

MEMORANDUM

TO: Commissioners

FROM: Lynn Helland

RE: JTC grievance resolution analysis, 2016–2021

DATE: April 11, 2023

This memorandum modifies slightly in form, but not in substance, information staff developed in October 2021 to review the racial makeup of judges concerning whom the Commission takes some action relative to the racial makeup of the judiciary as a whole.

I note at the outset that the Commission does not track the race of judges. As a result it would have been very labor-intensive to determine the racial composition of all judges for whom the Commission receives a complaint. Staff lack the resources to do that inquiry, so focused only on those cases in which the Commission took some action *other than* summary dismissal.

The great majority of our work is focused on district court and circuit court judges. For perspective, according to SCAO about 16 ½% of Michigan’s circuit and district court judges are African American.

- a. Since 2016 the Commission has admonished a judge 21 times. Five admonitions went to African American judges. Two of the five went to one judge and two more went to another judge. So only three separate African American judges have been admonished since 2016, while 15 Caucasian judges have been. That is 16½% African American.
- b. Since 2016 the JTC has cautioned, or given a special dismissal to, a total of 40 judges. Of those, six were African American and 34 were Caucasian. That is 15% African American.
- c. Since 2016, seventeen judges have resigned or retired while under investigation. Two of those were African American. That is 12%. The great majority of those cases would likely have resulted in public complaints had the judge not stepped down.

- d. Since 2016, three judges have consented to a sanction. None of them were African American. These would certainly have been public complaints had the judge not consented. For whatever reason, no African American judges have chosen this route though we are always open to it.
- e. There have been seven public complaints since 2016. African American judges were charged in four of them. [Note – this number was accurate as of October 2021. I did not update this number in 2023 because doing so would have required updating all the other numbers as well, and that would have required resources we do not currently have available.]

When one looks at both our visible stats – that is, our very few public complaints – and our confidential stats, it is only the public complaints that affect African American judges disproportionately. If one looks at all cases that likely *would have been* public complaints but for the judge resigning or accepting a consent sanction, there are at least 27 cases, of which six were African American. That’s 22%. If the number of African Americans who received or were likely to receive a public sanction were only two fewer – four instead of six – the proportion of African American judges in that category would actually be less than the percentage of African American judges in the judiciary. If it were one fewer – five instead of six – the proportion would be just a little higher than the proportion of African American judges in the judiciary.

In other words, even the statistical suggestion of a possibility disparity disappears if the numbers are changed just a little bit. That is a consequence of the fact that we are dealing with such a small statistical sample. When the already-small apparent disparity is so affected by a small change in the number of judges charged, that means there is no statistical significance to the small apparent disparity.