

**DISTRICT OF COLUMBIA COMMISSION
ON JUDICIAL DISABILITIES AND TENURE**

515 FIFTH STREET, N.W., BUILDING A, ROOM 246
WASHINGTON, D.C. 20001
(202) 727-1363

February 16, 2022

Hon. Charles Allen
Chair
Public Safety and Justice Committee
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

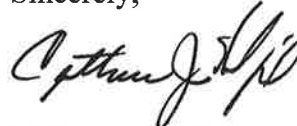
Dear Mr. Chairman:

Attached please find the answers to the questions you submitted to the Commission in preparation for our Oversight Hearing on February 18, 2022.

If you have any questions, please let me know.

Thank you.

Sincerely,

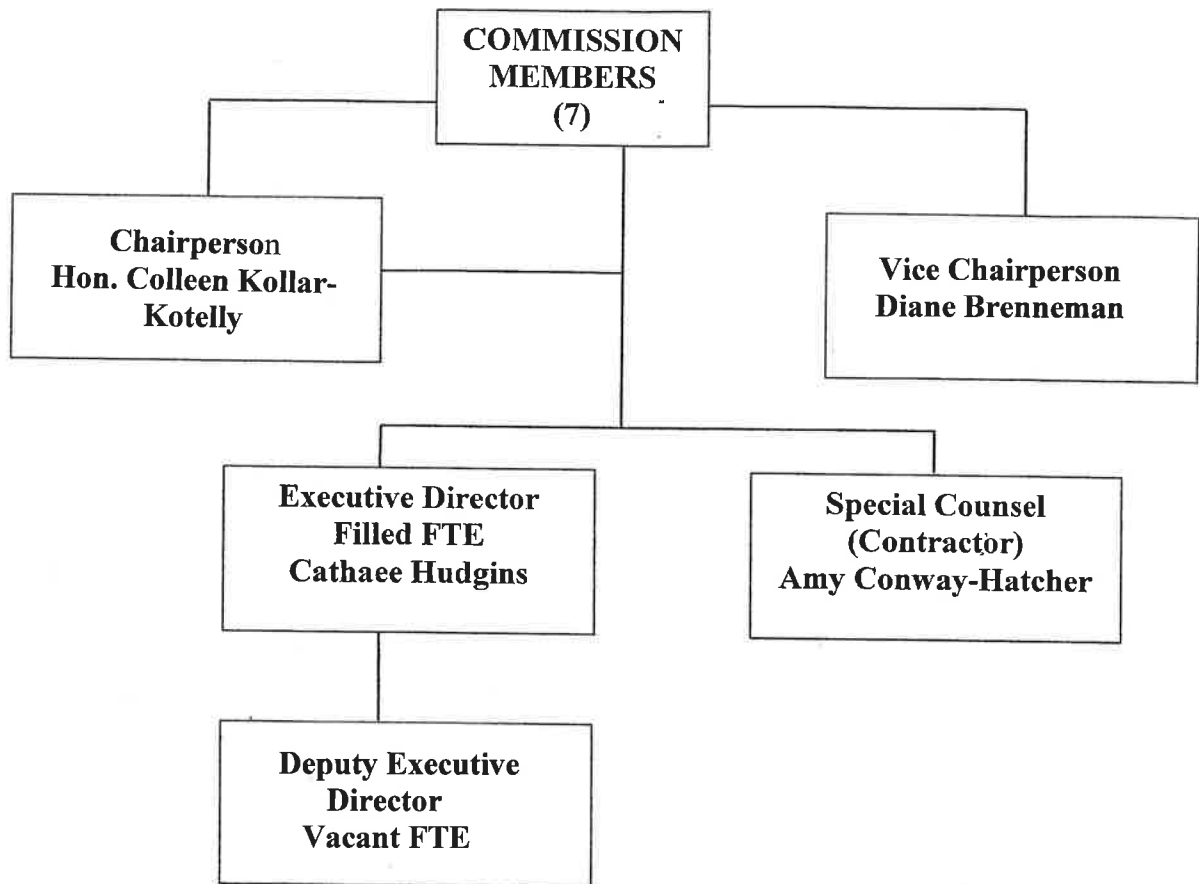
A handwritten signature in black ink, appearing to read "Cathae J. Hudgins", with a stylized flourish at the end.

Cathae J. Hudgins
Executive Director

TENURE COMMISSION RESPONSES TO COUNCIL QUESTIONS

1. The Commission's most recent organizational chart is provided below.

COMMISSION ON JUDICIAL DISABILITIES AND TENURE ORGANIZATIONAL CHART



- a. The Commission does not have divisions or subdivisions.
- b. There were no changes made to the organizational chart in FY20, and none made thus far in FY21.
2. The Commission's Schedule A is attached as requested.
3. The Commission has not detailed any employees to another agency, and has not requested any employees to be detailed to the Commission during FY 20, and thus far in FY21.
4. a. The Commission does not own, lease, or use a vehicle.

5. The Commission did not enter into an MOU during FY 21, and has not done so thus far in FY 22.
6. As appropriate, the Commission does interact with nation-wide Judicial Conduct Commissions, as well as engages in specific legal consultations with the District of Columbia Office of the Attorney General. The Commission has not otherwise collaborated with any analogous agencies in other jurisdictions, with federal agencies, or with non-governmental organizations in FY 21, and has not done so thus far in FY 22.
7. The Commission's intra-District transfers for FY 21 and FY 22 are as follows:

FY21

OCTO IT ServUs	\$9,873
Web Maintenance	
Applications	
ECIS	
NOC	
Telephone	\$5,652

FY22

OCTO IT ServUs	\$7,451
Web Maintenance	
Applications	
ECIS	
NOC	
Telephone	\$6,415

8. The Commission did not maintain, use, or have available for use, any special purpose revenue bonds, during FY 21 or FY 22, to date.
9. The Commission's Executive Director, Ms. Cathae Hudgins, was authorized to use the agency smart card in FY 21, and she continues to use the card thus far in FY 22. The smart card purchases in FY 21 totaled \$3,573.98, and the expenditures were for office supplies, postage meter rental, messenger service, and equipment maintenance. The smart card purchases thus far in FY 22 have totaled \$2,003.97 and the expenditures have been for office and copier supplies, postage, postage meter rental, and messenger services.
10. The Commission had no capital projects in FY 21, and it will not have any capital projects in FY 22.
11. The Commission does anticipate making additional budget enhancement requests in FY 22 to support several priorities described further below in response to Questions 37-38, including technology enhancements, a comprehensive review of the Commission's Rules, the resolution of certain investigations, and the hiring of an additional staff member.

12. The Commission had one reprogramming in FY 21, in which \$32,000 was reprogrammed within the agency from Salaries – Full Time CS6 0011 to Contractual Services CS6 0041. The reprogramming occurred in September 2021, and was needed to cover the legal and investigative services for the Commission’s Special Counsel. The Commission was involved in a complicated and difficult investigation of a series of complaints that began in May of 2021, and resulted in the filing of an Uncontested Order of Involuntary Retirement concerning former Superior Court Associate Judge Steven Berk. The Order was filed in November 2021.

Due to the multi-faceted and extensive investigation that was required, the Commission needed the additional time and services of the Special Counsel, Amy Conway-Hatcher, Esq. The investigation included, but was not limited to, interviews by counsel with more than twenty (20) people, some of whom were interviewed multiple times and at least one of whom was represented by counsel. The matter also involved the engagement of an independent medical expert, meetings/discussions with the judge and his counsel, and evaluation of potential litigation strategy if the Commission’s determinations were contested by the judge and the Commission needed to proceed to formal proceedings or litigation. The Uncontested Involuntary Retirement Order was filed in November 2021. The Commission issued a further public statement in December 2021.

The matter above followed two other investigations that required additional attention by the Special Counsel in FY 21, as well as a separate public statement issued by the Commission on ex parte communications.

There was no number assigned to the reprogramming by the Office of Budget and Planning. The Commission has not reprogrammed any funds in FY 22.

13. The Commission did not receive a grant or sub-grant in FY 21 or in FY 22, to date.
14. The Commission did not approve a grant or sub-grant to any individual, agency or organization in FY 21 or in FY 22, to date.
15. The Commission has one contract that is renewed annually for a Special Counsel who provides legal and investigative services to the agency.
- a. Contracting Party; Amy Conway-Hatcher, Esq.
10/01/20 - 9/30/21 - FY21
10/01/21 – 9/30/22 - FY22
 - b. The contractor provides legal and investigative services to the agency.
 - c. The amount of the contract was estimated not to exceed \$40,000.00. In FY 21 the Commission budgeted \$36,000 for legal and investigative fees and expended \$68,832.45, as well as an estimated 40-50 hours of pro bono work. In FY 22, it is likely the estimated fees will increase as well. To date in this fiscal year the Commission has expended \$26,060.00 for legal services and additional fees are expected to be incurred due to certain investigation needs,

- the technology projects as it related to legal files and the complaint process, and the comprehensive review of the Commission's rules.
- d. Term of the Contract: The terms of the contract with Ms. Conway-Hatcher runs from 10/1/21 – 9/30/22.
 - e. Ms. Conway-Hatcher was appointed Special Counsel due to her extensive experience and expertise in conducting sensitive investigations while in private practice, her former experience in the U.S. Attorney's Office and with the District of Columbia Courts, and her willingness to provide legal and investigative services at the rate set by the Commission.
 - f. The contract is monitored by the Commission's Executive Director.
 - g. The contract is funded from the Commission's agency budget.
16. There were no pending or closed lawsuits that named the Commission as a party in FY 21, and none thus far in FY 22.
17. There were no judgments or settlements executed by the Commission or by the District on behalf of the Commission in FY 21, or thus far in FY 22.
18. The Commission used outside counsel to provide legal and investigative services in FY 21, and continues to do so in FY 22, as discussed in the response to question 15 listed above.
19. The Commission did not receive any administrative complaints or grievances in FY 21, and none to date in FY 22. The Commission did receive additional correspondence in FY 21 from complainants who disagreed with the Commission's decision to dismiss their complaints.
20. The Commission did not receive any complaints or allegations of sexual harassment, sexual misconduct or discrimination committed by or against agency employees or Commission members in FY 21, or FY 22, to date.
21. The Commission did not make any workers' compensation payments, and none were paid on behalf of the agency in FY 21, or FY 22 to date.
22. The Commission has no ongoing investigations, studies, audits, or reports on the agency or an employee of the agency, that were completed during FY 21 and FY 22, to date.
23. The Commission did have one spending pressure in FY 21 which concerned payment for legal and investigative services provided by the Commission's Special Counsel. Though the Commission was able to reprogram funds within the budget to cover all legal and investigative services that fiscal year, the Commission is concerned that another fiscal year could find the agency without sufficient funding for such services if one or multiple complex misconduct investigations must be conducted in a given year. This was a situation that occurred five years ago, and it is again the situation presently. Five years ago, the Commission had to make the decision of either approaching the different budget authorities for additional funding, or stopping an extensive misconduct investigation which could have caused harm to the public and the Courts. The Commission did receive the additional

funding needed, but this situation occurring again in the future causes the agency great concern.

24. A copy of the Commission's FY 21 performance plan is attached. The Commission's primary performance plan objectives for FY 21 were completed on time and within budget. The objectives are as follows: 1. Review and Investigate Misconduct Complaints; 2. Conduct Reappointment Evaluations of Eligible Associate Judges of the D.C. Courts; 3. Conduct Performance and Fitness reviews of Retiring and Senior Judges.
25. A copy of the Commission's FY 22 performance plan as submitted to the Office of the City Administrator is attached.
26. The Commission did not amend or promulgate any Rules or Regulations in FY 21. The Commission does plan a comprehensive review of the current Rules in FY 22, to clarify the Commission's legal processes and obligations, as appropriate, and to reassess and confirm their relevance to current statutory provisions.
27. The Commission did not receive any FOIA requests for FY 21, and has not received any FOIA requests thus far in FY 22.
28. The Commission did not prepare or contract for any studies, research projects, reports, or analyses during FY 21, and has not done so thus far in FY 22.
29. The Commission did not authorize overtime pay for any employees during FY 21, or FY 22 to date.
30. The Commission's Executive Director received a 3% incentive award in FY 21. The amount was based on quality of work and excellent performance of the Executive Director during the fiscal year. No incentive award has been granted in FY 22, to date.
31. There were no employees separated from the Commission with separation pay in FY 21, or FY 22 to date.
32. There were no Commission employees on administrative leave in FY 21, or none thus far in FY 22.
33. The Commission does not have a collective bargaining agreement currently in effect for agency employees.
34. The Commission is not associated with any other boards, commissions or task forces.
35. The District of Columbia Code requires the Commission to submit a reappointment evaluation report to the President of the United States, when a judge of the District of Columbia Courts has been evaluated by the Commission for reappointment. In addition, the Code also requires the Commission to submit a written report of its recommendations and findings to the appropriate Chief Judge, when it completes a performance and fitness

- evaluation of a judge requesting a recommendation for appointment or reappointment as a Senior Judge.
36. There were no additional training or continuing education opportunities made available to Commission employees in FY 21, and none have been made available thus far in FY 22.
 37. The Commission did not implement any new initiatives in FY 21 concerning the internal operations of the agency or the interaction of the agency with outside parties. The Commission has had preliminary discussions with a team from OCTO in FY 22 concerning the development of a complaint management system, and an electronic database for all judicial, investigation, and legal-related files, as well as a document scanning project that will further support the digitization, management, and searchability of Commission files.
 38. The Commission's top five priorities are:
 - a. Review and resolve judicial misconduct complaints in a timely manner.
 - b. Conduct and complete thorough and comprehensive judicial misconduct investigations as expeditiously as possible.
 - c. Conduct and complete thorough and comprehensive reappointment evaluations of Associate Judges and conduct thorough and comprehensive Senior Judge performance evaluations.
 - d. Complete a comprehensive review of the Commission's Rules to clarify the Commission's legal processes and obligations, as appropriate, and to reassess and confirm their relevance to current statutory provisions.
 - e. Developing and deploying enhanced technology solutions to facilitate and streamline the work of the agency.
 39. The Commission did not implement any new programs during FY 21, or in FY 22, to date.
 40. The Commission measures programmatic success by efficiently and expeditiously fulfilling its statutory duties and responsibilities and adheres to the mandated deadlines for completing judicial reappointments and senior status evaluations.
 41. The Commission does not use metrics and KPI's to evaluate its operations. The Commission reviews and disposes of complaints as expeditiously as possible, conducts thorough and comprehensive misconduct investigations and discipline judges when appropriate, and conducts reappointment evaluations and senior judge performance and fitness reviews within the framework mandated by the statute.
 42. The Commission did not engage the lab ad DC in FY 21, or thus far in FY 22.
 43. The Commission is not a member of a task force but is a member of the Center for Judicial Ethics, which is a division of the National Center for State Courts.
 44. There was no legislation passed at the federal level during FY 21 and FY 22, to date, which has affected the Commission's operations.

45. The Commission did not take any steps in FY 21, or thus far in FY 22 to improve the transparency of agency operations. There were no website upgrades or major revisions in either fiscal year.
46. The Commission does not maintain any electronic databases.
47. The Commission purchased three new computers and two new printers at the cost of \$3,921 to replace existing in-office equipment. The Commission also purchased a license to host and conduct ZOOM meetings, since it meets remotely each month due to the challenges of the Covid 19 public health crisis.
48. The Commission met by video and/or telephonic conferences 15 times in FY 21, and it has met 6 times thus far in FY 22.
49. Completed Tables

**Commission on Judicial Disabilities & Tenure Activities,
FY 2021 and 2022, to Date**

<i>Case Type</i>	<i>FY 2021</i>	<i>FY 2022, To Date</i>
Judicial Misconduct Complaints Reviewed	60	31
Judicial Misconduct Complaints Investigated	30	10
Senior Judge Fitness Reviews Completed	9	9
Associate Judge Reappointment Evaluations	2	0
Involuntary Retirement Proceedings	0	1

Complaint Disposition Summary, FY 2020, 2021, and 2022, To Date

<i>Complaint Summary</i>	<i>FY 2020</i>	<i>FY 2021</i>	<i>FY 2022, To Date</i>
Complaints Received	70	60	31
Complaints Investigated	35	30	14
Dismissed for Lack of Jurisdiction	57	42	20
Dismissed for Lack of Merit	10	15	10
No Further Action Warranted/Matter Moot	0	0	0
Length of Time Under Review			
a. 30 Days	44	30	20
b. 60 Days	17	18	10
c. 90 Days	4	7	0
d. 120 Days	1	2	0
e. > 120 Days	1	2	0
Resulted in Disciplinary Actions	1	1	1*
Disposed of Informally (Conference or Letter to Judge)	2	1	0
Pending	0	1*	1

*Receipt of complaints and resulting investigation started in FY21.

50. In FY 21 the Commission reviewed four complaints from attorneys, and one from a legal organization. No complaints were received from judges. Thus far in FY 22, the Commission has received 2 complaints from attorneys and none from judges.
51. The Commission is not considering any judges for reappointment in FY 22. Judge William Jackson of the D. C. Superior Court is eligible for reappointment in FY 22, but he has elected to retire in March and not seek reappointment.
52. The Commission did not receive any requests in FY 21 under the Judicial Financial Transparency Act, and has not received any thus far in FY 22.

Commission on Judicial Disabilities and Tenure
FY 2021 SCHEDULE A

Vacancy Status	FTE
Filled	1.00
Vacant	1.00
Total	2.00

Agency Code	Fiscal Year	Program Code	Activity Code	Filled, Vacant or Frozen	Position Title	Employee Name	Hire Date	Salary	Fringe	FTE	Reg/Temp/ Term	Position Status	Filled by Law Y/N
DDO	21	2000	2500	F	Executive Director	Huddins, Cathae J	07/22/74	170,800.00	22,716.40	1.00	Reg	A	
DDO	21	2000	2500	V	Administrative Support Specialist			69,009.00	9,178.20	1.00	Temp	A	
AGENCY GRAND TOTAL								\$ 239,809.00	\$ 31,894.60	2.00			

Commission on Judicial Disabilities and Tenure FY2022

Agency Commission on Judicial Disabilities and Tenure

Agency Code DQ0

Fiscal Year 2022

Mission The mission of the Commission on Judicial Disabilities and Tenure (CJDT) is to maintain public confidence in an independent, impartial, fair, and qualified judiciary, and to enforce the high standards of conduct judges must adhere to both on and off the bench.

Strategic Objectives

Objective Number	Strategic Objective
1	Review and Investigate Judicial Misconduct Complaints
2	Conduct Reappointment Evaluations of Eligible Associate Judges of the D.C. Courts
3	Conduct Performance and Fitness Reviews of Retiring and Senior Judges
4	Conduct Involuntary Retirement Proceedings

Key Performance Indicators (KPIs)

Measure	Directionality	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual	FY 2022 Target
1 - Review and Investigate Judicial Misconduct Complaints (3 Measures)					
Percent of complaints leading to misconduct investigations	Neutral	51%	43%	33%	38%
Percent of complaints resolved within 60 days	Up is Better	20%	33%	33%	40%
Percent of complaints resolved within 30 days	Up is Better	61%	57%	51%	50%
2 - Conduct Reappointment Evaluations of Eligible Associate Judges of the D.C. Courts (1 Measure)					
Percent of reappointment evaluation reports submitted before 60 days of term expiration	Up is Better	100%	100%	100%	100%
3 - Conduct Performance and Fitness Reviews of Retiring and Senior Judges (1 Measure)					
Percent of fitness and performance reviews submitted within 180 days of judge's request	Up is Better	100%	100%	100%	100%

Operations

Operations Title	Operations Description	Type of Operations
1 - Review and Investigate Judicial Misconduct Complaints (2 Activities)		
Commission Administration And Support	Review complaints arising during monthly meetings.	Daily Service
Commission Administration And Support	Misconduct investigations.	Daily Service
2 - Conduct Reappointment Evaluations of Eligible Associate Judges of the D.C. Courts (4 Activities)		
Commission Administration And Support	Interview attorneys in the public and private sectors who have appeared before the judge.	Daily Service
Commission Administration And Support	Interview Court personnel who have worked with the judge.	Daily Service
Commission Administration And Support	Interview the Chief Judge of the judge's Court.	Daily Service
Commission Administration And Support	Solicit comments concerning a judge's qualifications from the legal community and the general public.	Daily Service
3 - Conduct Performance and Fitness Reviews of Retiring and Senior Judges (4 Activities)		
Commission Administration And Support	Interview attorneys in the public and private sectors who have appeared before the senior judge.	Daily Service
Commission Administration And Support	Interview Court personnel who have worked with the senior judge.	Daily Service
Commission Administration And Support	Interview the Chief Judge of the judge's Court.	Daily Service
Commission Administration And Support	Solicit comments concerning a senior judge's qualifications to continue judicial service from the legal community and the general public.	Daily Service
4 - Conduct Involuntary Retirement Proceedings (4 Activities)		
Commission Administration And Support	Receive information concerning a judge's health/disability and commences an investigation.	Daily Service
Commission Administration And Support	Determine if an involuntary retirement hearing is warranted.	Daily Service
Commission Administration And Support	Make findings of fact and a determination regarding the judge's health.	Daily Service

Operations Title	Operations Description	Type of Operations
Commission Administration And Support	File Orders of Involuntary Retirement.	Daily Service

▼ Workload Measures (WMs)

Measure	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual
1 - Commission Administration And Support (1 Measure)			
Number of complaints received	68	70	60
2 - Commission Administration And Support (1 Measure)			
Number of reappointment evaluations	4	3	2
3 - Commission Administration And Support (1 Measure)			
Number of fitness and performance reviews	10	11	7
4 - Commission Administration And Support (1 Measure)			
Number of involuntary retirements handled	0	0	1

Commission on Judicial Disabilities and Tenure FY2021

Agency Commission on Judicial Disabilities and Tenure

Agency Code DQ0

Fiscal Year 2021

Mission The mission of the Commission on Judicial Disabilities and Tenure (CJDT) is to maintain public confidence in an independent, impartial, fair, and qualified judiciary, and to enforce the high standards of conduct judges must adhere to both on and off the bench.

Summary of Services The services provided by the Tenure Commission are as follows: reviewing complaints concerning the misconduct of judges; conducting performance evaluations of associate judges eligible for reappointment; conducting fitness and qualification reviews of retiring and senior judges; and processing the involuntary retirement of judges for health reasons.

2021 Accomplishments

Accomplishment	Impact on Agency	Impact on Residents
The Commission successfully transitioned from in-person meetings to meeting remotely via WebEx and Zoom in FY 21. The Commission was able to review and resolve complaints that were received in FY21, and resolve pending complaints from FY 20, conduct two reappointment evaluations of sitting judges, conduct performance and fitness reviews of 7 senior judges, and conduct a lengthy investigation that was resolved with the involuntary retirement of the judge concerned.		

2021 Key Performance Indicators

Measure	Frequency	FY 2019 Actual	FY 2020 Actual	FY 2021 Target	FY 2021 Quarter 1	FY 2021 Quarter 2	FY 2021 Quarter 3	FY 2021 Quarter 4	FY 2021 Actual	Was 2021 KPI Met?	Explanation For Unmet KPI
1 - Review and Investigate Judicial Misconduct Complaints (3 Measures)											
Percent of complaints resolved within 30 days	Annually	61%	57%	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	51%	Met	
Percent of Complaints resolved within 60 days	Annually	20%	33%	40%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	33%	Unmet	The Commission was unable to reach its target of 40% in resolving some complaints within 60 days, due to the comprehensive and lengthy investigation it conducted concerning a Superior Court judge. The investigation entailed interviewing several witnesses, reviewing case files for dozens of cases, and the scheduling of special Commission meetings during certain stages of the investigation. As a result, complaints that were filed concerning the matter and judge in question were not considered resolved until the Commission issued its final determination.
Percent of complaints leading to misconduct investigations	Annually	51%	43%	38%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	33%	Neutral Measure	
2 - Conduct Reappointment Evaluations of Eligible Associate Judges of the D.C. Courts (1 Measure)											
Percent of reappointment evaluation reports submitted before 60 days of term expiration	Annually	100%	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	
3 - Conduct Performance and Fitness Reviews of Retiring and Senior Judges (1 Measure)											
Percent of fitness and performance reviews submitted within 180 days of judge's request	Annually	100%	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	

2021 Workload Measures

Measure	FY 2019 Actual	FY 2020 Actual	FY 2021 Quarter 1	FY 2021 Quarter 2	FY 2021 Quarter 3	FY 2021 Quarter 4	FY 2021 Actual
1 - Commission Administration And Support (1 Measure)							
Number of complaints received	68	70	Annual Measure	Annual Measure	Annual Measure	Annual Measure	60
2 - Commission Administration And Support (1 Measure)							
Number of reappointment evaluations	4	3	Annual Measure	Annual Measure	Annual Measure	Annual Measure	2
3 - Commission Administration And Support (1 Measure)							
Number of fitness and performance reviews	10	11	Annual Measure	Annual Measure	Annual Measure	Annual Measure	7

Measure	FY 2019 Actual	FY 2020 Actual	FY 2021 Quarter 1	FY 2021 Quarter 2	FY 2021 Quarter 3	FY 2021 Quarter 4	FY 2021 Actual
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4 - Commission Administration And Support (1 Measure)

Number of involuntary retirements handled	0	0	Annual Measure	Annual Measure	Annual Measure	Annual Measure	1
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2021 Operations

Operations Title	Operations Description	Type of Operations
1 - Review and Investigate Judicial Misconduct Complaints (2 Activities)		
Commission Administration And Support	Review complaints arising during monthly meetings.	Daily Service
Commission Administration And Support	Misconduct investigations.	Daily Service
2 - Conduct Reappointment Evaluations of Eligible Associate Judges of the D.C. Courts (4 Activities)		
Commission Administration And Support	Interview attorneys in the public and private sectors who have appeared before the judge.	Daily Service
Commission Administration And Support	Interview Court personnel who have worked with the judge.	Daily Service
Commission Administration And Support	Interview the Chief Judge of the judge's Court.	Daily Service
Commission Administration And Support	Solicit comments concerning a judge's qualifications from the legal community and the general public.	Daily Service
3 - Conduct Performance and Fitness Reviews of Retiring and Senior Judges (4 Activities)		
Commission Administration And Support	Interview attorneys in the public and private sectors who have appeared before the senior judge.	Daily Service
Commission Administration And Support	Interview Court personnel who have worked with the senior judge.	Daily Service
Commission Administration And Support	Interview the Chief Judge of the judge's Court.	Daily Service
Commission Administration And Support	Solicit comments concerning a senior judge's qualifications to continue judicial service from the legal community and the general public.	Daily Service
4 - Conduct Involuntary Retirement Proceedings (4 Activities)		
Commission Administration And Support	Receive information concerning a judge's health/disability and commences an investigation.	Daily Service
Commission Administration And Support	Determine if an involuntary retirement hearing is warranted.	Daily Service
Commission Administration And Support	Make findings of fact and a determination regarding the judge's health.	Daily Service
Commission Administration And Support	File Orders of Involuntary Retirement.	Daily Service