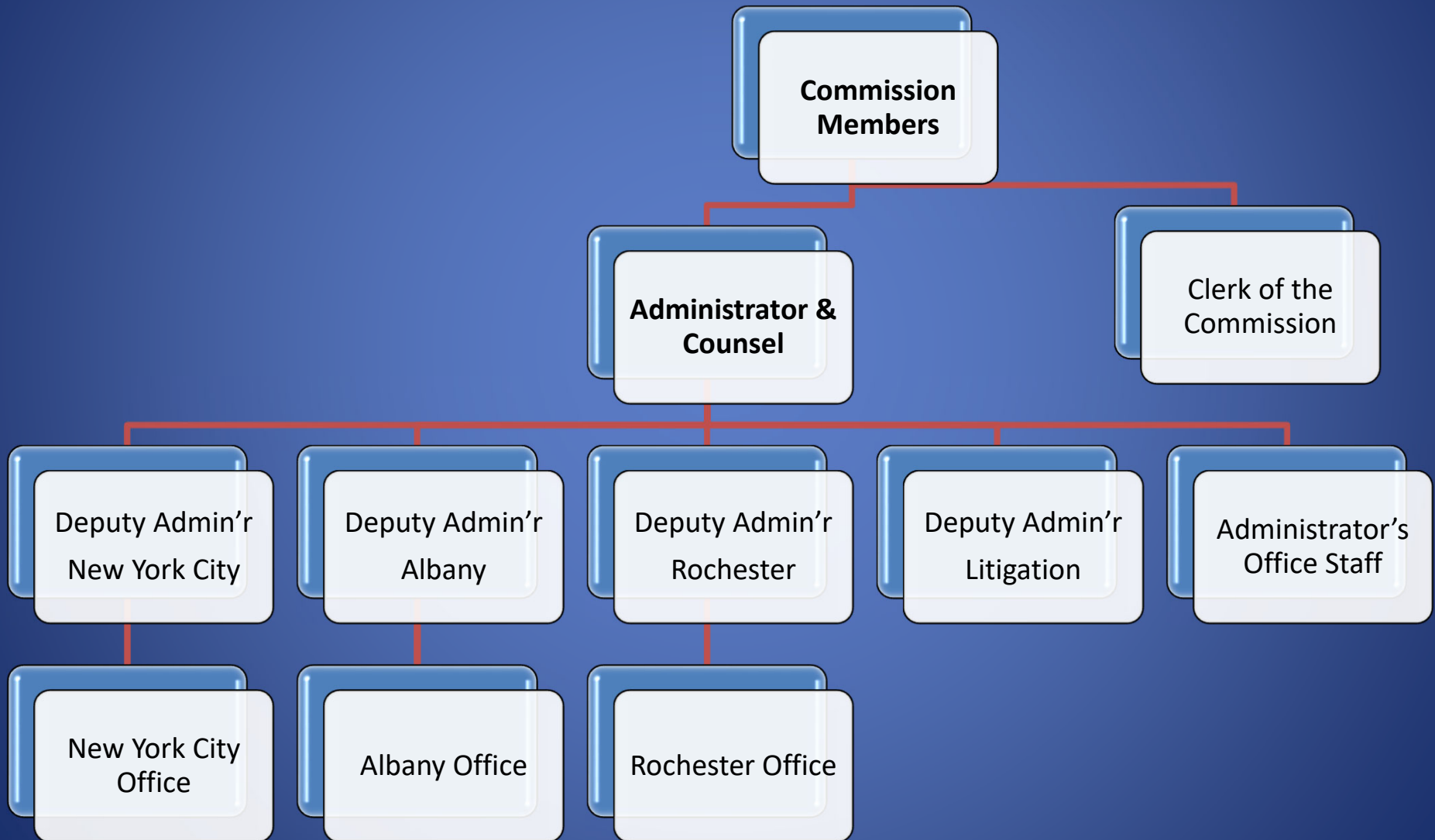
Chief Judge
(appoints 3 judge
members)

- 1 must be from Appellate Division
- 1 must be a town or village justice

Four Legislative Leaders
(each appoint one
member)

- May be a lawyer or non-lawyer
- May not be a judge or former judge

Table of Organization



Jurisdiction



The Commission has jurisdiction over 3,400 Judges and Justices of the State Unified Court System

No jurisdiction over:

- Administrative Law Judges
- Judicial Hearing Officers
- NYC Housing Court Judges
 - Non-judges
 - Federal Judges



Quick Overview of Complaint & Disciplinary Process

Complaint received

Initial review & inquiry by staff

Commission reviews all complaints

If Warranted:

Investigation

Formal charges filed against judge

Due process proceedings

Commission determination

Review by Court of Appeals

Confidentiality

Judiciary Law Sections 44 & 45

- All proceedings are confidential unless:
 - Judge waives confidentiality
 - Commission determines to publicly discipline a judge



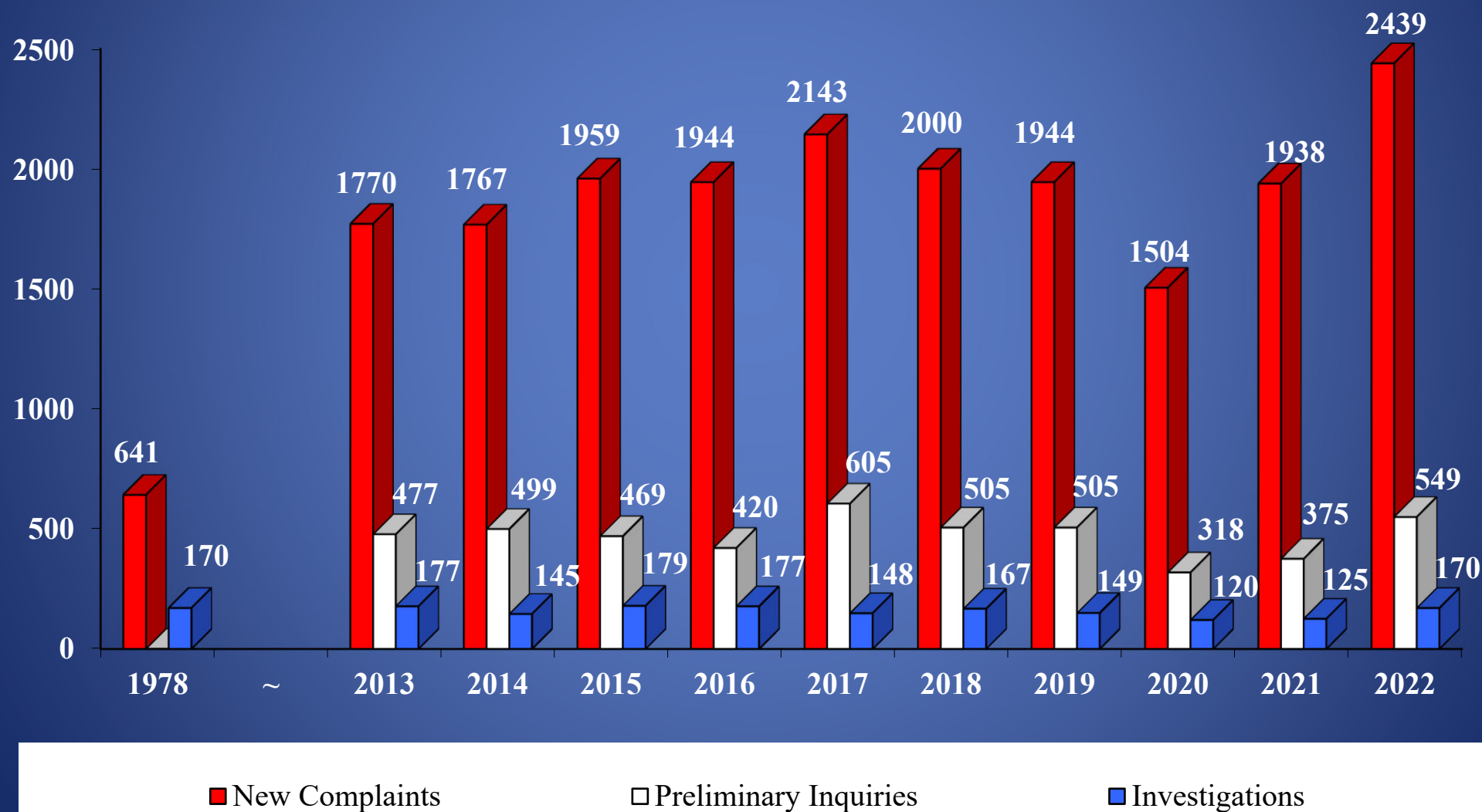
Incoming Complaints



➤ Staff analyzes incoming complaints, conducts initial review and inquiry where necessary (*e.g.* interviews, document review)

The Commission receives over 2,400 complaints per year

10-Year Overview of Complaints



Commission Review of Complaints

- Commission reviews all incoming complaints, including results of initial reviews & inquiries
 - Considers complaints on its own motion and directs Administrator to file complaint



Disposition of New Complaints



Commission may:

- ✓ Dismiss complaint
- ✓ Refer to another agency (e.g. attorney grievance committee, District Attorney)
- ✓ Authorize investigation, including testimony from the judge

The Investigation

After Commission
Authorizes Investigation

Witnesses
interviewed;
subpoenas issued,
records reviewed

Commission reviews
results of investigation

Judge's testimony
may be taken

Judge may present
information to
Commission

**Complaint
dismissed or
closed**

Complaint closed
pursuant to
stipulation. Judge
agrees to vacate
judicial office and
never seek nor accept
judicial office in the
future. Stipulation
becomes public.

**Letter of
Dismissal and
Caution to
judge**

**Referral to
another
agency**

**Formal
Written
Complaint
against judge**

Three Stages of a Formal Disciplinary Proceeding

The following three charts depict the various stages involved in resolving a Formal Written Complaint:

- pleadings and motions
- evidentiary hearing or stipulated agreement
- oral argument and Commission determination
 - Court of Appeals review

Formal Written Complaints

Commission authorizes Formal Written Complaint
(i.e. Charges)

Charges drawn & verified by Administrator; served on
judge

Judge may move to
dismiss charges

Judge files Answer

Administrator &
judge may
stipulate to close
case if judge
resigns;
Commission must
approve

Administrator &
judge submit
Agreed
Statement of
Facts for
Commission
approval

Administrator
or judge move
for **summary**
determination;
Commission
decides

Commission
appoints a
referee to
preside at
hearing

Formal Written Complaints

Stipulation

- Judge agrees to vacate office and never seek nor accept judicial office in the future.
- The stipulation, and decision and order closing the matter, become public

Agreed Statement of Facts

- Stipulates as to facts, misconduct, and may include sanction
- If no sanction in Agreed Statement, Commission entertains written and oral argument as to sanction

Summary Determination

- If granted, Commission entertains written and oral argument as to sanction

The Hearing

- Referee presides
- Rules of evidence
- Post-hearing briefs to referee
- Referee files report w/ Commission
 - Findings of fact
 - Conclusions of law
- Commission entertains written and oral argument on referee's report, sanction

Commission Renders Determination

Stage Two

Formal Written Complaints

Stage Three

Commission Determination

Private

**Letter of
Caution**

**Dismissal of
Charges**

Public

Admonition

Censure

**Removal from
Office**

**Retirement
for Disability**

Review by Court of Appeals

New York State's Highest Court
(at request of disciplined judge)

A Brief History

The following pages offer a
brief history of the
development of the
Commission system in
New York



Before there was a Commission...



Court on the Judiciary

(Ad hoc court for discipline of higher court judges)


Appellate Divisions

(Discipline of lower court judges)

No permanent judicial disciplinary staff,
office or procedures

Temporary Commission (1974)

1974: New York State Legislature created a Temporary State Commission on Judicial Conduct, with limited authority to investigate complaints and recommend action against judges for engaging in misconduct. The Commission's authority was expanded by constitutional amendments in 1976 and 1978 (following pages).

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1960: California is first to create a judicial disciplinary commission.

Today: All 50 states and the District of Columbia have a judicial disciplinary commission of some sort.

Constitutional Amendment (1976)

➤ 9 Commission Members

➤ Powers:

- ❖ Investigate complaints
- ❖ Privately Admonish Judges
- ❖ Commence Hearings before Court on the Judiciary and Appellate Division
- ❖ Courts decide whether to Censure, Suspend or Remove Judges from office

2nd Constitutional Amendment

(1978)

- 11 Commission Members instead of 9
- Powers:
 - ❖ Investigate complaints
 - ❖ Conduct formal disciplinary hearings
 - ❖ Determine that a judge be publicly admonished, censured, removed from office, retired for disability
 - ❖ Decisions are final unless disciplined judge seeks review in Court of Appeals



For More Information
Please Visit the Commission's
Website:

www.cjc.ny.gov