



NEW MEXICO

JUDICIAL STANDARDS COMMISSION

ANNUAL REPORT

*Fiscal Year 2004*





# FY 2004 ANNUAL REPORT

## JUDICIAL STANDARDS COMMISSION

### COMMISSION MEMBERS

Mark A. Filosa, Esq.  
Larry Garcia  
Hon. Buddy J. Hall  
Hon. James A. Hall  
Paul F. Sena  
David S. Smoak

Hon. Dan Sosa, Jr. (Ret.)  
Gloria Taradash, Ph.D.  
Bob F. Turner, Esq.  
William R. Valentine, D.M.D.  
Hon. Frank K. Wilson

### COMMISSION STAFF

James A. Noel, Esq.  
*Executive Director &  
General Counsel*

Randall D. Roybal, Esq.  
*Deputy Director &  
Chief Staff Attorney*

Evonne Sanchez  
*Paralegal*

Shariesse McCannon  
*Administrative/Legal  
Assistant*

Cynthia Herrera  
*Financial Specialist II*

### MAILING ADDRESS

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

### PHYSICAL ADDRESS

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

### OFFICE HOURS

7:00 a.m. to 4:00 p.m.  
Monday - Friday

### TELEPHONE

505.222.9353

### WEB SITE

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

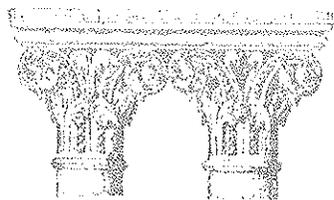


## TABLE OF CONTENTS

|   |    |
|---|----|
| Letter from the Chairman.....                             | 1  |
| Letter from the Executive Director.....                   | 2  |
| Commission Membership.....                                | 3  |
| Commission Members as of June 30, 2004.....               | 3  |
| Commissioner Biographies.....                             | 4  |
| Outgoing Members in FY 2004.....                          | 6  |
| Incoming Members in FY 2004.....                          | 6  |
| Commission Staff.....                                     | 7  |
| Outgoing Staff.....                                       | 8  |
| Incoming Staff.....                                       | 8  |
| Overview of Commission Authority, Duty and Procedure..... | 9  |
| Authority of the Judicial Standards Commission.....       | 9  |
| Actions the Commission Cannot Take.....                   | 9  |
| Confidentiality Policies.....                             | 9  |
| Filing, Review and Investigation of Complaints.....       | 9  |
| Action the Commission Can Take on Complaints.....         | 10 |
| Initial Inquiry.....                                      | 10 |
| Preliminary Investigation.....                            | 10 |
| Formal Proceedings.....                                   | 10 |
| Dispositions.....   | 10 |
| Sanctions.....  | 10 |
| Case Statistics for July 1, 2003 to June 30, 2004.....    | 12 |
| Complaints Received.....                                  | 12 |
| 10-Year Complaint History.....                            | 13 |
| Sources of Verified Complaints.....                       | 13 |
| Judges Reviewed Pursuant to Verified Complaints.....      | 14 |
| Case Dispositions.....                                    | 15 |

|   |    |
|---|----|
| Historical Summary of Cases Filed in Supreme Court.....   | 15 |
| Courts Involved in Supreme Court Filings.....   | 16 |
| Public Cases Disposed by Termination of Judicial Office.....  | 17 |
| Historical Summary of Informal Case Dispositions.....   | 17 |
| Cautionary Letters.....   | 18 |
| Mentorships.....  | 18 |
| Stipulations.....   | 18 |
| All Informal Dispositions.....  | 19 |
| Proceedings before the Commission in FY 2004.....   | 20 |
| Formal Proceedings.....   | 20 |
| Informal Proceedings.....   | 33 |
| Private Letters of Caution.....   | 33 |
| Informal Mentorships.....   | 34 |
| Proceedings before the New Mexico Supreme Court Since FY 1999.....  | 36 |
| Cases Filed with the New Mexico Supreme Court.....  | 36 |
| Published Opinions of the New Mexico Supreme Court.....   | 41 |
| FY 2004 Expenditures.....   | 42 |
| Appendix A - Supreme Court Clarification of Rules for Reporting Judicial Misconduct<br>Involving Unlawful Drug Use..... | 43 |
| Appendix B - Constitutional Authority: NM Constitution Article VI, §32.....   | 47 |
| Appendix C - Statutory Authority: NMSA 1978, §§34-10-1 through 34-10-4.....   | 48 |
| Appendix D - Code of Judicial Conduct.....  | 50 |
| Appendix E - Judicial Standards Commission Rules.....   | 71 |
| Appendix F - Supreme Court Rules Governing Review of Judicial Standards Commission<br>Proceedings.....                  | 81 |

**DEDICATED TO PRESERVING THE INTEGRITY, INDEPENDENCE,  
AND IMPARTIALITY OF THE NEW MEXICO JUDICIARY**





## LETTER FROM THE CHAIRMAN

Honorable Governor Bill Richardson  
Honorable Senators and Representatives of the New Mexico Legislature  
Honorable Chief Justice and Justices of the New Mexico Supreme Court  
Citizens of the State of New Mexico

Ladies and Gentlemen:

I am pleased to present the 2004 Annual Report of the Judicial Standards Commission. The Commission is an independent state commission that came into being on July 1, 1968 upon amendment to the New Mexico Constitution. The Commission is charged with the responsibility to investigate allegations of misconduct and disability concerning the state judiciary, to hold hearings as necessary, to recommend appropriate disciplinary sanctions to the New Mexico Supreme Court and to create a greater awareness of proper judicial behavior on the part of the judiciary and the public.

This Annual Report is presented to inform the public and all branches of state government about the Commission's duties, operations, and actions during the past fiscal year. It is hoped that after reading this report you will have a better understanding of the importance of the Commission's work, which continues to increase in volume, scope and complexity each year.

Please note that case dispositions have been recounted in this report without censorship of graphic content. The Commission believes that the public should be informed of the exact conduct addressed and that accurate reporting will better educate and deter similar misconduct in the future.

The Commission remains firmly committed to fulfilling its responsibilities to the people of the State of New Mexico. We hope that through the vigilant and dedicated performance of our duties, the public's confidence in the integrity, independence and fairness of the state judiciary will be preserved and improved.

On behalf of the Commission, thank you for your strong support for increases in our budget and emergency funding requests. This has enabled us to more properly fulfill our constitutional purposes.

Yours truly,

DAVID S. SMOAK  
Chairman  
NM Judicial Standards Commission



## LETTER FROM THE EXECUTIVE DIRECTOR

Honorable Governor Bill Richardson  
Honorable Senators and Representatives of the New Mexico Legislature  
Honorable Chief Justice and Justices of the New Mexico Supreme Court  
Citizens of the State of New Mexico

Ladies and Gentlemen:

With few exceptions, this state has been blessed with a corps of Judges and Justices whose honesty, integrity, and fidelity to their oaths of office have enabled them to adhere to the highest standards of judicial conduct. That does not diminish the need to be ever-vigilant in protecting that integrity. Nor does it diminish the need to instill in our citizens a sense of confidence that if they ever find themselves in Court, their voice will be heard by an impartial, honest, and thoughtful tribunal. Such is the charter of the Judicial Standards Commission.

With the foresight and support of all three branches of state government, the Commission continues to fulfill its responsibilities to the citizens of New Mexico.

The Commission evolved dramatically during fiscal year 2004. With the support of Governor Bill Richardson and key state legislators, the Commission received additional funding and additional staff. These additional resources helped reduce a backlog of pending cases, and in conjunction with the establishment of a trailing docket system, have enhanced the overall effectiveness and efficiency of the Commission's efforts.

In FY2004, the State Supreme Court adopted new rules of conduct, and issued orders clarifying the responsibilities of the bench, bar, and judicial employees in maintaining the integrity of the Judiciary. Such measures have enhanced the Commission's ability to do its job. On behalf of the Commission and its staff, thank you for your support. We welcome your comments and suggestions.

With best regards for the New Year,

JAMES A. NOEL  
Executive Director & General Counsel  
NM Judicial Standards Commission



## COMMISSION MEMBERSHIP

As set forth in Article VI, §32 of the New Mexico Constitution and New Mexico Statutes Annotated §§34-10-1 through -4, the Judicial Standards Commission is composed of eleven members. Six members are lay citizens 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, and one member is a magistrate judge appointed by the Supreme Court. Lay members are appointed to staggered five-year terms, while attorney and judicial members are appointed to staggered four-year terms. Commissioners do not receive a salary, but are paid *per diem* and reimbursed for expenses as provided by law. Each year the Commissioners elect a Chair and Vice-Chair from the lay membership.

### COMMISSION MEMBERS AS OF JUNE 30, 2004

| <u>Position No.</u> | <u>Filled By</u>                 | <u>Appointed By</u> | <u>Position Term</u> |
|---------------------|----------------------------------|---------------------|----------------------|
| 1                   | Charlene Rodriguez (D)           | Governor            | 7/1/99-6/30/04       |
| 2                   | William R. Valentine, D.M.D. (R) | Governor            | 7/1/00-6/30/05       |
| 3                   | Gloria Taradash, Ph.D. (D)       | Governor            | 7/1/01-6/30/06       |
| 4                   | Paul F. Sena (D)                 | Governor            | 7/1/02-6/30/07       |
| 5                   | Hon. Dan Sosa, Jr. (Ret.) (D)    | Governor            | 7/1/03-6/30/08       |
| 6                   | Mark A. Filosa, Esq.             | Bar Commissioners   | 7/1/02-6/30/06       |
| 7                   | Kathleen M. Brandt, Esq.         | Bar Commissioners   | 7/1/00-6/30/04       |
| 8                   | Hon. Frank K. Wilson             | Supreme Court       | 7/1/03-6/30/07       |
| 9                   | Hon. James A. Hall               | Supreme Court       | 7/1/01-6/30/05       |
| 10                  | Shirley A. Williams (R)          | Governor            | 7/1/99-6/30/04       |
| 11                  | Hon. Buddy J. Hall               | Supreme Court       | 7/1/03-6/30/07       |

## COMMISSIONER BIOGRAPHIES

**KATHLEEN M. BRANDT, ESQ.** was appointed as an attorney member of the Commission in 2000. She earned a bachelor of science degree in medical technology in 1968 from Seattle University, a master of arts degree in guidance and counseling from the University of New Mexico in 1977, and a juris doctor degree from the University of New Mexico Law School in 1985. Ms. Brandt is currently in private practice in Albuquerque, and has formerly served as a New Mexico Public Defender, Director of Children's Safehouse, and Law Clerk to the Hon. Mark B. McFeeley of the U.S. Bankruptcy Court. In addition to volunteering her time with the Commission, Ms. Brandt is also a member of the National Association of Criminal Defense Attorneys, Albuquerque Bar Association, and the New Mexico Crime and Delinquency Board. Her previous professional service includes the Juan G. Burciaga American Inn of Court, New Mexico Public Safety Commission, New Mexico State Bar Task Force on Indigency Representation, 1993 Task Force for the Revision of the New Mexico Children's Code, mentor to young women at risk through New Mexico AIDS Services, and the New Futures School Board.

**MARK A. FILOSA, ESQ.** was appointed as an attorney member of the Commission in 2002. He earned a bachelor of science degree in 1979 from Southern Illinois University and a juris doctor degree in 1983 from John Marshall Law School. Mr. Filosa is a partner in the law firm of Filosa & Filosa in Truth or Consequences, and formerly served as a contract Public Defender in Sierra County, New Mexico, and an instructor at New Mexico Institute of Mining and Technology and the Albuquerque Career Institute. In addition to volunteering his time with the Commission, Mr. Filosa serves the Third and Seventh Judicial District Courts as a Special Commissioner for Domestic Violence. He has been a member of the New Mexico Medical Review Committee since 1987 and completed eight years as a member of the Unauthorized Practice of Law Committee. Mr. Filosa has been the President of the Seventh Judicial District Bar Association since 1988, and is a member of the American Bar Association and the National Italian-American Bar Association.

**HON. BUDDY J. HALL** was appointed to the Commission by the New Mexico Supreme Court in 2002. Judge Hall earned an associate of science degree from Clarendon Junior College in 1982 and a bachelor of science degree in animal science from the Texas Tech University in 1984. He has served on the bench of the De Baca County Magistrate Court since 1995. In addition to his judicial duties, Judge Hall has served on several Magistrate Court boards and committees, including the Magistrate Board of Directors, Data Standards, Classification Committee, Clerks' Manual Review Panel, and the Magistrate Training Conference Panel. Judge Hall has also served on other community and charitable organizations, including the Community Corrections Advisory Panel, De Baca County Health Council (Treasurer), De Baca County DWI Task Force, Rotary International (Past President), De Baca County Chamber of Commerce, Christ Full Gospel Church (Assistant Pastor), and the Valley Volunteer Fire Department (Captain).

**HON. JAMES A. HALL** was appointed to the Commission by the New Mexico Supreme Court in 2004. Judge Hall became a District Judge in the First Judicial District Court in April of 1995. Before his appointment as a District Judge, he worked as a lawyer handling both civil and criminal cases. After graduating from the University of Michigan Law School in 1983, he came to Santa Fe where he first worked for a private law firm. Later, he worked for both the New Mexico Attorney General and the First Judicial District Attorney. At the District Attorney's Office, he worked his way up from a beginning prosecutor to the position of Chief Deputy District Attorney, the top assistant to District Attorney Henry Valdez. Since his appointment to the bench, Judge Hall has worked in various divisions of the District Court. He has worked in the Criminal Division, Family Court and is presently assigned to the Civil Division. While in

the Criminal Division, Judge Hall acted as the first Drug Court Judge for the First Judicial District. In 2001, Judge Hall was elected to a three year term as Chief Judge of the First Judicial District by his judicial colleagues.

**CHARLENE RODRIGUEZ** was appointed as a lay member of the Commission in July 2003. She retired in December 2002 after 29 years of service in state government, including 9 years in the office of the Attorney General and 17 years in the New Mexico Health and Environment Department. Ms. Rodriguez is a native New Mexican and has served for 15 years on the Board of Directors for Ayudantes, Inc., a northern New Mexico non-profit family services agency.

**PAUL F. SENA** was appointed as a lay member of the Commission in March 2003. He earned a bachelor of business administration degree from Eastern New Mexico University. Mr. Sena is a native New Mexican and is the Chief Executive Officer of the Clovis/Curry County Hispanic American Chamber of Commerce.

**HON. DAN SOSA, JR. (RET.)** was appointed as a lay member of the Commission in September 2003. He earned an undergraduate degree from New Mexico State University in 1947 and a juris doctor degree from the University of New Mexico. He is a retired Chief Justice of the New Mexico Supreme Court. Justice Sosa is a native New Mexican, a distinguished lawyer, and a decorated veteran of the armed forces. He was the first graduate of the University of New Mexico Law School to serve on the New Mexico Supreme Court, where he served 16 years.

**GLORIA TARADASH, PH.D.** was appointed as a lay member of the Commission in March 2003. She is an independent education consultant focusing on issues of giftedness and diversity. Dr. Taradash currently serves on the Superintendent's Council on Equity for Albuquerque Public Schools and a variety of boards and committees, including the Board of Directors for the Black Caucus of Special Educators. Dr. Taradash is president of The Association for the Gifted, a division of the International Council for Exceptional Children.

**WILLIAM R. VALENTINE, D.M.D.** was appointed as a lay member of the Commission in September 2003. He received a bachelor of science degree in chemistry in 1966 and his doctor of dental medicine degree in 1970 from the University of Pittsburgh. He is a dentist who has served New Mexico in a number of capacities, from his work with the U.S. Public Health Service as a dentist on several Indian Reservations, to his three terms as a State Senator, to his tenure as Dental Director for the New Mexico Association of Community Colleges. Dr. Valentine is currently a Lt. Commander in the U.S. Public Health Service Reserve.

**SHIRLEY A. WILLIAMS** was appointed as a lay member of the Commission in March 2003. She attended New Mexico Junior College and Eastern New Mexico University. Ms. Williams currently serves on the Board of Directors for Haller-Phillips, Inc., a New Mexico corporation that distributes construction products throughout the southwest.

**HON. FRANK K. WILSON** was appointed as a judicial member of the Commission in 1999. Judge Wilson came to southern New Mexico in 1969 courtesy of the United States Air Force following his graduation from Kenyon College in Ohio with a bachelor of arts degree in English. After leaving the Air Force, Judge Wilson entered the University of New Mexico Law School and graduated in 1976. He served as District Attorney for Otero and Lincoln Counties, City Attorney for the city of Alamogordo, and worked as a general practice attorney before his election to the District Court Bench in 1994. Judge Wilson served as Chief Judge of the Twelfth District from July 1998 through June 2001. Judge Wilson is married and the father of two children and stepfather of two others. He is past president of several civic organizations,

including the White Sands Rotary Club, the Otero County Association for Retarded Citizens, the Otero County Council on Alcohol Abuse and Alcoholism, and the White Sands Soaring Association, and a former board member of Alamogordo Music Theater. He is presently a lay preacher and lay Eucharistic Minister at St. John's Episcopal Church in Alamogordo.

### OUTGOING MEMBERS IN FY 2004

|                     |                            |
|---------------------|----------------------------|
| Hon. Frank H. Allen | Retired January 31, 2004   |
| Charlene Rodriguez  | Term Expired June 30, 2004 |
| Shirley A. Williams | Term Expired June 30, 2004 |

### INCOMING MEMBERS IN FY 2005

|                     |                          |
|---------------------|--------------------------|
| David S. Smoak      | Term Begins July 1, 2004 |
| Larry Garcia        | Term Begins July 1, 2004 |
| Bob F. Turner, Esq. | Term Begins July 1, 2004 |

### ❧ PAST CHAIRS ❧

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



## COMMISSION STAFF

The Commission employs a full-time staff to conduct its day-to-day business, assist the public, handle complaints, and complete administrative matters required by the State. As of June 30, 2004, the Commission's staff consisted of the following personnel:

### EXECUTIVE DIRECTOR & GENERAL COUNSEL

**JAMES A. NOEL, ESQ.** joined the Judicial Standards Commission in January 2004 as Executive Director & General Counsel. Mr. Noel earned a bachelor of arts degree in political science and anthropology in 1985 from Indiana University. He earned a masters degree in business administration in 1988, also from Indiana University. Subsequently Mr. Noel held environmental engineering and management positions throughout the Department of Energy Complex, including posts at Lawrence Livermore National Laboratory, Portsmouth Uranium Enrichment Plant, and Los Alamos National Laboratory, where he oversaw the project control function of the multi-million dollar Environmental Restoration Program. Mr. Noel returned to academia in 1997 to attend law school. He earned a juris doctor degree in 2000 from the University of New Mexico. Prior to joining the Commission, Mr. Noel was in private practice handling complex litigation, personal injury and insurance bad faith cases. Mr. Noel is a member of the Association of Judicial Disciplinary Counsel, New Mexico Trial Lawyers Association, Albuquerque Bar Association, Association of Trial Lawyers of America, and The Federalist Society.

### DEPUTY DIRECTOR & CHIEF STAFF ATTORNEY

**RANDALL D. ROYBAL, ESQ.** joined the Commission staff in 1998 and serves as the Deputy Director & Chief Staff Attorney. He is a native New Mexican and earned a bachelor of arts degree in economics in 1988 from the University of New Mexico and a juris doctor degree in 1991 from the University of Notre Dame. Prior to joining the Commission, he served as an Assistant Attorney General to Attorney General Tom Udall and handled civil defense litigation, administrative licensing prosecutions before various state boards and commissions, judicial writs, and complex prison reform litigation. Before entering public service, Mr. Roybal practiced law privately for five years as an associate of an insurance defense firm and as the principal of his own general practice firm. He has participated in or served on various legal, civic and charitable organizations, including the Association of Judicial Disciplinary Counsel, American Constitution Society for Law and Policy, American Bar Association, Albuquerque Bar Association, Association of Trial Lawyers of America, New Mexico Trial Lawyers Association, State Bar Committees on Women and Minorities in the Profession, Young Lawyers' Division AIDS Law Panel, Domestic Violence Legal HELpline, and New Mexico AIDS Services.

### FINANCIAL SPECIALIST III & ADMINISTRATIVE ASSISTANT

**ESTHER M. MILES** joined the Commission staff in 1997 and served as its Financial Specialist III & Administrative Assistant. She is a native New Mexican and has an extensive financial background that includes eleven years of banking experience. Ms. Miles utilized her financial and administrative skills as a State of New Mexico employee since 1987, serving five years at the Second Judicial District Court and four

years at the Second Judicial District Attorney's Office prior to joining the Judicial Standards Commission. Ms. Miles resigned from the Commission staff on July 30, 2004.

### PARALEGAL

EVONNE SANCHEZ joined the Commission in February 2004 as its Paralegal. She earned her paralegal certificate from the University of New Mexico in 1996 and has been an active member of the Paralegal Division of the State Bar of New Mexico since 2000. She is a native New Mexican and has legal assistant and paralegal experience spanning over 17 years. Prior to joining the Commission staff, the majority of Ms. Sanchez' legal work was performed as paralegal and office manager for an Albuquerque law firm specializing in criminal defense. Ms. Sanchez has also has substantial experience in the areas of personal injury and civil litigation.

### OUTGOING STAFF

Esther M. Miles

July 30, 2004

### INCOMING STAFF

Shariesse McCannon  
Administrative/Legal Assistant

August 30, 2004

Cynthia Herrera  
Financial Specialist II

August 30, 2004

### EXECUTIVE DIRECTORS OF THE COMMISSION

**DAVID R. GARDNER, ESQ.**  
October 1974 – September 1984

**SAMUEL W. JONES, ESQ.**  
September 1984 – June 1993

**PEG A. HOLGUIN, ESQ.**  
July 1993 - October 2003

**JAMES A. NOEL, ESQ.**  
January 2004 – Present



## OVERVIEW OF COMMISSION AUTHORITY, DUTY & PROCEDURE



### AUTHORITY OF THE JUDICIAL STANDARDS COMMISSION

Article VI, §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 a judge's duties; habitual intemperance; and disability seriously interfering with the performance of the judge's duties which is, or is likely to become, of a permanent character.

The Commission's jurisdiction extends over complaints made against justices and judges of the state judiciary. Where necessary, the Commission holds hearings and, if allegations are proven, recommends appropriate sanctions to the New Mexico Supreme Court.



### 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 Commission does not provide legal advice.



### CONFIDENTIALITY POLICIES

As required by the New Mexico Constitution, all matters filed with and handled by the

Commission are confidential. Proceedings lose their confidential character only when the Commission files the case record with the New Mexico Supreme Court. The Court's files are available to the public, but confidentiality is maintained at the Commission level.



### FILING, REVIEW AND INVESTIGATION OF COMPLAINTS

Any person or organization may file a complaint against a judge on the Commission's complaint form. The Commission may also docket misconduct allegations against a judge on its own motion. 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 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 will review the complaint to determine if it falls within the Commission's jurisdiction. After determining whether jurisdiction exists, the Commission may conduct an initial inquiry. The Commission may direct its Executive Director to conduct additional investigation, if necessary.

Judges are neither notified of frivolous or unsubstantiated complaints, nor informed of complaints that are extra-jurisdictional or appellate in nature. Such cases are typically dismissed after review by the Commission.



## ACTION 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 be grounds for sanctions, the Executive Director and/or Commission staff may conduct a confidential inquiry. The Commission may require the judge to submit a written explanation and disclosure of all pertinent facts and relevant documentation in response to the Commission's request. If such request is made, the judge is allowed ten days in which to provide the response.

If it is determined at this stage that there are insufficient grounds to proceed, the case will be closed. The complainant and the judge, if notified previously, will be informed of the disposition.

**Preliminary Investigation.** If the complaint appears to allege facts not obviously frivolous or unfounded indicating a disability or a violation, the Commission may make 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 preliminary investigation that sets forth the nature of the complaint and identifies the source of the complaint. The judge must respond in writing to the notice of preliminary investigation within fifteen days of service.

If it is determined at this stage that there are insufficient grounds to proceed, the case will be disposed and the complainant and the judge will be informed of the disposition.

**Formal Proceedings.** If at least six 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. After service of a notice of formal proceedings, the Commission's jurisdiction attaches and is not affected by subsequent resignation or termination from office. The judge's answer to the notice of formal proceedings is due within fifteen days of service.

The Commission will set a date for a hearing. 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 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 six Commissioners must agree on an outcome and in recommending removal, retirement or discipline of a judge to the 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 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 conduct may violate the standards of judicial conduct, and/or proposing professional counseling or assistance for the judge.

**Sanctions.** If the Commission votes to recommend to the Supreme Court that a judge should be sanctioned, the following sanctions are

available: removal, retirement, discipline (suspension, limitations or conditions on judicial duties, reprimand or censure, fine, and assessment of costs and expenses), or any combination of the above.

The Supreme Court may set a hearing on the Commission's recommendations. The Court will render a decision adopting, rejecting, or modifying the recommendation of the Commission or requiring some other action.

## **DISPOSITIONS**

### **DISMISSAL**

#### **INFORMAL/CONFIDENTIAL**

**Cautionary Letter  
Mentorship/Counseling**

#### **FORMAL/PUBLIC**

**Removal  
Involuntary Retirement  
Discipline  
Suspension  
Limitations on Judicial Duties  
Reprimand  
Censure  
Fine  
Assessment of Costs**

***Any Combination of Above***



STATISTICS  
JULY 1, 2003 TO JUNE 30, 2004

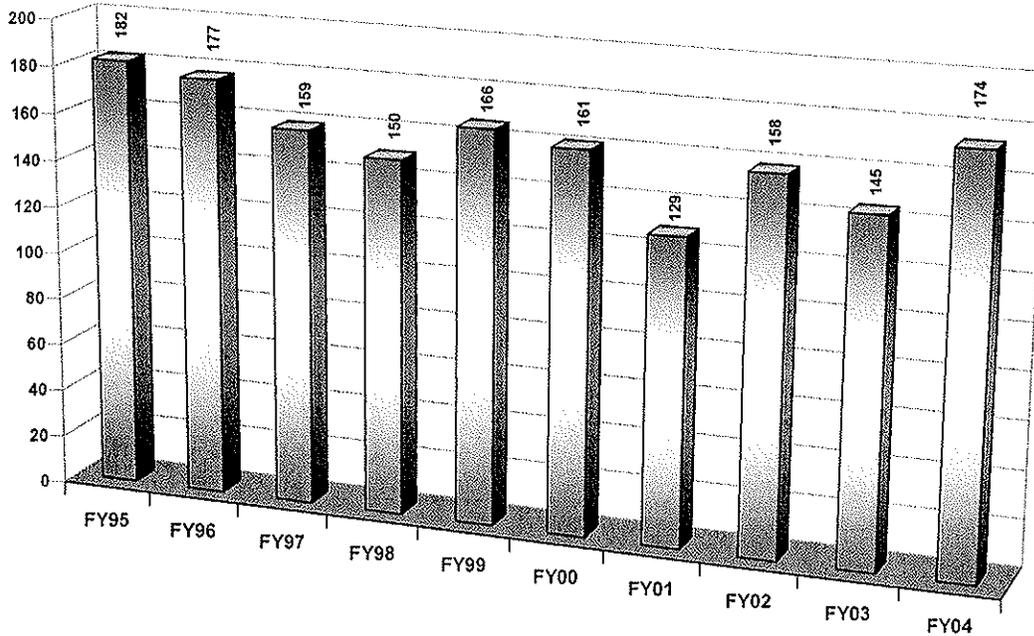
COMPLAINTS RECEIVED

During FY 2004 the Commission handled 1,219 complaints/inquiries of judicial misconduct and/or disability. Of these complaints/inquiries, 174 were written complaints in the following categories: 132 verified complaints (includes Commission-initiated complaints) and 42 unverified complaints. Approximately 1,045 complaint inquiries were made by telephone or in person.

| COMPLAINTS RECEIVED IN FY 2004 |                |
|--------------------------------|----------------|
| Written/Verified               | 132            |
| Written/Unverified             | 42             |
| Telephonic/In-Person           | 1,045          |
| TOTAL                          | -----<br>1,219 |

The Commission has an established pre-screening process for telephonic and in-person complaints. Staff makes every effort to discuss callers' situations in detail with a serious, helpful attitude. Callers are informed about the limited scope of the Commission's jurisdiction under state law and discuss where their potential complaints could fall within that jurisdiction. Substantial time is spent helping each person assess the merits of his or her own allegations in light of the Commission's jurisdictional scope and to determine what results the callers desire. In some instances, the callers' desired results fall squarely outside the Commission's authority (e.g., changing a judge's ruling, removing a judge from a case, affecting the course of ongoing litigation, etc.). All callers who request a complaint form will be sent one. Since October 2001, complaint forms and detailed filing instructions have also been available for download off the Commission's web site.

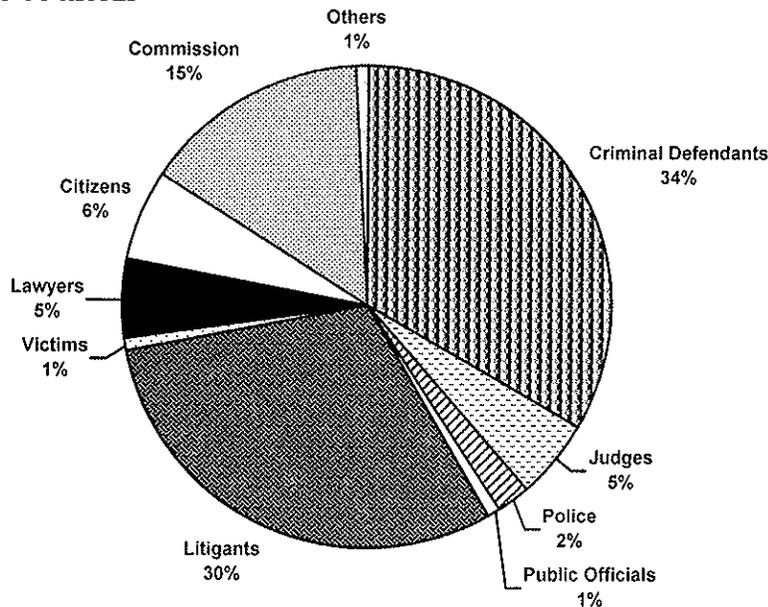
## 10-YEAR VERIFIED WRITTEN COMPLAINT HISTORY



### SOURCES OF VERIFIED COMPLAINTS

Of the verified complaints filed with the Commission, most were filed by criminal defendants followed by litigants. The distribution of the sources of written, verified complaints was the following: 40 by litigants or litigants' family/friends, 44 by criminal defendants or criminal defendants' family/friends, 8 by citizens, 1 by public official(s), 7 by lawyers, 7 by judge(s), 3 by police officers, 1 by victim(s) and/or victims' family/friends, and 1 by other(s). 20 complaints were initiated by the Commission on its own motion. A chart illustrating these figures is presented on the following page.

## COMPLAINT SOURCES



## JUDGES REVIEWED PURSUANT TO VERIFIED COMPLAINTS

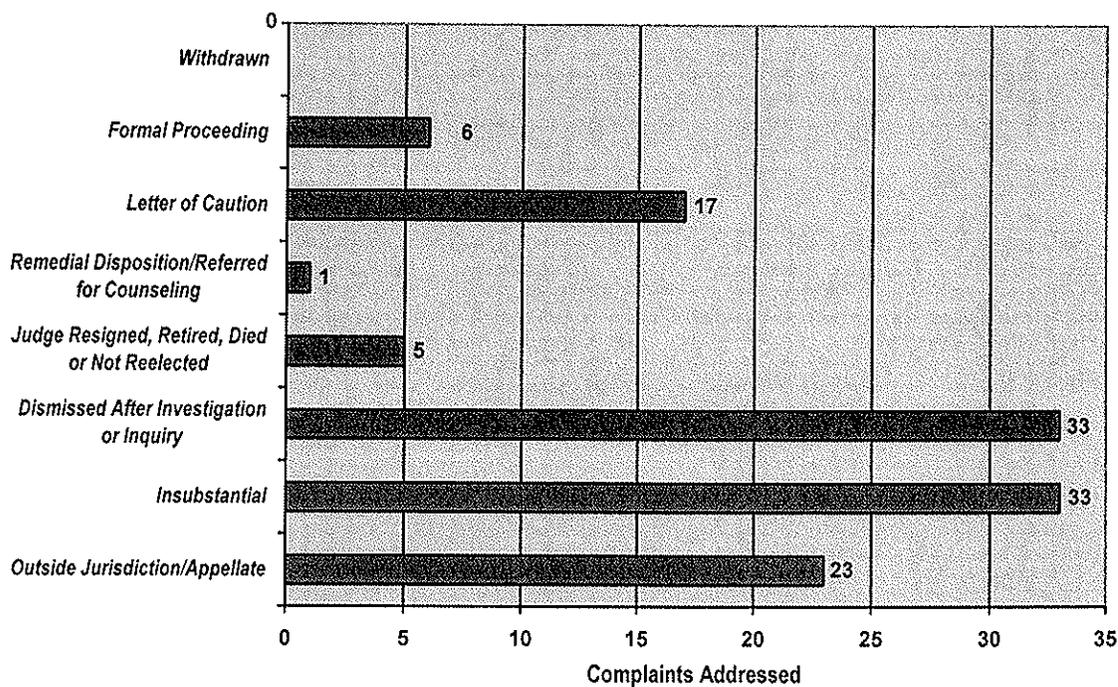
Judges in most levels of the judiciary were the subjects of complaints in FY 2004. Consistent with the Commission's history, the majority of complaints were filed against judges of the district courts (43%), followed by magistrate judges (29%), and municipal judges (20%). The remaining verified complaints were filed against metropolitan judges (6%), appellate judges (less than 1%), probate judges (less than 1%), and others/no jurisdiction (less than 1%).

The written/verified or Commission-initiated complaints were docketed against the following judges: 57 district judges, 1 appellate judge, 8 metropolitan judges, 38 magistrate judges, 26 municipal judges, 1 probate judge, and 1 other (a person over whom the Commission had no jurisdiction by law). No written, verified complaints were filed against Supreme Court Justices in FY 2004.

| JUDICIAL BRANCH              | VERIFIED COMPLAINTS | PERCENTAGE OF CASELOAD |
|------------------------------|---------------------|------------------------|
| <i>Supreme Court</i>         | 0                   | 0%                     |
| <i>Court of Appeals</i>      | 1                   | < 1%                   |
| <i>District Court</i>        | 57                  | 43%                    |
| <i>Metropolitan Court</i>    | 8                   | 6%                     |
| <i>Magistrate Court</i>      | 38                  | 29%                    |
| <i>Municipal Court</i>       | 26                  | 20%                    |
| <i>Probate Court</i>         | 1                   | < 1%                   |
| <i>Other/No Jurisdiction</i> | 1                   | < 1%                   |

## CASE DISPOSITIONS

Of the cases completed and disposed in FY 2004, the Commission concluded 7 cases (involving 3 judges) through formal proceedings (trials and/or Supreme Court proceedings), issued 21 letters of caution, and referred 1 judge for remedial assistance or counseling. The Commission dismissed or closed 33 cases as insubstantial and 23 cases as outside its jurisdiction and/or appellate in nature. The Commission dismissed 33 cases not requiring further action after conducting investigations or inquiries. Finally, 5 cases were closed after the subject judges resigned, died, or were not reelected.

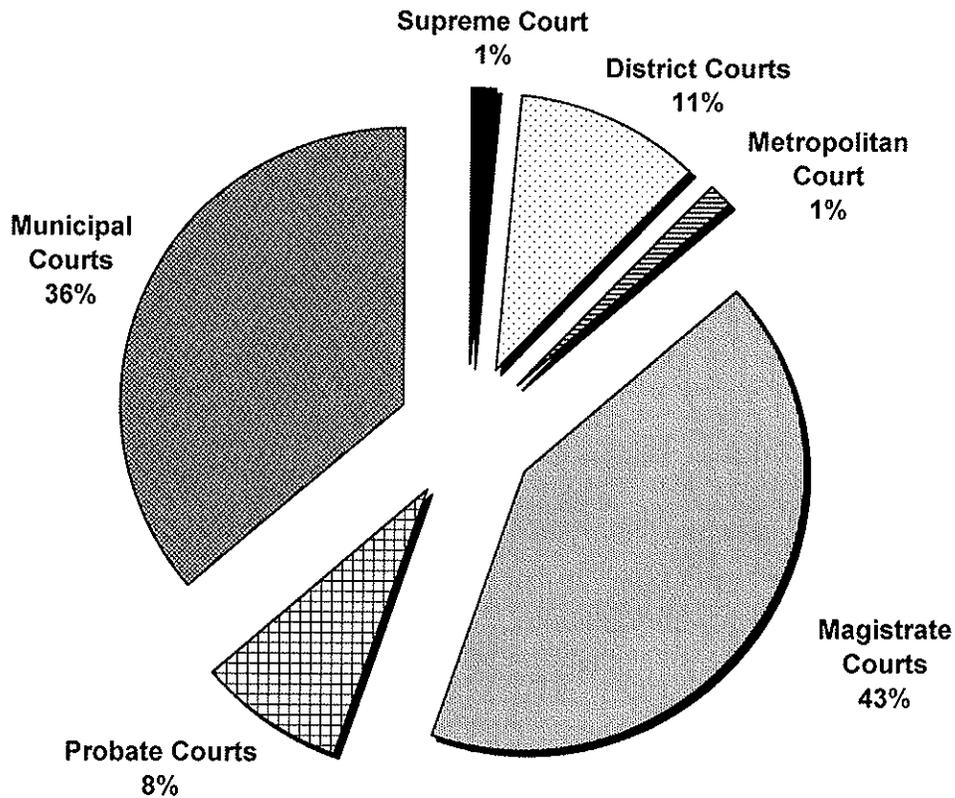


## HISTORICAL SUMMARY OF CASES FILED IN SUPREME COURT

From 1968 through June 30, 2004, the Commission has filed 74 petitions for discipline and/or temporary suspension in the New Mexico Supreme Court involving 59 judges. By their nature, these cases involve the most serious questions of judicial misconduct or disability, thereby requiring the Commission to recommend formal sanctions and discipline to the State's highest court.

Of the judicial branches concerned, the Commission has filed Supreme Court petitions involving 1 Supreme Court justice, 8 district judges, 1 metropolitan judge, 31 magistrate judges, 27 municipal judges, and 6 probate judges. The following chart illustrates the proportional distribution of these filings.

**ALL SUPREME COURT FILINGS (1968 - PRESENT)**

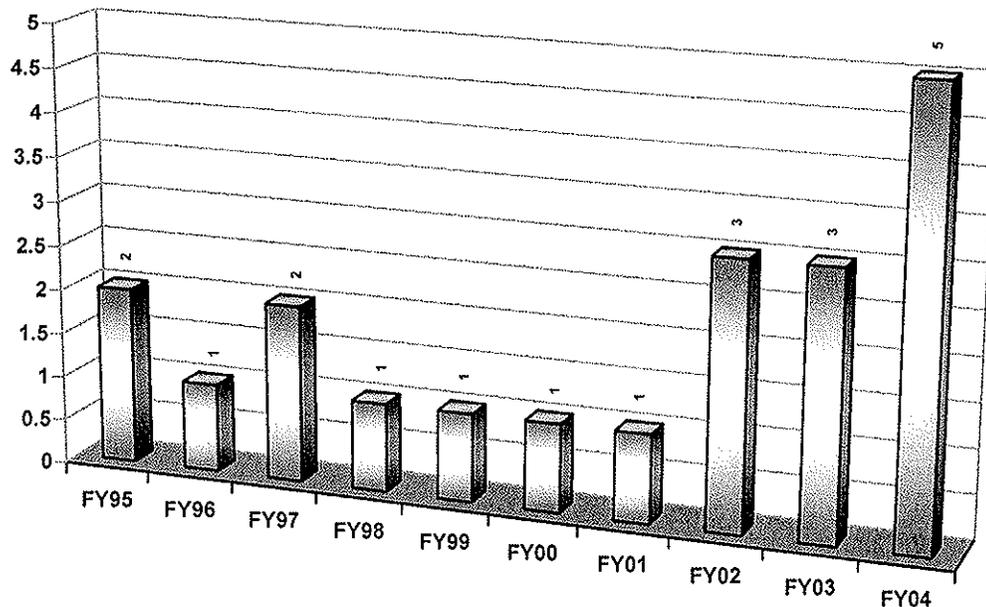


The table below indicates the levels of the judiciary and the corresponding applicable geographical areas involved in the Commission's filed 74 formal cases filed with the Supreme Court since 1968.

| <b>APPELLATE COURTS<br/>(1)</b> | <b>DISTRICT COURTS<br/>(8)</b>                           | <b>METROPOLITAN COURTS<br/>(1)</b> | <b>MAGISTRATE COURTS<br/>(31)</b>  | <b>MUNICIPAL COURTS<br/>(27)</b>  | <b>PROBATE COURTS<br/>(6)</b> |
|---------------------------------|--|------------------------------------|--|---|-------------------------------|
| Supreme Court 1                 | First 1<br>Second 2<br>Third 1<br>Fourth 1<br>Eleventh 3 | Bernalillo County 1                | Cibola 1<br>Colfax 1<br>Doña Ana 5<br>Guadalupe 1<br>Hidalgo 1<br>Mora 1<br>McKinley 1<br>Rio Arriba 4<br>Sandoval 1<br>San Juan 2<br>San Miguel 2<br>Santa Fe 2<br>Socorro 1<br>Taos 4<br>Union 1<br>Valencia 3 | Bernalillo 1<br>Bosque Farms 1<br>Cimarron 1<br>Clovis 2<br>Española 2<br>Gallup 1<br>Grants 3<br>Hurley 1<br>Las Cruces 1<br>Las Vegas 2<br>Mountainair 3<br>Portales 1<br>Roswell 2<br>Ruidoso Downs 1<br>San Jon 1<br>Santa Fe 3<br>Taos 1 | Sandoval 1<br>Taos 5          |

## PUBLIC CASES DISPOSED BY TERMINATION OF JUDICIAL OFFICE

Since its inception, the Commission has disposed of 58 cases concerning 33 judges after termination of judicial office. These cases are illustrated on the following chart and include removals, retirements, or resignations after the Commission had filed matters with and requested action by the Supreme Court.



## HISTORICAL SUMMARY OF 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, §32 of the New Mexico Constitution. Allegations disposed informally were found to have merit and significance, but due to their nature, the judges' experience and disciplinary history, or a number of other factors, the Commission determined that an informal disposition was the appropriate method to address the issues in question.

Informal dispositions include issuing private letters of caution, referring the judge for mentorship, or entering into a stipulation agreement concerning the conduct in question. Since its formation in 1968 through June 30, 2004, the Commission has informally disposed of 222 case files.

The following tables illustrate the distribution of the informal cautionary letter and mentorship dispositions. A brief discussion concerning stipulation agreements follows.

**CAUTIONARY LETTERS  
(156 cases)**

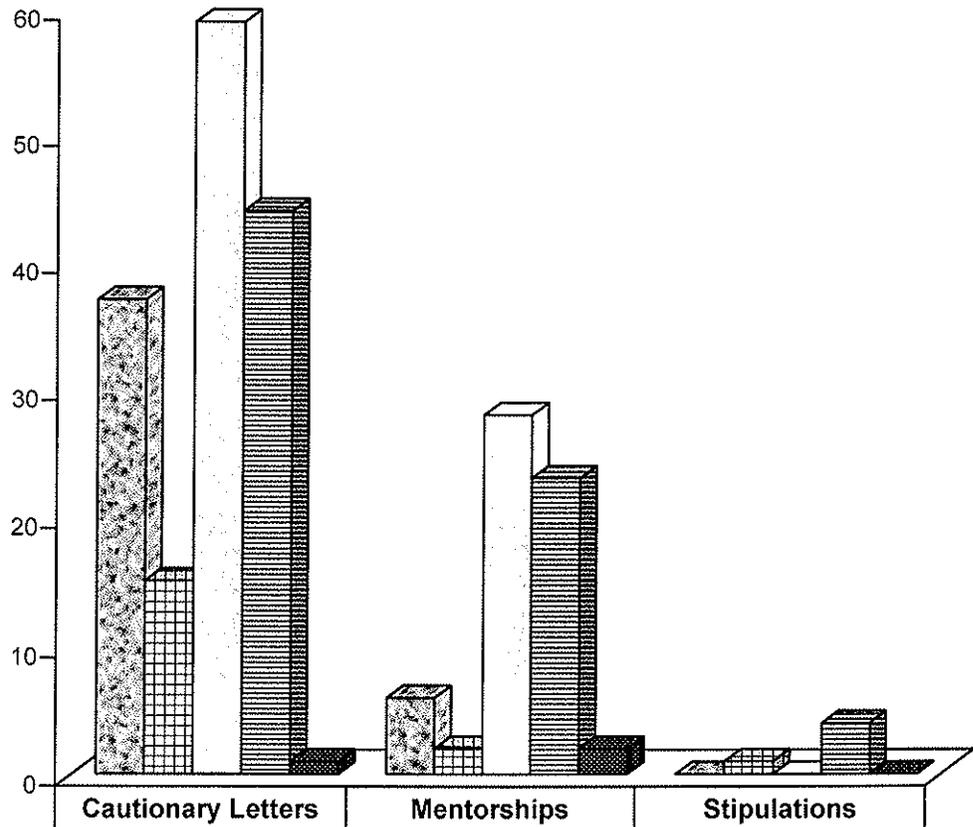
| <b>Judicial Branch Involved</b> | <b>Number of Case Files</b> | <b>Percentage of All Cautionary Letters</b> |
|---------------------------------|-----------------------------|---|
| Supreme Court                   | 0                           | 0%  |
| Court of Appeals                | 0                           | 0%  |
| District Court                  | 37                          | 24%   |
| Metropolitan Court              | 15                          | 10%   |
| Magistrate Court                | 59                          | 38%   |
| Municipal Court                 | 44                          | 28%   |
| Probate Court                   | 1                           | < 1%  |

**MENTORSHIPS  
(61 cases)**

| <b>Judicial Branch Involved</b> | <b>Number of Case Files</b> | <b>Percentage of All Mentorships</b> |
|---------------------------------|-----------------------------|--------------------------------------|
| Supreme Court                   | 0                           | 0%                                   |
| Court of Appeals                | 0                           | 0%                                   |
| District Court                  | 6                           | 10%                                  |
| Metropolitan Court              | 2                           | 3%                                   |
| Magistrate Court                | 28                          | 46%                                  |
| Municipal Court                 | 23                          | 38%                                  |
| Probate Court                   | 2                           | 3%                                   |

STIPULATIONS: In addition to private letters of caution and referrals to the mentor program, the Commission may informally dispose of cases through confidential stipulations with judges. Stipulations typically require judges to retire, resign, or cease improper conduct. In FY 2004, 2 cases were dismissed by informal stipulation. Historically, the Commission has disposed of 5 cases through informal stipulation. The following chart illustrates the historical breakdown of all informal dispositions by judicial branch.

**ALL INFORMAL DISPOSITIONS (1968 - PRESENT)**



|                      | Cautionary Letters | Mentorships | Stipulations |
|----------------------|--------------------|-------------|--------------|
| ■ District Courts    | 37                 | 6           | 0            |
| ▣ Metropolitan Court | 15                 | 2           | 1            |
| □ Magistrate Courts  | 59                 | 28          | 0            |
| ▤ Municipal Courts   | 44                 | 23          | 4            |
| ■ Probate Courts     | 1                  | 2           | 0            |



## PROCEEDINGS BEFORE THE COMMISSION IN FY 2004

All of the Commission's proceedings that resulted in either formal or informal proceedings 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 which the Commission addresses through private letters of caution to the judges or by referring the judges to the Commission's informal mentor program.



### FORMAL PROCEEDINGS

In FY 2004, the Commission handled 7 formal proceedings in which Supreme Court action and/or discipline was recommended. These proceedings are summarized below:

**IN RE HON. CHARLES MAESTAS<sup>3</sup>**  
*Municipal Judge, Espanola*  
*Inquiry No. 2001-09*  
*Supreme Court Case No. 27,348*

On July 2, 2003, Judge Charles Maestas resigned from his judicial office while incarcerated. The Commission then closed its pending case against him.

---

<sup>3</sup> This case was not completed by the end of reporting period for the Commission's FY 2003 Annual Report. This summary contains events that occurred during FY 2004.

As was reported in the Commission's Annual Report for FY 2003, pursuant to a Plea and Stipulation Agreement, Judge Maestas received the following discipline from the Supreme Court on February 18, 2002, for soliciting favored treatment from law enforcement officers for his friend in a DWI matter:

- a. Two-day suspension from judicial office without pay.
- b. Formal reprimand published in the *Bar Bulletin*.
- c. Attend and successfully complete the next administration of the "Ethics for Judges" course sponsored by the National Judicial College at Maestas' own expense.
- d. Abide by all terms and conditions of the Court's order, the plea agreement and the Code of Judicial Conduct.
- e. Parties bear their own costs and expenses.

On March 5, 2002, the Supreme Court issued the formal reprimand to Judge Maestas, which was published in the March 21, 2002 issue of the *Bar Bulletin*. Judge Maestas completed his two-day suspension from the bench in February 2002, and the "Ethics for Judges" course on October 31, 2002 at the National Judicial College in Reno, Nevada.

On November 13, 2002, the Commission filed a motion asking the Supreme Court to take final disposition of this matter under advisement until the ongoing criminal and disciplinary proceedings pending against Judge Maestas in a new matter (see Inquiry No. 2002-40 below) have terminated. The new matter concerned criminal

investigation and anticipated prosecution for criminal sexual conduct with defendants in exchange for leniency or dismissal of the defendants' cases. The motion stated that if the allegations in the new matter were true, then Judge Maestas was negotiating his Plea and Stipulation Agreement and came under the Supreme Court's disciplinary order in Inquiry No. 2001-09 while he was committing acts that may be criminal or otherwise constitute willful misconduct in office.

The Commission requested that the Supreme Court take the matter under advisement and delay final disposition. The Court granted the Commission's motion on November 22, 2002.

On June 19, 2003, Judge Maestas was convicted of ten felonies, including five counts of Official Acts Prohibited and five counts of Criminal Sexual Penetration while Committing Official Acts Prohibited. He was immediately incarcerated and, approximately two weeks later, resigned his judicial office.

**IN RE HON. CHARLES E. MAESTAS<sup>4</sup>**

*Municipal Judge, Espanola*

*Inquiry No. 2002-40*

*Supreme Court Case No. 27,348*

On July 2, 2003, Judge Charles Maestas resigned from his judicial office while incarcerated. The Commission then closed its pending case against him.

As was reported in the Commission's Annual Report for FY 2003, on June 14, 2002, the Commission and Judge Charles Maestas entered into an agreement to file a Stipulated Petition for Temporary Suspension with the New Mexico Supreme Court. In the petition, the parties informed the Supreme Court that the Judge was under investigation by the Attorney General's

---

<sup>4</sup> This case was not completed by the end of reporting period for the Commission's FY 2003 Annual Report. This summary contains events that occurred during FY 2004.

Office and may be facing serious criminal charges. The matter concerned allegations that the Judge had solicited and/or received sexual favors from a female defendant in exchange for leniency in sentencing in the defendant's case.

In the stipulated petition, Judge Maestas requested that his temporary suspension be with pay. The Commission left the pay issue to the Court's discretion but stipulated that if the judge were suspended with pay, the Supreme Court should review the ruling every 90 days for propriety of continued pay.

Within hours of the stipulated petition's filing, the Supreme Court temporarily suspended Judge Maestas. The Court ordered the suspension be with 90 days pay (through September 13, 2002), and thereafter continue without pay.

On September 20, 2002, Judge Maestas filed a Motion to Continue Temporary Suspension with Pay in the Supreme Court. In support of his motion, Judge Maestas argued: (1) that he came forward to the Commission and reported the Attorney General's investigation; (2) that he stipulated to temporary suspension in recognition of the need to preserve the integrity, independence and public confidence in the judiciary, even though he maintained that he was not guilty of the criminal charges being investigated; (3) that criminal prosecutor first learned of the charges on April 17, 2002, but had yet to file any charges against him; and (4) that in the absence of criminal charges, he should be entitled to the benefit of the doubt and continue to be paid during his suspension.

The Commission filed a response to the judge's motion on September 26, 2002. In the response, the Commission argued: (1) Judge Maestas did not qualify for reinstatement of pay for many specified reasons; (2) the Supreme Court's temporary suspension order was not only based on the pending criminal investigation, but also on the anticipated review of allegations that respondent also committed acts of willful misconduct in office; (3) circumstances had not changed in Judge Maestas' favor; and (4) Rule 27-

201(G) prohibits respondent from seeking rehearing or reconsideration of the Court's suspension order.

On October 3, 2002, the Supreme Court issued an order denying Judge Maestas' Motion to Continue Temporary Suspension with Pay. The Court order did not enumerate the specific grounds for the denial.

On February 21, 2003, a grand jury indictment was filed against Judge Maestas in the First Judicial District Court, Santa Fe County, New Mexico. The indictment included the following criminal charges, many of which are felony-level: 8 counts of criminal sexual penetration, 2 counts of criminal sexual contact, 2 counts of extortion, 8 counts of official acts prohibited, and 1 count of stalking. On March 4, 2003, the Commission filed formal Notice of the indictment with the Supreme Court.

On March 18, 2003, the Attorney General's Office filed a Motion to Amend Grand Jury Indictment, which was granted in open court on May 30, 2003. Judge Maestas was tried before a jury and on June 19, 2003 was convicted of ten felony crimes, including five counts of Criminal Sexual Penetration and five counts of Official Acts Prohibited. The case was styled, *State of New Mexico vs. Charles Maestas*, First Judicial District Court, Rio Arriba County, New Mexico, Cause No. D-0117-CR-2002-01057. Judge Maestas was acquitted of eighteen other criminal counts. At the end of this reporting period, Judge Maestas was incarcerated, awaiting sentencing, and pursuant to the Supreme Court's order of June 14, 2002, was on unpaid suspension pending completion of the State's criminal prosecution and termination of the Judicial Standards Commission's proceedings against him. On July 2, 2003, the judge resigned from his judicial office and the Commission closed the matter.

IN RE HON. FRANCES GALLEGOS<sup>5</sup>  
*Municipal Judge, Santa Fe*  
*Inquiry No. 2002-80*  
*Supreme Court Case No. 27,906*

On November 6, 2002, the Commission issued a Notice of Preliminary Investigation to the Respondent. Respondent filed a response to the Notice of Preliminary Investigation on November 21, 2002. On January 27, 2003, Judge Gallegos agreed to enter into a Plea and Stipulation Agreement with the Commission, which was filed on February 4, 2003. On February 5, 2003, the Commission issued Findings of Fact, Conclusions of Law and Recommendation for Discipline and filed a Verified Petition for Discipline with the Supreme Court. The Petition asked the Court to approve the Plea and Stipulation Agreement and order the agreed upon disciplinary measures.<sup>6</sup> The stipulated factual and legal conclusions are set forth below<sup>7</sup>.

1. Although Judge Gallegos was required to reside within the city limits pursuant to Ordinance 2-3.3(B) of the Santa Fe Rev. Ord. Supp. (2001), she failed to maintain a continuous and significant physical presence at a residence within the city limits of Santa Fe from winter 2000 through November 2002.

2. Judge Gallegos asserted that she always maintained a physical address in the city of Santa Fe, was registered to vote in the City, used her Santa Fe address on her driver's license, tax returns, bank accounts, and other important documents, and believed that she had intent to reside in the City.

---

<sup>5</sup> This case was not completed by the end of reporting period for the Commission's FY 2003 Annual Report. This summary contains events that occurred during FY 2004.

<sup>6</sup> On February 13, 2003, the Commission issued Amended Findings of Fact, Conclusions of Law and Recommendation for Discipline and filed an Amended Verified Petition for Discipline with the Court to correct a drafting error in the original filings.

<sup>7</sup> Judge Gallegos stipulated that the Commission had sufficient evidence to prove the factual allegations by the applicable clear and convincing standard.

3. After the Commission initiated a formal investigation in this matter in November 2002, Judge Gallegos promptly resumed a continuous and significant physical presence at her City residence.

In the plea and stipulation agreement with the Commission, Judge Gallegos further stipulated that the Commission had sufficient evidence to prove that her conduct violated the Code of Judicial Conduct (Canons 21-100 NMRA 1995, 21-200(A) NMRA 1991, and 21-500 (A)(3) and (A)(4) NMRA 1995) and that her conduct constituted willful misconduct in office.

On March 14, 2003, the Supreme Court issued an order granting the Commission's petition and ordering that Judge Gallegos be disciplined as follows:

a. Formal reprimand from the Supreme Court, published in the *Bar Bulletin*.

b. Reimburse complainant for \$285.80 for the private investigator fees and expenses he incurred in this matter.

c. Comply with Santa Fe City Ordinance §2-3.3(B) and continue to reside within the city limits while holding office as Santa Fe Municipal Judge.

d. Abide by all terms and conditions of the plea agreement and the Code of Judicial Conduct.

The Supreme Court further ordered that the parties would bear their own costs in the matter, as agreed in the plea agreement.

On April 15, 2003, the Supreme Court issued a formal reprimand to Judge Gallegos. The reprimand was published in the May 8, 2003 issue of the *Bar Bulletin*.

On November 21, 2003, the Commission filed a motion to take final disposition of the case under advisement until new allegations of misconduct which allegedly occurred during the time Judge

Gallegos was negotiating the plea and stipulation agreement in this case with the Commission and the Supreme Court. The Judge's counsel filed a response to the motion on December 4, 2003, to which the Commission filed a reply on December 5, 2003. The Supreme Court set oral argument on the motion for January 28, 2004.

On January 21, 2004, Judge Gallegos' counsel moved the Supreme Court to continue the oral argument setting. The Commission filed a response to this motion on January 26, 2004. The same day, the Supreme Court issued an order vacating the hearing and resting oral argument for February 4, 2004.

On February 3, 2004, respondent and the Commission filed a joint motion to vacate the oral argument and requesting that the Court take final disposition of the case under advisement. In this motion, respondent specifically withdrew her response to the Commission initial motion to take under advisement. Later the same day, the Supreme Court entered an order granting the motion, taking final disposition of this case under advisement, and vacating the pending oral argument.

**IN RE HON. SUSANA CHAPARRO<sup>8</sup>**  
*Magistrate Judge, Dona Ana County*  
*Inquiry Nos. 2002-26 & 2002-43*  
*Supreme Court Case No. 27,923*

The Commission issued a Notice of Preliminary Investigation in the above-referenced inquiry to Judge Chaparro on June 25, 2002. Respondent filed a response to the Notice of Preliminary Investigation on August 1, 2002. On September 3, 2002, the Commission issued a Notice of Formal Proceedings to Respondent. October 18, 2002, Respondent filed a response to the Notice of Formal Proceedings. On February 7, 2003, the Respondent agreed to enter into a Plea and

---

<sup>8</sup> This case was not completed by the end of reporting period for the Commission's FY 2003 Annual Report. This summary contains events that occurred during FY 2004.

Stipulation Agreement with the Commission, which was filed on February 12, 2003. The same day, the Commission issued Findings of Fact, Conclusions of Law, and Recommendation for Discipline and filed a Verified Petition for Discipline with the Supreme Court. The stipulated factual and legal conclusions are set forth below<sup>9</sup>.

1. From April 2001 - June 2002, Judge Chaparro became embroiled in a controversy with court interpreters for the Dona Ana County Magistrate Court. On occasions throughout the contract period, Judge Chaparro failed to be patient, dignified, and courteous with interpreters, another judge, and the court clerk.

On or about June 26, 2001, Judge Chaparro issued a warrant for a court interpreter's arrest on a criminal contempt charge, relating to a prior dispute over interpreting services. The interpreter was arrested the next morning (June 27, 2001) while working at the courthouse, was booked and placed in a holding cell. The District Court later released the interpreter, quashed the arrest warrant, ordered that no further warrants issue, and further ordered that the interpreter was permitted to be present in the Magistrate Court building to carry out the terms of her contract. On or about December 4, 2001, the Twelfth Judicial District Attorney (special prosecutor) completed his investigation of the matter and declined to prosecute the interpreter on the contempt allegations. The matter was closed on January 11, 2002.

2. On or about September 13, 2001, Judge Chaparro had *ex parte* communication with Magistrate Judge Anne Segal about presiding over Judge Chaparro's pending writ case (Cause No. M-14-MR-2001-999). Judge Segal reported feeling threatened and intimidated and eventually recused from the case.

---

<sup>9</sup> Judge Chaparro stipulated that the Commission had sufficient evidence to prove the factual allegations by the applicable clear and convincing standard.

In the plea and stipulation agreement with the Commission, Judge Chaparro stipulated that the Commission had sufficient evidence to prove that her conduct violated the following canons of the Code of Judicial Conduct: 21-100 NMRA 1995, 21-200(A) and (B) NMRA 1991, and 21-300(B)(2), (B)(3), (B)(4), (B)(5), (B)(7), (C)(1) and (C)(2) NMRA 1995. Judge Chaparro further stipulated that her conduct was a sufficient basis for the imposition of discipline pursuant to Article VI §32 of the New Mexico Constitution.

On March 14, 2003, the Supreme Court issued an order granting the Commission's petition and ordering that Judge Chaparro be disciplined as follows:

a. Formal reprimand from the Supreme Court, published in the *Bar Bulletin*.

b. Mentorship program.

c. Attend and successfully complete the next "Ethics for Judges" course sponsored by the National Judicial College. Judge Chaparro shall bear at her own expense the tuition and all costs required to attend and complete this course, including travel, accommodations, meals, and all other expenses incurred in relation to completing this requirement. Judge Chaparro shall promptly provide the Court and the Commission with proof of successful completion of this requirement.

d. Abide by all terms and conditions of the plea agreement and the Code of Judicial Conduct.

The Supreme Court further ordered that the parties would bear their own costs in the matter, as agreed in the plea agreement.

On March 27, 2003, the Supreme Court approved the Commission's mentor recommendation and appointed the Hon. Caleb Chandler (Retired) to mentor Judge Chaparro. On April 15, 2003, the Supreme Court issued a formal reprimand to Judge Chaparro. The

reprimand was published in the May 8, 2003 issue of the *Bar Bulletin*.

Judge Chaparro completed her mentorship on June 3, 2003. Judge Chaparro completed the "Ethics for Judges" course in October 2003 at the National Judicial College in Reno, Nevada.

On November 4, 2003, the Commission filed a motion with the Supreme Court asking the Court to take final disposition of this case under advisement until the Commission had completed proceedings concerning new allegations of misconduct that allegedly occurred during the time Judge Chaparro was negotiating the plea and stipulation agreement with the Commission and became subject to the Supreme Court's disciplinary order. On December 2, 2003, the Supreme Court granted the Commission's motion and took final disposition of this case under advisement.

**IN RE HON. RUDY C. MONTOYA**<sup>10</sup>  
*Magistrate Judge, Mora County*  
*Inquiry Nos. 2002-62, 2002-76, 2002-83, 2003-11 & 2003-81*  
*Supreme Court Case No. 27,988*

After conducting an initial inquiry, on January 2, 2003 the Commission issued three Notices of Preliminary Investigation to Judge Montoya. On February 4, 2003, the Judge filed responses to the Notices of Preliminary Investigation. On March 19, 2003, the Commission filed a Verified Petition for Temporary Suspension of Judge Montoya with the Supreme Court.

In the petition, the Commission informed the Court that Judge Montoya was being formally investigated on allegations that he committed numerous acts that may constitute willful misconduct in office. The allegations were summarized as follows:

---

<sup>10</sup> This case was not completed by the end of reporting period for the Commission's FY 2003 Annual Report. This summary contains events that occurred during FY 2004.

1. Throughout the years 2000, 2001 and 2002, and as recent as July 2002, Judge Montoya improperly presided over and adjudicated eleven (11) cases for family members within the third degree of familial relationship. The defendants included Judge Montoya's sister (2 cases), niece, sister-in-law, son-in-law (2 cases), and three nephews (5 cases).

2. Throughout the years 2000, 2001, and 2002, and including matter(s) currently open and pending, Judge Montoya improperly presided over and adjudicated nineteen (19) cases for individuals where his impartiality would be reasonably questioned. The defendants included Judge Montoya's son-in-law's father (2 cases), son-in-law's uncle (3 cases), son-in-law's sister, son's girlfriend's two brothers (5 cases), and close personal friend (8 cases).

3. In April 2002, Judge Montoya released two criminal defendants (Domingo Romero and Roger Lucero) from jail without either defendant posting the bonds that Judge Montoya ordered a week prior. The two defendants were charged with criminal sexual penetration and criminal sexual contact. No order amending the conditions of release was ever entered.

4. In April 2002, Judge Montoya gave false and/or misleading information to an alleged rape victim and her friend about the two defendants' cases. The false information included:

a. Misleading the victim to believe that the defendants were still in jail when in actuality, Judge Montoya had already released them three days prior without payment of bonds.

b. In response to a direct question whether there was a bond set for the defendants, falsely telling the victim and her friend that the bond matter was out of Judge Montoya's hands and that the district court made those decisions. In actuality, Judge Montoya already had set bond for the defendants.

c. After the victim learned that Judge Montoya had released the defendants three days

prior without bonds and upon being confronted with the information, falsely told the victim that the defendants "did make their bonds" and that they "will not bother you." In actuality, Judge Montoya released the defendants from jail three days prior without them posting any bonds whatsoever.

d. Falsely telling the victim that the defendants were "both on monitored home arrests ... they cannot leave their homes." In actuality, Judge Montoya never set "monitored home arrest" as a condition of defendants' release.

The Commission informed the Supreme Court that it was conducting a formal investigation into Judge Montoya's conduct. The Commission certified that immediate temporary suspension of Judge Montoya from judicial office was necessary for three reasons: to protect the public, to preserve the integrity of the judiciary, and to maintain the public's confidence in the judicial system. The Commission asked the Supreme Court to immediately suspend Judge Montoya from office pending completion of the Commission's proceedings against him.

On March 27, 2003, the Supreme Court on its own motion ordered Judge Montoya to file a response by April 4, 2003 to the Commission's temporary suspension petition. The Court also scheduled oral argument on the petition for April 9, 2003. The judge's response was timely filed.

On April 4, 2003, Judge Montoya stipulated to being temporarily suspended. In the stipulation, Judge Montoya requested that his temporary suspension be with pay. The Commission left the pay issue to the Court's discretion. However, the stipulation stated that if the judge were suspended with pay, the Supreme Court should review the ruling every 90 days for propriety of continued pay.

On April 8, 2003, the Supreme Court temporarily suspended Judge Montoya from judicial office. The Court ordered the

suspension be with 90 days pay (through July 7, 2003), and thereafter continue without pay.

On June 16, 2003, Judge Montoya filed a motion with the Supreme Court requesting review of the terms of his temporary suspension. In the motion, the judge asked that his temporary suspension be continued with pay or that he be immediately reinstated to his judicial office. On June 17, 2003, the Commission filed a motion requesting an enlargement of time in which to respond to Judge Montoya's motion because of an order of stay issued in an unrelated matter. Judge Montoya responded in opposition on June 19, 2003. On July 2, 2003, the Supreme Court lifted its stay order and the following day issued orders denying Judge Montoya's Motion to Review Terms of Temporary Suspension on its merits and denying the Commission's extension motion as moot.

On November 4, 2003, the Commission issued a 66 count Notice of Formal Proceedings to Judge Montoya. The Notice of Formal Proceedings included new allegations that the Judge has ignored a peremptory excusal in one case where his friend was a party and that the judge had improperly handled and failed to follow the law and/or proper procedures in adjudicating a DWI case. On November 21, 2003, Judge Montoya filed his response to the Notice of Formal Proceedings.

On February 13, 2004, the Commission set the matter for formal hearing, appointed a Special Examiner to prosecute, and issued standard trial orders. The matter was set on the Commission's June 7, 2004 trailing docket.

On May 18, 2004, the Commission and Judge Montoya entered into a stipulated agreement. In the agreement, the judge pleaded no contest to the Notice of Formal Proceedings allegations and stated that if a hearing on the merits were held, sufficient evidence would be presented from which the Commission could find that he violated the alleged provisions of the Code of Judicial Conduct and engaged in willful misconduct in office. Judge Montoya further

agreed that he would permanently resign from his judicial office effective upon the Supreme Court's acceptance of the agreement.

On May 20, 2004, the Commission filed a motion with the Supreme Court to approve the stipulated agreement, accept respondent's permanent resignation, and dismiss without prejudice. On June 8, 2004, the Supreme Court granted the motion, approved the stipulation, accepted respondent's resignation, and dismissed the case without prejudice.

IN RE HON. DAVID J. RAMOS, JR.  
*Municipal Judge, Hurley*  
*Inquiry No. 2003-76*  
*Supreme Court Case No. 28,327*

On September 12, 2003, Judge David J. Ramos, Jr. was arrested and charged with Driving while under the Influence of Intoxicating Liquor or Drug. Judge Ramos was being prosecuted before the Grant County Magistrate Court. After conducting an initial inquiry on its own motion, the Commission issued a Notice of Preliminary Investigation to Judge Ramos on October 17, 2003. Concurrently, the Commission filed a Verified Petition for Temporary Suspension with the Supreme Court.

In the petition, the Commission informed the Court of Judge Ramos' pending criminal prosecution by the State and ongoing formal investigation by the Commission. The Commission requested the immediate suspension of the judge pending termination of the criminal and disciplinary proceedings.

On November 3, 2003, Judge Ramos filed a response to the Commission's Notice of Preliminary Investigation. The same day, the Supreme Court issued an order requiring Judge Ramos to file a response to the Commission's temporary suspension petition by November 17, 2003.

On December 1, 2003, Judge Ramos and the Commission entered into an agreement

stipulating to his temporary suspension. On December 24, 2003, the Supreme Court approved the stipulation agreement and immediately suspended Judge Ramos from his judicial position with 90 days pay, and thereafter without pay.

On January 8, 2004, the Commission filed a motion to dismiss the Supreme Court matter without prejudice. The Commission had learned that on December 11, 2003, Judge Ramos had been convicted of the criminal charges and immediately resigned from his judicial office by letter submitted to the Hurley Town Council. On January 15, 2004, the Supreme Court issued an order granting the Commission's motion and dismissed the matter without prejudice.

IN RE HON. WILLIAM A. VINCENT, JR.  
*Magistrate Judge, San Juan County*  
*Inquiry No. 2003-99*  
*Supreme Court Case No. 27,266*

After conducting an initial inquiry into a verified complaint, the Commission issued a Notice of Preliminary Investigation to Judge Vincent on January 26, 2004. The same day, the Commission filed a Verified Petition for Temporary Suspension with the Supreme Court. In the petition, the Commission informed the Court that Judge Vincent was being formally investigated on allegations that he committed acts that may constitute willful misconduct in office. The allegations were summarized as follows:

1. On or about October 27, 2003, Judge Vincent presided over a jury trial in the matter of State of New Mexico v. Jose Ruybalid M-47-VR-2003-95-WV. After declaring a mistrial and excusing himself from the case, Judge Vincent displayed extremely inappropriate behavior, made offensive and inappropriate statements, and repeatedly used profanity in the presence of the parties and counsel, witnesses, court staff, and the public.

2. Judge Vincent yelled at, berated, confronted, threatened, and challenged the defendant to fight him.

3. Judge Vincent challenged defense counsel to report him to the Judicial Standards Commission, which he referred to as "pussies."

The Commission informed the Supreme Court that it was conducting a formal investigation into Judge Vincent's conduct. The Commission certified that immediate temporary suspension of Judge Montoya from judicial office was necessary for three reasons: to protect the public, to preserve the integrity of the judiciary, and to maintain the public's confidence in the judicial system. The Commission asked the Supreme Court to immediately suspend Judge Vincent from office pending completion of the Commission's proceedings against him.

On February 2, 2004, Judge Vincent filed a response to the Notice of Preliminary Investigation and the Verified Petition for Temporary Suspension with the Commission. On February 5, 2004, the Supreme Court issued an order requiring him to file a response to the temporary suspension petition by February 16, 2004. On February 6, 2004, Judge Vincent filed the required response with the Supreme Court. The Commission filed a reply with the Court on February 16, 2004. On March 22, 2004, the Supreme Court issued an order denying the Commission's temporary suspension petition.

On April 16, 2004, Judge Vincent entered into a Plea and Stipulation Agreement with the Commission. In the agreement, the judge pleaded no contest to the following allegations:

1. On or about October 27, 2003, Judge Vincent presided over a jury trial in the matter of *State of New Mexico v. Jose Ruybalid*, Cause No. M-47-VR-2003-95-WV. After declaring a mistrial and excusing himself from the case, he displayed inappropriate behavior, made inappropriate statements, threatened, and yelled at the defendant and counsel.

Judge Vincent came off the bench and around the witness box. He again yelled to the defendant. The chief clerk of your court, Jolene Smith, began to call to Judge Vincent repeatedly

and in an increasingly concerned, louder voice. Judge Vincent came around the podium and defense counsel, Sarah Weaver, stood in front of the defendant and squared her body towards Judge Vincent, blocking his access to the defendant. As Judge Vincent approached the defendant and counsel, he was still yelling and threatening the defendant. Judge Vincent then passed through the swinging gates, turned, looked directly at Ms. Weaver, pointed, and yelled, "You can write the longest letter you want to the Judicial Standards Committee and I will tell those pussies what I think of them."

Judge Vincent then went outside through the back door in the courtroom and brought the jury back into the courtroom. He explained that there had been a mistrial and then excused them. Once the jury was out of the courtroom and while counsel was packing up to leave, Judge Vincent attempted to make conversation with counsel. He told counsel that he was sorry if he "got a little upset."

In a subsequent conversation with Ms. Weaver, Judge Vincent again apologized for his actions. He agreed with counsel that neither she nor her partner, Randy Roberts, could appear before him. Judge Vincent agreed to recuse himself from their cases for the time being.

2. The conduct set forth in paragraph (A) above violates the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) NMRA 1991; and 21-300(B)(2), (B)(3), and (B)(4) NMRA 1995. Such conduct also constitutes willful misconduct in office.

In the plea and stipulation agreement, Judge Vincent further consented to receive the following formal discipline from the Supreme Court:

A. Psychological Certification of Fitness for Full and Regular Judicial Duty. Judge Vincent shall submit to evaluation by a psychologist/psychiatrist selected by the Commission. The psychologist/psychiatrist shall certify in writing to the Supreme Court and the

Commission whether Judge Vincent is psychologically fit for full and regular judicial duty. Judge Vincent shall pay the provider's professional fees and expenses. The judge shall provide the Supreme Court and the Commission with all waivers and releases necessary to authorize the commission to receive all records, reports, and information from the selected psychologist/psychiatrist, institution, or other facility regarding the judge's mental condition.

If the psychologist/psychiatrist determines that the judge is not psychologically fit for full and regular duty, the psychologist/psychiatrist shall notify the Supreme Court and the Commission in writing. Upon such notification, Judge Vincent stipulates that the Supreme Court shall immediately, summarily, and temporarily suspend him. During this period of temporary suspension, Judge Vincent shall receive ninety days pay, and thereafter the suspension would continue without pay. Judge Vincent shall comply with all recommendations, restrictions, and/or treatment suggested by the psychologist/psychiatrist, which are intended to enable the judge to obtain an unrestricted fitness for duty certification.

B. Anger Management Program. Judge Vincent shall obtain a certificate of successful completion of an anger management program in San Juan County selected by the Commission and paid at Judge Vincent's own expense. Judge Vincent will file the original certificate with the Supreme Court and provide a copy to the Commission. The Judge shall provide the Supreme Court and the Commission with all waivers and releases necessary to authorize the commission to receive all records, reports, and information from the selected counselor, program, institution, or other facility regarding the judge's anger management.

C. Censure by the Supreme Court. The censure order will be published in the *Bar Bulletin*.

D. Six-Month Supervised Probation. Following completion of the terms set forth in

paragraphs 2(A) - (C) above, Judge Vincent shall complete six months of supervised probation. The supervisor shall be a District Judge selected by the Commission and appointed by the Supreme Court. Judge Vincent shall meet with the supervisor at the times and places the supervisor designates for counseling and assistance with matters of judicial demeanor, temperament, and performance as governed by the Code of Judicial Conduct. The supervisor shall file a written report with the Supreme Court and the Commission concerning the results of Judge Vincent's probation.

E. Judge Vincent shall abide by all terms and conditions of the plea and stipulation agreement and the Code of Judicial Conduct.

F. The parties will bear their own costs and expenses incurred in this matter.

On April 20, 2004, the Commission filed a Petition for Discipline upon Stipulation with the Supreme Court. The Commission requested that the Court approve the agreement, order the stipulated discipline, and appoint the Hon. Stephen Pfeffer of the First Judicial District Court as supervisor for Judge Vincent's probation. On May 4, 2004, the Supreme Court issued an order granting the Commission's disciplinary petition and ordering the stipulated disciplinary measures.

On May 19, 2004, the Supreme Court issued the Censure to Judge Vincent, which was later published in the *Bar Bulletin*. At the end of FY 2004, Judge Vincent had not yet completed the ordered disciplinary measures. Subsequent events will be reported in the Annual Report for FY 2005.

IN RE HON. RUBEN GALVAN  
*Magistrate Judge, Dona Ana County*  
*Inquiry No. 2003-48*  
*Supreme Court Case No. 28,609*

After conducting an initial inquiry into a verified complaint, the Commission issued a Notice of

Preliminary Investigation to Judge Galvan on November 3, 2003. On November 19, 2003, Judge Galvan filed a response to the Notice of Preliminary Investigation. On January 6, 2004, the Commission issued a Notice of Formal Proceedings to Judge Galvan. On February 13, 2004, he filed a response to the Notice of Formal Proceedings. On April 8, 2004, Judge Galvan agreed to enter into a Plea and Stipulation Agreement with the Commission, which the Commission accepted and filed on April 16, 2004. In the agreement, respondent admitted the following:

1. Judge Galvan presided over and/or took judicial action in several cases in which Assistant District Attorney Beth Hubbard appeared on behalf of the State of New Mexico. Judge Galvan had been engaged in a personal relationship with Ms. Hubbard during the time he presided over the matters and/or took the judicial actions. In cases where Ms. Hubbard appeared before him, Judge Galvan did not inform all counsel or parties of record of his relationship with Ms. Hubbard.

2. Judge Galvan failed to be patient, dignified, and courteous to counsel by making inappropriate remarks to Assistant District Attorney Beth Hubbard about his rulings in front of defendant(s), defense counsel, and co-counsel. It is alleged that during a hearing on a motion to suppress breath test evidence in the matter of *State of New Mexico vs. Robert Marino*, Cause No. M-14-DR-200200703, Judge Galvan would not allow Ms. Hubbard to call the officer who administered the breath test to testify and granted the motion. He then commented from the bench something to the effect of "Let's see you prove your case now" or "Good luck trying to prove your case now."

The agreement further stipulated that Judge Galvan's conduct, as set forth in the Findings of Fact and the attached Plea and Stipulation Agreement, violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1991; 21-300(B)(2),

(B)(3), (B)(4), (B)(5) and (B)(8) NMRA 1995; 21-400(A)(1) NMRA 1995; and 21-500(A).

On April 16, 2004, the Commission filed a Petition for Discipline upon Stipulation, requesting approval of the Plea and Stipulation Agreement and imposition of the agreed disciplinary measures against Judge Galvan. On May 4, 2004, the Commission also filed a recommendation that the Court appoint the Hon. Jerald A. Valentine to supervise Judge Galvan's probation.

On May 4, 2004, the Supreme Court issued an order granting the Commission's petition for discipline upon stipulation and ordering the following discipline for Judge Galvan:

1. 30-day suspension without pay. Imposition of the 30-day suspension was deferred upon condition that respondent successfully complete six months of supervised probation (May 4, 2004 through November 4, 2004);

2. Respondent shall be supervised by the Hon. Jerald A. Valentine during the term of probation;

3. Judge Valentine shall report to the Supreme Court and the Commission concerning the results of respondent's probation program;

4. Respondent shall receive a formal reprimand, which shall be administered in person on May 19, 2004, and shall be published in the *Bar Bulletin*;

5. Respondent shall be summarily and temporarily suspended without pay upon the filing of any of the following with the Supreme Court:

a) A report from Judge Valentine or the Judicial Standards Commission that respondent has failed to cooperate with Judge Valentine, failed to participate materially in the meetings with Judge Valentine, or otherwise failed to comply substantially with the terms of the probation; and/or

b) Notice from the Judicial Standards Commission that it is conducting formal proceedings against respondent.

The temporary suspension shall continue until the Supreme Court issues an order lifting the suspension after reviewing the results of the Commission's formal investigation and/or formal proceedings concerning these matters. Respondent agrees not to contest the summary temporary suspension; and

6. Respondent shall abide by the terms and conditions of the plea and stipulation agreement and the Code of Judicial Conduct.

The Court further ordered that the parties would bear their own costs in the matter and that the Commission shall initiate contempt proceedings in the Supreme Court concerning violations of the terms and conditions of probation.

On May 17, 2004, the Supreme Court issued the written formal reprimand to Judge Galvan. Additionally, on May 19, 2004, Judge Galvan appeared before the Supreme Court and was formally reprimanded.

This case was ongoing at the end FY 2004. Subsequent events will be reported in the Commission's Annual Report for FY 2005.

**IN RE HON. JESUS GONZALES**

*Probate Judge, Taos County*

*Inquiry No. 2004-53*

*Supreme Court Case No. 28,658*

After conducting an initial inquiry, the Commission issued a Notice of Preliminary Investigation to Judge Gonzales on May 5, 2004. The same day, the Commission filed a Verified Petition for Temporary Suspension with the Supreme Court. In the petition, the Commission informed the Court that on February 27, 2004, the First Judicial District Court entered an order finding Judge Gonzales incompetent to stand trial on criminal charges in the matter of *State of New Mexico vs. Jesus*

*Gonzales*, Cause No. D-0117-CR-2003-00131. In April 2003, Judge Gonzales had been involved in a motorcycle crash was later indicted by a Grand Jury on charges of Great Bodily Injury by Vehicle and unlawful operation of a motor vehicle while under the influence of intoxicating liquor or drug ("DWI"). Judge Gonzales reportedly sustained a serious brain injury in the incident.

The Commission advised the Supreme Court that Judge Gonzales' condition of incompetency may constitute a disability interfering with the performance of his duties that is, or is likely to become, of a permanent character; and/or persistent failure or inability to perform a judge's duties. The Commission asked the Supreme Court to immediately suspend Judge Gonzales from judicial office pending disposition of the Commission's proceedings against him.

On May 12, 2004, the Supreme Court issued an order requiring Judge Gonzales to file a response to the petition. On May 14, 2004, the Judicial Standards Commission appointed a guardian *ad litem* to represent and/or assist respondent with the disciplinary matters. Because of the seriousness of the situation and the perceived risk to the public caused by Judge Gonzales' return to the bench after being adjudicated incompetent, on May 14, 2004 the Commission also filed a motion requesting the judge's immediate summary suspension with pay, with a hearing to be scheduled later to address whether the suspension would continue.

On May 18, 2004, the guardian *ad litem* requested an extension of time to file the judge's response with the Supreme Court. The motion was granted the same day.

On May 26, 2004, the Judge Gonzales (with the guardian *ad litem*) and the Commission entered into a Stipulation for Temporary Suspension. In the stipulation, Judge Gonzales acknowledged that his continued judicial service may cause an appearance of impropriety, risk of harm to the public and others with whom the judge interacts in an official capacity, undermining of deference

to respondent's judicial rulings, and erosion of public confidence in the integrity of the judiciary and in the orderly administration of justice. The judge and the Commission acknowledged that it was in the best interests of the public and the judiciary that Judge Gonzales be placed on temporary suspension pending completion of the Commission's proceedings. The parties further stipulated that the judge should receive 90 days of pay during the temporary suspension, with periodic review by the Court.

On May 28, 2004, the Commission filed an amended petition requesting Judge Gonzales' immediate and summary temporary suspension.

Before resolution by the Supreme Court, Judge Gonzales tendered his voluntary resignation from judicial office on June 1, 2004. On June 9, 2004, the Supreme Court issued an order acknowledging the resignation and dismissed the Commission's pleadings as moot.

**IN RE HON. W. JOHN BRENNAN**  
*District Judge, Second Judicial District*  
*Inquiry No. 2004-60*  
*Supreme Court Case No. 28,713*

On May 29, 2004, the Hon. W. John Brennan was arrested and charged with felony Possession of a Controlled Substance (cocaine) and Tampering with Evidence. After conducting an initial inquiry on its own motion, the Commission issued a Notice of Preliminary Investigation to Judge Brennan on June 1, 2004. Concurrently, the Commission filed a Verified Petition for Temporary Suspension with the Supreme Court.

In the petition, the Commission informed the Court of Judge Brennan's pending criminal prosecution by the State and ongoing formal investigation by the Commission. The Commission requested the immediate suspension of the judge pending termination of the criminal and disciplinary proceedings.

On June 2, 2004, Judge Brennan filed his Preliminary Response to Petition for Immediate Temporary Suspension and a Response to the Commission's Notice of Preliminary Investigation. The same day, the Commission filed a Reply in Support of Petition for Immediate Temporary Suspension.

On June 3, 2004, the Supreme Court issued an order requiring Judge Brennan to file a written response on or before July 9, 2004, showing cause why he should not be immediately and temporarily suspended from his judicial duties pending completion of the State's criminal prosecution and the Commission's disciplinary proceedings. The Court ordered the judge to appear before it on July 14, 2004, ordered him not to act in any judicial capacity pending further order of the Supreme Court, ordered the Hon. Tommy Jewell to continue to serve as Acting Chief Judge of the Second Judicial District Court, and ordered that on or before September 1, 2004, the judges of the Second Judicial District Court shall select a Chief Judge pursuant to Rule 23-109 NMRA 2004 and shall disregard the time periods set forth in LR2-102.

On June 16, 2004, the Commission issued a Notice of Formal Proceedings to Judge Brennan, thereby preserving its jurisdiction over the matter pursuant to Judicial Standards Commission Rule 38.

On June 29, 2004, Judge Brennan filed a Final Response to Petition for Immediate Temporary Suspension with the Supreme Court, which included a copy of his letter (tendered to the Governor on the same date) advising of his retirement from his judicial office, effective July 9, 2004. Later on June 29, 2004, the Commission filed a Reply to Respondent's Final Response to Petition for Immediate Temporary Suspension.

This case was ongoing at the end FY 2004. Subsequent non-confidential events will be reported in the Commission's Annual Report for FY 2005.

IN RE HON. MELISSA MILLER-BYRNES  
*Municipal Judge, Las Cruces*  
*Inquiry No. 2003-92*  
*Supreme Court Case No. 28,716*

After conducting an initial inquiry into a verified complaint, the Commission issued a Notice of Preliminary Investigation to Judge Miller-Byrnes on February 4, 2004. On February 23, 2004, Judge Miller-Byrnes filed a response to the Notice of Preliminary Investigation. On April 27, 2004, the Commission issued a Notice of Formal Proceedings to the Judge. On May 21, 2004, she filed a response to the Notice of Formal Proceedings and agreed to enter into a Plea and Stipulation Agreement with the Commission, which the Commission accepted and filed on June 1, 2004. In the agreement, respondent admitted the following:

1. During a radio broadcast debate on KRWG-FM on or about October 15, 2003, Judge Miller-Byrnes made false or misleading statements that no judicial disciplinary complaints had been filed against her with the Judicial Standards Commission.

2. The conduct set forth above violates the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1991; 21-500(A)(1), (A)(2), and (A)(4) NMRA 1995; and 21-700(B)(1), (B)(4)(d), and (B)(7) NMRA 1995. Additionally, Judge Miller-Byrnes' conduct provides a sufficient basis for the imposition of discipline pursuant to Article VI §32 of the New Mexico Constitution.

On June 1, 2004, the Commission filed a Petition for Discipline upon Stipulation, requesting approval of the Plea and Stipulation Agreement and imposition of the agreed disciplinary measures against Judge Miller-Byrnes.

On June 9, 2004, the Supreme Court issued an order granting the Commission's petition for discipline upon stipulation and ordering the following discipline for Judge Miller-Byrnes:

1. Formal reprimand, which shall be published in the *Bar Bulletin*; and

2. Respondent shall abide by the terms and conditions of the plea and stipulation agreement and the Code of Judicial Conduct.

The Court further ordered that the parties would bear their own costs in the matter. On August 31, 2004, the Supreme Court issued the written formal reprimand to Judge Miller-Byrnes.



#### INFORMAL PROCEEDINGS

*Private Letters of Caution.* The Commission may dispose of a matter by privately cautioning the judge that his/her conduct may violate the standards of judicial conduct. In FY 2004, the Commission issued 17 private cautionary letters to judges addressing the issues listed below.

1. A judge allegedly improperly issued two *ex parte* orders, failed to provide notice or hold hearings on the underlying motions, and failed to ensure that a litigant received copies of the *ex parte* orders.

2. A judge allegedly excessively delayed in disposing of a petition for writ of habeas corpus.

3. A judge allegedly publicly and repeatedly referred to a male hairstylist as a "faggot" while at a hair salon. The male hairstylist had a case pending before the judge.

4. A judge allegedly properly denied a pro se litigant a record of proceedings, but did not know court rules or procedure for obtaining a record and failed to explain to the litigant the rules/procedures for obtaining record of proceedings.

5. A judge allegedly engaged in *ex parte* communication with defendant's parent (a fellow judge on same court) and failed to keep apprised

of filings in the case prior to dismissing the defendant's case without prejudice.

6. A judge allegedly was employed part-time as an ATV safety course instructor, made false statement regarding permission from Chief Justice to carry gun to court, and held a commission as a special deputy sheriff. The judge entered into a confidential stipulation with the Commission in this matter and did not seek reelection upon expiration of the judge's term.

7. A judge allegedly did not promptly recuse from a case where judge's personal divorce attorney was representing a criminal defendant. The judge granted the prosecutor a continuance prior to recusing.

8. A judge allegedly denied inmates good time credits without proper basis.

9. A judge allegedly failed to recuse from contempt proceedings in which the judge had become personally embroiled and where the judge's impartiality could be reasonably questioned.

10. A judge allegedly conducted a summary trial at the clerk's window, adjudicating guilt based on defendant's refusal to enter a plea at arraignment, challenges to jurisdiction, and request to abate proceedings.

11. A judge allegedly provided legal advice, advisory opinion, and/or comment in a newspaper column regarding a matter that could come before court. The judge also suggested that an elderly man with physical impairments might not wish to inform the Motor Vehicle Division of impairments because it could deter renewal of his driver's license.

12. A judge allegedly made false or misleading statements regarding the judge's candidacy for reelection and used court staff and resources during work hours to obtain, gather, assist, and/or provide the judge with police officers' personal contact information for use in soliciting

the officers' political support/endorsement in the election.

13. A judge allegedly made improper, biased or prejudiced comment toward a criminal defendant.

14. A judge allegedly engaged in *ex parte* communication with a plaintiff in a landlord-tenant action about the plaintiff's entitlement to a refund of a rental deposit.

15. A judge allegedly failed to comply with the law concerning civil and criminal contempt and bail matters, and did not place a witness under oath prior to testifying on the record.

16. A judge allegedly had a campaign worker ghost write endorsement letters purportedly from defendants who appeared before the judge. The campaign worker then allegedly had the defendants sign the letters and then mailed them individually to the media for publication to give the false appearance that they were sent by the purported authors themselves. The letters were also posted on the judge's campaign website. One of the defendants claimed not to have seen or signed the endorsement letter. Until questioned by the media, the judge did not publicly disclose the true manner in which the letters were written, prepared, or submitted.

17. A judge allegedly failed to recuse from presiding over a matter being prosecuted by the county sheriff's department. The judge's sibling was the sheriff. The defendant was an outspoken critic of the sheriff and the sheriff's department. The judge had stated later that he/she should have recused from the matter.

***Informal Mentorships.*** The Commission may elect to refer judges to a confidential informal mentor program. In the 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 mentor program is voluntary.

In FY 2004, 3 judges completed the informal mentor program. The issues addressed in each case referred are listed below.

1. A judge allegedly delayed excessively in entering final divorce decree, failed to provide a party with notice or copy of final decree after issuance, and filed decree in open court in February, but not with Court Clerk until June.
2. A judge was allegedly employed part-time as an ATV ("all terrain vehicle") safety course instructor, made a false statement regarding permission from Chief Justice to carry gun to court, and held a special commission as a deputy sheriff creating a conflict of interest.
3. A judge allegedly issued a release of garnishment without providing the parties with notice or an opportunity to be heard and after permitting and reviewing *ex parte* communications with the defendant's employer.



## PROCEEDINGS BEFORE THE NEW MEXICO SUPREME COURT SINCE FY 1999



### CASES FILED IN THE SUPREME COURT

Following is a summary of cases Commission filed with and disposed by the New Mexico Supreme Court since FY 1999. Cases are listed in sequential order of filing.

In re Hon. William A. Hocker, Grants Municipal Judge, No. 25,146 (N.M. 1998). Allegations included three convictions for DWI; pending charges for careless driving and leaving the scene of an accident; and attempting to mislead the arresting police officer. Judge temporarily suspended without pay pending completion of criminal prosecution and Commission's proceedings. Judge continued to act in judicial capacity while suspended, was found in contempt of suspension order, and was found to have been untruthful to Supreme Court during the contempt hearing. Judge removed from office and ordered to pay Commission's costs.

In re Hon. John W. "Buddy" Sanchez, Valencia County Magistrate Judge, No. 25,821 (N.M. 1999). Allegations included agreeing to submit an Abstract of Record to the Motor Vehicle Division reporting the disposition of a DWI case differently from actual disposition; withholding a DWI abstract from MVD; and failing to impose the mandatory minimum sentence in a DWI case. Judge publicly censured, suspended two weeks without pay, ordered to participate in mentor program, placed on six-month unsupervised probation, and ordered to pay Commission's costs.

In re Hon. Toribio L. (Tody) Perea, Valencia County Magistrate Judge, No. 25,822 (N.M.

1999). Allegations included delaying the signing and filing of judgment and sentence orders in three DWI cases (including one where defendant was a municipal judge); failing to impose mandatory minimum sentences in two DWI cases; failing to submit Abstracts of Record to MVD within the time required by law in three DWI cases, and one careless driving case (in which defendant was a district judge); and having *ex parte* communications pertaining to the disposition of DWI case. Judge publicly censured, suspended two weeks without pay, placed on six-month unsupervised probation, and ordered to pay Commission's costs.

In re Hon. Angie Vigil-Perez, Santa Fe County Magistrate Judge, No. 26,028 (N.M. 2000). Allegations included 121 initial counts summarized as follows: presiding over and improperly dismissing nephew's case; failing to recuse from a DWI case for a political/personal friend and failing to adjudicate matter prior to the expiration of the six-month rule; dismissing case previously adjudicated by another judge and improperly amending or instructing staff to amend Abstracts of Record for submission to the MVD; frequently discussing or boasting about drinking alcoholic beverages, getting drunk, nightclubbing, partying, or being hung over with court staff, within hearing of the public; having odor of liquor on breath at court; leaving court training conference with another magistrate, drinking liquor, and returning to conference while appearing intoxicated and while having the odor of liquor on breath; asking clerk for condoms in front of court staff and the public; using profanity and foul language in front of court staff and the public; making racist or ethnically biased comments about court employees; failing to adjudicate at least 27

criminal cases prior to expiration of six-month rule, including six aggravated DWI cases, two DWI cases, three battery/domestic violence cases, one drug offense, and others; improperly dismissing at least 44 criminal cases, including one DWI case, one battery/domestic violence case, one drug offense, one minor in possession of alcohol case, and others; dismissing at least 20 criminal cases assigned to other judges; holding or being in possession of at least two criminal cases not assigned to her, which caused/led to dismissal on expiration of six-month rule; failing to hold office hours a minimum of 40 hours per week; failing to perform adjudicate matters promptly and efficiently, causing excessively high number of dismissals on six-month rule; excessively recusing from cases to reduce her civil caseload; improper demeanor with at least one defendant; improper demeanor with at least two law enforcement officers; countermanding the request or order of presiding judge; exhibiting pattern of improper demeanor with or concerning presiding judge, including criticizing, ridiculing, profaning, name-calling, and commenting in front of other judge(s), court staff, defendant(s), and the public; exhibiting pattern of improper demeanor with or concerning numerous court staff, including mistreating, criticizing, publicly reprimanding, yelling, demeaning, ridiculing, picking on, using sarcasm, embarrassing, threatening, or gossiping in presence of other staff and public. Judge temporarily suspended without pay pending completion of Commission's proceedings. Judge resigned prior to completion of proceedings before Commission. Commission abated proceedings and filed Motion to Dismiss without Prejudice, indicating intent to resume proceedings if judge ever regained a judicial position in the future. Supreme Court dismissed cause without prejudice.

In re Hon. Beatrice R. Vigil, Taos County Probate Judge, No. 26,328 (N.M. 2000). Allegations included failing to timely file gross receipts tax reports, to timely pay gross receipts taxes, to timely file personal income tax returns, to timely pay income tax due, using court facilities for private business activities, failing to

timely pay private business photocopy charges to County, and failing to cooperate with Commission. Judge suspended two weeks without pay, publicly reprimanded, and placed on six-month supervised probation. Judge ordered to pay outstanding tax liabilities to State, to pay outstanding photocopy bill liabilities to county, and to cease all non-judicial use of court facilities and equipment. Judge failed to comply with Supreme Court order. On show cause order, Court ordered judge's supervised probation would continue until May 31, 2001 on specific terms and conditions. Judge again failed to comply with Supreme Court's order and second order to show cause issued. Judge resigned from judicial office two days before Supreme Court hearing.

In re Hon. John W. "Buddy" Sanchez, Valencia County Magistrate Judge, No. 25,821 (N.M. 2001). Original allegations included asking and/or pressuring a State Police officer to not prosecute or arrest a close friend for aggravated DWI; releasing friend from jail to judge's custody and taking friend to judge's home; having odor of alcohol on breath while at jail releasing friend; attempting to interfere in an ongoing police investigation; and retaliating against a State Police lieutenant for filing complaint with Commission regarding matter. Supreme Court rejected petition for judge's temporary suspension. On plea and stipulation with Commission, judge admitted involving himself in friend's pending criminal case (including (1) speaking with the arresting State Police officer by cellular telephone during the traffic stop/arrest; (2) personally going to detention center and ordering his friend's release, and taking friend to judge's home; (3) asking nurse to draw independent blood sample from friend; and (4) having an alcoholic drink before going to the jail to release friend). Judge publicly reprimanded and ordered to participate in mentorship.

In re Hon. Archie A. Valdez, Colfax County Magistrate Judge, No. 26,551 (N.M. 2001). Allegations included grand jury indictment for thirteen criminal counts, including six counts of battery, two counts of criminal sexual contact,

one count of stalking, two counts of demanding or receiving bribe, and two counts of criminal solicitation to commit felony. Acts alleged to have occurred in judge's chambers with female litigants, defendants, or family members or friends of litigants/defendants. On stipulation, judge temporarily suspended. On subsequent plea agreement, judge permanently resigned from judicial office.

In re Hon. Frederick Arnold, Portales Municipal Judge, No. 26,645 (N.M. 2001). Allegations included having *ex parte* communications with police officers concerning defendants' out-of-court demeanor, attitude or behavior with officers. Communications included officers' drawing "smiling" and "frowning" faces on traffic citations. Judge publicly reprimanded and ordered to participate in mentorship program.

In re Hon. Beatrice R. Vigil, Taos County Probate Judge, No. 26,328 (N.M. 2001). Allegations included intentionally issuing three worthless checks. Judge publicly reprimanded and ordered to continue supervised probation that was previously ordered in Inquiry No. 99-04. Prior to completing supervised probation period, judge resigned from judicial office.

In re Hon. Barbara A. Brown, Bernalillo County Metropolitan Judge, No. 27,250 (N.M. 2002). Allegations included criminal charges for disorderly conduct, propulsion of missiles, assault, and use of telephone to terrify, intimidate, threaten, harass, annoy or offend; using prestige of judicial office to advance private interests; publicly commenting on and criticizing police department's "Party Patrol" unit and citations; threatening and abusing court staff, and encouraging, promoting, or otherwise enabling friend to threaten or intimidate court staff with physical violence; conveying or allowing friend to convey impressions that friend is in special position to influence judge and that friend benefits from power and prestige of judge's office; allowing friend to use judge's home and cellular telephones to make harassing telephone calls, and during one call, judge identifying herself as "Judge Barbara Brown" and attempting to speak

to victim of call; acting as an arbitrator or mediator in private capacity and engaging in practice of law; using prestige of judicial office to advance friend's private interests in domestic violence matter and conveying or allowing friend to convey impression that friend is in special position to influence the judge or another judge. Judge immediately suspended with pay. At subsequent hearing, temporary suspension continued with 90 days pay and thereafter without pay. During formal proceedings, Judge stipulated to permanent resignation from judicial office. Judge resigned.

In re Hon. Thomas G. Cornish, Dona Ana County District Judge, No. 27,253 (N.M. 2002). Allegations included conviction for DWI and driving with no headlamps. Upon stipulation, judge summarily and temporarily suspended with pay not to exceed 90 days, and thereafter without pay. Upon further stipulation, judge publicly reprimanded and ordered to complete alcohol counseling and in-patient alcohol rehabilitation program. Supreme Court ordered judge to remain suspended from judicial office without pay. On stipulation, judge permanently resigned.

In Re Hon. William A. Vincent, Jr., San Juan County Magistrate Judge, No. 27,266 (N.M. 2002). Allegations included making age and gender biased references to female attorneys; threatening public defender's office and its employees; abusing judicial process, failing to recuse, and exhibiting bias or prejudice during arraignment; after recusing from case, physically and verbally interjecting himself into hearing and testifying against defense motion; telephoning legislators while on bench to support or oppose pending legislation and discussing political views on various subjects; referring to female judge (a colleague) in derogatory, gender-biased manner; criticizing female attorney from public defender's office concerning nature of employment and inappropriately comparing her to other attorney; illegally and verbally modifying *ex parte* a judgment and other order after defense filed notice of appeal from ruling. Judge publicly reprimanded, ordered to participate in mentorship program, and ordered to attend (at

own expense) a national judicial education course in building a bias-free environment in court.

In Re Hon. Charles Maestas, Espanola Municipal Judge, No. 27,348 (N.M. 2002). Allegations included soliciting favored treatment from police officers for judge's friend. On stipulation, judge suspended two days without pay, publicly reprimanded, and ordered to attend (at own expense) a national judicial ethics course. Supreme Court took final disposition under advisement pending completion of criminal prosecution and Commission proceedings on another matter (Inquiry No. 2002-40 reported below). After conviction and during incarceration, judge resigned.

In Re Hon. George A. Harrison, San Juan County District Judge, No. 27,380 (N.M. 2002). Allegations included asking municipal judge and police chief to dismiss friend's Aggravated DWI case; interfering in criminal investigation and ordering police to perform blood alcohol testing on friend after friend had refused; calling detention center and ordering friend's release on own recognizance when not assigned or designated to preside over case; having improper financial relationship with attorney who regularly appears before judge's court; drinking alcohol with criminal defendant scheduled to be sentenced by judge on next day; taking plea in chambers after consuming alcoholic beverages while playing golf; and attempting to coerce detention center personnel to release friend partially on bail and partially on own recognizance when friend's case was not assigned to judge's court. Supreme Court denied Commission's petition to temporarily suspend judge. During formal proceedings, judge stipulated to permanent resignation from judicial office. Judge resigned.

In Re Hon. Anthony Fuller, Bosque Farms Municipal Judge, No. 27,431 (N.M. 2002). Allegations included failing to perform judicial duties for several months while accepting judicial salary. Temporarily suspended without pay. Judge resigned.

In Re Hon. Rhoda A. Hunt, McKinley County Magistrate Judge, No. 27,525 (N.M. 2002). Allegations included criminal charges for making false public records and fraud, and non-criminal allegation of ignoring or concealing a notice of dismissal in traffic case. Supreme Court denied Commission's temporary suspension petition. At preliminary hearing on criminal charges, trial court determined charges not supported and dismissed them. Following dismissal of criminal charges, Commission dismissed all allegations of inquiry and closed matter.

In Re Hon. Charles E. Maestas, Espanola Municipal Judge, No. 27,348 (N.M. 2002). Allegations included grand jury indictment and prosecution for eight counts of criminal sexual penetration, two counts of criminal sexual contact, nine counts of extortion, eight counts of official acts prohibited, and one count of stalking. Allegations concerned judge promising or exchanging leniency for sexual favors from defendants. On stipulation, judge temporarily suspended. Supreme Court ordered the suspension with 90 days pay, and thereafter no pay. Judge convicted of five felony counts of Official Acts Prohibited and five felony counts of Criminal Sexual Penetration. Judge resigned while incarcerated.

In Re Hon. Edward L. Brown, Cimarron Municipal Judge, No. 27,577 (N.M. 2002). Allegations included making false and misleading statements regarding educational background, military experience, and work history during campaign for judicial office. Temporary suspension petition filed. On stipulation, judge permanently resigned.

In Re Hon. Frances Gallegos, Santa Fe Municipal Judge, No. 27,906 (N.M. 2003). Allegations included failing to reside within city limit (a qualification to hold the judicial office). On stipulation, publicly reprimanded, ordered to reimburse complainant for private investigator fees, and ordered to reside within city limits while holding office as Municipal Judge.

In Re Hon. Susana Chaparro, Dona Ana County Magistrate Judge, No. 27,923 (N.M. 2003). Allegations included becoming embroiled in controversy with court interpreters; failing to be patient, dignified, and courteous with interpreters, another judge, and the court clerk; issuing warrant and having interpreter arrested on contempt charge relating to interpreting services; and having *ex parte* communication with judge who was presiding over respondent's pending writ case. On stipulation, publicly reprimanded, ordered to participate in mentorship program, and ordered to attend (at own expense) a national judicial ethics course. Supreme Court has taken final disposition of this matter under advisement.

In Re Hon. Rudy C. Montoya, Mora County Magistrate Judge, No. 27,988 (N.M. 2003). Allegations included adjudicating cases for close family and friends, releasing two criminal defendants without bond in contravention to terms of and without amending conditions of prior release order, and lying to rape victim about fact and terms of defendants' release. On preliminary stipulation, temporarily suspended with 90 days pay, and thereafter with no pay. Judge ultimately stipulated to resign permanently from judicial office.

In Re Hon. David J. Ramos, Jr., Hurley Municipal Judge, No. 28,327 (N.M. 2004). Allegations included arrest on charge of DWI. On stipulation, temporarily suspended with 90 days pay, thereafter without pay. Judge pleaded guilty and was convicted of DWI First Offense. Resigned from judicial office.

In Re Hon. William A. Vincent, Jr., San Juan County Magistrate Judge, No. 27,266 (N.M. 2004). Allegations included display of inappropriate behavior after declaring mistrial and recusing from domestic violence case; offensive and inappropriate statements; yelling at, berating, confronting, threatening, and challenging the defendant to fight; and challenging defense counsel to report to the Commission, which he referred to as "pussies." Supreme Court denied Commission's petition

for temporary suspension. On stipulation, judge ordered to undergo psychological evaluation/fitness for duty evaluation and anger management counseling; received public censure, and shall complete six-month supervised probation.

In Re Hon. Ruben Galvan, Dona Ana County Magistrate Judge, No. 28,609 (N.M. 2004). Allegations included criminal investigation for felonious criminal sexual penetration and solicitation of bribery. Temporarily suspended with pay until formal charges issued and until Commission's proceedings completed. Formal charges issued and salary suspended. Matter is still open and pending before the Commission.

In Re Hon. Jesus Gonzales, Taos County Probate Judge, No. 28,658 (N.M. 2004). Allegations included court determination that judge was legally incompetent to stand trial on criminal charges arising from a motorcycle crash. Commission petitioned for immediate temporary suspension based on the questions of mental competency. Judge stipulated to temporary suspension, but resigned from judicial office prior to Supreme Court's ruling on petition and stipulation.

In Re Hon. W. John Brennan, Second Judicial District Court Judge, No. 28,713 (N.M. 2004). Allegations included arrest on charges of felony possession of a controlled substance (cocaine) and tampering with evidence. Commission petitioned for temporary suspension. Supreme Court issued show cause order and scheduled hearing. Judge retired from his judicial office prior to hearing and Court dismissed the Commission's petition as moot.

In Re Hon. Melissa Miller-Byrnes, Las Cruces Municipal Judge, No. 28,716 (N.M. 2004). Allegations included making false or misleading statements during a radio broadcast debate that no judicial disciplinary complaints had been filed against her with the Judicial Standards Commission.



PUBLISHED OPINIONS OF THE NEW  
MEXICO SUPREME COURT

Following is a listing of all opinions the New Mexico Supreme Court and Court of Appeals have published in the *New Mexico Reports* concerning judicial discipline, matters affecting the Commission, and references to 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).

In re Martinez, 99 N.M. 198, 656 P.2d 861 (1982).

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

In re 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).

In re Rainaldi, 104 N.M. 762, 727 P.2d 70 (1986).

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

In re Atencio, 106 N.M. 334, 742 P.2d 1039 (1987).

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

In re Garcia, 108 N.M. 411, 773 P.2d 356 (1989).

In re Castellano, 119 N.M. 140, 889 P.2d 175 (1995).

State ex rel. New Mexico Judicial Standards Com'n v. Espinosa, 2003-NMSC-017, 134 N.M. 59, 73 P.3d 197 (2003).



## FY 2004 EXPENDITURES

As an independent agency of the State, the Commission is funded through general 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, any appropriations the Commission has not expended revert to the State's general fund.

In FY 2004, the Commission's expenditures amounted to \$357,049. A summary categorization of the expenditures is provided below.

### FY 2004 EXPENDITURES

| DESCRIPTION             | AMOUNT            | PERCENTAGE  |
|-------------------------|-------------------|-------------|
| Capital Outlay          | 19,203            | 5.38%       |
| Contractual Services    | 11,273            | 3.16%       |
| Employee Benefits       | 58,148            | 16.29%      |
| In-State Travel         | 8,421             | 2.36%       |
| Maintenance and Repairs | 712               | .20%        |
| Operating Costs         | 36,964            | 10.35%      |
| Personal Services       | 191,235           | 53.56%      |
| Supplies                | 31,093            | 8.71%       |
| <b>Total</b>            | <b>\$ 357,049</b> | <b>100%</b> |



State of New Mexico  
Judicial Standards Commission  
Post Office Box 27248  
Albuquerque, NM 87125-7248  
(505) 222-9353  
[www.nmjsc.org](http://www.nmjsc.org)