



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

**FY 2019**

---

**ANNUAL  
REPORT**



# FY 2019 ANNUAL REPORT

## COMMISSIONERS

Joyce Bustos  
*Chair*

Malinda Williams  
*Vice-Chair*

Kevin R. Dixon, Ph.D.  
William E. Foote, Ph.D.

Norman L. Gagne, Esq.  
Hon. Alisa A. Hart

Hon. Cheryl H. Johnston  
Roberta Jean Kamm

Hon. Maurine Laney  
Hon. Steven O. Lee

Nancy R. Long, Esq.  
Twillia C. Thomason

## STAFF

Randall D. Roybal, Esq.  
*Executive Director & General Counsel*

Phyllis A. Dominguez, Esq.  
*Deputy Director*

Chance A. Gauthier, Esq.  
*Assistant Investigative Trial Counsel*

Evonne Sanchez  
*Paralegal*

Shariesse T. McCannon  
*Clerk of the Commission & Paralegal*

Krista M. Ganes-Chavez  
*Deputy Chief Financial Officer*

Luella L. Gonzales  
*Legal and Financial Assistant*

## MAILING ADDRESS

P.O. Box 27248  
Albuquerque, NM 87125-7248

## PHYSICAL ADDRESS

111 Lomas Blvd. NW, Suite 220  
Albuquerque, NM 87102-2368

## TELEPHONE

(505) 222-9353

## WEBSITE

[www.nmjsc.org](http://www.nmjsc.org)

*Graphic Design & Layout*

Randall D. Roybal

Judicial Standards Commission



## FORWARD

The New Mexico Supreme Court has repeatedly recognized that judges are held to a higher standard of conduct than other officials and must expect to be the subject of constant public scrutiny. The prestige and power inherent in judicial service are not without boundary or review, but instead come with profound responsibilities and substantial accountability. When judicial behavior violates the standards and rules established by the Supreme Court, the Judicial Standards Commission is mandated by Article VI, Section 32 of the New Mexico Constitution to investigate, hold evidentiary hearings, and make recommendations for a judge's discipline, removal, or involuntary retirement.

The first state judicial disciplinary agency was created in California in 1960. The only way to address judicial misconduct or disability before that time was to seek a judge's removal from office, either through impeachment by the state legislature or at the ballot box through regular or recall elections. Because of the long, difficult, and expensive nature of these attempts, and since not all (if not most) transgressions clearly do not require an elected judge to be removed from office when less severe, educational, or rehabilitative remedies may suffice, another avenue for redress was needed. By 1972 more than half of the states had created judicial disciplinary agencies, with the last created in 1989.

In New Mexico the issue was first raised during the Constitution revision process in 1964 and again in 1967. As noted in the 1964 report of the revision commission, "The present system of reliance upon impeachment as the exclusive method of supervision of conduct of judges during their term of office is inadequate and should be supplemented [by an] independent commission of laymen, judges, and lawyers." 1964 Report of the Constitutional Revision Commission at 117. The 1967 report further stated, "In order to achieve an efficient and well disciplined judicial system possessing the highest degree of integrity, it is felt that an independent commission is necessary to oversee and investigate performance, conduct and fitness of members of the judiciary." 1967 Report of the Constitutional Revision Commission at 88.

The matter was presented to the People of the State of New Mexico in the 1967 general election as a proposed amendment to the Constitution and passed. The Judicial Standards Commission was created and began its independent review of judicial conduct in 1968. The Commission was empowered to investigate allegations of misconduct and disability against all state, county and municipal judges, hold evidentiary hearings when necessary, and make recommendations for the discipline, involuntary retirement, or removal of judges from judicial office. The New Mexico Supreme Court may accept, reject, or modify the Commission's recommendations, and it is the only body empowered to impose sanctions.

Our Judicial Standards Commission, like its sister judicial disciplinary agencies throughout the United States, promotes judicial independence by ensuring that judges are held accountable for misbehavior, instead of discretionary decisions that can only be addressed by appellate courts. The Commission has no role in decisional accountability, which is generally achieved through the appellate process or at the ballot box.

Also like other agencies of its type, the Judicial Standards Commission's primary purpose is first and foremost to promote the rule of law and preserve public confidence in our judiciary by protecting the public from improper judicial behavior and lack of fitness for judicial office. While the public interest is clearly paramount in the legislative history and constitutional composition of the membership, the Commission works equally to protect judges from appellate-natured, unsubstantiated, or frivolous complaints. The Commission works diligently to maintain this delicate balance, helping to preserve public confidence in our courts.

In more than the fifty-plus years that the Judicial Standards Commission has served New Mexicans, much has changed in the world, our state, and our courts. However, the many private citizens, judges, and lawyers who have served on this Commission over the years, and those of us on staff, have served with great dedication, expertise, and diligence. Our agency has grown from a small, obscure agency into one of the leading organizations of its type in the United States. Our members and staff are regularly invited to speak at local, state, and national conferences and have been repeatedly elected to national leadership positions in the field.

As part of its national investigation in 2015, the Center for Public Integrity ([www.publicintegrity.org](http://www.publicintegrity.org)) ranked New Mexico third best in the nation in judicial accountability. Their report specifically credited our Commission for part of the state's high ranking:

And in terms of judicial accountability, New Mexico is third in the nation. That's partly because of the work of the Judicial Standards Commission, the independent agency that handles allegations of misconduct against judges and has succeeded in educating, reprimanding or removing judges who are found to have acted improperly.

New Mexicans should be extremely proud of the high quality of its judiciary and the high level of accountability to which it is held. Our courts are among the best in the nation, staffed with bright, skilled, and talented judges and employees. The members and staff of the Judicial Standards Commission work tirelessly to ensure this continues well into the future.

RANDALL D. ROYBAL  
Executive Director  
General Counsel



STATE OF NEW MEXICO  
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248  
ALBUQUERQUE, NEW MEXICO 87125-7248  
(505) 222-9353  
WWW.NMJSC.ORG

JOYCE BUSTOS  
CHAIR

MALINDA WILLIAMS  
VICE-CHAIR

KEVIN R. DIXON, PH.D.  
WILLIAM E. FOOTE, PH.D.  
NORMAN L. GAGNE, ESQ.  
HON. ALISA A. HART  
HON. CHERYL H. JOHNSTON  
ROBERTA JEAN KAMM  
HON. MAURINE LANEY  
NANCY R. LONG, ESQ.  
HON. STEPHEN O. LEE  
TWILLA C. THOMASON

RANDALL D. ROYBAL, ESQ.  
EXECUTIVE DIRECTOR & GENERAL COUNSEL

PHYLLIS A. DOMINGUEZ, ESQ.  
DEPUTY DIRECTOR

CHANCE A. GAUTHIER, ESQ.  
ASSISTANT INVESTIGATIVE TRIAL COUNSEL

October 17, 2019

Honorable Governor Michelle Lujan Grisham  
Honorable Members of the State Legislature  
Honorable Chief Justice and Justices of the Supreme Court  
Citizens of the State of New Mexico

Ladies and Gentlemen:

It is my pleasure to present you with the Judicial Standards Commission's Annual Report for Fiscal Year 2019. This report not only contains information about our substantive case work, but also our structure and performance as an independent state agency. We received fewer complaints than typically filed in recent years, but our formal trial cases required more time and staff resources than is often required. In the midst of this important work, our agency also completed the required process to procure a new lease for office and hearing room space. While we stayed in our current building in downtown Albuquerque, the space underwent substantial renovation. It should continue to afford adequate, dignified, and confidential space for our staff to work daily, and for the Commission members to meet and hold hearings confidentially.

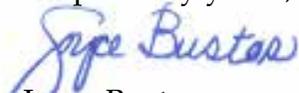
Of most significance to the public, the Judiciary, and the Bar, this past fiscal year also brought the completion of a three-year review and revision process to its procedural rules. This process was led by veteran Commissioner Norman L. Gagne, Esq., who was assisted by our Executive Director and selected members of his staff, and involved a comprehensive review and revision of nearly every procedural rule. After receiving comments from judges, lawyers, and other interested individuals, the Commission adopted the current set of revised rules for cases filed on or after March 1, 2019. The Commission is confident these rules proactively afford more due process, fairness, and transparency to the judicial disciplinary review system in our state.

Sadly, three members of our Commission resigned in 2019; Hon. John A. Dean, Jr. resigned from the Eleventh Judicial District Court and the Commission in February 2019; Caleb Chandler resigned in March 2019; and John Bode resigned in early October 2019.

We greatly enjoyed our time with these members and are grateful for their service to the Commission and the State of New Mexico. Replacements have been appointed to all but one position, and we look forward to our time with these incoming commissioners: Twilla C. Thomason of Hobbs; William E. Foote, Ph.D. of Albuquerque; Roberta Jean Kamm of Raton; and Kevin R. Dixon, Ph.D. of Albuquerque--who are gubernatorial appointees--and Hon. Cheryl H. Johnston of the Thirteenth Judicial District Court who is a Supreme Court appointee.

Finally, the close of the fiscal year also brought the resignations of two staff members. We are thankful for their years of hard work and wish them well. We also extend our warmest welcome to new staff, one returning and one new. Our former law clerk, Chance A. Gauthier, Esq. has been hired as Assistant Investigative Trial Counsel; and Luella Gonzales has been hired as our new Legal and Financial Specialist. We anticipate that like our other highly skilled and experienced staff, these employees will make significant contributions to the Commission well into the future.

Respectfully yours,



Joyce Bustos  
Chair



## TABLE OF CONTENTS

Commissioners Members .....	1
Commissioner Terms & Positions .....	1
Statutory Terms of Commissioners as of June 30, 2019.....	1
Commission Members as of June 30, 2019.....	2
Organizational Overview .....	6
Jurisdiction & Authority .....	6
Confidentiality .....	6
Actions the Commission Cannot Take .....	7
Filing, Review and Investigation of Complaints .....	7
Actions the Commission Can Take on Complaints .....	7
Initial Inquiry .....	7
Preliminary Investigation.....	7
Formal Proceedings.....	8
Dispositions .....	8
Sanctions .....	8
Statistics .....	9
Complaints, Dispositions & Performance: July 1, 2018–June 30, 2019.....	9
Complaints Received .....	9
10-Year History of Written Complaints .....	9
Sources of Verified Complaints .....	9
Complaint Sources .....	10
Judges Reviewed .....	10
Case Dispositions .....	10
Historical Cases Filed in the Supreme Court .....	11
Public Cases Disposed by Termination of Judicial Office.....	12
Historical Informal Case Dispositions.....	13
Cautionary Letters.....	13
Mentorships.....	13
Confidential Stipulations.....	14
Historical Graphical Summary of Informal Case Dispositions .....	14
Commission Proceedings.....	15
Proceedings before the Commission: July 1, 2018–June 30, 2019 .....	15
Formal Proceedings.....	16
Informal Proceedings.....	33

Cautionary or Advisory Letters.....	33
Informal Remedial Measures.....	33
Informal Stipulations .....	34
All Published Disciplinary Cases.....	34
Other State Cases Regarding Commission Matters.....	35
Other State Cases Referencing the Commission.....	36
Finances .....	37
Expenditures & Cost Reimbursement.....	37
FY 2019 Expenditures from the General Fund .....	37
Fines and Cost Reimbursement Distinguished.....	38
Outstanding Debts Owed to the Commission .....	38
FY 2019 General Fund Appropriation Compared to General Fund Expenditures.....	39
Agency 10-Year General Fund Funding Profile .....	39



## COMMISSIONER TERMS & POSITIONS

As set forth in Article VI, Section 32 of the New Mexico Constitution and New Mexico Statutes Annotated Sections 34-10-1 through -4, the Judicial Standards Commission is composed of thirteen members. Seven members are public members appointed by the Governor; two members are attorneys appointed by the Board of Bar Commissioners; two members are justices or judges of the New Mexico Supreme Court, Court of Appeals or District Courts appointed by the Supreme Court; one member is a magistrate judge appointed by the Supreme Court; and one member is a municipal judge appointed by the Supreme Court. Public members are appointed to staggered five-year terms, while attorney and judicial members are appointed to staggered four-year terms. Commissioners are not paid a salary, but receive *per diem* and reimbursement for expenses as provided by law. Each year the Commissioners elect a Chair and Vice-Chair from the public members. Pursuant to NMSA §34-10-1(A), no more than three of the seven positions appointed by the Governor may be occupied by persons from the same political party. Party affiliations are noted below in parentheses for the gubernatorial appointees only.

### STATUTORY TERMS OF COMMISSIONERS AS OF JUNE 30, 2019

*See NMSA 1978, §34-10-1 (amended 1999)*

<u>Position No.</u>	<u>Filled By</u>	<u>Appointed By</u>	<u>Statutory Term</u>
1	Kimberli Ronquillo (R)	Governor	07/01/14-06/30/19
2	VACANT	Governor	07/01/15-06/30/20
3	John Bode (I)	Governor	07/01/16-06/30/21
4	VACANT	Governor	07/01/17-06/30/22
5	Joyce Bustos (D)	Governor	07/01/18-06/30/23
6	Nancy R. Long, Esq.	State Bar	07/01/18-06/30/22
7	Norman L. Gagne, Esq.	State Bar	07/01/16-06/30/20
8	VACANT	Supreme Court	07/01/15-06/30/19
9	Hon. Alisa A. Hart	Supreme Court	07/01/17-06/30/21
10	VACANT	Governor	07/01/14-06/30/19
11	Hon. Maurine Laney	Supreme Court	07/01/15-06/30/19
12	Malinda Williams (D)	Governor	07/01/18-06/30/23
13	Hon. Steven O. Lee	Supreme Court	07/01/17-06/30/21

OUTGOING IN FY19: Hon. John A. Dean, Jr. (2/19) and Caleb Chandler (3/19)

COMMISSION MEMBERS



## COMMISSION MEMBERS

AS OF JUNE 30, 2019



**JOHN BODE** was appointed to the Commission by the Governor in December 2012, and reappointed in July 2016. He is the Chairman of Albuquerque-based Bode Aviation, Inc.



**JOYCE BUSTOS** was appointed to the Commission by the Governor in April 2011 and reappointed twice. She has been elected by her fellow Commissioners each year since 2012 to serve as Chair of the Commission. Mrs. Bustos grew up in Chimayo, New Mexico, and graduated from McCurdy High School. Mrs. Bustos received a Bachelor of Science degree in secondary education in 1977, and a Masters degree in Public Administration (Criminal Justice concentration) in 1988 from the University of New Mexico. She retired from New Mexico state government after 25 years of service, primarily in the criminal justice system. She was employed by the New Mexico Department of Corrections for 11 years, the Department of Public Safety for 3 years, and as the Director of the Administrative Office of the District Attorneys for 10 years. She is currently an independent criminal justice consultant.



**NORMAN L. GAGNE, ESQ.** was appointed to the Commission by the New Mexico State Bar Board of Bar Commissioners in July 2012, and reappointed in July 2016. A 1974 graduate of the University of New Mexico Law School, Mr. Gagne was a Shareholder and Director of Butt Thornton & Baehr PC, his professional home for forty years. He became “of counsel” January 1, 2009. He had served the firm on its Executive Committee, as Treasurer and as President and Managing Director. He started the firm’s in-house training program and taught there even after retirement. Mr. Gagne has litigated and tried civil cases throughout New Mexico and in Federal Court. He now limits his practice to mediating litigated cases and to facilitating group meetings and conflict management. He is

rated “AV”, the highest rating, by Martindale-Hubbell Bar Register of Preeminent Lawyers. Mr. Gagne has served in various non-profit, community organizations including the KNME Board of Community Advisors, New Mexico Symphony Orchestra Board, Chamber Music Albuquerque Board (Vice President), Southeast Heights Neighborhood Association Board (President), New Mexico Cancer Center Foundation (President) and Albuquerque Emergency Medical Services Authority, among others. Mr. Gagne enjoys trail running and has completed twenty-two consecutive La Luz Trail Runs and other, longer trail races in New Mexico and Colo-

rado, such as the Leadville Marathon, the Jemez Mountain Trail Runs 50K, the Imogene Pass Run and others. He also enjoys hiking and backpacking with his family, is an accomplished and award-winning photographer, plays the cello, draws and occasionally is a classical music DJ. He has presented at continuing legal education seminars at the annual meeting of the New Mexico State Bar and other venues on various topics in alternative dispute resolution.



**HON. ALISA A. HART** was appointed to the Commission by the New Mexico Supreme Court in July 2017. She is a Criminal Court District Judge in Division 21 of the Second Judicial District for Bernalillo County. Judge Hart was appointed to the Domestic Violence Division of Family Court in 2010 after being recommended by the Judicial Selection Commission. From 2004 to 2010 she served as a Domestic Violence Special Commissioner, and is the former Director of the Family Assessment Intervention Resources (“FAIR”) Program, a collaboration with the Courts and University of New Mexico Psychology Department that assisted families experiencing domestic violence. From 1996 to 2004, Judge Hart was in private practice where she specialized in criminal and family law. She also served as a prosecutor and a public defender. Judge

Hart is a graduate of the Hofstra University Law School.



**HON. MAURINE LANEY** was appointed to the Commission by the New Mexico Supreme Court in July 2015. Judge Laney has served as Magistrate Judge in the Grant County Division I Magistrate Court in Silver City, New Mexico since 2011. Judge Laney began her career in the magistrate courts, fresh out of high school in 1992 as a court clerk, and over the last 24 years has held the positions of judicial specialist, DWI clerk, Warrant Enforcement Specialist, and was Court Manager from 2004 to 2010. She is a member of the Judicial Education Center’s training faculty, where she has taught workshops on Civil Case Processing, Advanced Civil Procedures, Landlord Tenant, and Domestic Violence cases at the New Mexico Judicial Education Center’s Magistrate Clerks’ Conference, Magistrate Judges’ Conference, and New Judge

Training. She is a board member of the New Mexico Magistrate Judges’ Association, and currently serves on the Judicial Personnel Rules Committee, and Odyssey Judges’ User Group Committee. In her local community, Judge Laney also serves on the Grant County Community Health Council, Juvenile Justice Strategic Planning Council, and the Kiwanis Club of Silver City.



**HON. STEVEN O. LEE** was appointed to the Commission by the New Mexico Supreme Court in July 2013. A native New Mexican, Judge Lee is a former Marine and Vietnam veteran and was awarded the Purple Heart. Upon discharge from the Marine Corps, he attended New Mexico State University and graduated with an associate degree in criminal justice, and studied law at Taft University School of Law. He began working with the Alamogordo Department of Public Safety and retired as Chief in 1998. He was elected Municipal Judge of Alamogordo in 2002 and is now in his fourth term. Judge Lee is a past-President of the Municipal Judges’ Association and serves as Chair of the Education Committee. He has been appointed by the New Mexico Supreme Court to serve on the Judicial Education and Training Advisory Committee, the Rules Committee for Courts of Limited Jurisdiction, and is the first municipal judge to be appointed to the Judicial Standards Commission.



**NANCY R. LONG, ESQ.** was appointed to the Commission by the New Mexico Board of Bar Commissioners in 2018. A graduate of the University of New Mexico School of Law, she is a shareholder with Long, Komer & Associates in Santa Fe. Nancy's practice is comprised of general counsel representation for public and private clients and representation of clients in complex commercial cases including multi-jurisdictional class action and anti-trust litigation, and representation of clients in state courts throughout New Mexico and in federal court. A significant portion of Nancy's practice is also transactional and includes real estate related matters. Nancy's litigation practice has resulted in significant and often cited precedent in the areas of civil rights and land use law, among others. For many years, Nancy has been AV rated by Martindale Hubbell, the highest rating given for legal ability and ethics. She is also a board member for Century Bank in Santa Fe, serves as a volunteer with Santa Fe County's Teen Court program and has previously served many civic and non-profit organizations as a volunteer or board member.



**KIMBERLI RONQUILLO** was appointed to the Commission by Governor Susana Martinez in May 2016. She has enjoyed a successful career working with the top community leaders in Albuquerque. She has been employed by Farm Credit of New Mexico—the largest agricultural lender in the state—for nine years as an Assistant Vice President, supporting the executive team and the Board of Directors as the Executive Assistant/Corporate Secretary. Prior to that, she was with Wells Fargo Bank for 30 years. During the last 15 years of her tenure at Wells Fargo, she was an Assistant Vice President, supporting the Regional President. She has volunteered as a CASA (Court Appointed Special Advocate), has organized various fund raisers, recognition events, and served on many school boards. Her two amazing children are her proudest accomplishment.



**MALINDA WILLIAMS** was appointed to the Commission by the Governor in July 2014, and reappointed in 2018. She has been employed since 1994 with Community Against Violence, Inc. (CAV), a progressive, successful non-profit agency serving adult and child survivors of sexual and domestic violence, and child abuse in northern New Mexico. She has served as the organization's Executive Director since 1997. Ms. Williams has served on numerous boards and commissions, often in a leadership position, and has presented at state and national forums and conferences. She is active in local and statewide committees, planning groups, and councils working on issues pertaining to social justice, coalition building, and community organizing to find solutions for ending domestic and sexual violence and child abuse.

## CHAIRS OF THE COMMISSION

JOYCE BUSTOS, February 2012–Present  
LARRY TACKMAN, April 2011–February 2012  
DAVID S. SMOAK, August 2004–March 2011  
HON. DAN SOSA, JR. , October 2003–August 2004  
DOUGLAS W. TURNER, July 2001–March 2003  
BARBARA A. GANDY, August 1999–June 2001  
DOUGLAS W. TURNER, April 1997–August 1999  
ELEANOR SELIGMAN, February 1996–April 1997  
DONALD PERKINS, August 1994–February 1996  
FRED HARRIS, July 1992–August 1994  
PEGGY C. TRAVER, September 1991–June 1992  
HUBERT QUINTANA, July 1989–September 1991  
HARRY THOMAS, June 1985–July 1989  
JUNE O. KELLER, December 1984–June 1985  
ALBERT N. JOHNSON, August 1983–December 1984  
ELOY A. DURAN, September 1982–August 1983  
SUSAN S. DIXON, July 1981–September 1982  
LUCY M. SALAZAR, August 1980–July 1981  
LOIS CHAPMAN, July 1979–August 1980  
LUCY M. SALAZAR, August 1977–July 1979  
DORIS WAKELAND, July 1975–August 1977  
RICHARD VANN, June 1974–June 1975  
LUCY M. SALAZAR, October 1972–June 1974  
MORRIS E. H. BINGHAM, June 1970–October 1972  
BOYD WEST, November 1969–June 1970  
LUTHER A. SIZEMORE, July 1968–November 1969

## EXECUTIVE DIRECTORS OF THE COMMISSION

RANDALL D. ROYBAL, ESQ.  
August 2009–Present  
JAMES A. NOEL, ESQ.  
January 2004–June 2009  
PEG A. HOLGUIN, ESQ.  
July 1993–October 2003  
SAMUEL W. JONES, ESQ.  
September 1984–June 1993  
DAVID R. GARDNER, ESQ.  
October 1974–September 1984



## ORGANIZATIONAL OVERVIEW

### JURISDICTION & AUTHORITY

Article VI, Section 32 of the New Mexico Constitution and New Mexico Statutes Annotated §§34-10-1, et seq., authorize the Judicial Standards Commission to investigate complaints involving allegations of willful misconduct in office; persistent failure or inability to perform judicial duties; habitual intemperance; and disability seriously interfering with the performance of judicial duties which is, or is likely to become, of a permanent character.



*The Commission's constitutional and statutory provisions, and the NM Code of Judicial Conduct are available on the Commission's website at [www.nmjsc.org](http://www.nmjsc.org) > Resources > Governing Provisions of Law.*

The Commission's jurisdiction extends over complaints made against currently serving Justices of the Supreme Court and all other judges within the state judicial branch, including the Court of Appeals, district courts, metropolitan court, magistrate courts, probate courts, and municipal courts. The Commission does not have jurisdiction over special

masters, special commissioners, hearing officers, federal judges, Workers' Compensation Administration judges, other administrative law judges, or attorneys. When necessary, the Commission holds evidentiary hearings (trials) and, if allegations are proven, recommends appropriate sanctions to the New Mexico Supreme Court.

### CONFIDENTIALITY

Article VI, Section 32 of the New Mexico Constitution mandates that "[a]ll papers filed with the commission or its masters, and proceedings before the commission or its masters, are confidential. The filing of papers and giving of testimony before the commission or its masters is privileged in any action for defamation, except that the record filed by the commission in the supreme court continues privileged but, upon its filing, loses its confidential character, and a writing that was privileged prior to its filing with the commission or its masters does not lose its privilege by the filing." Confidentiality requirements do not apply to third-party complainants. The New Mexico Supreme Court's files and hearings are accessible to the public unless sealed by the Court pursuant to the rules and orders of the Court. *See*, NMRA 27-104. A complainant's name may be disclosed to the judge who is the subject of the complaint. A complainant may be called to participate and/or testify in Commission proceedings.

Commission staff cannot respond to requests for information regarding a complaint or any other proceeding before the Commission. However, a complainant will receive written notice of the ultimate outcome of the complaint, subject to the limits of confidentiality.

## ACTIONS THE COMMISSION CANNOT TAKE

The Commission is not an appellate court. The Commission cannot change any judge's ruling, intervene in litigation on behalf of a party, affect the outcome of a court case, or remove a judge from a case. The filing of a complaint with the Commission does not by itself require a judge to recuse or be disqualified from an underlying court case. The Commission and its staff do not provide legal advice.

## FILING, REVIEW AND INVESTIGATION OF COMPLAINTS

Anyone may file a complaint against a judge using the Commission's complaint form. The Commission may also docket allegations on its own motion, as may the Commission's Executive Director/General Counsel. The Judicial Standards Commission Rules require that complaints be verified (i.e., substantiated by oath and notarized). The Commission may undertake an investigation on its own motion when it has credible knowledge of misconduct by, or disability of, a judge.

Inquiries about complaint procedures may be made in writing or by telephone. When a complaint is received, the Commission and/or its staff review the complaint to determine if it falls within the Commission's jurisdiction. After determining that jurisdiction exists, the Commission may conduct an initial inquiry. The Commission may direct staff to conduct further investigation, if necessary.

Judges are not notified of frivolous or unsubstantiated complaints, or complaints that are beyond the Commission's jurisdiction or are appellate in nature. Such cases are typically dismissed after review by the Commission.

## ACTIONS THE COMMISSION CAN TAKE ON COMPLAINTS

Initial Inquiry. If it is determined that the complaint, report or other information about the judge's conduct could constitute misconduct, the Executive Director and/or Commission staff may conduct a confidential inquiry. If it is determined after initial inquiry that there are insufficient grounds to proceed, the case will be closed. The complainant will be informed of the disposition. A closure of the matter at this stage of the Commission's proceedings remains confidential.

Preliminary Investigation. If the complaint appears to allege facts not obviously frivolous or



The Commission's procedural rules, and the Supreme Court's procedural rules for review of Commission cases may both be found on the Commission's website.

unfounded, and to indicate a disability or violation of the New Mexico Code of Judicial Conduct, the Commission may complete a preliminary investigation to determine whether formal proceedings should be initiated and a hearing held. The Commission may also initiate a preliminary investigation on its own motion. The judge will be notified with a Notice of Investigation that sets forth the nature of the complaint. The judge must respond in writing

to the Notice of Investigation. If after review of the response the Commission does not determine that the matter should be closed, the Commission shall invite the judge to participate in an informal conference with the Commission, which is voluntary. At the conference the judge may present the judge's written response in person, and offer additional information or explanation

to the Commission. Commission may ask questions or request explanation of the judge, to complete its review and make a determination on the appropriate course of action, whether that be to dismiss, to propose an informal disposition, or to proceed to issue formal charges of wrongdoing against the judge.

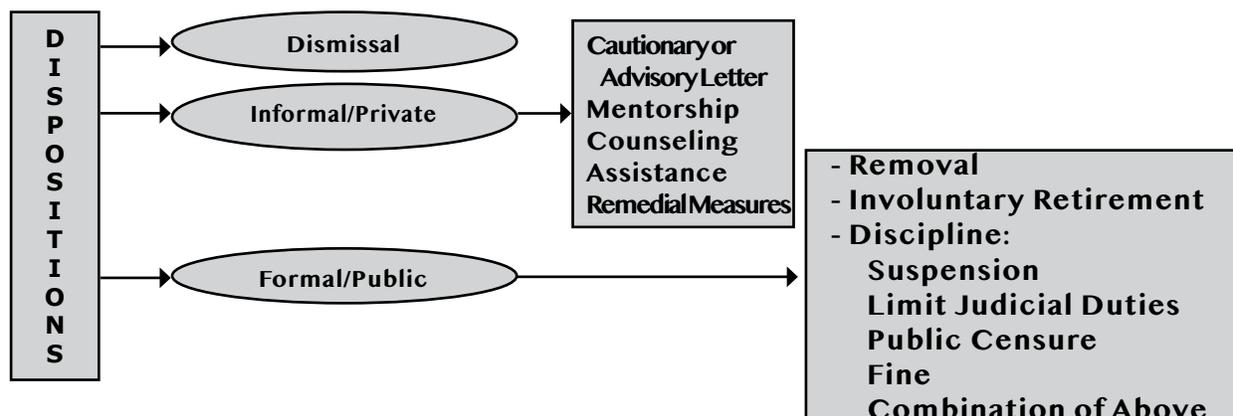
Formal Proceedings. If at least seven of the thirteen members of the Commission vote to begin formal proceedings, a Notice of Formal Proceedings will be issued and served upon the judge. The Notice of Formal Proceedings will contain the charges alleged, the facts upon which the charges are based, the laws, canons and rules allegedly violated, and the constitutional provisions under which the Commission invokes its jurisdiction in the proceedings. The judge’s answer to the Notice of Formal Proceedings shall be in writing and verified.

Upon filing and issuance of the Notice of Formal Proceedings, the Commission will set the matter for a hearing on the merits. The Commission may hear the case itself or appoint three judges as special masters to hear the matter, take evidence, and report their findings to the Commission. The formal hearing is a closed hearing. The judge has a right to and is given a reasonable opportunity to defend with evidence, to be represented by counsel, and to examine and cross-examine witnesses. The standard of proof is clear and convincing evidence. At least seven Commissioners must agree on a determination of misconduct and in recommending removal, retirement or discipline of a judge to the New Mexico Supreme Court.

If the Commission determines at any time prior to the conclusion of the formal proceedings that there is insufficient evidence to support allegations against the judge, those allegations will be dismissed. In some cases, the Commission has found evidence of wrongdoing, but has determined that the judge’s actions were the result of misunderstanding, rather than willful misconduct. In those situations, the judge may be referred for counseling to the New Mexico Supreme Court or to a judge having supervisory authority.

Dispositions. The Commission may dispose of a case by dismissing it, privately informing the judge that the conduct may violate the standards of judicial conduct, and/or proposing mentorship, professional counseling, assistance, or other remedial measures for the judge.

Sanctions. If the Commission votes to recommend to the New Mexico Supreme Court that a judge should be sanctioned, the following sanctions are available: removal, involuntary retirement, discipline (suspension, limitations or conditions on judicial duties, censure, fine), or any combination of the above. The Supreme Court may set a hearing on the Commission’s recommendations, and render a decision adopting, rejecting, or modifying the recommendations of the Commission or requiring some other action.



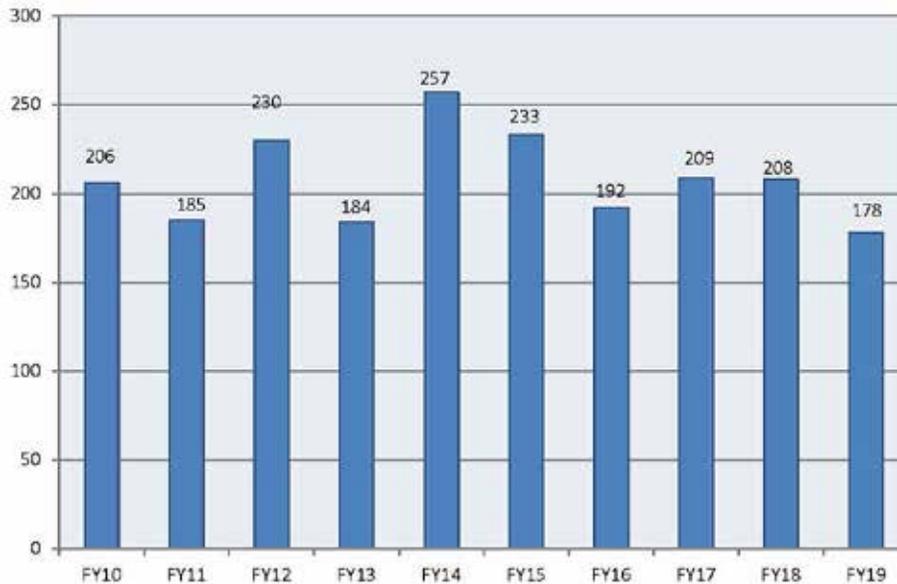


## COMPLAINTS, DISPOSITIONS & PERFORMANCE JULY 1, 2018–JUNE 30, 2019

### COMPLAINTS RECEIVED

In FY 2019 the Commission received 178 written complaints, which is comprised of the following: 136 verified complaints (includes Commission-initiated and reopened inquiries) and 42 unverified complaints.

### 10-YEAR HISTORY OF WRITTEN COMPLAINTS

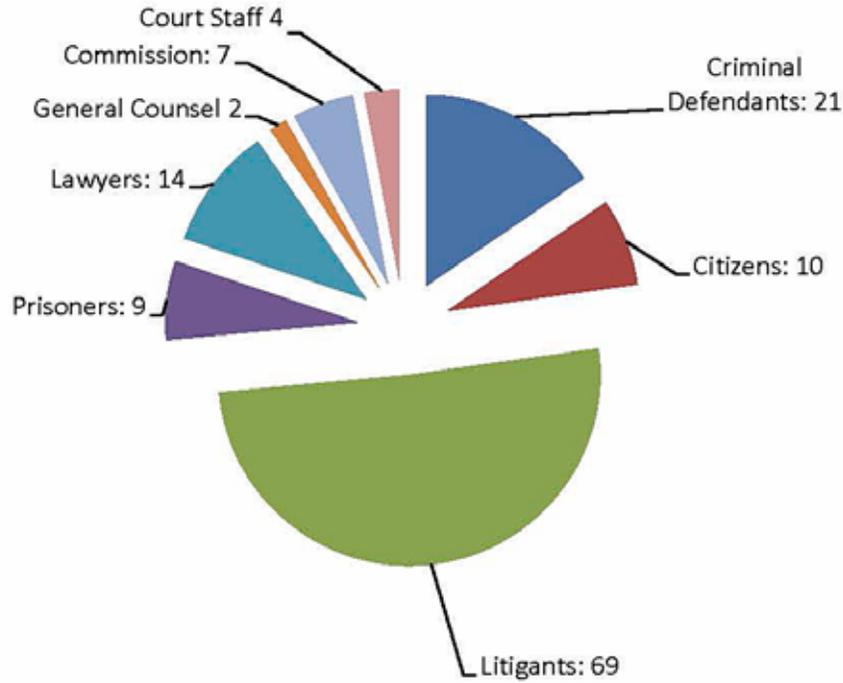


The Commission has a screening process for telephonic and in-person complaints. Staff members make every effort to discuss callers' situations in detail as appropriate. Staff informs callers about the limited scope of the Commission's jurisdiction under state law. Complaint forms are mailed to all callers who request them. Complaint forms and detailed filing instructions are available to download from the Commission's website, both in English and Spanish. The complaint may be filled out online, but all forms are still required to be filed with original, notarized signature.

### SOURCES OF VERIFIED COMPLAINTS

Of the 136 verified complaints filed with the Commission, the distribution of the sources of written, verified complaints was the following: 69 by litigants or their family/friends, 21 by criminal defendants or their family/friends, 10 by citizens, 14 by lawyers, 9 by prisoners, and 4 by court staff. Additionally, 7 complaints were initiated by the Commission on its own motion, and 2 by its General Counsel. The chart on the following page illustrates these figures.

## COMPLAINT SOURCES



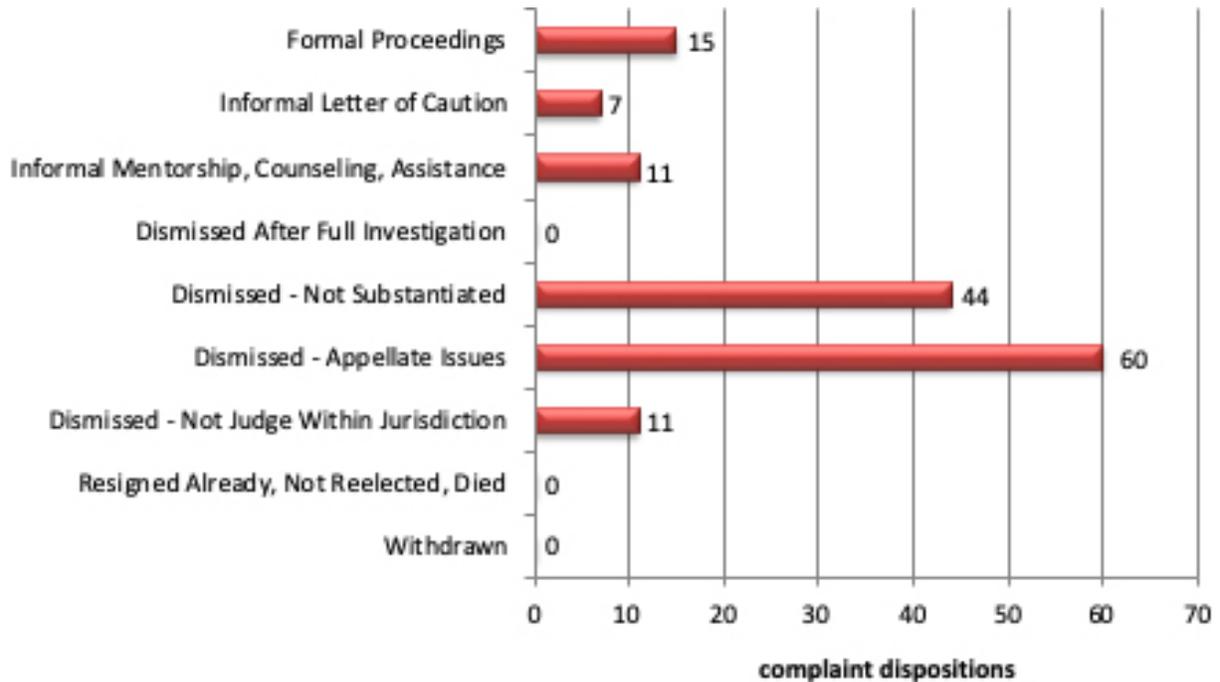
## JUDGES REVIEWED

JUDICIAL BRANCH	VERIFIED COMPLAINTS	PERCENTAGE OF CASELOAD
Supreme Court	0	0.00%
Court of Appeals	4	2.94%
District Court	83	61.03%
Metropolitan Court	4	2.94%
Magistrate Court	29	21.32%
Municipal Court	10	7.35%
Probate Court	1	0.74%
Not a Judge	5	3.68%

## CASE DISPOSITIONS

Inquiries Pending at Beginning of FY 2019 (July 1, 2018)	49
New Written/Verified Complaints and Inquiries in FY 2019	136
Inquiries Concluded in FY 2019	(151)
<b>Inquiries Pending at End of FY 2019 (June 30, 2019)</b>	<b>34</b>

Of the 151 cases disposed in FY 2019, the Commission concluded 15 cases (involving 9 judges) through formal proceedings (after charges filed, stipulations, trials and/or Supreme Court proceedings) and issued 7 informal letters of caution. 60 cases were dismissed as appellate, 11 cases because they concerned individuals beyond the Commission’s jurisdiction, and 44 cases as unsubstantiated. In 11 cases involving 6 judges, the judges were referred for informal remedial measures, which may have included mentorship, education, counseling, and/or other assistance. The graph below illustrates the FY 2019 case dispositions.

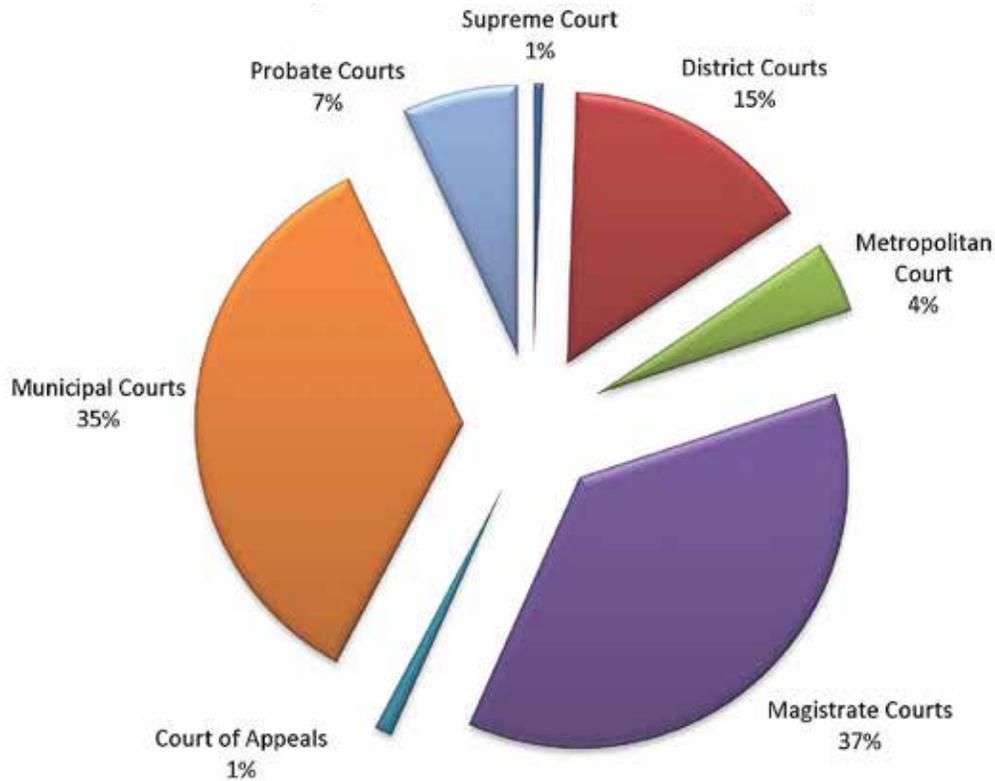


### HISTORICAL CASES FILED IN THE SUPREME COURT

From July 1, 1968 through June 30, 2019, the Commission filed 175 petitions for discipline and/or temporary suspension in the New Mexico Supreme Court involving 143 judges. By their nature, these cases involve the most serious questions of judicial misconduct or disability, thereby requiring the Commission to recommend sanctions, discipline, and/or immediate temporary suspension to the State’s highest court. Of the judicial branches concerned, the Commission’s petitions to the Supreme Court involved the following levels of the State Judiciary in order of the most filings: municipal courts, magistrate courts, district courts, probate courts, metropolitan court, Court of Appeals and New Mexico Supreme Court.

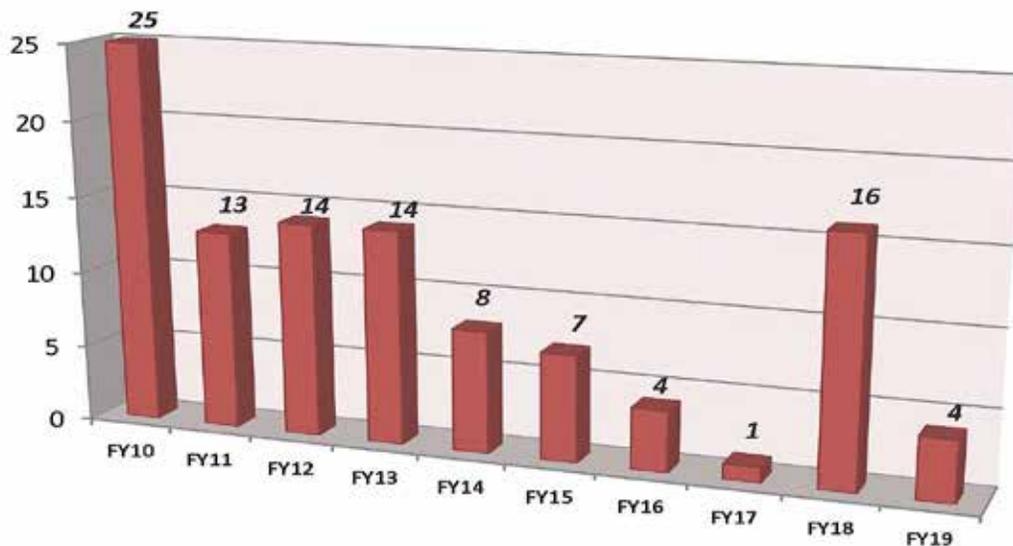
The chart on the following page illustrates the historical distribution of cases filed in the Supreme Court since 1968.

## HISTORICAL CASES FILED IN THE SUPREME COURT



## PUBLIC CASES DISPOSED BY TERMINATION OF JUDICIAL OFFICE

In FY 2019, 4 cases were disposed after termination of judicial office in public proceedings before the Supreme Court. Since its inception, the Commission has disposed of 202 cases concerning 93 judges after the respondent judges terminated their judicial offices. These cases include involuntary or stipulated permanent removal, retirement, or resignation from office after the Commission had issued formal charges and then filed and requested action by the Supreme Court. Following is a ten-year history of cases disposed:



## HISTORICAL INFORMAL CASE DISPOSITIONS

Short of proceeding formally on a case not warranting dismissal, the Commission may dispose of a matter informally. Informal dispositions are not filed with the Supreme Court and remain confidential pursuant to Article VI, Section 32 of the New Mexico Constitution. Allegations disposed of informally were found to merit notice to the judge, but due to their nature, the judge’s experience and disciplinary history, or a number of other factors, the Commission determined that an informal disposition was appropriate to address the issues in question. The Commission generally makes no findings of misconduct in matters receiving informal dispositions,

Informal dispositions include issuing confidential cautionary or advisory letters, referring the judge for mentorship, counseling or assistance, or entering into a confidential stipulation agreement concerning the conduct in question. Since its formation in 1968 through June 30, 2019, the Commission has informally disposed of 468 cases. The following tables illustrate the distribution of the informal cautionary letters and mentorship dispositions. A brief discussion concerning confidential stipulation agreements follows thereafter.

### CAUTIONARY LETTERS (331 CASES)

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL CAUTIONS
Supreme Court	1	< 1%
Court of Appeals	3	< 1%
District Court	98	30%
Metropolitan Court	30	9%
Magistrate Court	117	35%
Municipal Court	78	24%
Probate Court	4	1%

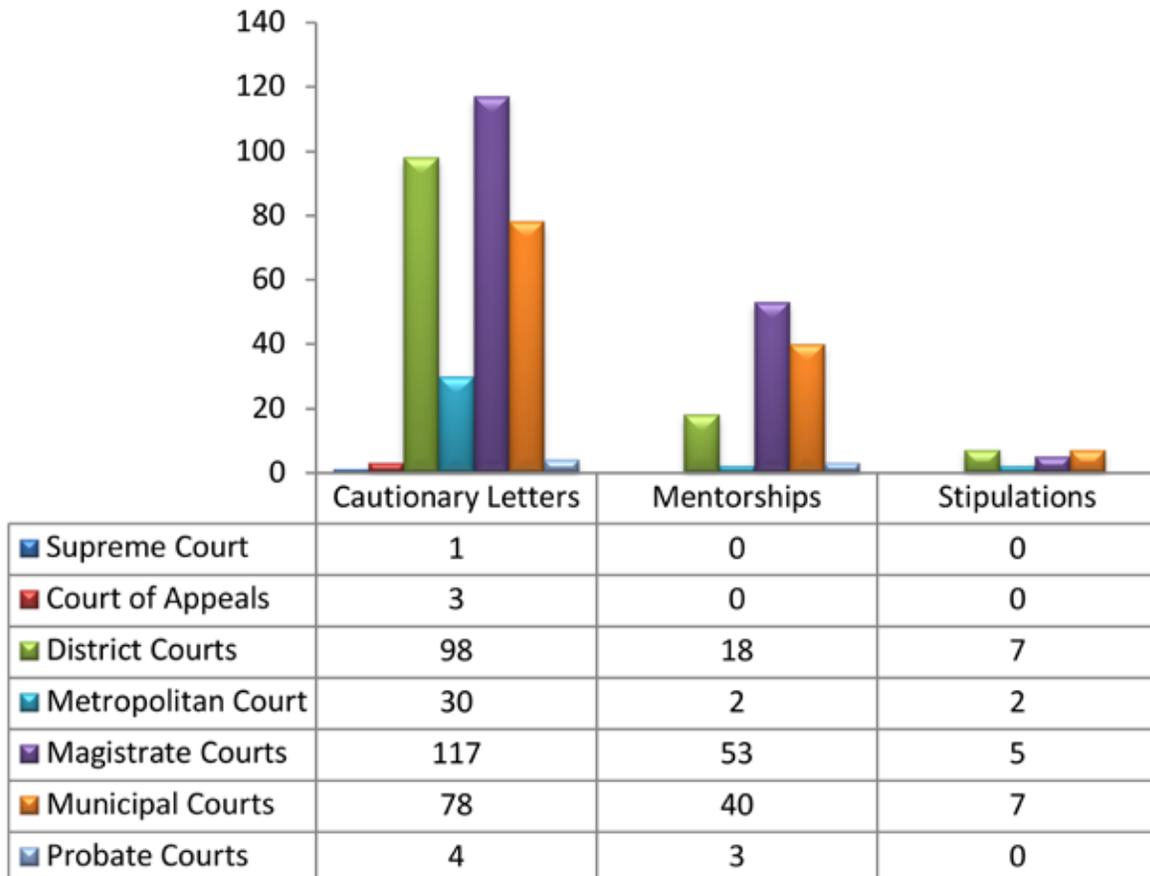
### MENTORSHIPS (116 CASES)

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENTAGE OF ALL MENTORSHIPS
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	18	15%
Metropolitan Court	2	2%
Magistrate Court	53	46%
Municipal Court	40	35%
Probate Court	3	2%

## CONFIDENTIAL STIPULATIONS (21 CASES)

In addition to confidential cautionary or advisory letters, and referrals to the mentorship program, the Commission may informally dispose of cases through confidential stipulations. These stipulations typically require judges to retire, resign, or cease improper conduct. In FY 2019, no cases were disposed through confidential stipulation. Historically, the Commission has disposed of 21 cases through such stipulations.

## HISTORICAL GRAPHICAL SUMMARY OF INFORMAL CASE DISPOSITIONS





**PROCEEDINGS BEFORE THE COMMISSION  
JULY 1, 2018–JUNE 30, 2019**

All of the Commission’s proceedings that resulted in either formal or informal dispositions during FY 2019 are summarized in this section.

Formal cases are matters the Commission found to involve the most serious ethical issues under the New Mexico Code of Judicial Conduct, thereby warranting formal review and proceedings before the Commission and/or the New Mexico Supreme Court. Informal cases, although less serious in nature and scope, involve significant issues that the Commission addresses confidentially through advisory letters to the judges or by referring the judges to the Commission’s mentorship program.



*The referenced rules are available on our website under: Resources > Governing Provisions of Law.*

New Mexico Supreme Court petitions and responses in temporary suspension matters are required to be filed under seal. Additionally, the Supreme Court amended its rules to require automatic sealing of all Commission matters that are filed before the Commission completes a trial on the merits and evidentiary record. All Supreme Court hearings, docket sheets, and orders were available to the public, unless it was otherwise ordered by the Court.

The Supreme Court requires in Rule 27-104(B) NMRA that “[t]he contents, the fact of filing, and any other information about any request for temporary suspension, stipulated discipline, or interim relief shall remain confidential until the Court determines that confidentiality is no longer required and enters an unsealing order on its own initiative or grants a motion to unseal pursuant to Paragraph I of Rule 12-314 NMRA.” The Court’s docket sheets in sealed matters accordingly only include the case number and reference to sealed pleadings without specific title information. The Court also has codified that “[a]ny person or entity who knowingly discloses any material obtained from a court record sealed pursuant to this rule may be held in contempt or subject to other sanctions as the Court deems appropriate.”

In January 2012 the Supreme Court adopted the most recent comprehensive amendments to the Code of Judicial Conduct that apply to all judges within the Commission’s jurisdiction. Violation of the rules set forth in the Code of Judicial Conduct is an important, but not exclusive consideration for the Supreme Court when exercising its constitutional power for *de novo* review of judicial disciplinary matters.

**COMMISSION PROCEEDINGS**

## FORMAL PROCEEDINGS

In FY 2019, the Commission conducted or initiated formal proceedings concerning 16 cases involving 10 judges either before the Commission or the New Mexico Supreme Court. Below are summaries of all formal, non-confidential proceedings filed and on public record with the Supreme Court with events occurring in and/or completed in FY 2019, including these new matters.

**MATTER OF HON. JOE I. DOMINGUEZ**  
**TUCUMCARI MUNICIPAL COURT**  
**JSC INQUIRY NO. 2018-019**  
**SUPREME COURT DOCKET NO. S-1-SC-36868**

The Commission issued a Notice of Preliminary Investigation on February 6, 2018 following Respondent's arrest on charges of Driving Under the Influence of Intoxicating Liquor or Drugs and Failure to Yield. Respondent stipulated to immediate temporary suspension and a Motion to Accept a Stipulation to Immediate Temporary Suspension was filed with the Supreme Court on February 14, 2018. The motion provided in part:

1. Respondent does not contest that his continued service in a judicial capacity, while he is being prosecuted by the State of New Mexico and investigated by the Commission on the stated allegations, would create an apparent conflict of interest and that deference to Respondent's rulings would be undermined. Respondent does not contest that his continued judicial service would create a significant appearance of impropriety, erosion of public confidence in the integrity and impartiality of the judiciary and in the orderly administration of justice.
2. Respondent and Petitioner deferred to the Supreme Court's discretion on whether the temporary suspension should be with or without pay.

The Supreme Court granted the Stipulation on February 22, 2018, and ordered Respondent suspended without pay until further order of the Court and pending disposition of the criminal charges filed against Respondent and the proceedings before the Commission. The Supreme Court further ordered that all pleadings and papers filed in the Court be unsealed.

On April 10, 2018, the charges against Respondent were dismissed without prejudice by the district attorney's office based upon Harding County Magistrate Judge Karen Mitchell's finding of lack of probable cause for the traffic stop. The Commission filed an Amended Notice of Preliminary Investigation on April 30, 2018, based on the lack of criminal charges pending against Respondent. A Petition for Reinstatement was filed with the Court on April 30, 2018 based on the dismissal of criminal charges and pursuant to Rule 27-201(E) NMRA, which the Court denied pending disposition of the Commission's proceedings against Respondent.

The Commission filed a petition to accept a Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings with the Supreme Court on September 6, 2018. On October 19, 2018, the Supreme Court granted the petition and ordered Judge Dominguez's permanent resignation from judicial office.

**MATTER OF HON. NELLIE SORIANO**  
**ANTHONY MUNICIPAL COURT**  
**JSC INQUIRY NOS. 2016-081 & 2016-086**  
**SUPREME COURT DOCKET NO. S-1-SC-37346**

On October 3, 2016, the Commission consolidated Inquiry Nos. 2016-081 and 2016-086. The Commission issued a Notice of Preliminary Investigation (NPI) in the consolidated matters on December 19, 2016. On February 3, 2017, Judge Soriano faxed an NPI response to the Commission. On February 8, 2017, the Judge mailed a version of her NPI response to the Commission, which was received on February 10, 2017.

Following the Judge's responses to the NPI, the Commission offered Judge Soriano an informal, confidential mentorship to address the issues in the pending matters. On May 31, 2017, the Judge entered into a Consent Decree with the Commission, in which she agreed to participate in the confidential mentorship program with Hon. Kaye Kiper, Artesia Municipal Court, serving as the mentor. In part, the mentorship required Judge Soriano to review the 40-hour videotaped New Municipal Judges Orientation program provided by the Judicial Education Center. Judge Kiper filed mentor reports with the Commission on September 11, 2017 and December 21, 2017.

On February 12, 2018, the Commission determined the remedial goals of the mentorship were not being achieved. Therefore, the Commission declared the mentorship was unsuccessful and directed the issuance of a Notice of Formal Proceedings (NFP), which was issued on March 21, 2018. On April 26, 2018, Judge Soriano faxed a partial, unverified response to the NFP, responding only to Counts 1-10 of the 18 Counts. On May 29, 2018, Judge Soriano filed her complete, verified NFP response.

Judge Kiper filed her third and final mentor report on March 13, 2018; however, due to date corrections, an amended/corrected report was filed May 7, 2018.

On October 18, 2018, Judge Soriano tendered her resignation from judicial office to the Chief Justice of the New Mexico Supreme Court. On October 25, 2018, the Commission and Judge Soriano, through counsel, entered into a Stipulation in Light of Permanent Resignation from Judicial Office, in which the Judge agreed that the resignation she tendered that was to be effective on October 18, 2018, would be permanent effective at 5:00 p.m. on the same day the Supreme Court entered an order approving the Stipulation.

The Commission filed, under seal, its Petition to Accept Stipulation in Light of Resignation from Judicial Office, on October 29, 2018. On December 3, 2018, the Court issued its Order granting the Petition and ordering Judge Soriano's permanent resignation from judicial office be effective at 5:00 that day. The Court also ordered that Judge Soriano shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future; that she shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future, which includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court,

district court, Court of Appeals, and Justice of the Supreme Court; and, that the Judge shall never again hold or exercise any judicial authority in the State of New Mexico, to include officiating at weddings. Further, the Court ordered that all documents filed with the Court in this matter be unsealed. The Commission subsequently closed the matter.

**MATTER OF HON. WARREN G. WALTON**

**COLFAX COUNTY MAGISTRATE COURT**

**JSC INQUIRY Nos. 2016-101, 2016-139, 2017-018 & 2017-041 (CONSOLIDATED), AND 2017-053  
SUPREME COURT DOCKET No. S-1-SC-36763**

On February 10, 2017, the Commission issued a Notice of Preliminary Investigation in Inquiry No. 2016-139. On February 21, 2017, the Commission issued a Notice of Preliminary Investigation in Inquiry No. 2016-101. On April 12, 2017, the Commission issued a Notice of Preliminary Investigation in Inquiry Nos. 2017-018 and 2017-041. On June 5, 2017, the cases were consolidated and on June 27, 2017, a Notice of Formal Proceedings was issued in the consolidated matter.

On November 21, 2017, the Commission accepted and entered into a Stipulation Agreement and Consent to Discipline with the Judge. In the Stipulation, Judge Walton admitted that he committed the following acts:

a. On or about October 14, 2016, Judge Walton caused the Defendant in the case of State v. Michael Malcom, M9-MR-2015-00081, to call him following the Judge's ex parte communication with the Defendant's mother. Judge Walton told the Defendant that he (the Judge) was making a report concerning the Defendant's case, that Defendant's case had not been handled properly, and that an investigator may or may not be calling him. At the time of the ex parte communication, Judge Walton knew that the Defendant's case was still pending before him and that the Defendant was represented by counsel.

b. On or about October 14, 2016, Judge Walton initiated an ex parte communication with the Defendant's mother in the case of State v. Michael Malcom, M9-MR-2015-00081, while the case was still pending before the Judge and the Defendant was represented by counsel, requesting the Defendant's phone number, and stating that he (the Judge) was making a report to a State agency about the improper handling of her son's case, that an investigator may or may not be calling her, and that it would be favorable to her son's case.

c. On or after about October 14, 2016, after Judge Walton had ex parte communications with the Defendant and Defendant's mother in the case of State v. Michael Malcom, M9-MR-2015-00081, the Judge failed to notify Defendant's counsel and the prosecutor of the substance of the ex parte communication, failed to give the parties an opportunity to respond, and failed to recuse from the case until June 30, 2017.

d. On or about August 22, 2016, Judge Walton quashed a bench warrant in the

matter of State v. Christina Irvin, M9-MR-2016-00176, after engaging in an ex parte communication with the Defendant's father, who requested the bench warrant be quashed. The Judge failed to make provision promptly to notify the parties of the substance of the ex parte communication and failed to give the parties an opportunity to respond.

e. On or about May 26, 2016, Judge Walton misused the contempt power when he issued Order[s] to Show Cause to attorneys Ray Floersheim and Sarah Montoya for "Failure to appear for Court Scheduled hearings," when no dates of hearings that the attorneys allegedly failed to appear for were indicated in the show cause orders because the Judge's purpose for the show cause hearing was to discuss scheduling issues and not because of any contemptuous behavior by the attorneys.

f. On or about July 11, 2014, in the case of State v. Russell Laughlin, M9-MR-2014-00111, Judge Walton granted the prosecuting officer's Motion to Continue a trial when opposing counsel had not been contacted for his position on the matter, The Judge failed to provide notice or an opportunity for opposing counsel to be heard on the matter, and opposing counsel was not informed of the continuance until the morning of trial when he appeared with his subpoenaed witnesses.

g. On or about July 31, 2015, Judge Walton violated the due process of defendants when he granted blanket continuances for a number of hearings based upon an ex parte communication via e-mail from a New Mexico State Police officer, when the cases were not identified by name or case numbers, opposing parties had not been contacted for their respective positions on the continuances, and opposing parties were not provided notice or the opportunity to be heard on the continuances.

h. On or about November 3, 2016, the morning of trial in the case of State v. Ricky Lynn Decker, M9-VM-2016-00017, a case from which Judge Walton had recused, the Judge inserted himself in the area where members of the jury panel were circulating to set up chairs for the prospective jurors.

i. On various occasions between about April 2015 and November 2016, Judge Walton called staff members working for attorneys Sarah Montoya and Ray Floersheim, provided them with his (the Judge's) personal cell phone number, told them to call if they needed anything and/or told them to provide his cell number to the attorneys, and subsequently engaged in ex parte communications with staff members and attorneys, which, even if for scheduling, administrative or emergency purposes, Judge Walton failed to make provision promptly to notify all other parties of the substance of the ex parte communications and failed to give the other parties an opportunity to respond.

Judge Walton did not contest that the Commission had sufficient facts and evidence to prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts in paragraphs a-i above, and that he violated the Code of Judicial Con-

duct Rules 21-101, 21-102, 21-103, 21-202, 21-205(A), 21-206(A), 21-209(A), 21-210(A), and 21-211(A) and (C) NMRA 2012.

While the consolidated matter was pending, a Notice of Preliminary Investigation was issued in Inquiry No. 2017-053, on October 18, 2017. The Commission and Judge Walton agreed that both matters would be resolved in the Stipulation Agreement and Consent to Discipline. With regard to the allegations in Inquiry No. 2017-053, the Judge did not contest that the Commission could prove by clear and convincing evidence that he engaged in willful misconduct by committing the acts detailed in paragraphs a-d below, and that he violated the Code of Judicial Conduct Rules 21-101, 21-102, 21-204(A) and (B), 21-205(B), 21-209(A), and 21-212(A) NMRA 2012.

a. In about 2013 and 2014, Judge Walton had ex parte communications with Xanadu Vigil and Joey Romero, both of whom had pending criminal cases before him at the time, as well as had ex parte communications with Xanadu Vigil's boyfriend, Tommy Acevedo, and with Joey Romero's father during the pendency of the cases.

b. In about 2013 and 2014, despite warnings and admonitions from Administrative Office of the Courts (AOC) supervisory personnel, Judge Walton commonly had ex parte communications with attorneys who called him at the Court, as well as at home, and/or contacted him in person at the Court seeking calendaring changes or other requests in their cases and, even if for the purpose of scheduling, the Judge failed to make provision to promptly notify all other parties of the substance of the ex parte communications, and give the other parties an opportunity to respond.

c. In or about 2013 and 2014, Judge Walton failed to cooperate with AOC supervisory personnel and clerks, who were at his Court for the purpose of establishing and enforcing processes to resolve backlogs and to correct case management and other operational problems. By example, the Judge: countered the directives of the AOC statewide operations managers (SOMs) by instructing Court clerks to put phone calls from defendants or attorneys through to him after the clerks had been directed by the SOMs not to put these calls through; was obstructive with AOC's attempts to standardize judicial practices; disregarded and failed to abide by the calendaring process; disrupted operations by having clerks drop what they were doing to change settings for walk ins and/or attorneys and officers; and, created inconsistencies and further inefficiencies by unilaterally changing processes if a clerk complained about them.

d. In or about 2013 and 2014, Judge Walton allowed his judicial decisions and conduct to be influenced by public opinion, fear of criticism and/or political interests. For example, he often commented that he needed to win the election and made statements to the effect that he would continue to take calls from attorneys and officers because he needed to win the election, or that he needed to accommodate the public in order to win the election. Further, it is alleged that, because of the Judge's fear of losing votes, he failed to correct attorneys and officers who were disrespectful to the Court and/or were substantially late to Court settings.

On November 22, 2017, the Commission filed, under seal, with the Supreme Court a Petition to Accept Stipulation Agreement and Consent to Discipline. On December 7, 2017, the Judge, through counsel, filed his Response to Petition to Accept Stipulation Agreement and Consent to Discipline, stating the Judge does not oppose the Petition, consenting to the imposition of discipline recommended by the Commission as set forth in the Stipulation, and requesting the Court issue an order granting the Petition and the relief sought by the Commission.

On December 18, 2017, the Supreme Court issued its Order granting the Petition and ordering Judge Walton to abide by all terms of the Stipulation Agreement and Consent to Discipline, and ordering that the Judge be suspended without pay for three (3) weeks, which was deferred on the following conditions:

a. Respondent shall successfully complete a supervised probation and formal mentorship for the remainder of his term of office, which shall begin upon the appointment of the probation supervisor/mentor by this Court. The Commission shall recommend a probation supervisor/mentor for consideration and appointment by this Court. The probation supervisor/mentor shall report to this Court and the Commission on the progress and outcome of the mentorship; and

b. Respondent shall enroll in, and successfully complete, the National Judicial College webcast courses entitled Ethics and Judging: Reaching Higher Ground, scheduled for May 14, 2018, to June 29, 2018, and Special Considerations for the Rural Court Judge, scheduled for September 10, 2018, to October 26, 2018, which Respondent shall attend at his own expense. Respondent shall promptly provide proof of completion of the courses to this Court and the commission.

The Court further ordered that Judge Walton receive a Public Censure for the conduct admitted in the Stipulation Agreement and Consent to Discipline, and which would be issued at a later day for publication in the New Mexico Appellate Reports and Bar Bulletin. The Court also unsealed the matter.

On January 18, 2018, the Commission filed Petitioner's Recommendation for Appointment of Mentor and Probation Supervisor with the Court, recommending The Honorable John F. Davis, Thirteenth Judicial District Court, to serve as mentor and probation supervisor for Judge Walton. The Court approved the recommendation and on January 25, 2018, issued its Order appointing Judge Davis as mentor and probation supervisor and ordering Judge Davis to report on the progress and outcome of the probation to the Court and to the Commission.

Judge Walton timely provided his certificates of completion of the National Judicial College courses to the Commission, which filed the certificates with the Supreme Court on July 13, 2018 and November 13, 2018. The Supreme Court issued its Public Censure of Judge Walton December 31, 2018.

Judge Davis submitted four quarterly mentor/probation supervisor reports, which the Commission filed with the Supreme Court on April 2, 2018; July 5, 2018; October 24, 2018; and, January 25, 2019. The Commission filed the fourth and final report conditionally under seal in its Motion to Seal Mentor/Probation Supervisor's Fourth Quarterly Progress Report and to Accept Redacted Copy, as the report contained references to pending matters that were, by law, still confidential. On February 1, 2019, the Court issued its Order granting the Commission's Motion.

On January 10, 2019, the Commission issued a Show Cause Order to Judge Walton, through counsel, ordering the Judge to file a response by January 25, 2019, showing cause why the Commission should not:

a. Find he violated paragraph 12 of the Stipulation, and thereby obstructed Commission business and/or committed contempt of the Commission; and,

b. Move the Supreme Court to enforce the terms of paragraph 15, including automatic imposition of the deferred three-week suspension without pay.

Paragraph 12 of the Stipulation provided that the Judge shall not make any misrepresentations to the media concerning the consolidated matters (Inquiry Nos. 2016-101, 2016-139, 2017-018, and 2017-041) and Inquiry No. 2017-053, the facts and circumstances of his Stipulation, or the Commission's proceedings.

It was alleged that Judge Walton violated that particular term of the Stipulation by participating in a publicly broadcast radio interview with KRTN Radio on or about October 11, 2018, and when asked about his public censure, is alleged to have made statements to the media that misrepresented the facts and circumstances of the Stipulation by misrepresenting the grounds, extent and nature of his admitted and uncontested conduct detailed in the Stipulation.

The Commission held an evidentiary show cause hearing on February 11, 2019, in which the Commission heard testimony from Judge Walton and admitted evidence, to include the audio recording of Judge Walton's radio interview and a transcript of the relevant portion of the interview. Upon completion of the hearing, the Commission deliberated and unanimously found:

a. Judge Walton violated paragraph 12 of the Stipulation Agreement and Consent to Discipline filed November 21, 2017;

b. Judge Walton obstructed Commission business;

c. Judge Walton committed contempt of the Commission; and,

d. the Supreme Court should be petitioned to enforce the terms of paragraph 15 of

the Stipulation Agreement and Consent to Discipline, to include automatic imposition of the deferred three-week suspension without pay.

Paragraph 15 of the Stipulation provided, in part, that if the Judge violated any terms or provisions of the Stipulation, it would constitute obstruction of Commission business and contempt, and the three-week deferred suspension would be automatically imposed.

On February 13, 2019, the Commission filed a Motion to Enforce, along with a Record of Hearing (CD), with the Supreme Court. Because the Motion to Enforce involved the issue of the Judge's compliance with the terms of Stipulation and was a new matter, the Commission filed a Motion to Seal the Motion to Enforce and the Record of Hearing until the Court reviewed and ruled upon the matter.

On February 25, 2019, Judge Walton, through counsel, filed his Response to Petitioners' Motion to Enforce Terms of Paragraph 15 of Stipulation Agreement and Consent to Discipline with the Supreme Court. The Judge stated in his Response that he did not contest the imposition of the three-week suspension without pay, did not contest the finding of the Commission that he misrepresented the terms of the Stipulation in his radio interview, and that imposition of the three-week suspension without pay was appropriate under the circumstances.

On March 12, 2019, the Supreme Court issued its Order granting the Commission's Motion to Enforce, ordering Judge Walton's three-week suspension without pay beginning March 13, 2019, and unsealing all pleadings conditionally filed under seal pursuant to the Motion to Seal that was filed concurrently with the Motion to Enforce.

The Commission closed these matters effective April 3, 2019, which was the day following the Judge's completion of the three-week suspension without pay.

**MATTER OF HON. SAMANTHA MADRID**

**DOÑA ANA COUNTY MAGISTRATE COURT**

**JSC INQUIRY NOS. 2017-168 AND 2018-001**

**SUPREME COURT DOCKET NO. S-1-SC-37354**

The Commission issued a Notice of Preliminary Investigation on February 15, 2018 and issued a Notice of Formal Proceedings on June 11, 2018. Respondent entered into a Stipulation Agreement and Consent to Discipline (Stipulation) on November 1, 2018. A petition to accept the Stipulation was filed with the Supreme Court on November 1, 2018. The Stipulation provided in part:

On or about November 20, 2017, Respondent failed to be patient, dignified and courteous to an alleged victim of domestic violence when Respondent refused to allow an emergency bathroom break for the alleged victim who had started her menses just prior to resuming her testimony

in the matter of State of New Mexico v. George Daniel Diaz, Case No. M-15-VM-201600030.

The alleged victim, a Spanish speaker, was recalled to the stand following a short recess. When the alleged victim stood up to take the stand, she realized that she started her menses and immediately told the victim advocate, a Spanish speaker, that she needed to go to the bathroom. The victim advocate then told Assistant District Attorney Cassandra Brulotte that the alleged victim needed an emergency bathroom break because she had started her period. The victim advocate walked the alleged victim to the stand. Ms. Brulotte asked to approach the bench, but Respondent did not acknowledge Ms. Brulotte's request. Ms. Brulotte approached the bench, told Respondent that the alleged victim had started her period, and asked Respondent for an emergency bathroom break which Respondent denied. The emergency bathroom break was requested immediately following a ten (10) minute bathroom break and while the jury was being seated. The victim advocate interpreted the conversation between Respondent and Ms. Brulotte for the alleged victim and, when the alleged victim sat up in the witness chair to listen, the victim advocate noticed blood on the chair. Because there was blood on the witness chair and because the emergency bathroom break was denied, the victim advocate asked the court interpreter to walk behind the alleged victim after she finished her testimony to prevent the defendant, jurors and others present in the courtroom from seeing blood on the alleged victim's skirt. While the alleged victim was leaving the stand, and in the presence of the jury, a public defender observed blood running down the alleged victim's leg.

On or about November 20, 2017, Respondent failed to be patient, dignified and courteous to Assistant District Attorney Cassandra Brulotte when Respondent ignored Ms. Brulotte's requests to approach the bench in order to alert Respondent to the alleged victim's need for an emergency bathroom break. Ms. Brulotte approached the bench without permission to inform Respondent that the alleged victim started her menses and needed an emergency bathroom break, which Respondent denied.

On or about November 20, 2017, Respondent failed to maintain order and decorum in the courtroom when Respondent failed to excuse the jury after the alleged victim's testimony and allowed them to observe the removal of the witness chair, which was stained with the alleged victim's menstrual blood, and allowed them to wait in the courtroom until the witness chair was replaced.

On or about November 20, 2017, Respondent failed to comply with the law when, without good cause, Respondent kept and read the jurors' notes

in the matter of State of New Mexico v. George Daniel Diaz, Case No. M-15-VM-201600030.

On December 18, 2017, Respondent prepared a witness statement for Court Interpreter Olga Galindo which Ms. Galindo reviewed and signed. The statement detailed the events concerning the request for an emergency bathroom break which Ms. Galindo witnessed during the trial in the matter of State of New Mexico v. George Daniel Diaz, Case No. M-15-VM-201600030. Respondent did not tell Ms. Galindo the purpose or intended use of the statement. Ms. Galindo specifically asked Respondent to tell her if Respondent was going to disclose the statement, to which Respondent agreed she would. Respondent disclosed the statement, but did not inform Ms. Galindo that she had done so.

Respondent admits that she failed to be patient, dignified and courteous; failed to maintain order and decorum in the courtroom; failed to comply with the law; and disclosed a court interpreter's statement without informing the court interpreter prior to the disclosure as Respondent had agreed to do. Respondent denies that she engaged in willful misconduct and further denies any malice, corrupt purpose, or dishonesty. Respondent acknowledges, however, that the facts support a conclusion that she violated the Code of Judicial Conduct and Respondent knew or should have known that her actions would reflect negatively upon the integrity of and respect for the judiciary, and that such conduct falls within the Supreme Court's definition of bad faith.

The Supreme Court granted the petition and issued a public censure to Judge Madrid on December 31, 2018, and the Commission subsequently closed the matter.

**IN THE MATTER OF HON. FRANK M. VAN GUNDY**  
**DEMING MUNICIPAL COURT**  
**JSC INQUIRY No. 2014-182**  
**SUPREME COURT DOCKET No. S-1-SC-35735**

The Commission issued a Notice of Formal Proceedings to Judge Van Gundy on July 30, 2015. Judge Van Gundy filed his response on August 10, 2015. Judge Van Gundy and the Commission entered into a Stipulation Agreement and Consent to Discipline on February 4, 2016. Oral argument was held on March 28, 2016 at which time the Court denied the Stipulation Agreement and Consent to Discipline and ordered the matter to be remanded for further development and clarification of the facts, to include the defendant's history with the Deming Municipal Court, Luna County Magistrate Court, and the Sixth Judicial District Court. The Stipulation Agreement and Consent to Discipline provided in part:

1. Respondent admits that he engaged in willful misconduct by committing the following acts:

a. On or about August 22, 2014, in the matter of City of Deming v. Eric Meraz, case No. 14001406, Respondent ordered the incarceration of the defendant, who he knew to be mentally incompetent, until the staff of the Luna County Detention Center found a treatment center for the defendant. It was Respondent's intent to set the defendant's case for trial if a treatment center was not found. A treatment center was never found and the defendant was held at the Luna County Detention Center for one hundred and forty-one days, without a hearing which violated the defendant's right to due process of law.

b. In the case of City of Deming vs. Eric Meraz, case No. 14001406, Respondent failed to transfer a competency case to district court, pursuant to Section 31-9-1 NMSA and Rule 8-507 NMRA.

c. Respondent failed to provide an original signature on the court's Judgment and Sentence orders required by to Rule 8-701 NMRA.

2. Respondent admits that he violated the following rules of the Code of Judicial Conduct: Rules 21-101, 21-102, 21-202, 21-203, and 21-205 NMRA 2012.

3. Respondent consents to imposition of the following discipline by the Supreme Court:

a. Suspension Without Pay. Respondent shall be suspended from judicial office for two weeks without pay.

b. Public censure. Respondent shall receive a public censure from the Supreme Court which shall be published in the New Mexico Bar Bulletin.

c. Formal mentorship. The Judicial Standards Commission will recommend a mentor for the Supreme Court's approval and appointment. The mentorship shall be tailored to the issues of due process and competency. The mentorship shall begin upon the Supreme Court's appointment of the mentor, who shall report on the progress and outcome of the mentorship to the Supreme Court and to the Commission. The mentorship shall be in effect until the mentor advises the Commission that the goals of the mentorship have been achieved and the Commission files the final mentorship report with the Supreme Court.

The Commission filed a Motion to Accept Clarification of Facts and to Impose the Stipulated Discipline on February 9, 2017. The Supreme Court ordered the Commission and Respondent to submit a draft public censure on March 1, 2017. The Supreme Court issued a public censure and unsealed the file on December 31, 2018.

**IN THE MATTER OF HON. DEBORAH DAVIS WALKER**  
**Second Judicial District Court**  
**JSC Inquiry No. 2019-003**  
**Supreme Court Docket No. S-1-SC-37498**

The Commission issued a Notice of Preliminary Investigation on January 24, 2019 and filed a petition to accept a Stipulation to Permanent Retirement from Judicial Office in Lieu of Immediate Temporary Suspension and Further Disciplinary Proceedings (“Stipulation”) with the Supreme Court on January 25, 2019. The Stipulation provided in part:

Respondent agrees to permanently retire as judge of the Second Judicial District Court effective at 5:00 p.m. on January 31, 2019. Grounds for this Stipulation include Respondent’s arrest on January 23, 2019, cause number T-4-DW-2019-00182, for the offense of Driving under the Influence of Intoxicating Liquor or Drugs and Failure to Keep a Proper Lookout, the resulting pending criminal charges and the Commission’s disciplinary proceedings.

The Supreme Court accepted and granted the petition and ordered the permanent retirement of Respondent effective at 5:00 p.m. on January 31, 2019.

**IN THE MATTER OF HON. DOROTHY ENCINIAS**  
**MORIARTY MUNICIPAL COURT**  
**JSC INQUIRY No. 2018-078**  
**SUPREME COURT DOCKET No. S-1-SC-37456**

The Commission issued a Notice of Preliminary Investigation on May 17, 2018 and issued a Notice of Formal Proceedings on August 9, 2018. A Stipulation Agreement and Consent to Discipline (Stipulation) was filed with the Supreme Court on January 3, 2019. The Stipulation provided in part:

Respondent failed to immediately resign from her position as Moriarty Municipal Court judge when she declared her candidacy for the position of Torrance County Commissioner on March 13, 2018.

A Notice of Preliminary Investigation (NPI) was issued to Respondent on May 17, 2018 which included reference to Rule 21-405(C) of the Code of Judicial Conduct. Rule 21-405(C) states: “No judge of any court in the State of New Mexico may while in office, accept a nomination for, or be elected to, a public nonjudicial office. A judge must, when filing a statement for elective nonjudicial office, resign the judge’s office immediately.”

Respondent received the NPI prior to the June 6, 2018 primary election and failed to either resign her position as judge of the Moriarty Municipal Court, or to withdraw from the race for Torrance County Commissioner.

The Commission received Respondent's response to the NPI on June 6, 2018. Respondent stated that she had consulted with an attorney prior to her declaration of candidacy for the position of Torrance County Commissioner and was advised that she did not have to resign her judicial position.

The Supreme Court issued Respondent an order to show cause on March 1, 2019 and scheduled a hearing for April 2, 2019.

A Stipulated Motion to Withdraw the Stipulation Agreement and Consent to Discipline was filed with the Supreme Court on March 19, 2019 and was substituted by a Motion to Accept Stipulation to Permanent Resignation in Lieu of Further Disciplinary Proceedings and to Vacate the Hearing was also filed on March 19, 2019.

On March 29, 2019, the Supreme Court granted the motion, approved the Stipulation and ordered Respondent's resignation effective March 29, 2019.

**IN THE MATTER OF HON. STEVE GUTHRIE**

**OTERO COUNTY MAGISTRATE COURT**

**JSC INQUIRY No. 2018-031**

**SUPREME COURT DOCKET No. S-1-SC-37561**

The Commission issued a Notice of Preliminary Investigation on June 18, 2018 and issued a Notice of Formal Proceedings on August 29, 2018. A Stipulation Agreement and Consent to Discipline (Stipulation) was filed with the Supreme Court on March 4, 2019. The Stipulation provided in part:

A. Respondent and his wife, Kim Guthrie, were next door neighbors with Leticia Coyazo and Ysidro "Chico" Coyazo for many years. In Judge Guthrie's opinion, the conflict emanated from the Coyazo grandchildren's bouncing basketballs on the public sidewalk outside the Coyazo home. In the Coyazos' opinion, the conflict began when Judge Guthrie parked his vehicle in front of the Coyazo home to prevent the Coyazos' grandchildren from playing basketball. The dispute surfaced episodically and resulted in the Coyazos filing several police reports, and resulted in the Guthries' decision to permanently move from their residence in October 2018.

B. On October 13, 2017 and April 20, 2018, Respondent parked his personal vehicle in front of his next door neighbor Leticia Coyazo's home to prevent Ms. Coyazo's grandchildren from playing basketball.

C. On November 15, 2017, Respondent told Leticia Coyazo words to the effect, "If I hear the basketball bounce one more time I am going after Chico's disability." Ysidro "Chico" Coyazo is Leticia Coyazo's husband and a disabled veteran who received a monthly disability check. Ms. Coyazo

considered this a threat and called the Alamogordo Police Department. Alamogordo Police Officer Mauricio Puente responded to the call. Respondent was interviewed and told Officer Puente, "what he meant about going after Ms. Coyazos [sic] retirement was that he was going to report her husband to the authority [sic] because her husband was doing things he is not supposed to be doing while on retirement/disability."

D. On April 20, 2018, Respondent parked his vehicle in front of Leticia Coyazo's home, eleven (11) feet away from a fire hydrant in violation of Alamogordo City Ordinance 12-6-1.1 which requires vehicles to be parked fifteen (15) feet away from a fire hydrant. Alamogordo Police Officer Edgar Soto was dispatched to the Coyazo home, measured the distance between the truck bumper and the fire hydrant which was only eleven (11) feet, and ran the license plate of the vehicle which returned as registered to Respondent. Officer Soto instructed Respondent to move his vehicle and Respondent complied.

E. On July 6, 2018, Leticia Coyazo called police officers to file a complaint against Respondent's wife, Kim Guthrie, for spraying water at Ms. Coyazo's video surveillance cameras. While Alamogordo Police Officer Marcelino Esquero was conducting his investigation, he witnessed Respondent mimicking playing a violin and heard Respondent state, "its [sic] against the law to water on Fridays [sic]."

F. A sign was posed on the Guthrie home which read, "All cameras are fake do you think I would spend money to watch you LOL \$\$\$\$ LOL." Leticia Coyazo believes the Guthries' sign was in response to Ms. Coyazo's installation of video surveillance cameras outside her home, and subsequent to the Guthries' installation of video surveillance cameras outside their home.

G. Respondent met with acting Alamogordo Police Chief Roger Schoolcraft at the Alamogordo Police Station, explained his issue with the Coyazos' grandchildren and told Chief Schoolcraft words to the effect; "police officers are not doing enough about the noise."

The Supreme Court granted the petition and issued a Public Censure on April 8, 2019. The Commission subsequently closed the matter.

**MATTER OF HON. ALBERT J. MITCHELL, JR.**  
**TENTH JUDICIAL DISTRICT COURT**  
**JSC INQUIRY No. 2018-020**  
**SUPREME COURT DOCKET No. S-1-SC-37568**

On April 27, 2018, the Commission issued a Notice of Preliminary Investigation (NPI) to Judge Mitchell, to which he responded. On August 9, 2018, the Commission issued a Notice of Formal Proceedings to the judge containing the following counts:

1. On or about January 8, 2018, you created an appearance of impropriety and/or committed an actual impropriety; abused the prestige of judicial office; compromised your judicial independence, integrity, or impartiality; allowed external interests or relationships to influence your judicial conduct or judgment; and, failed to be patient, dignified, and courteous by making a statement to the Quay County Manager, Richard Primrose, to the effect that you had the Governor's ear and if your desires for court security measures were not met by the County Commission, you would call the Governor and she would line-item veto capital outlay funds for Quay County.

2. On or about January 8, 2018, you created an appearance of impropriety and/or committed an actual impropriety; abused the prestige of judicial office; compromised your judicial independence, integrity, or impartiality; allowed external interests or relationships to influence your judicial conduct or judgment; and, failed to be patient, dignified, and courteous by making a statement to the Quay County Manager, Richard Primrose, to the effect that if your desires for court security measures were not met, a prominent legislator, such as John Arthur Smith, would take matters into his own hands and pass a law to provide the measures.

3. On or about January 8, 2018, you created an appearance of impropriety and/or committed an actual impropriety; abused the prestige of judicial office; compromised your judicial independence, integrity, or impartiality; allowed external interests or relationships to influence your judicial conduct or judgment; and, failed to be patient, dignified, and courteous by making a statement to the Quay County Manager, Richard Primrose, to the effect that to ensure Quay County stayed in good graces with the Governor, the County needed to implement one of the following options:

(a) Hire three (3) more full time Sheriff's deputies who would be responsible for monitoring the stairwells and elevator going up to the District Court during court;

(b) Meet your demands and reverse the County Commission's vote of earlier that day;

(c) Rent your old law office-which you own-in Tucumcari for \$500 per month and move the County Clerk into that office;

(d) Build a new judicial building for you, or,

(e) Move all of the other county offices out of the Courthouse into some other building, leaving you as the only occupant of the Quay County Courthouse.

On March 7, 2019, the Commission and the Judge, through counsel, entered into a Stipulation Agreement and Consent to Discipline (“Stipulation”). In the Stipulation, Judge Mitchell admitted that he privately met with the Quay County Manager on January 8, 2018, following the vote of the County Commissioners, which had occurred earlier that day and concerned the Quay County Courthouse. During the meeting, Judge Mitchell made statements to the County Manager that formed the basis for the Commission to petition the Supreme Court to impose discipline upon the Judge.

Judge Mitchell did not contest that the Commission had sufficient facts and evidence to prove certain conduct occurred at the private meeting with the County Manager, although he denied that he engaged in willful misconduct. That conduct is as follows:

1. Judge Mitchell made statements indicating he had the Governor’s ear and could call on her to line-item veto capital outlay funds for Quay County if the court security measures he wanted were not met;

2. Judge Mitchell made statements indicating that if the court security measures he wanted were not met, a prominent legislator could take the Quay County Court’s security measures into his own hands and pass a law to provide the measures the Judge believed were necessary for the courthouse; and,

3. Judge Mitchell made statements indicating that if any of a number of specific options concerning court security were implemented, he would not follow through with notifying the Governor about Quay County’s failure to implement the court security measures. The manner in which the Judge presented the options to the County Manager was suggestive of a threat and the possibility of putting Quay County in jeopardy of not receiving capital outlay funds.

In the Stipulation, Judge Mitchell also acknowledged that the facts supported a conclusion that he violated the Code of Judicial Conduct and he knew, or should have known, that: his actions were clearly a failure to be patient, dignified, and courteous; and, his statements created an appearance of impropriety and could be perceived as an abuse of the prestige of judicial office, which reflects negatively upon the independence, integrity and impartiality of, and respect for, the judiciary. These actions invoked the Rules of Code of Judicial Conduct 21-208(B), 21-102, and 21-103.

The Judge further stipulated that the Commission had sufficient evidence to prove the facts presented in the Stipulation and to conclude that individually and taken together the facts constituted willful misconduct in office, one or more violations of the New Mexico Code of Judicial Conduct and provided sufficient bases for the New Mexico Supreme Court to impose discipline against him.

As part of the Stipulation, Judge Mitchell agreed to accept discipline from the Supreme Court in the form of a Public Censure to be published in the New Mexico Bar Bulletin.

On March 7, 2019, the Commission filed its Petition to Accept Stipulation and Consent to Discipline, under seal, with the Supreme Court. On April 8, 2019, the Court issued its Order and Public Censure in which it granted the Commission's Petition, issued its Public Censure to Judge Mitchell, and unsealed the matter. The Order and Public Censure was published in the New Mexico Bar Bulletin in the May 1, 2019, Vol. 58, No. 9 edition. The Commission subsequently closed the matter.

**IN THE MATTER OF HON. HEATH E. WHITE**  
**TORRANCE COUNTY MAGISTRATE COURT**  
**JSC INQUIRY No. 2018-043**  
**SUPREME COURT DOCKET No. S-1-SC-37654**

The Commission filed a Notice of Preliminary Investigation concurrent with a Petition for Immediate Temporary Suspension Without Pay ("Petition") with the Supreme Court on April 19, 2019. The Petition stated in part:

Respondent is under investigation by the New Mexico State Police and is pending likely prosecution by the Attorney General for criminal embezzlement and/or related acts of dishonesty while acting in his recently former position as Torrance County Sheriff.

The Supreme Court ordered Respondent to file a written response to the Petition on or before May 13, 2019. Respondent stipulated to immediate temporary suspension without pay and a motion to accept the stipulation was filed with the Supreme Court on May 7, 2019. The Supreme Court granted the Motion to Accept the Stipulation to Immediate Temporary Suspension without Pay effective May 10, 2019, quashed the order to show cause as moot, and unsealed all documents filed in the Supreme Court.

This matter was ongoing at the end of FY 2019. Subsequent events will be reported in the FY 2020 Annual Report.

## INFORMAL PROCEEDINGS

**CAUTIONARY OR ADVISORY LETTERS.** The Commission may dispose of a matter by privately cautioning (in matters filed before March 2019) or advising (in matters filed after March 2019) the judge, without making any finding of wrongdoing, that the judge’s alleged conduct may violate the Code of Judicial Conduct. Such dispositions are not discipline; instead they notify the judge of a possible issue and suggestions for change and prevention. In FY 2019, the Commission issued cautionary letters in Z cases to Z judges who were alleged to have done the following:

1. Engaging in an *ex parte* communication with a guardian *ad litem* (“GAL”) following a hearing on parental visitation, and subsequently entering a modification order concerning the recommendations made by the GAL at the hearing.

2. Making misstatements of law concerning constitutional rights to a criminal defendant.

3. Sharing posts on the judge’s Facebook campaign page in a non-partisan election that impermissibly identified the judge’s and opponent’s political parties.

4. Speaking voluntarily at a public hearing before a governmental body contrary to the Code of Judicial Conduct, displaying improper demeanor at that hearing, and/or acting in a manner that may have reflected adversely on the judge’s independence, integrity, impartiality and judicial temperament.

5. Touching and making an inappropriate remark to a court employee, spending excessive time with the employee in the judge’s chambers chatting about matters unrelated to court business, and not being forthright in responses to an official investigation into the matter.

6. Failing to disqualify from a case in which the judge’s impartiality could reasonably be questioned; permitting or directing a court employee to act in a manner inconsistent with the judge’s obligations under the Code of Judicial Conduct, and violative if the judge took such acts; initiating, permitting or considering *ex parte* communications without later notifying all parties or provide an opportunity to object; investigating facts independently, or directing others to do so on the judge’s behalf; and entering an order, or allowing an order to be entered, when the assertions made in the order are known to be inaccurate, misleading, or false.

7. Initiating written *ex parte* communications with one party about a substantive issue in a case, considering the *ex parte* response received, and then entering an order adopting that responsive information.

## **INFORMAL REMEDIAL MEASURES**

The Commission may elect to dispose of matters informally by referring judges for remedial measures or conditions, which may include, but not necessarily be limited to, mentorship, counseling or other assistance. In the mentorship program, the Commission selects an experienced judge who is asked to structure an informal program to meet with the subject judge, address the Commission’s issues of concern, and provide the judge being mentored with any needed help and advice. Participation in the program is accomplished through stipulation. The Commission makes no findings of wrongdoing, and these dispositions are not discipline. In FY 2019, 11

inquiries involving 6 judges were disposed through informal remedial measures to judge(s) who were alleged to have done the following:

1. Excessively delaying ruling on pending motions and entering a final order in two cases, including an over four year delay in issuing a final order after the conclusion of trial and after the parties filed their findings of facts and conclusions of law.

2. Displaying inappropriate demeanor and failing to cooperate with fellow judges and court staff.

3. Finding a party guilty of harassment and stalking and imposing a fine without affording the victim notice or an opportunity to be heard.

4. Failing to transfer a case to district court when a defendant's competency was in question but, instead, personally calling a counselor to evaluate the individual in the judge's courtroom, and acting upon the counselor's purported diagnosis.

5. Making comments before and then after an individual's testimony during a hearing, thereby creating the appearance that the judge was unfair, partial, and had predetermined the ruling before taking testimony.

6. Failing to comply with clearly established law concerning various aspects of arraignments; denying due process rights and failing to demonstrate knowledge in proceedings involving plea agreements and waivers of counsel; participating in *ex parte* communications, which created an appearance of impropriety and presented the appearance that the judge could be influenced by external entities; ruling on an *ex parte* defense request without providing the prosecutor notice or an opportunity to respond; taking action in a case after recusing; impermissibly commenting on a pending case; and failing to be patient, dignified, and courteous to individuals with whom the judge deals in an official capacity.

### INFORMAL STIPULATIONS

The Commission may enter into stipulation agreements in confidential matters (not filed in the New Mexico Supreme Court) concerning various matters. The Commission makes no findings of wrongdoing, and these dispositions are not discipline. In FY 2019, the Commission entered into 0 informal stipulations.

### **ALL PUBLISHED DISCIPLINARY CASES**

**Matter of Martinez**, 99 N.M. 198, 656 P.2d 861 (1982)

**In re Romero**, 100 N.M. 180, 668 P.2d 296 (1983)

**Matter of Terry**, 101 N.M. 360, 683 P.2d 42 (1984)

**In re Lucero**, 102 N.M. 745, 700 P.2d 648 (1985)

**Inquiry Concerning Perea**, 103 N.M. 617, 711 P.2d 894 (1986)  
**Matter of Rainaldi**, 104 N.M. 762, 727 P.2d 70 (1986)  
**Matter of Atencio**, 106 N.M. 334, 742 P.2d 1039 (1987)  
**Matter of Garcia**, 108 N.M. 411, 773 P.2d 356 (1989)  
**Matter of Castellano**, 119 N.M. 140, 889 P.2d 175 (1995)  
**Matter of Ramirez**, 2006-NMSC-021, 139 N.M. 529, 135 P.3d 230  
**Matter of McBee**, 2006-NMSC-024, 139 N.M. 482, 134 P.3d 769  
**State v. Maestas**, 2007-NMSC-001, 140 N.M. 836, 149 P.3d 933  
**Matter of Garza**, 2007-NMSC-028, 141 N.M. 831, 161 P.3d 876  
**Matter of Locatelli**, 2007-NMSC-029, 141 N.M. 755, 161 P.3d 252  
**Matter of Vincent**, 2007-NMSC-056, 143 N.M. 56, 172 P.3d 605  
**Matter of Griego**, 2008-NMSC-020, 143 N.M. 698, 181 P.3d 690  
**Matter of Rodella**, 2008-NMSC-050, 144 N.M. 617, 190 P.3d 338  
**Matter of Schwartz**, 2011-NMSC-019, 149 N.M. 721, 255 P.3d 299  
**Matter of Salazar**, 2013-NMSC-007, 299 P.3d 409  
**Matter of Naranjo**, 2013-NMSC-026, 303 P.3d 849

#### **OTHER STATE CASES REGARDING COMMISSION MATTERS**

**State ex rel. New Mexico Judicial Standards Com'n v. Espinosa**, 2003-NMSC-017 (holding Governor's power to appoint members of Commission includes power to remove members).

**State ex rel. New Mexico Judicial Standards Com'n v. Rivera et al.**, No. 29,239, slip op. (N.M. November 14, 2005) (holding that the district court lacked jurisdiction to conduct evidentiary hearing on a motion to quash a Commission subpoena).

**State of New Mexico ex rel. New Mexico Judicial Standards Com'n v. Hon. Trudy Reed-Chase, et al.**, No. S-1-SC-36879 (May 14, 2018) (order granting writ of prohibition, and finding that pursuant to Article VI, Section 32 of the New Mexico Constitution the district courts lack jurisdiction over actions pertaining to judicial disciplinary proceedings and that all proceedings before the Commission are confidential except for the record filed by the Commission in the Supreme Court).

## OTHER STATE CASES REFERENCING THE COMMISSION

**Sangre de Cristo Development Corp., Inc. v. City of Santa Fe**, 84 N.M. 343, 503 P.2d 323 (1972)

**Cooper v. Albuquerque City Commission**, 85 N.M. 786, 518 P.2d 275 (1974)

**State ex rel. Rivera v. Conway**, 106 N.M. 260, 741 P.2d 1381 (1987)

**Southwest Community Health Services v. Smith**, 107 N.M. 196, 755 P.2d 40 (1988)

**Concha v. Sanchez**, 2011-NMSC-031, 150 N.M. 268, 258 P.3d 1060



**EXPENDITURES & COST REIMBURSEMENT**

As an independent agency of the State, the Commission is funded through a general fund appropriation each year by the New Mexico Legislature. The Commission’s appropriation is separate from the appropriations made to any other State agency or court. At the end of each fiscal year, unencumbered / uncosted funds revert to the State’s general fund.

For FY 2019, the State Legislature appropriated \$849,500.00 to the Commission from the general fund for operations, investigation, and prosecution of judicial misconduct.

FY 2019 Commission expenditures totaled \$838,028.21 from the General Fund. A summary by category of the Commission’s expenditures is provided below.

**FY 2019 EXPENDITURES FROM THE GENERAL FUND**

DESCRIPTION	AMOUNT	PERCENTAGE
Employee Compensation	\$526,735.11	62.9%
Employee Benefits & Taxes	179,058.63	21.4%
Employee/Board Training & Licensing	9,555.72	1.1%
Commission Travel	4,592.12	0.5%
Investigation & Prosecution Expenses	275.06	0.0%
Contractual Services	29,049.94	3.5%
Rent, Telecom, IT & Overhead	84,319.42	10.1%
Equipment, Supplies & Postage	4,442.21	0.5%
<b>TOTAL</b>	<b>838,028.21</b>	<b>100.0%</b>

In FY 2019 the Commission collected \$994.83 of cost reimbursement from one (1) former judge.

**FINANCES**

DESCRIPTION	FY 2019 COSTS	FY 2019 FINES	BALANCE
FY 2019 Collections	994.83	0.00	\$ 994.83
FY 2019 Expended or Reverted	(994.83)		(994.83)
FY 2019 Other Funds			0
TOTALS	\$ 0.00	\$ 0.00	\$ 0

### FINES AND COST REIMBURSEMENT DISTINGUISHED

The Supreme Court may impose fines against judges *sua sponte* or upon recommendation by the Commission. Fines are paid to the State of New Mexico and deposited with the Supreme Court. Fines typically are deposited in the general fund, unless otherwise ordered by the Supreme Court. Costs may be assessed by the Supreme Court or may be reimbursed on stipulation with the respondent judge. Costs are paid to the State of New Mexico and deposited into the Commission's cost reimbursement fund.

### OUTSTANDING DEBTS OWED TO THE COMMISSION

In FY 2008 removed Bernalillo County Metropolitan Court Judge J. Wayne Griego was ordered by the Supreme Court to reimburse the Commission \$6,704.41 in costs. With annual interest of \$536.35 that accrued in FY 2018, the total amount due from Mr. Griego at the end of this fiscal year is \$11,531.56. Mr. Griego has failed to make any payment to the Commission and his debt to the State remains outstanding. The Commission recorded judgment liens with county clerks.

In FY 2012 former Las Cruces Municipal Court Judge Stephen G. Ryan was ordered by the Supreme Court to reimburse the Commission \$647.74 in costs no later than August 1, 2012. Mr. Ryan failed to make any payment to the Commission and his debt to the State. The Commission recorded a judgment lien with the county clerk. During FY19 Mr. Ryan attempted to seal real property and the Commission's judgment lien was satisfied when the title company found it. With interest, the Commission ultimately collected \$994.83 to satisfy the judgment and released the lien.

### FY 2019 GENERAL FUND APPROPRIATION COMPARED TO GENERAL FUND EXPENDITURES

FY 2019 Final Approved Budget	\$ 849,500.00	
Total FY 2019 General Fund Expenditures		\$ (838,028.21)
FY 2019 General Fund Appropriations Reverted		\$ (11,471.79)
Total Expenditures and Reversion		\$ (838,028.21)

## AGENCY 10-YEAR GENERAL FUND FUNDING PROFILE

FISCAL YEAR	FINAL APPROVED BUDGET	EXPENDITURES	REVERSION FROM GENERAL FUND APPROPRIATIONS	REVERSION FROM COST REIMBURSEMENTS	GENERAL FUND REVERSION AS % OF FUNDING
2010	780,002.40	749,752.96	22,047.04	\$8,202.40	2.827%
2011	731,300.00	717,230.17	14,069.83	\$0.00	1.924%
2012	706,900.00	705,230.69	1,669.31	0.00	0.236%
2013	742,900.00	742,838.03	61.97	0.00	0.008%
2014	839,987.00	836,659.33	3,327.67	0.00	0.396%
2015	858,300.00	855,534.63	2,845.50	0.00	0.332%
2016	853,745.38	847,909.21	5,836.17	0.00	0.684%
2017	818,300.00	817,472.41	827.59	0.00	0.101%
2018	818,300.00	817,270.00	1,030.00	1,899.00	0.126%
2019	849,500.00	838,028.21	11,471.79	994.83	1.350%

