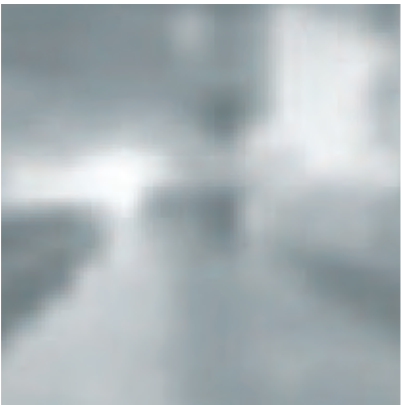


**DISTRICT OF COLUMBIA**

COMMISSION ON  
JUDICIAL DISABILITIES  
AND TENURE



**2016**  
ANNUAL REPORT



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

**COMMISSION MEMBERS**

**HON. GLADYS KESSLER, CHAIRPERSON**

**JEANNINE C. SANFORD, ESQ., VICE CHAIRPERSON**

**MICHAEL K. FAUNTROY, PH.D.**

**HON. JOAN L. GOLDFRANK**

**WILLIAM P. LIGHTFOOT, ESQ.**

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# TABLE OF CONTENTS

<b>INTRODUCTION TO THE 2016 ANNUAL REPORT .....</b>	<b>i</b>
<b>I. COMMISSION MEMBERS .....</b>	<b>1</b>
<b>Commission Members' Biographies .....</b>	<b>1</b>
<b>II. LEGAL AUTHORITY AND COMMISSION PROCEDURES .....</b>	<b>4</b>
<b>Commission History.....</b>	<b>4</b>
<b>Commission Jurisdiction .....</b>	<b>4</b>
<b>Legal Authority .....</b>	<b>5</b>
<b>Complaint Review and Investigations.....</b>	<b>5</b>
<b>Complaint Process Flow Chart.....</b>	<b>6</b>
<b>Codes of Conduct and Commission Rules .....</b>	<b>7</b>
<b>Reappointment Evaluations.....</b>	<b>7</b>
<b>Senior Judge Recommendations.....</b>	<b>8</b>
<b>III. 2016 STATISTICS .....</b>	<b>10</b>
<b>Complaints Received and Investigated .....</b>	<b>10</b>
<b>Complaints Received FY 2007 – FY 2016.....</b>	<b>11</b>
<b>Complaint Allegations .....</b>	<b>11</b>
<b>Source of Complaints.....</b>	<b>12</b>
<b>Complaint Dispositions.....</b>	<b>12</b>
<b>Judicial Positions Under the Commission's Jurisdiction.....</b>	<b>12</b>
<b>Associate Judge Reappointments .....</b>	<b>13</b>
<b>Senior Judge Recommendations.....</b>	<b>13</b>
<b>IV. COMMISSION EXPENDITURES FOR FY 2016.....</b>	<b>15</b>
<b>APPENDIX</b>	
<b>A. Commission Public Actions</b>	
<b>Reappointment Evaluation Reports .....</b>	<b>19</b>
<b>B. Governing Provisions .....</b>	<b>41</b>
<b>C. Commission Rules.....</b>	<b>73</b>
<b>D. Code of Conduct for the District of Columbia Courts.....</b>	<b>99</b>
<b>E. Complaint Form .....</b>	<b>155</b>



## INTRODUCTION TO THE 2016 ANNUAL REPORT

The District of Columbia Commission on Judicial Disabilities and Tenure is an independent agency established by Congress in 1970 to review complaints of misconduct against judges of the District of Columbia Courts. In 1973 and again in 1984 Congress expanded the Commission's jurisdiction and authority to include the reappointment evaluations of Associate Judges and performance and fitness reviews of Senior Judges.

The Commission's mission 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. Forty-eight individuals have served on the Commission since its inception, representing a diverse group of members from the legal community, the Federal judiciary, and the community at large. All have been steadfast in their commitment to the Commission fulfilling its mission and ensuring the public's confidence in the judicial system. Though the majority of the Commission's work and deliberations are confidential, the Commission makes its determinations only after a careful and thorough review of the issues presented. Confidentiality not only protects complainants from possible judicial retaliation, but also protects judges and the integrity of the judicial process from complaints lacking in merit and jurisdiction.

Shortly after the end of fiscal year 2016, Congress passed the District of Columbia Judicial Financial Transparency Act, amending D.C. Code §11-1530. The Act modified the annual financial reporting requirements for judges of the District of Columbia Courts, and provides for public inspection and copying of Annual Financial Reports filed by judges, beginning with calendar year 2016. The Commission has spent substantial time in drafting new Rules, filing instructions, and other documents to comply with the provisions of the legislation, which will be implemented in fiscal year 2017. The amended statute appears under Appendix B.

In fiscal year 2016 there were no changes in the Commission's membership. The term of Michael K. Fauntroy, Ph.D. expired during the year, and Mayor Muriel E. Bowser had not selected Professor Fauntroy's successor before the end of the fiscal year.

The Commission re-elected Judge Gladys Kessler, Chairperson, and re-elected Jeannine C. Sanford, Esq., Vice Chairperson for fiscal year 2016.

The Commission wishes to acknowledge its outstanding staff, Executive Director, Cathae J. Hudgins, Administrative Support Specialist, April Jenkins, and Special Counsel, Henry F. Schuelke, III, Esq. who continue to provide the Commission with invaluable assistance and advice.

The number of complaints received annually by the Commission over the past 10 years indicates a steady increase, with the exception of a low in fiscal year 2008, when the Commission received 25 complaints. In total since 1970, the Commission has reviewed over 2,600 complaints, conducted 91 reappointment evaluations of Associate Judges, and performed 82 fitness reviews of retiring judges who requested recommendations for initial appointments as Senior Judges.

Each year since 1976 the Commission has published an Annual Report to keep the judges of the District of Columbia Courts, the legal community, and the general public informed of its activities consistent with the confidentiality restrictions of the Commission's governing statute. This year marks the publication of the Commission's 40<sup>th</sup> Annual Report reviewing its activities during the fiscal year ended September 30, 2016. It also discusses the Commission's statutory authority and procedures.

The Commission's public actions for this fiscal year, the Commission's enabling statutes and Rules, the 2012 Code of Judicial Conduct for the District of Columbia Courts, and the Commission's complaint form, appear under the noted appendices.

We welcome your comments.

## I. COMMISSION MEMBERS

The Commission consists of seven members. One is appointed by the President of the United States. Two are appointed by the Board of Governors of the District of Columbia Bar. Two are appointed by the Mayor of the District of Columbia, one of whom shall not be a lawyer. One is appointed by the City Council of the District of Columbia. One is appointed by the Chief Judge of the United States District Court for the District of Columbia. The term of office of the President's appointee is five years, and all others serve six year terms.

The Commission usually meets once a month, except the month of August. The members elect a Chairperson and Vice Chairperson annually, at the beginning of each fiscal year. Commission members do not receive a salary or an expense allowance.

In fiscal year 2016 the Commission's membership was as follows: Hon. Gladys Kessler, Chairperson, appointed by the Chief Judge of the United States District Court; Jeannine C. Sanford, Esq., Vice Chairperson, appointed by the D.C. Bar; Michael K. Fauntroy, Ph.D., appointed by the Mayor; Hon. Joan L. Goldfrank, appointed by the D.C. Bar; William P. Lightfoot, Esq., appointed by the Mayor; David P. Milzman, M.D., appointed by the Council of the District of Columbia; and Anthony T. Pierce, Esq., appointed by the President.

### Commission Members' Biographies

**MICHAEL K. FAUNTROY, Ph.D.**, is an Associate Professor of Political Science at Howard University, where he teaches courses in American government and political behavior. From 2002 to 2013, he was an Associate Professor of Public Policy at George Mason University, where he taught courses in civil rights policy and urban policy. Professor Fauntroy also lectures nationally on a variety of national political issues. Prior to his appointment at George Mason University, he was an Adjunct Professor at American University and Trinity College in 2001, an Adjunct Professor at the University of the District of Columbia from 2000-2001, and an Adjunct Professor at Howard University from 1998-1999. Professor Fauntroy also conducted research for and consulted with Congressional members and Committees, while serving as an analyst in American national government at the Congressional Research Service from 2000-2001. He served as a civil rights analyst at the U.S. Commission on Civil Rights from 1993-1996, where he analyzed trends on voting rights and Title VI enforcement. Professor Fauntroy received his B.A. from Hampton University, and received his M.A. and Ph.D. from Howard University. He was appointed to the Commission in 2009 by Mayor Adrian Fenty.



**HON. JOAN L. GOLDFRANK**, graduated cum laude from Emory University, and received her J.D. from Emory University School of Law. Following graduation Judge Goldfrank began her legal career as a Trial Attorney with the United States Department of Energy from 1976-1979. She served as Associate Chief Counsel for President Jimmy Carter's Commission on the Accident at Three Mile Island. She was an associate at the law firm of Collier, Shannon, Rill & Scott from 1980-1983, and she served as an attorney in the Office of Legal Advisor for Saint Elizabeths Hospital from 1983-1985. Judge Goldfrank became the Executive Attorney for the D.C. Board on Professional Responsibility in 1985. In 1994, she accepted a position as an Attorney at the United States Department of Justice where she worked in the Professional Responsibility Advisory Office, the Environment and Natural Resources Division, and the Office of Professional Responsibility until her appointment as a Magistrate Judge of the Superior Court of the District of Columbia in 2002. During her tenure as a Magistrate Judge she also served as Chair of the Superior Court's Commission on Mental Health. Judge Goldfrank retired after more than ten years of service on the Court. She continues to participate in various Bar activities, and she was appointed to the Commission in 2014 by the Board of Governors of the D.C. Bar.

**HON. GLADYS KESSLER**, was appointed to the United States District Court for the District of Columbia in July 1994. She received a B.A. from Cornell University and an LL.B. from Harvard Law School. Following graduation, Judge Kessler was employed by the National Labor Relations Board, served as Legislative Assistant to a U.S. Senator and a U.S. Congressman, worked for the New York City Board of Education, and then opened a public interest law firm. In June 1977, she was appointed Associate Judge of the Superior Court of the District of Columbia. From 1981 to 1985, Judge Kessler served as Presiding Judge of the Family Division and was a major architect of one of the nation's first Multi-Door Courthouses. She served as President of the National Association of Women Judges from 1983 to 1984, served on the Executive Committee and as Vice President of the ABA's Conference of Federal Trial Judges, and on the U.S. Judicial Conference's Committee on Court Administration and Management for six years. Judge Kessler co-edited the Third Edition of the Reference Manual on Scientific Evidence of the Federal Judicial Center, which was published in 2011. Judge Kessler was recently appointed by the Chief Justice of the Supreme Court to the Defender Services Committee of the Judicial Conference of the United States. From 2006 – 2008 she chaired the Board of Directors of Our Place, D.C., a non-profit community organization that provided a range of services to incarcerated women to help reintegrate them into the community, and with their families, so they could return to productive lives. She served on the Our Place Board from its inception until October 2009, and from 2011 to 2013. The Chief Judge of the United States District Court for the District of Columbia appointed Judge Kessler to the Commission in 2001. In December of 2010, she was reappointed by the Chief Judge of the United States District Court for the District of Columbia to another six-year term on the Commission. Judge Kessler served as Vice Chairperson from 2002 to 2009, and has served as Commission Chairperson since 2009. Judge Kessler has recently been given the ABA's 23<sup>rd</sup> Annual Margaret Brent Women Lawyers of Achievement Award.

**WILLIAM P. LIGHTFOOT, ESQ.**, is a graduate of Howard University, and Washington University School of Law in St. Louis, Missouri. A partner in the law firm of Koonz, McKenney, Johnson, DePaolis & Lightfoot, he has practiced law for over thirty years, specializing in personal injury litigation. He is a frequent lecturer to attorneys about personal

injury cases and trial advocacy. Mr. Lightfoot is a former Councilmember at Large for the District of Columbia where he chaired the Committee on the Judiciary. He was appointed to the Commission in 2001 by Mayor Anthony A. Williams, reappointed by Mayor Adrian Fenty in 2008, and reappointed by Mayor Muriel E. Bowser in 2015. Mr. Lightfoot served as Commission Chairperson from 2004-2009, and as Commission Vice Chairperson from 2009-2013.

**DAVID P. MILZMAN, M.D.**, currently serves in multiple roles at the Georgetown University School of Medicine where he specializes in emergency medicine. He is an Assistant Dean for Student Research, Professor of Emergency Medicine, Research Director in the Department of Emergency Medicine at the Washington Hospital Center of Georgetown University Hospital, and an Associate Professor of Clinical Emergency Medicine. Dr. Milzman is also an Adjunct Professor of Biology at Georgetown University. In addition, he is an Attending Emergency Physician at the Indian Health Service in Gallup, New Mexico, and at Children's Hospital National Medical Center in Washington, D.C. Dr. Milzman received his B.S. from the University of Maryland, and his Doctor of Medicine from Georgetown University School of Medicine, and he completed his residency training in Emergency and Internal Medicine at Eastern Virginia Graduate School of Medicine. He has served on several community and public service organizations, as well as government commissions tasked with the study and improvement of various health care issues, such as the D.C. EMS Task Force, the D.C. EMS Commission, the Advisory Board on Health and Safety Services of the American Red Cross, and the D.C. Continuum of Care Task Force to name a few. Dr. Milzman has also served as the Medical Officer for professional sports teams and sporting arenas, and has been an invited expert appearing before private organizations, and local government and Congressional Committees. He is a member of many professional societies namely, the American College of Emergency Medicine, the Society for Academic Emergency Medicine, the Eastern Society and the American Association for the Surgery of Trauma. Dr. Milzman was appointed to the Commission in 2014 by the Council of the District of Columbia.

**ANTHONY T. PIERCE, ESQ.** is a litigator whose practice focuses on complex commercial disputes in state and federal courts, including commercial and regulatory litigation, intellectual property, employment matters and internal investigations. His practice covers a diverse group of industries, including technology and telecommunications, health care, energy, entertainment and media, financial services and government contracting. He is the partner in charge of the Washington, D.C. office of Akin Gump Strauss Hauer & Feld LLP, a global law firm with 20 offices worldwide and more than 850 attorneys, as well as a member of the firm's management committee. Mr. Pierce joined Akin Gump in 1987. From 1984 to 1987, he served as an evaluator for the U.S. General Accounting Office. In addition to his service on the D.C. Commission on Judicial Disabilities and Tenure, he is past president and a member of the board of trustees of the Legal Aid Society of the District of Columbia and serves on the U.S. District Court for the District of Columbia's Indigent Civil Litigation Fund. Mr. Pierce is past Chair of the Greater Washington Board of Trade and serves on the Board of the Economic Club, and is a member of the Federal City Council. He was also a member of the Leadership Greater Washington Class of 2002. In 2012, he received the Minority Business Leader of the Year award from the *Washington Business Journal*, which also selected him as a "Top Washington Lawyer" for litigation in 2008. Mr. Pierce received his J.D. from the Georgetown University Law Center and his B.S. from George Mason University. Mr. Pierce is an appointee of President Barack Obama.

**JEANNINE C. SANFORD, ESQ.**, is the Chief Operating Officer of Bread for the City, a non-profit organization that provides food, clothing, medical care, legal and social services to nearly 10,000 low income District of Columbia residents each month. Ms. Sanford began her career with Bread for the City in 1993, serving as the first official Legal Clinic Director, who fostered the development of the organization's volunteer program into a professional civil legal services practice. The Clinic received the 1998 Frederick B. Abramson Award due to her leadership and direction. Ms. Sanford was appointed Deputy Director of Bread for the City in 1999, and served in that capacity until her appointment as COO. Ms. Sanford is a graduate of The Ohio State University College of Law and moved to the District of Columbia to accept a staff attorney position with the Neighborhood Legal Services Program where she worked for several years. She has served on the Board of Governors of the D.C. Bar, and on several occasions, she has Co-Chaired the Consortium of Legal Services Providers. Ms. Sanford also served on the Board of the D.C. Employment Justice Center, assisting with its transition to becoming a part of the Washington Lawyers' Committee for Civil Rights and Urban Affairs in 2017. In 2005, Ms. Sanford received the Jerrold Scoutt Prize in recognition of her contributions and long-standing commitment to civil legal services. She was appointed to the Commission in 2012 by the Board of Governors of the D.C. Bar, and was elected Commission Vice Chairperson in 2014.

## **II. LEGAL AUTHORITY AND COMMISSION PROCEDURES**

### **Commission History**

The District of Columbia Commission on Judicial Disabilities and Tenure was created by the District of Columbia Court Reorganization Act of July 29, 1970. The Commission was reorganized, and its jurisdiction significantly enlarged, by the District of Columbia Self-Government and Governmental Reorganization Act of December 24, 1973, known as the "Home Rule Act", and its jurisdiction was enlarged further by the Retired Judge Service Act of October 30, 1984.

### **Commission Jurisdiction**

The Commission's jurisdiction extends to all Associate and Senior Judges of the District of Columbia Court of Appeals and the Superior Court of the District of Columbia. Its jurisdiction embraces four areas: (1) a judge's conduct warranting disciplinary action; (2) involuntary retirement of a judge for reasons of health; (3) evaluation of a judge who seeks reappointment upon the expiration of his or her term; and (4) evaluation of a judge who retires and wishes to continue judicial service as a Senior Judge.

The Commission does not have jurisdiction over Magistrate Judges of the Superior Court or Administrative Law Judges.

## **Legal Authority**

The Commission has the authority to remove a judge for willful misconduct in office, for willful and persistent failure to perform judicial duties, and for conduct prejudicial to the administration of justice or which brings the judicial office into disrepute. The Commission also has the authority to involuntarily retire a judge if the Commission determines that the judge suffers from a mental or physical disability which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of judicial duties. In addition, the Commission may, under appropriate circumstances, censure or reprimand a judge publicly or privately, with the consent of the judge.

## **Complaint Review and Investigations**

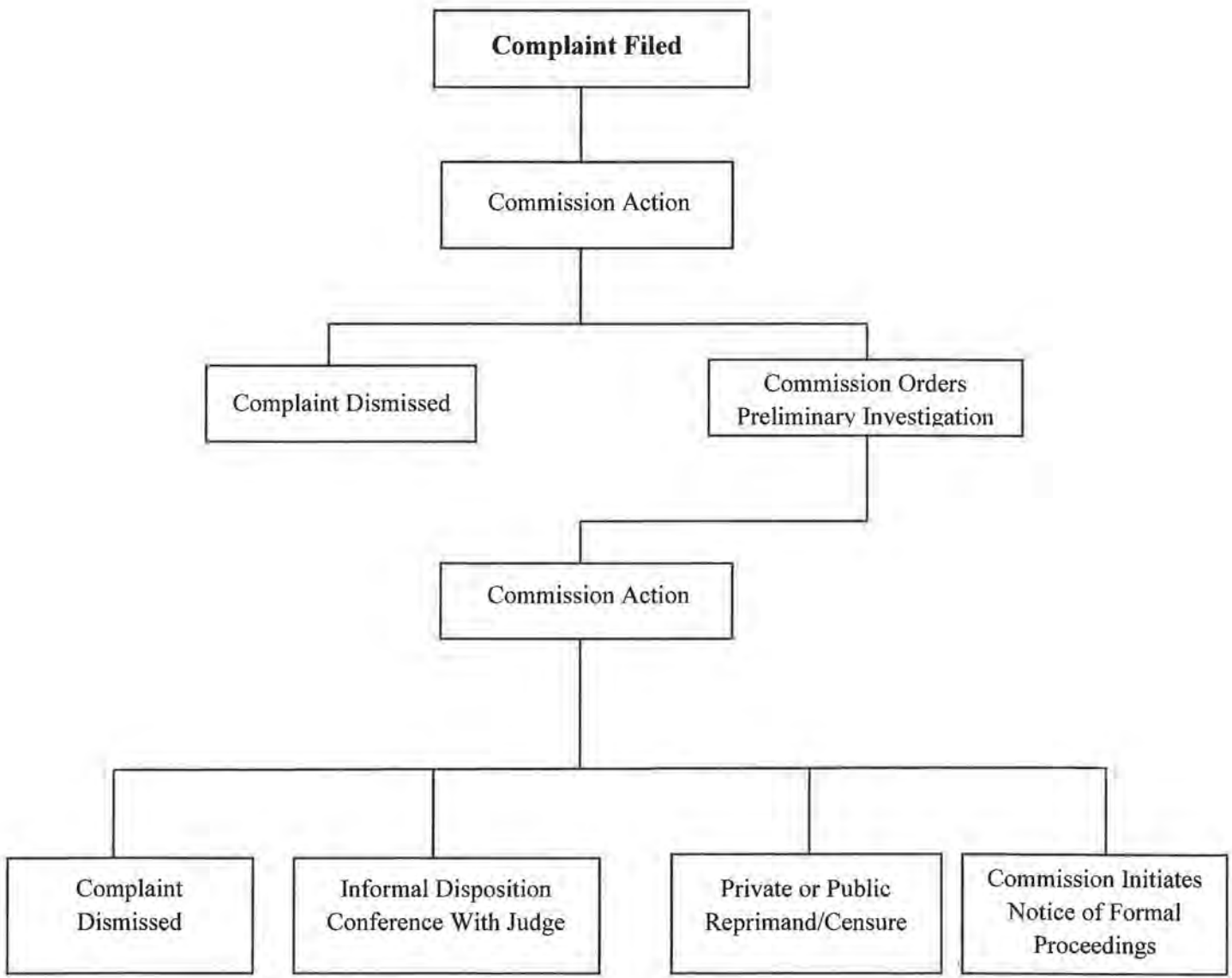
The Commission reviews complaints written or oral, concerning the misconduct of judges; it does not, however, have jurisdiction to review judicial decisions or errors of law. Examples of judicial misconduct include: rude, abusive and improper treatment of lawyers, witnesses, jurors, Court staff or others, showing bias toward anyone in the courtroom based on gender, race, ethnicity, religion, etc., and sleeping or drunkenness or other improper conduct while on the bench. Judicial misconduct also may involve improper off-the-bench conduct such as: criminal behavior, improper use of a judge's authority, publicly commenting on a pending or expected lawsuit, communicating with only one side in a court case or proceeding unless permitted by law, and giving or receiving bribes or favors.

Although the Commission has no prescribed format for lodging a complaint, it does have a suggested complaint form which citizens may use. A copy of the complaint form is reprinted under Appendix E. The Commission will consider information concerning possible misconduct from any source or on its own initiative, and will consider complaints made anonymously. The Commission prefers, but does not require, that a complaint be in writing and be as specific as possible. Receipt of a complaint is acknowledged.

The Commission usually meets once a month to review all new complaints that have been received, to discuss the progress of investigations, and address any other matters within its jurisdiction. Each complaint is considered individually. If the Commission determines that a matter falls within its jurisdiction, it may order an investigation. Commission investigations are conducted by the staff and may include contacting witnesses, reviewing court records and other documents, and observing courtroom

proceedings. If the investigation substantiates the complaint, the Commission may resolve a matter through an informal conference with the judge involved, or the Commission may initiate formal disciplinary action against a judge. All of the Commission's disciplinary proceedings and investigations are confidential. Under certain circumstances, however, a decision or action by the Commission may be made public.

## COMPLAINT PROCESS



If the allegations are found to be untrue or the investigation reveals that the matter is not within the Commission's jurisdiction, the Commission will dismiss the complaint and advise the complainant or source accordingly. Complainants are also notified, though the nature of the action taken is not divulged, when the Commission has resolved a matter.

### **Codes of Conduct and Commission Rules**

In considering claims of misconduct, the Commission looks to the American Bar Association Code of Judicial Conduct (2012) as adopted by the District of Columbia Joint Committee on Judicial Administration, along with the advisory opinions of the Committee on Codes of Conduct of the Judicial Conference of the United States regarding the Code of Conduct for U.S. Judges, and the advisory opinions of the District of Columbia Courts' Advisory Committee on Judicial Conduct. Judges under its jurisdiction are deemed to be on notice of the Commission's published actions as well.

The Commission conducts its proceedings pursuant to Rules which appear in 28 District of Columbia Municipal Regulations Chapter 20, amended December 21, 2007. The regulations are set forth in Appendix C.

### **Reappointment Evaluations**

Aside from its disciplinary function, the Commission also has the responsibility to determine whether or not a sitting judge whose term is expiring, and who seeks a new term, is to be reappointed. The Home Rule Act requires that the Commission file with the President of the United States a written evaluation of the judicial candidate's performance during the term of office, and his or her fitness for reappointment to another term. Under the Judicial Efficiency and Improvement Act, the Commission in its evaluation is required to place a judge in one of three categories. If the Commission evaluates a sitting judge as "well qualified", the judge is automatically reappointed to a new term of 15 years. If the Commission evaluates the judge as "qualified", the President may, if he chooses, renominate the judge subject to Senate confirmation; if the Commission evaluates the judge as "unqualified", the judge is ineligible for reappointment. The Commission defines the evaluation categories as follows:

**Well Qualified** - The candidate's work product, legal scholarship, dedication, efficiency, and demeanor are exceptional, and the candidate's performance consistently reflects credit on the judicial system.

**Qualified** - The candidate satisfactorily performs the judicial function or, if there are negative traits, they are overcome by strong positive attributes.

**Unqualified** - The candidate is unfit for further judicial service.

At least six months prior to the expiration of the term of office, a judge who seeks reappointment must file a declaration of candidacy with the Commission. The judge must also submit a written statement, including illustrative materials, reviewing the significant aspects of the judge's judicial activities during the term of office. In addition, a judicial medical form completed by the judge's physician must be submitted to the Commission attesting to the judge's mental and physical health.

Once the Commission receives the declaration of candidacy, it solicits comments from the bar, Court personnel, other judges, and the lay public concerning the candidate's qualifications and contributions to the Court and the community. The Commission also conducts interviews with attorneys who have regularly appeared before the judge, and Court personnel who have worked closely with the judge, to gain additional insight concerning the judge's performance and fitness. The Commission respectively interviews the Chief Judge of the judge's Court and the judge as well.

If the Commission, in the course of a reappointment evaluation, receives information that raises a substantial doubt that the judge is at least qualified, the Commission will provide in summary form the basis for doubt, and provide the judge an opportunity to confer with the Commission.

The final step in the reappointment evaluation process is the Commission's preparation of a written evaluation discussing the judge's performance during the present term of office and his or her fitness for reappointment to another term. The report must be submitted to the President at least 60 days prior to the expiration of the judge's term of office, is furnished simultaneously to the judge, and released to the public immediately thereafter.

### **Senior Judge Recommendations**

In addition to evaluating the performance of Associate Judges who are eligible for and request reappointment, the Commission performs a virtually identical function for retiring judges who wish to continue their judicial service as Senior Judges. The Retired Judge Service Act requires a judge seeking senior status to request a recommendation for appointment from the Commission. Once a request is received, the Commission conducts a thorough review of a judge's physical and mental fitness, and evaluates the judge's ability to satisfactorily perform

judicial duties. The Commission must submit a written report of its findings to the appropriate Chief Judge, and the report must include the Commission's recommendation concerning a judge's fitness and qualifications to continue judicial service. If the Commission makes a favorable recommendation, the Chief Judge determines if the judge is to be appointed a Senior Judge. If the Commission makes an unfavorable recommendation, the requesting judge is ineligible for appointment. The recommendation of the Commission and the decision of the Chief Judge regarding appointment are final. A Senior Judge must be recommended for reappointment every four years, unless the judge has reached age 74, in which case a recommendation and reappointment are required every two years.

Retiring judges who wish to continue their judicial service as Senior Judges have one year from the date of retirement to request a recommendation from the Commission for an appointment to senior status. Contemporaneous with the filing of the request the judge must submit a written statement reviewing the significant aspects of his or her judicial activities, and the judge must submit a judicial medical form completed by his or her physician attesting to the judge's physical and mental health. The Commission solicits comments from the bar, Court personnel, other judges, and the lay public concerning the judge's qualifications and fitness for appointment as a Senior Judge. The Commission also conducts interviews with attorneys who have regularly appeared before the judge, and Court personnel who have worked closely with the judge over the 4-5 year period before the judge's retirement. The Commission respectively interviews the Chief Judge of the judge's court and the judge as well.

If the Commission, in the course of its fitness evaluation, receives information that raises a substantial doubt that the judge is fit for further judicial service, the Commission will provide in summary form the basis for doubt, and provide the judge an opportunity to confer with the Commission.

The Commission has 180 days from receipt of the judge's request to submit its report and make a favorable or unfavorable recommendation to the appropriate Chief Judge. The recommendation standards are as follows:

**Favorable** - The judge is physically and mentally fit and able satisfactorily to perform judicial duties.

**Unfavorable** - The judge is unfit for further judicial service.

The Chief Judge notifies the Commission and the judge of the decision regarding appointment within 30 days of receipt of the Commission's report.



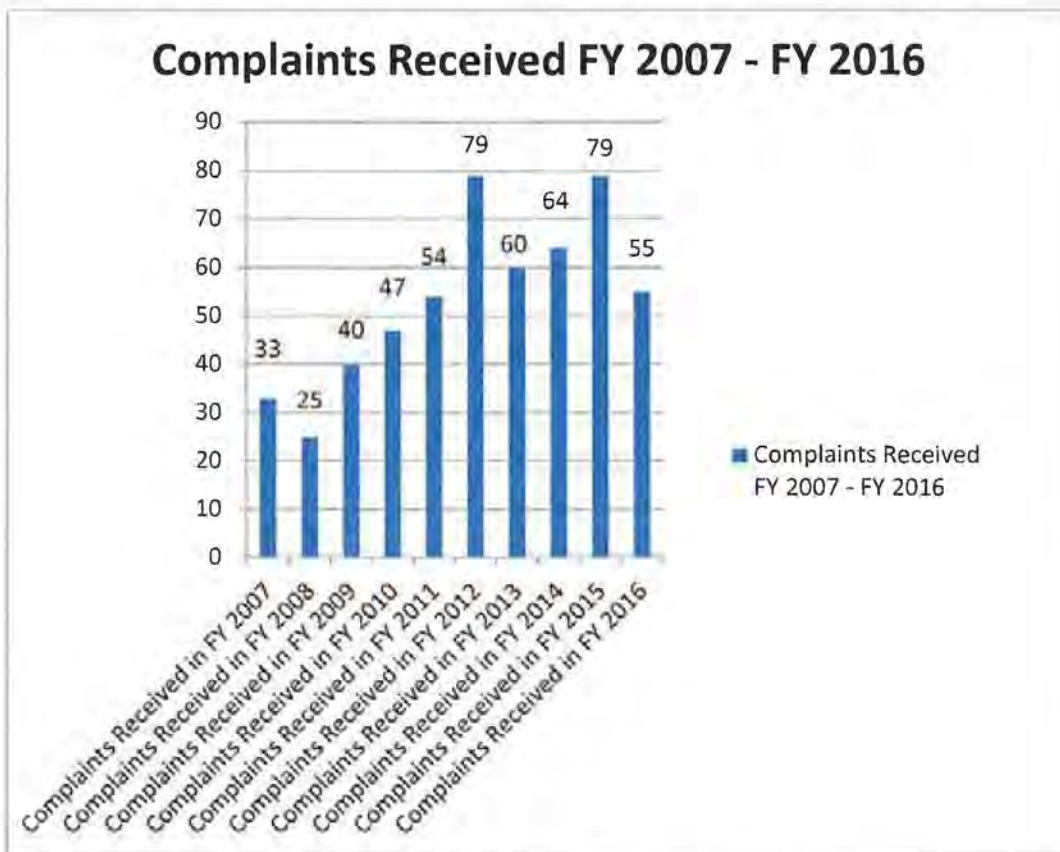
### III. 2016 STATISTICS

<b>Summary of Commission Activities</b>	
1. Complaints Regarding Conduct	55
2. Misconduct Investigations	27
3. Complaints Pending At Beginning of Year	7
4. Complaints Pending At Year End	2
5. Formal Disciplinary Proceedings	0
6. Involuntary Retirement Matters	0
7. Reappointment Proceedings	3
8. Senior Judge Recommendations	20
9. Commission Meetings	11

#### **Complaints Received and Investigated**

In fiscal year 2016, the Commission received 55 misconduct complaints. The great majority of complaints coming to the Commission this fiscal year as in previous years, were either unsubstantial or had to do with matters beyond the Commission's jurisdiction, rather than misconduct. In 26 cases the Commission determined after the initial review that no further inquiry was warranted and dismissed 23 matters for lack of jurisdiction, and dismissed three matters for lack of merit. Of the 27 matters investigated, 14 were dismissed for lack of merit, 11 were dismissed for lack of jurisdiction, one complaint was dismissed because the complainant did not provide additional information requested, and one investigation concluded with an informal letter to the judge involved.

There were seven complaints pending at the end of fiscal year 2015. The Commission completed its investigations of the seven complaints in fiscal year 2016, and dismissed three matters for lack of jurisdiction and dismissed three matters for lack of merit. One investigation concluded with an informal conference with the judge involved.



Though the complaint total for fiscal year 2016 indicates a 30% decrease from the number of complaints received in fiscal year 2015, the number of misconduct investigations initiated remained constant. As noted in previous Annual Reports, more citizens are using the Commission’s website and e-mail address, as well as the D.C. Bar’s website, to file complaints electronically. The electronic submission has proven to be a more convenient and expeditious method for citizens wishing to file complaints.

### **Complaint Allegations**

The 55 matters reviewed by the Commission concerned allegations of inappropriate demeanor and injudicious temperament, violation of constitutional rights, abuse of judicial discretion, administrative delays, bias and prejudice, due process issues, dissatisfaction with legal rulings, ex parte communications, conflicts of interest, interfering with the attorney/client relationship, and falsifying records (off the bench conduct). Complaints contained multiple allegations, five complaints named more than one judge, 41 judges were identified, and more than one complaint was filed against 12 judges. The complaints concerned 28 Associate Judges and ten Senior Judges of the Superior Court, and one Associate Judge and two Senior Judges of the Court of Appeals.

### Complaint Allegations

1. Bias/Prejudice	8
2. Abuse of Judicial Discretion	4
3. Dissatisfaction With Legal Rulings	13
4. Inappropriate Demeanor/Injudicious Temperament	9
5. Violation of Constitutional Rights	7
6. Administrative Delays	3
7. Due Process Issues	2
8. Ex Parte Communications	6
9. Conflicts of Interest	2
10. Interfering With the Attorney/Client Relationship	1
11. Falsifying Records (Off the Bench)	1

### Source of Complaints

Litigants or their relatives filed 46 complaints, eight complaints were filed by individual attorneys, and one complaint was filed by an Administrative Law Judge.

The complaints concerned 27 civil matters, 12 criminal matters, four domestic relations matters, five family matters, three probate matters, two Landlord & Tenant matters, one complaint concerned off the bench conduct, and one concerned an administrative hearing proceeding.

### Complaint Dispositions

The Commission disposed of 32 complaints in 30 days, 13 complaints were disposed of in 60 days, 5 complaints were disposed of in 90 days, two complaints were disposed of in 120 days, and three matters were before the Commission for five months before they were disposed of.

### Judicial Positions As of September 30, 2016

Court of Appeals	
Chief Judge and Associate Judges.....	9
Senior Judges.....	12
Superior Court	
Chief Judge and Associate Judges.....	61
Senior Judges.....	<u>33</u>
Total	115

## **Associate Judge Reappointments**

The fifteen-year terms of Superior Court Associate Judges Erik Christian, Lynn Leibovitz, and Maurice Ross expired during the fiscal year, and each requested reappointment to another fifteen-year term.

The Commission carefully evaluated the qualifications of Judges Christian, Leibovitz, and Ross and reviewed each Judge's record as an Associate Judge. The Commission conducted confidential interviews with attorneys who had regularly appeared before each Judge, interviewed Superior Court personnel who had worked with each Judge, and reviewed its own records concerning each candidate.

As required by the Commission's Rules, each Judge submitted a written statement with illustrative materials summarizing their respective judicial activities and assignments, and their singular contributions to the Court and to the community. In addition, each Judge submitted a Judicial Medical Form completed by their personal physician. The Commission interviewed each Judge to discuss their record, as well as the information the Commission had received during the course of its evaluation. The Commission also met with Chief Judge Lee F. Satterfield to discuss each Judge's judicial performance and qualifications.

The Commission determined Judges Christian, Leibovitz, and Ross to be well qualified for reappointment and each Judge automatically received another fifteen-year term. The Commission's evaluation reports to President Barack Obama appear under Appendix A.

## **Senior Judge Recommendations**

The terms of Court of Appeals Judges Frank Q. Nebeker, Inez Smith Reid, Vanessa Ruiz, and John A. Terry, and the terms of Superior Court Judges Geoffrey Alprin, Linda Kay Davis, Stephen F. Eilperin, Henry F. Greene, Richard A. Levie, Bruce S. Mencher, Truman A. Morrison, III, Zinora Mitchell-Rankin, Nan R. Shuker, Robert S. Tignor, Curtis E. von Kann, Ronald P. Wertheim, Peter H. Wolf, and Joan Zeldon expired during the fiscal year and all except Judge Mencher requested a recommendation for reappointment to senior status. Each Judge submitted a written statement discussing their judicial and non-judicial activities since their last reappointment to senior status, and each submitted a Judicial Medical Form completed by their personal physician. The Commission met with the Chief Judges to discuss the contributions and qualifications of the Senior Judges from their respective Court, and the

Commission met with each Senior Judge candidate. The Commission concluded the fitness evaluations of 16 of the 17 Judges, and recommended each of the 16 for reappointment to senior status. The Commission was advised by Chief Judge Eric T. Washington that Judges Nebeker, Reid, and Ruiz were reappointed to senior status on the Court of Appeals, and former Chief Judge Lee F. Satterfield advised the Commission that he had reappointed Judges Alprin, Davis, Eilperin, Greene, Levie, Morrison, Mitchell-Rankin, Shuker, Tignor, von Kann, Wolf, and Zeldon. Newly appointed Chief Judge Robert E. Morin advised the Commission that he had reappointed Judge Wertheim to senior status.

Also during the fiscal year, Superior Court Judges Judith N. Macaluso, Melvin R. Wright, and Rhonda Reid Winston retired and requested recommendations for initial appointments as Senior Judges. The three Judges each submitted a written statement with illustrative materials discussing their judicial activities during the present term of office, and each submitted a satisfactory Judicial Medical Form. The Commission interviewed attorneys who had appeared before the three Judges, as well as Court personnel who had worked with them individually over the past few years. The Commission met with former Chief Judge Lee F. Satterfield and discussed the qualifications and contributions of Judges Macaluso and Wright, and the Commission met with newly appointed Chief Judge Robert E. Morin and discussed the qualifications and contributions of Judge Winston. The Commission met with Judges Macaluso, Wright, and Winston respectively to discuss their requests for senior status. Upon completing the fitness evaluations, the Commission recommended the three Judges for initial appointments to senior status. Chief Judge Satterfield advised the Commission that he had appointed Judges Macaluso and Wright to four-year terms as Senior Judges, and Chief Judge Morin advised the Commission that he had appointed Judge Winston to a four-year term as a Senior Judge.

## VI. FY 2016 EXPENDITURES

OCTOBER 1, 2015 THROUGH SEPTEMBER 30, 2016

Staff Salaries.....	\$214,527.52
Personnel Benefits.....	24,120.45
Legal and Investigative Services.....	20,390.00
Communication Services.....	7,159.62
Printing.....	5,053.60
District of Columbia Government (IT and Web Service Maintenance) .....	4,910.00
Court Reporting Services.....	2,828.75
Office Supplies.....	2,530.40
Membership Dues.....	2,050.00
Out of City Travel.....	1,903.92
Local Messenger/Delivery Services.....	1,830.49
Postage Meter Rental.....	1,231.01
Maintenance Service Agreement.....	960.64
Subscriptions to Periodicals.....	479.88
Local Travel.....	425.67
Office Support.....	393.80
Conference Fees.....	375.00
<b>TOTAL</b>	<b><u>\$291,170.75</u></b>



**APPENDIX A**  
**COMMISSION PUBLIC ACTIONS**





**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

March 30, 2016

The Honorable Barack H. Obama  
President of the United States  
The White House  
Washington, D.C. 20500

**Re: Evaluation of the Honorable Erik P. Christian**

Dear Mr. President:

The fifteen-year term of the Honorable Erik P. Christian, an Associate Judge of the Superior Court of the District of Columbia, expires on May 30, 2016. He is seeking reappointment to another term.

Pursuant to Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 744, as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat. 3228, the District of Columbia Commission on Judicial Disabilities and Tenure (“the Commission”) hereby submits this evaluation of Judge Christian’s performance during his present term of office and his fitness for reappointment. Section 433(c) provides:

Not less than six months prior to the expiration of his term of office, any judge of the District of Columbia courts may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration is not so filed by any judge, a vacancy shall result from the expiration of his term of office and shall be filled by appointment as provided in subsections (a) and (b). If a declaration is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate’s term of office, prepare and submit to the President a written evaluation of the declaring candidate’s performance during

his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

The Commission reserves the term “well qualified” for those judges whose work product, legal scholarship, dedication, efficiency, and demeanor are exceptional on the bench, and the candidate’s performance consistently reflects credit on the judicial system. The Commission will determine a judge is “qualified” if he or she satisfactorily performs the judicial function or, if there are negative traits, they are overcome by strong positive attributes. A finding of “unqualified” means the Commission has found the judge to be unfit for judicial service.

Judge Christian filed his declaration of candidacy for reappointment as a Judge of the Superior Court on October 6, 2015, and he submitted his written statement to the Commission on November 18, 2015, with illustrative materials setting forth his judicial, professional, and community activities and contributions during his tenure. On March 9, 2016, the Commission met with Judge Christian and discussed with him the information it had received during the

course of its evaluation. The Commission also met with Chief Judge Lee F. Satterfield that day to discuss Judge Christian's qualifications for reappointment, and his years of service on the Superior Court. Chief Judge Satterfield complimented Judge Christian for his leadership especially of the Probate Division, and remarked that he had done "a wonderful job".

The Commission reviewed Judge Christian's monthly time reports and annual financial reports which are statutorily required to be filed by every judge. As part of its evaluation, the Commission also reviewed its own record of complaints regarding the Judge, and considered the satisfactory medical reports from Judge Christian's physicians. The comments of lawyers who have appeared before Judge Christian and those of Court personnel who have worked with him over the past few years provided additional information concerning aspects of his record.

A review of the sample of opinions authored and provided by Judge Christian was examined, as was his appellate record, which indicated he was affirmed in virtually all of his cases that were appealed.

Judge Erik Christian is a native Washingtonian. He received his formal education, elementary school through law school, at institutions located in the District of Columbia. He has also spent most of his professional career in this city in the public sector.

Judge Christian was appointed to the Superior Court in 2001 by President George Bush. He has served in every Division of the Court except the Family Court. His first assignments were to a Criminal Misdemeanor Calendar and then to the D.C. Traffic Court where he successfully reduced a substantial backlog of long-standing cases. In 2003 Judge Christian was assigned to a Felony II calendar where he presided over hundreds of jury trials for three years. During that assignment he became acutely aware of the importance of jurors feeling acknowledged and

appreciated for their hours of service. Judge Christian initiated a practice of sending to each panel member and selected juror a thank-you note with an invitation to provide feedback about their jury experience. The Judge continues the practice in all of his jury trial assignments, and other judges on the Court have adopted similar practices. In addition, he has served for several years on the Court's Standing Committee on Jury Management which has worked diligently to improve jury service in the District of Columbia. Judge Christian is to be commended for his efforts in this area, which have also helped change the public's perception so that people will view jury duty as an important civic service that benefits the entire community, and not just an onerous obligation to be avoided.

In 2006, Judge Christian was assigned to a Felony I Calendar where he served for two years. This assignment is especially demanding on a trial judge, who must preside over complex criminal trials involving the most serious felony crimes and oftentimes with multiple defendants. Judge Christian, in addition to his trial work, also had to review and resolve numerous motions for new trials, reductions in sentences, ineffective assistance of counsel, and other alleged trial errors.

Upon completion of his Felony I assignment, Judge Christian volunteered to serve in the Domestic Violence Unit from 2008-2009, where he presided over criminal and civil cases alleging domestic violence by victims and cross-complainants. In 2010 Judge Christian was assigned to the Civil Division, and was responsible for the conduct of numerous civil cases as well as a high volume calendar in Landlord & Tenant Court. Judge Christian provided the Commission with opinions he had authored during his Civil Division assignment and he included the corresponding Court of Appeals opinions in the same cases where his decisions were

affirmed. The cases involved diverse and interesting issues that impacted a significant population in our community. It is obvious from Judge Christian's written statement and his opinions in the aforementioned cases that he "thoroughly enjoyed" and excelled in this assignment.

In 2013, Chief Judge Lee Satterfield appointed Judge Christian, Deputy Presiding Judge of the Probate and Tax Divisions, and in 2015 he was appointed Presiding Judge, and he continues in that position to date. As Presiding Judge he not only oversees the management of both Divisions, but also presides over a full calendar of probate and tax cases. It is important to note, that the Probate Division is the fastest growing division in the Superior Court, in terms of the number of new cases filed annually. Judge Christian has been credited and praised for providing the needed leadership and managerial skills to guide the Probate and Tax Divisions through this challenging period of growth.

In addition to his judicial assignments, Judge Christian has also participated extensively in the administration of the Superior Court through his Committee assignments. He currently serves as Chair of the Probate and Fiduciary Rules Advisory Committee and the Tax Rules Advisory Committee. Judge Christian is a member of eight other Committees, including the Superior Court Rules Committee, the Jury Management Committee, Criminal Rules Advisory Committee, the Court Interpreters Committee and the Security Committee. In addition, by virtue of his designation as Deputy and now Presiding Judge of the Probate and Tax Divisions, Judge Christian is also a member of the Judicial Leadership Team which assists the Chief Judge in the implementation of the Courts' strategic plan. Team members also mentor colleagues to enhance leadership and judicial skills.

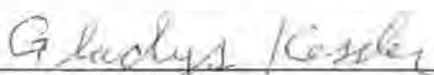
Judge Christian's extra judicial activities are too numerous to summarize fully;

illustratively, he teaches classes in Civil and Criminal Trial Advocacy at Howard University Law School and the Washington College of Law at American University, he presides over mock trials and court proceedings for area law schools, he has participated in extensive training programs at the National Judicial College in Nevada, and he participates in a variety of community activities ranging from commencement speaker to administering the oath of office to elected local officials. In addition, Judge Christian was recognized last year for his continued service and significant contributions to the Bar and the community by the Washington Bar Association, which inducted him into its 2015 Hall of Fame membership.

For the foregoing reasons, the Commission finds that Judge Christian's judicial service merits his automatic reappointment to the bench. The manner in which Judge Christian has performed as a trial judge entitles him to a rating in the highest category which this Commission is statutorily empowered to place a judge. We therefore determine Judge Erik P. Christian to be well qualified for reappointment, and his term shall be automatically extended for a full term of 15 years from May 30, 2016.

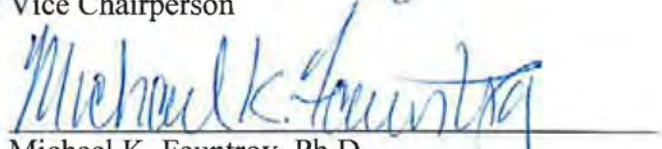
Respectfully submitted,

DISTRICT OF COLUMBIA COMMISSION ON  
JUDICIAL DISABILITIES AND TENURE

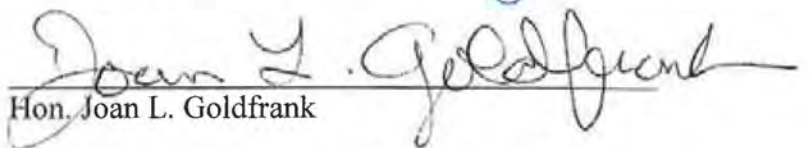
  
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Hon. Gladys Kessler  
Chairperson



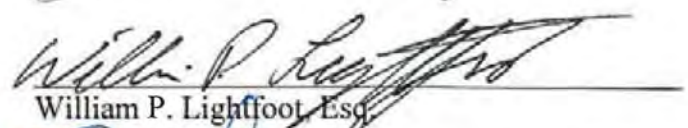
Jeannine C. Sanford, Esq.  
Vice Chairperson



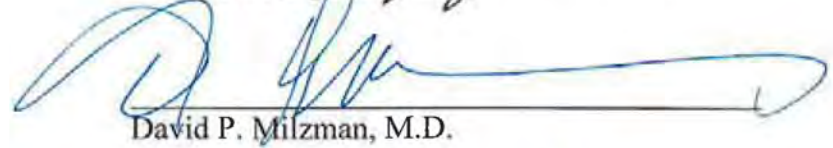
Michael K. Fauntroy, Ph.D.



Hon. Joan L. Goldfrank



William P. Lightfoot, Esq.



David P. Milzman, M.D.



Anthony T. Pierce, Esq.



**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

March 30, 2016

The Honorable Barack H. Obama  
President of the United States  
The White House  
Washington, D.C. 20500

**Re: Evaluation of the Honorable Maurice A. Ross**

Dear Mr. President:

The fifteen-year term of the Honorable Maurice A. Ross, an Associate Judge of the Superior Court of the District of Columbia, expires on May 30, 2016. He is seeking reappointment to another term.

Pursuant to Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 744, as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat. 3228, the District of Columbia Commission on Judicial Disabilities and Tenure (“the Commission”) hereby submits this evaluation of Judge Ross’s performance during his present term of office and his fitness for reappointment. Section 433(c) provides:

Not less than six months prior to the expiration of his term of office, any judge of the District of Columbia courts may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration is not so filed by any judge, a vacancy shall result from the expiration of his term of office and shall be filled by appointment as provided in subsections (a) and (b). If a declaration is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate’s term of office, prepare and submit to the President a written evaluation of the declaring candidate’s performance during

his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

The Commission reserves the term “well qualified” for those judges whose work product, legal scholarship, dedication, efficiency, and demeanor are exceptional on the bench, and the candidate’s performance consistently reflects credit on the judicial system. The Commission will determine a judge is “qualified” if he or she satisfactorily performs the judicial function or, if there are negative traits, they are overcome by strong positive attributes. A finding of “unqualified” means the Commission has found the judge to be unfit for judicial service.

Judge Ross filed a timely declaration of candidacy for reappointment with the Commission on November 23, 2015. In evaluating Judge Ross’s qualifications for reappointment, the Commission carefully reviewed the comprehensive written statement the Judge submitted which discussed his service on the Court, and his contributions to the community during the past 15 years. The Commission also considered a selection of judicial

opinions, orders, and findings of fact authored by Judge Ross concerning a variety of criminal, civil, family, and juvenile cases.

The Commission reviewed a statement from Judge Ross's physician attesting to his "excellent" health. The Judge's time reports and annual financial statements were reviewed as was the Commission's complaint file concerning the Judge, which contained nothing that would preclude his automatic reappointment. The Commission interviewed persons concerning Judge Ross's qualifications and performance, including Court personnel who had worked with the Judge, and attorneys who regularly had appeared before him.

A review of Judge Ross's appellate record indicates few reversals. As part of his submission, the Judge included a selection of Court of Appeals opinions in which he was affirmed. These cases, ranging from complicated felony matters to commercial property disputes, concerned very interesting legal issues and demonstrated Judge Ross's ability to deal with complex legal and factual issues.

Judge Ross met with the Commission on March 9, 2016, to discuss his reappointment, including the information and materials the Commission had received during the course of its evaluation. Chief Judge Lee F. Satterfield met with the Commission that same day, and provided additional information pertinent to Judge Ross's reappointment. The Chief Judge endorsed Judge Ross's continued service on the bench and complimented him for being "very efficient", during his present term of office.

During his tenure, Judge Ross has served in most of the Divisions of the Superior Court. His first assignment in 2001 was to the D.C. Traffic Branch for a six-month stint, which was followed by an assignment to a Misdemeanor Trial Calendar. In 2002 Judge Ross was assigned

to a Felony II Trial Calendar where he presided over drug distribution, gun possession, stolen vehicles, and failure to appear in Court cases. Simultaneous with this assignment, Judge Ross, as did all Superior Court judges at that time, accumulated a docket of 71 abuse and neglect cases. This was before the Family Court was established. Judge Ross had to conduct review hearings for each case and make difficult decisions about what was best for the child and the family, in addition to his Felony II assignment. Judge Ross was assigned to the Domestic Violence Unit for the calendar year 2015, during which time he presided over criminal misdemeanor domestic violence cases. From January 2006 to December 2009, he was assigned to a Civil II Calendar managing a caseload of matters concerning personal injury, breach of contract, real property, and discrimination. One week designations in the Landlord and Tenant Branch were also a part of this assignment. Following Civil II, Judge Ross presided over a Juvenile Calendar in the Family Court, with a docket of approximately 300 children who were either awaiting trial on criminal charges, awaiting sentencing, on probation, or committed to the Department of Youth Rehabilitation Services. From 2013 to the present, Judge Ross has returned to a Civil II Calendar.

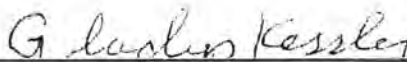
The activities of Judge Ross on the Court go beyond presiding over cases. He co-chaired the Subcommittee on Juvenile Justice and has been a member of several Court Committees, namely, the Child Abuse and Neglect Committee, the Judicial Education Committee, the Technology Committee which assisted the D.C. Courts with the expansion and improvement of the use of technology throughout the Court system, and the Building and Grounds Committee that supervised the construction of the new D.C. Court of Appeals Courthouse and the various renovations of the Moultrie Courthouse.

Judge Ross's extra judicial activities include his membership in the National Bar Association and his membership and very active participation in the Washington Bar Association Judicial Council. He has participated in numerous programs and meetings of several Bar groups in the city over the past 15 years. In addition, Judge Ross has been very dedicated to community service work through his involvement with various youth sports leagues in the city and at the local schools his children have attended.

In light of Judge Ross's hard work, his dedication to the Court, and his abiding desire to do a good job for the citizens of this city, it is the view of the Commission that Judge Ross should continue his judicial service. For all these reasons, the Commission finds Judge Ross well qualified for reappointment, and his term shall be automatically extended for a full term of fifteen years from May 30, 2016.

Respectfully submitted,

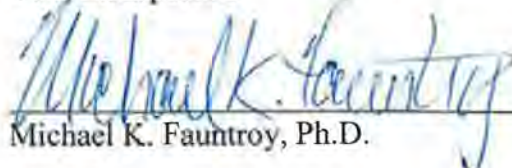
DISTRICT OF COLUMBIA COMMISSION ON  
JUDICIAL DISABILITIES AND TENURE



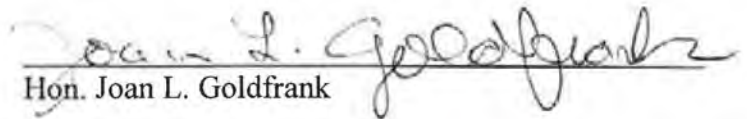
Hon. Gladys Kessler  
Chairperson



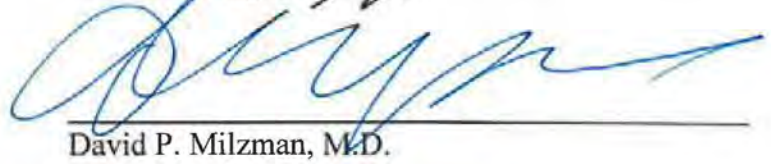
Jeannine C. Sanford, Esq.  
Vice Chairperson



Michael K. Fauntroy, Ph.D.

  
Hon. Joan L. Goldfrank

  
William P. Lightfoot, Esq.

  
David P. Milzman, M.D.

  
Anthony T. Pierce, Esq.

cc: The Honorable Maurice A. Ross

**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

June 6, 2016

The Honorable Barack H. Obama  
President of the United States  
The White House  
Washington, D.C. 20500

**Re: Evaluation of the Honorable Lynn Leibovitz**

Dear Mr. President:

The fifteen-year term of the Honorable Lynn Leibovitz, an Associate Judge of the Superior Court of the District of Columbia, expires on August 6, 2016. She is seeking reappointment to another term.

Pursuant to Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 744, as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat. 3228, the District of Columbia Commission on Judicial Disabilities and Tenure (“the Commission”) hereby submits this evaluation of Judge Leibovitz’s performance during her present term of office and her fitness for reappointment. Section 433(c) provides:

Not less than six months prior to the expiration of his [or her] term of office, any judge of the District of Columbia courts may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration is not so filed by any judge, a vacancy shall result from the expiration of his [or her] term of office and shall be filled by appointment as provided in subsections (a) and (b). If a declaration is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate’s term of office, prepare and submit to the President a written evaluation of the declaring candidate’s performance during his [or her] present term of office and his [or her] fitness for

reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

The Commission reserves the term “well qualified” for those judges whose work product, legal scholarship, dedication, efficiency, and demeanor are exceptional on the bench, and the candidate’s performance consistently reflects credit on the judicial system. The Commission will determine a judge is “qualified” if he or she satisfactorily performs his or her assigned duties or whose strong positive attributes are materially offset, but not overborne, by negative traits. A finding of “unqualified” means the Commission has found the judge to be unfit for judicial service.

Judge Leibovitz filed a timely declaration of candidacy for reappointment with the Commission on January 8, 2016. In evaluating Judge Leibovitz’s qualifications for reappointment, the Commission carefully reviewed the detailed written statement and supporting materials Judge Leibovitz submitted describing her services to the Court. The statement and attached materials described the significant aspects of her judicial, professional, and community activities during the past 15 years. The Commission also considered a selection of judicial



opinions that Judge Leibovitz authored during her first term on the bench and an analysis of her record on appeal.

In addition, the Commission reviewed a confidential statement from Judge Leibovitz's physician attesting to her "excellent" health and Judge Leibovitz's time reports and annual financial statements. None of these documents contains any reason why Judge Leibovitz should not continue to serve as a judicial officer.

The Commission interviewed several people concerning Judge Leibovitz's performance as a Judge, including Court personnel, Superior Court judges, and attorneys who had appeared before her representing the Government and individuals. The Commission met with Chief Judge Lee F. Satterfield to discuss Judge Leibovitz's request to be reappointed. The Chief Judge recommended Judge Leibovitz's reappointment, stating that she chaired one of the most important Court committees, the Judicial Education Committee, and led the Criminal Division, first, as Deputy Presiding Judge and presently, as Presiding Judge. The Chief Judge stated that she "does right by the Court and the people it serves." He recommended Judge Leibovitz for reappointment. Judge Leibovitz met personally with the Commission on May 11, 2016, to discuss her reappointment, including the information that she filed with the Commission, as well as information the Commission had received during the course of its evaluation.

At this time, Judge Leibovitz serves in the Criminal Division of the Superior Court. During her tenure, she has served in the Family Court, Domestic Violence Unit, the Civil Division, and the Criminal Division of the Superior Court. She has mostly served in the Criminal Division, serving only four and one half years of her fifteen-year appointment outside of the Criminal Division. Judge Leibovitz served as the Deputy Presiding Judge of the Criminal

Division for three years and presently, is the Presiding Judge. Judge Leibovitz presided over several significant cases and wrote several substantial opinions. Her decisions are fair and clearly written. The opinions reflect that she has an excellent command of the facts and the relevant law. Moreover, Judge Leibovitz's record on appeal is impressive with a small percentage of cases reversed by the Court of Appeals.

Judge Leibovitz also provides leadership to the Court off the bench. In addition to serving first as Deputy Presiding and now Presiding Judge of the Criminal Division, she has served on many Court committees, including the Judicial Education and Training Committee, the Rules Committee, the Committee on the Selection and Tenure of Magistrate Judges, the Interpreters' Committee, the Jury Management Committee, Pretrial Mental Examination Committee, the Urgent Care Clinic Stakeholders' Committee, and the Criminal Rules Advisory Committee. Most significantly, she was Chair of the Judicial Education and Training Committee from summer 2012 until January 2014. In that role, she established a working group to develop standardized curricula for the training of new judicial officers and recommended the implementation of a coaching program to assist the professional growth of judges. Thereafter, the Court implemented standardized training and a coaching program based on her Committees' designs. Finally, Judge Leibovitz served as a coach to a newer judge.

Judge Leibovitz engages in appropriate extra judicial activities. She was a Professor of Trial Advocacy at Georgetown University Law Center until 2006. She continues to participate in trainings outside the Court at the local law schools, bar organizations and legal institutions. Judge Leibovitz also has represented the Court in making presentations at community meetings.

Judge Leibovitz, by virtue of her intellect, hard work, fairness, and legal scholarship, deserves the term “well qualified” for the overall exceptional service she has provided the citizens of the District of Columbia as a Superior Court Judge. She is dedicated to ensuring that each party receives a fair hearing. Most importantly, she is balanced in her application of the law. She also works hard with other judicial officers, either individually or as a part of judicial training, to ensure an excellent quality of judging. Every individual with whom the Commission spoke enthusiastically endorsed the reappointment of Judge Leibovitz. They stated that she is well prepared and treats those who appear before her with fairness.

In light of Judge Leibovitz’s commendable record of judicial performance and her dedication to and leadership of the Court, and after a careful and thorough evaluation of all the information received and compiled, it is the view of the Commission that Judge Leibovitz should continue her judicial service. The Commission concluded that Judge Leibovitz’s work product, legal scholarship and dedication to the Court is a significant and valued contribution to the Court and the District of Columbia community. For all these reasons, the Commission finds Judge Leibovitz well qualified for reappointment, and her term shall be automatically extended for a full term of fifteen years from August 6, 2016.

Respectfully submitted,


DISTRICT OF COLUMBIA COMMISSION ON  
JUDICIAL DISABILITIES AND TENURE

  
\_\_\_\_\_  
Hon. Gladys Kessler, Chairperson




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Jeannine C. Sanford, Esq., Vice Chairperson



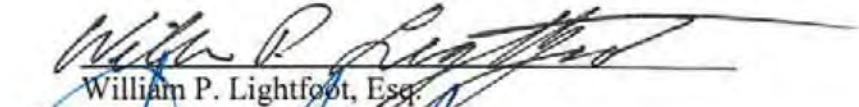
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Michael K. Fauntroy, Ph.D.




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Hon. Joan L. Goldfrank



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William P. Lightfoot, Esq.



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David P. Milzman, M.D.



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Anthony T. Pierce, Esq.

cc: The Honorable Lynn Leibovitz



**APPENDIX B**  
**GOVERNING PROVISIONS**



**STATUTE CREATING THE COMMISSION  
D.C. CODE TITLE 11 §11-1521**

**§ 11-1521. Establishment of Commission.**

There shall be a District of Columbia Commission on Judicial Disabilities and Tenure (hereafter in this subchapter referred to as the “Commission”). The Commission shall have power to suspend, retire, or remove a judge of a District of Columbia court, as provided in this subchapter.

(July 29, 1970, 84 Stat. 492, Pub. L. 91-358, title I, § 111.)

**§ 11-1522. Membership.**

(a) The Commission shall consist of five members appointed as follows:

(1) The President of the United States shall appoint three members of the Commission. Of the members appointed by the President –

(A) at least one member must be a member of the District of Columbia bar who has been actively engaged in the practice of law in the District of Columbia for at least five of the ten years immediately before appointment; and

(B) at least two members must be residents of the District of Columbia.

(2) The Commissioner [Mayor] of the District of Columbia shall appoint one member of the Commission. The member appointed by the Commissioner [Mayor] must be a resident of the District of Columbia and not an attorney.

(3) The chief judge of the United States District Court for the District of Columbia shall appoint one member of the Commission. The member appointed by the chief judge shall be an active or retired Federal judge serving in the District of Columbia.



The President shall designate as Chair of the Commission one of the members appointed pursuant to paragraph (1) who is a member of the District of Columbia bar who has been actively engaged in the practice of law in the District of Columbia for at least five of the ten years before the member's appointment.

(b) There shall be three alternate members of the Commission, who shall serve as members pursuant to rules adopted by the Commission. The alternate members shall be appointed as follows:

(1) The President shall appoint one alternate member, who shall be a resident of the District of Columbia and a member of the bar of the District of Columbia who has been actively engaged in the practice of law in the District of Columbia for at least five of the ten years immediately before appointment.

(2) The Commissioner [Mayor] shall appoint one alternate member who shall be a resident of the District of Columbia and not an attorney.

(3) The chief judge of the United States District Court for the District of Columbia shall appoint one alternate member who shall be an active or retired Federal judge serving in the District of Columbia.

(c) No member or alternate member of the Commission shall be a member, officer, or employee of the legislative branch or of an executive or military department of the United States Government (listed in section 101 or 102 of title 5, United States Code); and no member or alternate member (other than a member or alternate member appointed by the chief judge of the United States District Court for the District of Columbia) shall be an officer or employee of the judicial branch of the United States Government. No member or alternate member of the

Commission shall be an officer or employee of the District of Columbia government (including its judicial branch).

(July 29, 1970, 84 Stat. 492, Pub. L. 91-358, title I, § 111; June 13, 1994, Pub. L. 103-266, §§ 1(b)(25)-(27), 108 Stat. 713.)

**§ 11-1523. Terms of office; vacancy; continuation of service by a member.**

(a)(1) Except as provided in paragraph (2), the term of office of members and alternate members of the Commission shall be six years.

(2) Of the members and alternate members first appointed to the Commission --

(A) one member and alternate member appointed by the President shall be appointed for a term of six years, one member appointed by the President shall be appointed for a term of four years, and one such member shall be appointed for a term of two years, as designated by the President at the time of appointment;

(B) the member and alternate member appointed by the chief judge of the United States District Court for the District of Columbia shall be appointed for a term of four years; and

(C) the member and alternate member appointed by the Commissioner [Mayor] of the District of Columbia shall be appointed for a term of two years.

(b) A member or alternate member appointed to fill a vacancy occurring before the expiration of the term of that member's predecessor shall serve only for the remainder of that term. Any vacancy on the Commission shall be filled in the same manner as the original appointment was made.

(c) If approved by the Commission, a member may serve after the expiration of that member's term for purposes of participating until conclusion in a matter, relating to the suspension, retirement, or removal of a judge, begun before the expiration of that member's term. A member's successor may be appointed without regard to the member's continuation in service, but that member's successor may not participate in the matter for which the member's continuation in service was approved.

(July 29, 1970, 84 Stat. 493, Pub. L. 91-358, title I, § 111; June 13, 1994, Pub. L. 103-266, §§ 1(b)(28), (29), 108 Stat. 713.)

#### **§ 11-1524. Compensation.**

Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.

(July 29, 1970, 84 Stat. 493, Pub. L. 91-358, title I, § 111; Apr. 26, 1996, 110 Stat. [210], Pub. L. 104-134, § 133(a).)

#### **§ 11-1525. Operations; personnel; administrative services.**

(a) The Commission may make such rules and regulations for its operations as it may deem necessary, and such rules and regulations shall be effective on the date specified by the Commission. The District of Columbia Administrative Procedure Act (D.C. Official Code, secs. 2-501 to 2-510) shall be applicable to the Commission only as provided by this subsection. For the purposes of the publication of rules and regulations, judicial notice, and the filing and compilation of rules, sections 5, 7, and 8 of that Act (D.C. Official code, secs. 2-504, 2-505, and 2-507), insofar as consistent with this subchapter, shall be applicable to the Commission; and for purposes of those sections, the Commission shall be deemed an independent agency as defined in

section 3(5) of that Act (D.C. Official Code, sec. 2-502). Nothing contained herein shall be construed to require prior public notice and hearings on the subject of rules adopted by the Commission.

(b) The Commission is authorized, without regard to the provisions governing appointment and classification of District of Columbia employees, to appoint and fix the compensation of, or to contract for, such officers, assistants, reporters, counsel, and other persons as may be necessary for the performance of its duties. It is authorized to obtain the services of medical and other experts in accordance with the provisions of section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate provided for GS-18 of the General Schedule.

(c) The District of Columbia is authorized to detail, on a reimbursable basis, any of its personnel to assist in carrying out the duties of the Commission.

(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided to the Commission by the District of Columbia, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chair of the Commission and the District of Columbia government. Regulations of the District of Columbia for the administrative control of funds shall apply to funds appropriated to the Commission.

(July 29, 1970, 84 Stat. 493, Pub. L. 91-358, title I, § 111; June 13, 1994, Pub. L. 103-266, § 1(b)(30), 108 Stat. 713.)

**§ 11-1526. Removal; involuntary retirement; proceedings.**

(a)(1) A judge of a District of Columbia court shall be removed from office upon the filing in the District of Columbia Court of Appeals by the Commission of an order of removal certifying the entry, in any court within the United States, of a final judgment of conviction of a crime which is punishable as a felony under Federal law or which would be a felony in the District of Columbia.

(2) A judge of a District of Columbia court shall also be removed from office upon affirmance of an appeal from an order of removal filed in the District of Columbia Court of Appeals by the Commission (or upon expiration of the time within which such an appeal may be taken) after a determination by the Commission of—

(A) willful misconduct in office,

(B) willful and persistent failure to perform judicial duties, or

(C) any other conduct which is prejudicial to the administration of justice or which brings the judicial office into disrepute.

(b) A judge of a District of Columbia court shall be involuntarily retired from office when (1) the Commission determines that the judge suffers from a mental or physical disability (including habitual intemperance) which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of the judge's judicial duties, and (2) the Commission files in the District of Columbia Court of Appeals an order of involuntary retirement and the order is affirmed on appeal or the time within which an appeal may be taken from the order has expired.

(c)(1) A judge of a District of Columbia court shall be suspended, without salary –

(A) upon --

(i) proof of conviction of a crime referred to in subsection (a)(1) which has not become final, or

(ii) the filing of an order of removal under subsection (a)(2) which has not become final; and

(B) upon the filing by the Commission of an order of suspension in the District of Columbia Court of Appeals.

Suspension under this paragraph shall continue until termination of all appeals. If the conviction is reversed or the order of removal is set aside, the judge shall be reinstated and shall recover salary and all rights and privileges pertaining to the judge's office.

(2) A judge of a District of Columbia court shall be suspended from all judicial duties, with such retirement salary as the judge may be entitled to pursuant to subchapter III of this chapter, upon the filing by the Commission of an order of involuntary retirement under subsection (b) in the District of Columbia Court of Appeals. Suspension shall continue until termination of all appeals. If the order of involuntary retirement is set aside, the judge shall be reinstated and shall recover the judge's judicial salary less any retirement salary received and shall be entitled to all the rights and privileges of office.

(3) A judge of a District of Columbia court shall be suspended from all or part of judicial duties, with salary, if the Commission, upon the concurrence of three members, (A) orders a hearing for the removal or retirement of the judge pursuant to this subchapter and determines that suspension is in the interest of the administration of justice, and (B) files an order of suspension in the District of Columbia Court of Appeals. The suspension shall terminate as specified in the

order (which may be modified, as appropriate, by the Commission) but in no event later than the termination of all appeals.

(July 29, 1970, 84 Stat. 494, Pub. L. 91-358, title I, § 111; June 13, 1994, Pub. L. 103-266, §§ 1(b)(31)-(35), 108 Stat. 713.)

### **§ 11-1527. Procedures.**

(a)(1) On its own initiative, or upon complaint or report of any person, formal or informal, the Commission may undertake an investigation of the conduct or health of any judge. After such investigation as it deems adequate, the Commission may terminate the investigation or it may order a hearing concerning the health or conduct of the judge. No order affecting the tenure of a judge based on grounds for removal set forth in section 11-1526(a)(2) or 11-1530(b)(3) shall be made except after a hearing as provided by this subchapter. Nothing in this subchapter shall preclude any informal contacts with the judge, or the chief judge of the court in which the judge serves, by the Commission, whether before or after a hearing is ordered, to discuss any matter related to its investigation.

(2) A judge whose conduct or health is to be the subject of a hearing by the Commission shall be given notice of such hearing and of the nature of the matters under inquiry not less than thirty days before the date on which the hearing is to be held. The judge shall be admitted to such hearing and to every subsequent hearing regarding the judge's conduct or health. The judge may be represented by counsel, offer evidence in his or her own behalf, and confront and cross-examine witnesses against the judge.

(3) Within ninety days after the adjournment of hearings, the Commission shall make findings of fact and a determination regarding the conduct or health of a judge who was

the subject of the hearing. The concurrence of at least four members shall be required for a determination of grounds for removal or retirement. Upon a determination of grounds for removal or retirement, the Commission shall file an appropriate order pursuant to subsection (a) or (b) of section 11-1526. On or before the date the order is filed, the Commission shall notify the judge, the chief judge of the court in which the judge serves, and the President of the United States.

(b) The Commission shall keep a record of any hearing on the conduct or health of a judge and one copy of such record shall be provided to the judge at the expense of the Commission.

(c)(1) In the conduct of investigations and hearings under this section the Commission may administer oaths, order and otherwise provide for the inspection of books and records, and issue subpoenas [subpoenas] for attendance of witnesses and the production of papers, books, accounts, documents, and testimony relevant to any such investigation or hearing. It may order a judge whose health is in issue to submit to a medical examination by a duly licensed physician designated by the Commission.

(2) Whenever a witness before the Commission refuses, on the basis of the witness's privilege against self-incrimination, to testify or produce books, papers, documents, records, recordings, or other materials, and the Commission determines that the testimony or production of evidence is necessary to the conduct of its proceedings, it may order the witness to testify or produce the evidence. The Commission may issue the order no earlier than ten days after the day on which it served the Attorney General with notice of its intention to issue the order. The witness may not refuse to comply with the order on the basis of the witness's privilege against self-incrimination, but no testimony or other information compelled under the order (or any information directly or indirectly



derived from the testimony or production of evidence) may be used against the witness in any criminal case, nor may it be used as a basis for subjecting the witness to any penalty or forfeiture contrary to constitutional right or privilege. No witness shall be exempt under this subsection from prosecution for perjury committed while giving testimony or producing evidence under compulsion as provided in this subsection.

(3) If any person refuses to attend, testify, or produce any writing or things required by a subpoena [subpoena] issued by the Commission, the Commission may petition the United States district court for the district in which the person may be found for an order compelling that person to attend and testify or produce the writings or things required by subpoena [subpoena]. The court shall order the person to appear before it at a specified time and place and then and there shall consider why that person has not attended, testified, or produced writings or things as required. A copy of the order shall be served upon that person. If it appears to the court that the subpoena [subpoena] was regularly issued, the court shall order the person to appear before the Commission at the time or place fixed in the order and to testify or produce the required writings or things. Failure to obey the order shall be punishable as contempt of court.

(4) In pending investigations or proceedings before it, the Commission may order the deposition of any person to be taken in such form and subject to such limitation as may be prescribed in the order. The Commission may file in the Superior Court a petition, stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and directions, if any, of the Commission requesting an order requiring the person to appear and testify before a designated officer. Upon the filing of the petition the Superior Court may order the

person to appear and testify. A subpoena [subpoena] for such deposition shall be issued by the clerk of the Superior Court and the deposition shall be taken and returned in the manner prescribed by law for civil actions.

(d) It shall be the duty of the United States marshals upon the request of the Commission to serve process and to execute all lawful orders of the Commission.

(e) Each witness, other than an officer or employee of the United States or the District of Columbia, shall receive for attendance the same fees, and all witnesses shall receive the allowances, prescribed by section 15-714 for witnesses in civil cases. The amount shall be paid by the Commission from funds appropriated to it.

(July 29, 1970, 84 Stat. 495, Pub. L. 91-358, title I, § 111; June 13, 1994, Pub. L. 103-266, §§ 1(b)(36)-(41), 108 Stat. 713.)

**§ 11-1528. Privilege; confidentiality.**

(a)(1) Subject to paragraph (2), the filing of papers with, and the giving of testimony before, the Commission shall be privileged. Subject to paragraph (2), hearings before the Commission, the record thereof, and materials and papers filed in connection with such hearings shall be confidential.

(2)(A) The judge whose conduct or health is the subject of any proceedings under this chapter may disclose or authorize the disclosure of any information under paragraph (1).

(B) With respect to a prosecution of a witness for perjury or on review of a decision of the Commission, the record of hearings before the Commission and all papers filed in connection with such hearing shall be disclosed to the extent required for such prosecution or review.

(C) Upon request, the Commission shall disclose, on a privileged and confidential basis, to the District of Columbia Judicial Nomination Commission any information under paragraph (1) concerning any judge being considered by such nomination commission for elevation to the District of Columbia Court of Appeals or for chief judge of a District of Columbia court.

(b) If the Commission determines that no grounds for removal or involuntary retirement exist it shall notify the judge and inquire whether the judge desires the Commission to make available to the public information pertaining to the nature of its investigation, its hearings, findings, determinations, or any other fact related to its proceedings regarding the judge's health or conduct. Upon receipt of such request in writing from the judge, the Commission shall make such information available to the public.

(July 29, 1970, 84 Stat. 497, Pub. L. 91-358, title I, § 111; Oct. 28, 1986, 100 Stat. 3228, Pub. L. 99-573, § 11; June 13, 1994, Pub. L. 103- 266, § 1(b)(42), 108 Stat. 713.)

**§ 11-1529. Judicial review.**

(a) A judge aggrieved by an order of removal or retirement filed by the Commission pursuant to subsection (a) or (b) of section 11-1526 may seek judicial review thereof by filing notice of appeal with the Chief Justice of the United States. Notice of appeal shall be filed within 30 days of the filing of the order of the Commission in the District of Columbia Court of Appeals.

(b) Upon receipt of notice of appeal from an order of the Commission, the Chief Justice shall convene a special court consisting of three Federal judges designated from among active or retired judges of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia.

(c) The special court shall review the order of the Commission appealed from and, to the extent necessary to decision and when presented, shall decide all relevant questions of law and interpret constitutional and statutory provisions. Within 90 days after oral argument or submission on the briefs if oral argument is waived, the special court shall affirm or reverse the order of the Commission or remand the matter to the Commission for further proceedings.

(d) The special court shall hold unlawful and set aside a Commission order or determination found to be --

- (1) arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law;
- (2) contrary to constitutional right, power, privilege, or immunity;
- (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
- (4) without observance of procedure required by law; or
- (5) unsupported by substantial evidence.

In making the foregoing determinations, the special court shall review the whole record or those parts of it cited by the judge or the Commission, and shall take due account of the rule of prejudicial error.

(e) As appropriate and to the extent consistent with this chapter, the Federal Rules of Appellate Procedure governing appeals in civil cases shall apply to appeals taken under this section.

(f) Decisions of the special court shall be final and conclusive.

(July 29, 1970, 84 Stat. 497, Pub. L. 91-358, title I, § 111.)

**§ 11-1530. Financial statements.**

(a) Pursuant to such rules as the Commission shall promulgate, each judge of the District of Columbia courts shall, within one year following the date of enactment of the District of Columbia Court Reorganization Act of 1970 and at least annually thereafter, file with the Commission the following reports of the judge's personal financial interests:

- (1) A report of the judge's income and the judge's spouse's income for the period covered by the report, the sources thereof, and the amount and nature of the income received from each such source.
- (2) The name and address of each private foundation or eleemosynary institution, and of each business or professional corporation, firm, or enterprise in which the judge was an officer, director, proprietor, or partner during such period;
- (3) The identity of each liability of \$5,000 or more owed by the judge or by the judge and the judge's spouse jointly at any time during such period.
- (4) The source and value of all gifts in the aggregate amount or value of \$50 or more from any single source received by the judge during such period, except gifts from the judge's spouse or any of the judge's children or parents.
- (5) The identity of each trust in which the judge held a beneficial interest having a value of \$10,000 or more at any time during such period, and in the case of any trust in which the judge held any beneficial interest during such period, the identity, if known, of each interest in real or personal property in which the trust held a beneficial interest having a value of \$10,000 or more at any time during such period. If the judge cannot obtain the identity of the trust interest, the judge shall request the trustee to report that information to the Commission in such manner as the Commission shall by rule prescribe.

(6) The identity of each interest in real or personal property having a value of \$10,000 or more which the judge owned at any time during such period.

(7) The amount or value and source of each honorarium of \$300 or more received by the judge during such period.

(8) The source and amount of all money, other than that received from the United States Government, received in the form of an expense account or as reimbursement for expenditures during such period.

(b)(1) Except as provided in paragraph (2) of this subsection the content of any report filed under this section shall not be open to inspection by anyone other than (A) the person filing the report, (B) authorized members, alternate members, or staff of the Commission to determine if this section has been complied with or in connection with duties of the Commission under this subchapter, or (C) a special court convened under section 11-1529 to review a removal order of the Commission.

(2) Reports filed pursuant to paragraphs (2) and (7) of subsection (a) shall be made available for public inspection and copying promptly after filing and during the period they are kept by the Commission, and shall be kept by the Commission for not less than three years.

(3) The intentional failure by a judge of a District of Columbia court to file a report required by this section, or the filing of a fraudulent report, shall constitute willful misconduct in office and shall be grounds for removal from office under section 11-1526(a)(2).

(July 29, 1970, 84 Stat. 498, Pub. L. 91-358, title I, § 111; June 13, 1994, Pub. L. 103-266, §§ 1(b)(43)-(50), 108 Stat. 713.)



**STATUTE REESTABLISHING THE COMMISSION AND  
ENLARGING ITS JURISDICTION TO INCLUDE THE  
REAPPOINTMENT OF ASSOCIATE JUDGES  
D.C. CODE TITLE 1 §1-204.31(d)(1)**

**§ 1-204.31. Judicial powers**

(d)(1) There is established a District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter referred to as the "Tenure Commission"). The Tenure Commission shall consist of seven members selected in accordance with the provisions of subsection (e). Such members shall serve for terms of six years, except that the member selected in accordance with subsection (e)(3)(A) shall serve for five years; of the members first selected in accordance with subsection (e)(3)(B), one member shall serve for three years and one member shall serve for six years; of the members first selected in accordance with subsection (e)(3)(C), one member shall serve for a term of three years and one member shall serve for five years; the member first selected in accordance with subsection (e)(3)(D) shall serve for six years; and the member first appointed in accordance with subsection (e)(3)(E) shall serve for six years. In making the respective first appointments according to subsections (e)(3)(B) and (e)(3)(C), the Mayor and the Board of Governors of the unified District of Columbia Bar shall designate, at the time of such appointments, which member shall serve for the shorter term and which member shall serve for the longer term.

(2) The Tenure Commission shall act only at meetings called by the Chairman or a majority of the Tenure Commission held after notice has been given of such meeting to all Tenure Commission members.

(3) The Tenure Commission shall choose annually, from among its members, a Chairman and such other officers as it may deem necessary. The Tenure Commission may adopt



such rules of procedures not inconsistent with this chapter as may be necessary to govern the business of the Tenure Commission.

(4) The District government shall furnish to the Tenure Commission, upon the request of the Tenure Commission, such records, information, services, and such other assistance and facilities as may be necessary to enable the Tenure Commission properly to perform its functions. Information so furnished shall be treated by the Tenure Commission as privileged and confidential.

(e)(1) No person may be appointed to the Tenure Commission unless such person --

(A) is a citizen of the United States;

(B) is a bona fide resident of the District and has maintained an actual place of abode in the District for at least ninety days immediately prior to appointment; and

(C) is not an officer or employee of the legislative branch or of an executive or military department or agency of the United States (listed in sections 101 and 102 of title 5 of the United States Code); and (except with respect to the person appointed or designated according to paragraph (3) (E)) is not an officer or employee of the judicial branch of the United States, or an officer or employee of the District government (including its judicial branch).

(2) Any vacancy on the Tenure Commission shall be filled in the same manner in which the original appointment was made. Any person so appointed to fill a vacancy occurring other than upon the expiration of a prior term shall serve only for the remainder of the unexpired term of such person's predecessor.

(3) In addition to all other qualifications listed in this section, lawyer members of the Tenure Commission shall have the qualifications prescribed for persons appointed as judges of the District of Columbia courts. Members of the Tenure Commission shall be appointed as follows:

(A) One member shall be appointed by the President of the United States.

(B) Two members shall be appointed by the Board of Governors of the unified District of Columbia Bar, both of whom shall have been engaged in the practice of law in the District for at least five successive years preceding their appointment.

(C) Two members shall be appointed by the Mayor, one of whom shall not be a lawyer.

(D) One member shall be appointed by the Council, and shall not be a lawyer.

(E) One member shall be appointed by the chief judge of the United States District Court for the District of Columbia, and such member shall be an active or retired Federal judge serving in the District.

No person may serve at the same time on both the District of Columbia Judicial Nomination Commission and on the District of Columbia Commission on Judicial Disabilities and Tenure.

(f) Any member of the Tenure Commission who is an active or retired Federal judge shall serve without additional compensation. Other members shall receive the daily equivalent at the rate provided by grade 18 of the General Schedule, established under section 5332 of title 5 of the United States Code, while actually engaged in service for the Commission.

(g) The Tenure Commission shall have the power to suspend, retire, or remove a judge of a District of Columbia court as provided in § 1-204.32 and to make recommendations regarding

the appointment of senior judges of the District of Columbia courts as provided in § 11-1504. (Dec. 24, 1973, 87 Stat. 792, Pub. L. 93-198, title IV, § 431; Oct. 13, 1977, 91 Stat. 1155, Pub. L. 95-131, § 3(a); Oct. 30, 1984, 98 Stat. 3142, Pub. L. 98-598, § 2(b); Oct. 28, 1986, 100 Stat. 3228, Pub. L. 99-573, § 4; June 13, 1994, Pub. L. 103-266, §§ 2(b)(1), 2(b)(2), 2(b)(3), 108 Stat. 713.)

**§ 1-204.32. Removal, suspension, and involuntary retirement.**

(a)(1) A judge of a District of Columbia court shall be removed from office upon the filing in the District of Columbia Court of Appeals by the Tenure Commission of an order of removal certifying the entry, in any court within the United States, of a final judgment of conviction of a crime which is punishable as a felony under Federal law or which would be a felony in the District.

(2) A judge of a District of Columbia court shall also be removed from office upon affirmance of an appeal from an order of removal filed in the District of Columbia Court of Appeals by the Tenure Commission (or upon expiration of the time within which such an appeal may be taken) after a determination by the Tenure Commission of--

- (A) willful misconduct in office,
- (B) willful and persistent failure to perform judicial duties, or
- (C) any other conduct which is prejudicial to the administration of justice or which brings the judicial office into disrepute.

(b) A judge of a District of Columbia court shall be involuntarily retired from office when (1) the Tenure Commission determines that the judge suffers from a mental or physical disability (including habitual intemperance) which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of judicial duties, and (2) the Tenure

Commission files in the District of Columbia Court of Appeals an order of involuntary retirement and the order is affirmed on appeal or the time within which an appeal may be taken from the order has expired.

(c)(1) A judge of a District of Columbia court shall be suspended, without salary --

(A) upon --

(i) proof of conviction of a crime referred to in subsection (a)(1) which has not become final, or

(ii) the filing of an order of removal under subsection (a)(2) which has not become final; and

(B) upon the filing by the Tenure Commission of an order of suspension in the District of Columbia Court of Appeals.

Suspension under this paragraph shall continue until termination of all appeals. If the conviction is reversed or the order of removal is set aside, the judge shall be reinstated and shall recover any salary and all other rights and privileges of office.

(2) A judge of a District of Columbia court shall be suspended from all judicial duties, with such retirement salary as the judge may be entitled, upon the filing by the Tenure Commission of an order of involuntary retirement under subsection (b) in the District of Columbia Court of Appeals. Suspension shall continue until termination of all appeals. If the order of involuntary retirement is set aside, the judge shall be reinstated and shall recover judicial salary less any retirement salary received and shall be entitled to all the rights and privileges of office.

(3) A judge of a District of Columbia court shall be suspended from all or part of the judge's judicial duties, with salary, if the Tenure Commission, upon concurrence of five

members, (A) orders a hearing for the removal or retirement of the judge pursuant to this part and determines that such suspension is in the interest of the administration of justice, and (B) files an order of suspension in the District of Columbia Court of Appeals. The suspension shall terminate as specified in the order (which may be modified, as appropriate, by the Tenure Commission) but in no event later than the termination of all appeals.

(Dec. 24, 1973, 87 Stat. 794, Pub. L. 93-198, title IV, § 432; June 13, 1994, Pub. L. 103-266, §§ 2(b)(4), (5), 108 Stat. 713.)

**§ 1-204.33. Nomination and appointment of judges.**

(a) Except as provided in § 1-204.34(d)(1), the President shall nominate, from the list of persons recommended by the District of Columbia Judicial Nomination Commission established under § 1-204.34, and, by and with the advice and consent of the Senate, appoint all judges of the District of Columbia courts.

(b) No person may be nominated or appointed a judge of a District of Columbia court unless the person --

(1) is a citizen of the United States;

(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding the nomination or for such five years has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or the District of Columbia government;

(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least ninety days immediately prior to the nomination, and shall retain such residency while serving as such judge, except judges appointed prior to the effective date of this part who retain residency as required by § 11-1501(a) shall not be required to be residents of the District to be eligible for reappointment or to serve any term to which reappointed;

(4) is recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and

(5) has not served, within a period of two years prior to the nomination, as a member of the Tenure Commission or of the District of Columbia Judicial Nomination Commission.

(c) Not less than six months prior to the expiration of the judge's term of office, any judge of the District of Columbia courts may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration is not so filed by any judge, a vacancy shall result from the expiration of the term of office and shall be filled by appointment as provided in subsections (a) and (b) of this section. If a declaration is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate's term of office, prepare and submit to the President a written evaluation of the declaring candidate's performance during the present term of office and the candidate's fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate

for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, the President shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b) of this section. If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

(Dec. 24, 1973, 87 Stat. 795, Pub. L. 93-198, title IV, § 433; Oct. 28, 1986, 100 Stat. 3228, Pub. L. 99-573, §§ 12, 13; June 13, 1994, Pub. L. 103-266, §§ 2(b)(6), 2(b)(7), 2(b)(8), 108 Stat. 713; Sept. 9, 1996, 110 Stat. 2369, Pub. L. 104-194, § 131(b); Apr. 26, 1996, 110 Stat. 1321 [210], Pub. L. 104-134, § 133(b).)

**STATUTE ENLARGING THE COMMISSION'S JURISDICTION  
TO INCLUDE REVIEWS AND RECOMMENDATIONS OF  
RETIRED AND SENIOR JUDGES  
D.C. CODE TITLE 11 §11-1504**

**§ 11-1504. Services of retired judges.**

(a)(1) A judge, retired for reasons other than disability, who has been favorably recommended and appointed as a senior judge, in accordance with subsection (b), may perform such judicial duties as such senior judge is assigned and willing and able to undertake. A senior judge shall be subject to reappointment every four years, unless the Senior Judge has reached his or her seventy-fourth birthday, whereupon review shall be at least every two years, in accordance with subsection (b). Except as provided under this section, retired judges may not perform judicial duties in District of Columbia courts.

(2) At any time prior to or not later than one year after retirement, a judge may request recommendation from the District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter in this section referred to as the "Commission") to be appointed as a senior judge in accordance with this section; except that any retired judge shall have not less than 180 days from the effective date of this Act to file a request for an initial recommendation from the Commission.

(b)(1) A retired judge willing to perform judicial duties may request a recommendation as a senior judge from the Commission. Such judge shall submit to the Commission such information as the Commission considers necessary to a recommendation under this subsection.

(2) The Commission shall submit a written report of its recommendations and findings to the appropriate chief judge and the judge requesting appointment within 180 days of the date of the request for recommendation. The Commission, under such criteria as it



considers appropriate, shall make a favorable or unfavorable recommendation to the appropriate chief judge regarding an appointment as senior judge. The recommendation of the Commission shall be final.

(3) The appropriate chief judge shall notify the Commission and the judge requesting appointment of such chief judge's decision regarding appointment within 30 days after receipt of the Commission's recommendation and findings. The decision of such chief judge regarding such appointment shall be final.

(c) A judge may continue to perform judicial duties upon retirement, without appointment as a senior judge, until such judge's successor assumes office.

(d) A retired judge, actively performing judicial duties as of the date of enactment of the District of Columbia Retired Judge Service Act, may continue to perform such judicial duties as he or she may be willing and able to assume, subject to the approval of the appropriate chief judge, for a period not to exceed one year from the date of enactment of such Act, without appointment as a senior judge.

(July 29, 1970, 84 Stat. 491, Pub. L. 91-358, title I, § 111; Oct. 30, 1984, 98 Stat. 3142, Pub. L. 98-598, § 2(a); Oct. 28, 1986, 100 Stat. 3228, Pub. L. 99-573, §§ 14(a), (b).)

**STATUTE AMENDING FINANCIAL REPORTING REQUIREMENTS  
D.C. CODE TITLE 11 §11-1530**

**§ 11-1530. Financial statements.**

(a) Pursuant to such rules as the Commission shall promulgate, each judge of the District of Columbia courts shall, within 1 year following the date of enactment of the District of Columbia Court Reorganization Act of 1970 and at least annually thereafter, file with the Commission a report containing the following information:

(I) (A) The source, type and amount of the judge's income which exceeds \$ 200 (other than income from the United States government and income referred to in subparagraph (C)) for the period covered by the report.

(B) The source and type of the judge's spouse's income which exceeds \$ 1,000 (other than income from the United States government and income referred to in subparagraph (C)) for the period covered by the report.

(C) The source and type of income which consists of dividends, rents, interest, and capital gains received by the judge and the judge's spouse during such period which exceeds \$ 200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within--

- (i) not more than \$ 1,000;
- (ii) greater than \$1,000 but not more than \$ 2,500;
- (iii) greater than \$ 2,500 but not more than \$ 5,000;
- (iv) greater than \$ 5,000 but not more than \$ 15,000;
- (v) greater than \$ 15,000 but not more than \$ 50,000;
- (vi) greater than \$ 50,000 but not more than \$ 100,000;

(vii) greater than \$ 100,000 but not more than \$ 1,000,000;

(viii) greater than \$ 1,000,000 but not more than \$ 5,000,000; or

(ix) greater than \$ 5,000,000.

(2) The name and address of each private foundation or eleemosynary institution, and of each business or professional corporation, firm, or enterprise in which the judge was an officer, director, proprietor, or partner during such period.

(3) The identity and category of value (as set forth in subsection (b)) of each liability of \$10,000 or more owed by the judge or by the judge and the judge's spouse jointly at any time during such period.

(4) The source and value of all gifts in the aggregate amount or value of \$250 or more from any single source received by the judge during such period, except gifts from the judge's spouse or any of the judge's children or parents.

(5) The identity of each trust in which the judge held a beneficial interest having a value of \$10,000 or more at any time during such period, and in the case of any trust in which the judge held any beneficial interest during such period, the identity, if known, of each interest in real or personal property in which the trust held a beneficial interest having a value of \$ 10,000 or more at any time during such period. If the judge cannot obtain the identity of the trust interest, the judge shall request the trustee to report that information to the Commission.

(6) The identity and category of value (as set forth in subsection (b)) of each interest in real or personal property having a value of \$ 10,000 or more which the judge owned at any time during such period.

(7) The amount or value and source of each honorarium of \$ 250 or more received by the judge and the judge's spouse during such period.

(8) The source and amount of all money, other than that received from the United States government, received in the form of an expense account or as reimbursement for expenditures from any source aggregating more than \$ 250 during such period.

(9) The source and amount of all waivers or partial waivers of fees or charges accepted by the judge on behalf of the judge or the judge's spouse, domestic partner, or guest during such period.

(b) For purposes of paragraphs (3) and (6) of subsection (a), the categories of value set forth in this subsection are --

(1) not more than \$ 15,000;

(2) greater than \$ 15,000 but not more than \$ 50,000;

(3) greater than \$ 50,000 but not more than \$ 100,000;

(4) greater than \$ 100,000 but not more than \$ 250,000;

(5) greater than \$ 250,000 but not more than \$ 500,000;

(6) greater than \$ 500,000 but not more than \$ 1,000,000;

(7) greater than \$ 1,000,000 but not more than \$ 5,000,000;

(8) greater than \$ 5,000,000 but not more than \$ 25,000,000;

(9) greater than \$ 25,000,000 but not more than \$ 50,000,000; and

(10) greater than \$ 50,000,000.

(c) (1) Reports filed pursuant to this section shall, upon written request, and notice to the reporting judge for purposes of making an application to the Commission for a redaction pursuant to paragraph (2), be made available for public inspection and copying within a reasonable time after filing and during the period they are kept by the Commission (in accordance with rules promulgated by the Commission), and shall be kept by the Commission for not less than 3 years.

**(2)** This section does not require the public availability of reports filed by a judge if upon application by the reporting judge, a finding is made by the Commission that revealing personal and sensitive information could endanger that judge or a family member of that judge, except that a report may be redacted pursuant to this paragraph only--

**(A)** to the extent necessary to protect the individual who filed the report or a family member of that individual; and

**(B)** for as long as the danger to such individual exists.

**(d)** The intentional failure by a judge of a District of Columbia court to file a report required by this section, or the filing of a fraudulent report, shall constitute willful misconduct in office and shall be grounds for removal from office under section 11-1526(a)(2).

**(b) EFFECTIVE DATE.** – The amendment made by subsection (a) shall apply with respect to reports filed under section 11-1530, D.C. Official Code, that cover periods during or after 2016.

**HISTORY:** (July 29, 1970, 84 Stat. 498, Pub. L. 91-358, title I, § 111; June 13, 1994, 108 Stat. 713, Pub. L. 103-266, §§ 1(b)(43)-(50); Dec. 14, 2016, 130 Stat. 1350, Pub. L. 114-257, §2(a).)