



STATE OF NEW MEXICO JUDICIAL STANDARDS COMMISSION

**FY 2020
ANNUAL
REPORT**





FY 2020 ANNUAL REPORT

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Chair

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Vice-Chair

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Mark A. Filosa, Esq.

William E. Foote, Ph.D.

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Hon. Cheryl H. Johnston

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Hon. Maurine Laney

Hon. Steven O. Lee

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Judicial Standards Commission



FORWARD

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

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

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

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

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

Also like other agencies of its type, the Judicial Standards Commission's primary purpose is first and foremost to promote the rule of law and preserve public confidence in our judiciary by protecting the public from improper judicial behavior and lack of fitness for judicial office. While the

public interest is clearly paramount in the legislative history and constitutional composition of the membership, the Commission works equally hard to protect judges from appellate-natured, unsubstantiated, or frivolous complaints. The Commission works diligently to maintain this delicate balance, helping to preserve public confidence in our courts.

Much has changed in the world, our state, and our courts since the Commission was created by the People in 1968. Our agency has grown from a small, obscure agency into one of the leading organizations of its type in the United States. Commission members and staff are regularly invited to speak at local, state, and national conferences and have been repeatedly elected to national leadership positions in our specialized field of law. As part of its national investigation in 2015, the Center for Public Integrity (www.publicintegrity.org) ranked New Mexico third best in the nation in judicial accountability. Their report specifically credited our Commission for part of the state's high ranking:

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

New Mexicans should be extremely proud of both the high quality of its judiciary and the high level of accountability to which the judiciary is held. Our courts are among the best in the nation, staffed with bright, skilled, and talented judges and employees. This Commission will continue to work tirelessly to ensure this high standard is preserved.

RANDALL D. ROYBAL
Executive Director
General Counsel





STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

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HON. ALISA A. HART
HON. CHERYL H. JOHNSTON
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DEPUTY DIRECTOR

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INVESTIGATIVE TRIAL COUNSEL

November 16, 2020

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

Ladies and Gentlemen:

It is my pleasure to present you with the Judicial Standards Commission's FY 2020 Annual Report. This report not only contains information about our substantive work overseeing state judicial conduct and discipline, but also our structure and performance as an independent, constitutionally mandated state agency.

Along with the rest of the World, our agency was significantly impacted by the ongoing COVID-19 global pandemic and the foreign oil price war, both of which combined with broader factors to substantially reduce the State of New Mexico's revenues during FY 2020 and into FY 2021. Not only did our physical office close from March 12—June 1, 2020 in compliance with public health orders, requiring Commission staff to work remotely, but as the state economy plummeted, we also sustained a 4% CUT to our budget for FY 2021 in late June, just before the 2021 fiscal year began. Those cuts, in addition to proposed additional cuts to be determined in the upcoming legislative session, leave no money for expenses related to our substantive casework mandated by Article VI, Section 32 of the New Mexico Constitution. Without travel to complete investigations, or money to prepare for and conduct full trials, we will be hampered in our ability to complete our specialized work thoroughly, completely, and promptly.

The work product of our agency has not yet been impacted by funding issues due in large part to our staff's internal and precise budget management, and we will continue to expend every effort to ensure that continues. Despite the arrival and substantial impact of the pandemic upon our office operation, public demand for our services was consistent with last year in terms of the number of complaints filed with our agency. Fewer cases re-

quired informal or formal measures, which was notably a good result. However, despite a brief slowing of complaints when the pandemic first hit New Mexico in March and April, the pace of incoming complaints has quickly returned to moderately high levels since May 2020.

Moreover, the severity and scope of the misconduct alleged is considerably higher in these more recent filings. These more complex and more serious cases typically require much more work from our staff, often more time to resolution, and usually more expense. We are continuing to move forward and will maximize efforts within our limited funding. If circumstances require, we will pursue emergency funding so that our constitutional duties are satisfied regardless of the challenges caused by the pandemic.

The end of FY 2020 also brought the completion of attorney Norman L. Gagne's second four-year term on the Commission. We are profoundly grateful to Mr. Gagne for his contributions, but especially for the extraordinary effort spent as Chair of our Rules Committee completing a multi-year, comprehensive revision of our procedural rules. The State Bar appointed another veteran commissioner to the position: Mark A. Filosa, Esq., of Truth or Consequences, New Mexico. Mr. Filosa previously served on the Commission in the early 2000s and we are happy to have him back.

We share in the collective hope that the present pandemic and economic challenges impacting New Mexico will ease. It is essential that all New Mexicans have confidence in their elected judges and the courts so that orders are obeyed and the Rule of Law preserved. Adequately funding the Judicial Standards Commission--the state's first and busiest ethics oversight agency--is an essential component toward ensuring that confidence is not eroded by allowing improper conduct by judges to be promptly, thoroughly, and fairly addressed.

We truly appreciate your continued support of our small, but critical agency and the importance of work to ensure the public's trust in the independence, impartiality, and integrity of the New Mexico Judiciary. We help ensure that the Rule of Law in our society is preserved—a critical component to maintaining a healthy, functioning, and law abiding democracy.

Respectfully yours,



Joyce Bustos
Chair



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COMMISSIONER TERMS & POSITIONS

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

STATUTORY TERMS OF COMMISSIONERS AS OF JUNE 30, 2020

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

<u>Position No.</u>	<u>Filled By</u>	<u>Appointed By</u>	<u>Statutory Term</u>
1	Kevin R. Dixon, Ph.D. (R)	Governor	07/01/19–06/30/24
2	William E. Foote, Ph.D. (D)	Governor	07/01/20–06/30/25
3	Omar Pereyra, DDS (R)	Governor	07/01/16–06/30/21
4	Twillla C. Thomason (I)	Governor	07/01/17–06/30/22
5	Joyce Bustos (D)	Governor	07/01/18–06/30/23
6	Nancy R. Long, Esq.	State Bar	07/01/18–06/30/22
7	Norman L. Gagne, Esq.	State Bar	07/01/16–06/30/20
8	Hon. Cheryl H. Johnston	Supreme Court	07/01/19–06/30/23
9	Hon. Alisa A. Hart	Supreme Court	07/01/17–06/30/21
10	Roberta Jean Kamm (I)	Governor	07/01/19–06/30/24
11	Hon. Maurine Laney	Supreme Court	07/01/19–06/30/23
12	Malinda Williams (D)	Governor	07/01/18–06/30/23
13	Hon. Steven O. Lee	Supreme Court	07/01/17–06/30/21

OUTGOING IN FY20: Kimberli Ronquillo, John Bode, and Norman L. Gagne.

COMMISSION MEMBERS

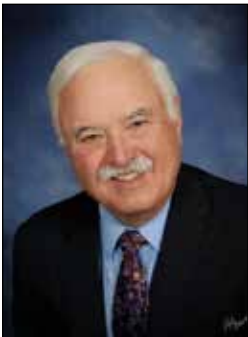
COMMISSION MEMBERS
AS OF JUNE 30, 2020



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



KEVIN R. DIXON, Ph.D. was appointed to the Commission in January 2019 by the Governor, and previously served on the Commission from July 2010–March 2011 on appointment from the Governor. Dr. Dixon is a Senior Manager at Sandia National Laboratories in Albuquerque, and received his PhD in Electrical & Computer Engineering from Carnegie Mellon University.



WILLIAM E. FOOTE, Ph.D. was appointed to the Commission in August 2019 by the Governor. Dr. Foote has been a forensic psychologist in private practice in Albuquerque, New Mexico since 1979. He has taught in the University of New Mexico Department of Psychology, Department of Psychiatry and the UNM School of Law. He has held a number of professional offices including the President of the New Mexico Psychological Association, Representative on APA Council, member and chair of the APA Committee on Legal Issues, member and chair of the APA Committee on Professional Practice and Standards, President of Division 31, President of the American Psychology-Law Society (Division 41), and President of the American Board of Forensic Psychology. He is the author of many peer reviewed professional articles and book chapters, and is the co-author, with Jane Goodman-Delahunty of two books on psychological evaluation in sexual harassment and employment discrimination cases. His third book with Dr.

Goodman-Delahunty, *Understanding Sexual Harassment: Evidence-Based Forensic Practice* (in press), is a second edition of the award winning 2005 APA Press sexual harassment volume. Dr. Foote enjoys singing first tenor in the acapella men's group DeProfundis, playing guitar and mandolin, traveling, hiking and fly fishing.



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

Mr. Gagne has served in various non-profit, community organizations including the KNME Board of Community Advisors, New Mexico Symphony Orchestra Board, Chamber Music Albuquerque Board (Vice President), Southeast Heights Neighborhood Association Board (President), New Mexico Cancer Center Foundation (President) and Albuquerque Emergency Medical Services Authority, among others. Mr. Gagne enjoys trail running and has completed twenty-two consecutive La Luz Trail Runs and other, longer trail races in New Mexico and Colorado, such as the Leadville Marathon, the Jemez Mountain Trail Runs 50K, the Imogene Pass Run and others. He also enjoys hiking and backpacking with his family, is an accomplished and award-winning photographer, plays the cello, draws and occasionally is a classical music DJ. He has presented at continuing legal education seminars at the annual meeting of the New Mexico State Bar and other venues on various topics in alternative dispute resolution.



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



HON. CHERYL H. JOHNSTON was appointed to the Commission by the New Mexico Supreme Court in July 2019. Judge Johnston is a family court Judge in the Thirteenth Judicial District Court, Division VIII in Sandoval, Cibola and Valencia Counties. She received her Bachelor of Arts from Rice University in 1977 and graduated with her Juris Doctor from University of New Mexico School of Law in 1981. Judge Johnston is a member of the National Council of Juvenile and Family Court Judges. Most of her professional legal career was serving as a Deputy District Attorney in the Second Judicial District, as well as at the Thirteenth Judicial District prosecuting Violent Crimes, Sex Crimes and Juvenile Crimes. She was an Assistant Attorney General in the Special Prosecutions Unit with the New Mexico Attorney General’s Office.

She was a long time member and past Chairman of the Prosecutors Section for the New Mexico State Bar and was appointed as a member of the New Mexico Supreme Court Disciplinary Board. Judge Johnston was also a Senior Attorney Instructor with the Center for International Legal Studies in St. Petersburg, Russia in 2012 and has been a mentor with the Bridge



the Gap Program. She currently resides in Corrales with her husband Stanley Johnston Jr., a retired Colonel (NMARNG).

ROBERTA JEAN KAMM was appointed to the Commission by the Governor in July 2019. She is a native of Raton, New Mexico. She has been married for 20 years to Terry Kamm, Esq., who practices locally, and they have five grown children. Ms. Kamm has worked in the insurance industry since 1978, and holds a Certified Insurance Counselor (CIC) designation. She currently manages both Arthur Insurance Agency offices located in Raton and Angel Fire.



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

sociation, and currently serves on the Judicial Personnel Rules Committee, and Odyssey Judges' User Group Committee. In her local community, Judge Laney also serves on the Grant County Community Health Council, Juvenile Justice Strategic Planning Council, and the Kiwanis Club of Silver City.



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

nicipal judge to be appointed to the Judicial Standards Commission.



NANCY R. LONG, ESQ. was appointed to the Commission by the New Mexico Board of Bar Commissioners in 2018. A graduate of the University of New Mexico School of Law, she is a shareholder with Long, Komer & Associates in Santa Fe. Nancy's practice is comprised of general counsel representation for public and private clients and representation of clients in complex commercial cases including multi-jurisdictional class action and anti-trust litigation, and representation of clients in state courts throughout New Mexico and in federal court. A significant portion of Nancy's practice is also transactional and includes real estate related matters. Nancy's litigation

practice has resulted in significant and often cited precedent in the areas of civil rights and land use law, among others. For many years, Nancy has been AV rated by Martindale Hubbell, the highest rating given for legal ability and ethics. She is also a board member for Century Bank in Santa Fe, serves as a volunteer with Santa Fe County's Teen Court program and has previously served many civic and non-profit organizations as a volunteer or board member.



OMAR PEREYRA, DDS was appointed to the Commission by the Governor in October 2020. Originally from Abiquiu, New Mexico, Dr. Pereyra enlisted in the United States Navy after graduating high school. He worked as a Dental Assistant in the Navy and after five years of service was honorably discharged. Following his military service, Dr. Pereyra lived in Japan, San Diego, CA, and Bremerton, WA, and traveled to Thailand, South Korea, Malaysia, Australia, Canada, and Hawaii. Dr. Pereyra attended the University of New Mexico and graduated with a degree in biology. During the year between graduating from UNM and attending dental school, he worked at the Los Alamos National Laboratory in the Theoretical Biology Department and continued his education at The University of Phoenix where he earned a Master of Business Administration degree. He earned his Doctor of Dental

Science degree from the University of Missouri-Kansas City School of Dentistry, and returned to the New Mexico pursuing an Advanced Education in General Dentistry (AEGD) program at the University of New Mexico School of Medicine. Dr. Pereyra has been in the dental field for a total of 10 years. He is married and has two daughters.



TWILLA C. THOMASON was appointed to the Commission by the Governor in August 2019. Mrs. Thomason grew up on Hobbs, New Mexico and graduated from Hobbs High School. Mrs. Thomason received a Bachelors' of Science degree in Agricultural Economics/Agricultural Business from New Mexico State University in 2000, and a Masters' of Science degree in Agricultural, Environmental and Regional Economics specializing in Consumer Behavior from The Pennsylvania State University in 2002. She has worked for Western Commerce Bank in the Trust Division for 15 years, and as Trust Officer/Vice President and overseeing the department for 8 years.



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

CHAIRS OF THE COMMISSION

JOYCE BUSTOS, February 2012–Present

LARRY TACKMAN, April 2011–February 2012

DAVID S. SMOAK, August 2004–March 2011

HON. DAN SOSA, JR. , October 2003–August 2004

DOUGLAS W. TURNER, July 2001–March 2003

BARBARA A. GANDY, August 1999–June 2001

DOUGLAS W. TURNER, April 1997–August 1999

ELEANOR SELIGMAN, February 1996–April 1997

DONALD PERKINS, August 1994–February 1996

FRED HARRIS, July 1992–August 1994

PEGGY C. TRAVER, September 1991–June 1992

HUBERT QUINTANA, July 1989–September 1991

HARRY THOMAS, June 1985–July 1989

JUNE O. KELLER, December 1984–June 1985

ALBERT N. JOHNSON, August 1983–December 1984

ELOY A. DURAN, September 1982–August 1983

SUSAN S. DIXON, July 1981–September 1982

LUCY M. SALAZAR, August 1980–July 1981

LOIS CHAPMAN, July 1979–August 1980

LUCY M. SALAZAR, August 1977–July 1979

DORIS WAKELAND, July 1975–August 1977

RICHARD VANN, June 1974–June 1975

LUCY M. SALAZAR, October 1972–June 1974

MORRIS E. H. BINGHAM, June 1970–October 1972

BOYD WEST, November 1969–June 1970

LUTHER A. SIZEMORE, July 1968–November 1969

EXECUTIVE DIRECTORS

RANDALL D. ROYBAL, ESQ.

August 2009–Present

JAMES A. NOEL, ESQ.

January 2004–June 2009

PEG A. HOLGUIN, ESQ.

July 1993–October 2003

SAMUEL W. JONES, ESQ.

September 1984–June 1993

DAVID R. GARDNER, ESQ.

October 1974–September 1984



ORGANIZATIONAL OVERVIEW

JURISDICTION & AUTHORITY

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

The Commission’s jurisdiction extends over complaints made against currently serving Justices of the Supreme Court and all other judges within the state judicial branch, including the Court of Appeals, district courts, metropolitan court, magistrate courts, probate courts, and municipal courts.

The Commission’s jurisdiction was extended by a statutory amendment effective January 1, 2020 to “court-appointed commissioners, hearing officers, and administrative law judges while acting in a



The Commission’s constitutional and statutory provisions, the Code of Judicial Conduct, and the procedural rules applicable to our cases are available on the Commission’s website at www.nmjsc.org>Resources> Governing Provisions of Law.

judicial capacity.” The Commission requested an Attorney General’s Opinion on the constitutionality of the jurisdictional change in the absence of a constitutional amendment. The Attorney General’s Opinion found the statutory amendment to the Commission’s jurisdiction to be unconstitutional. In its FY 2022

Appropriations Request, the Commission asked the Legislature to address the issue in the upcoming legislative session.

The Commission does not have jurisdiction over federal judges, Executive Branch hearing officers and judges, or attorneys. When necessary, the Commission holds evidentiary hearings (trials) and, if allegations are proven, recommends appropriate sanctions to the New Mexico Supreme Court.

CONFIDENTIALITY

Article VI, Section 32 of the New Mexico Constitution mandates that “[a]ll papers filed with the commission or its masters, and proceedings before the commission or its masters, are confidential. The filing of papers and giving of testimony before the commission or its masters is privileged in any action for defamation, except that the record filed by the commission in the supreme court continues privileged but, upon its filing, loses its confidential character, and a writing that was privileged prior to its

ORGANIZATIONAL OVERVIEW

filing with the commission or its masters does not lose its privilege by the filing.” Confidentiality requirements do not apply to third-party complainants (i.e., persons other than the subject judge or the Commission).

The New Mexico Supreme Court’s files and hearings are accessible to the public unless sealed by the Court pursuant to the rules and orders of the Court. *See*, NMRA 27-104. A complainant’s name and complaint may eventually be disclosed to the judge who is the subject of the complaint, as outlined in the Commission’s procedural rules. A complainant may be called to participate and/or testify in Commission proceedings.

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

ACTIONS THE COMMISSION CANNOT TAKE

The Commission is not an appellate court. The Commission cannot change any judge assigned to a case, cannot change a judge’s decision or order on any matter, cannot intervene in a case on behalf of a party, and cannot otherwise affect an ongoing court case or appeal. The filing of a disciplinary complaint with the Commission does not by itself require a judge to recuse or be disqualified from an underlying court case. The Commission and its staff do not provide legal advice.

FILING, REVIEW AND INVESTIGATION OF COMPLAINTS

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

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

Judges are not notified of frivolous or unsubstantiated complaints, or complaints that are beyond the Commission’s jurisdiction or are appellate in nature. Staff investigates and gathers documents for the Commission, which typically dismisses unsubstantiated allegations and/or entire complaints after review.

ACTIONS THE COMMISSION CAN TAKE ON COMPLAINTS

If it is determined that a complaint, report or other information about the judge’s conduct could reasonably constitute good cause for Commission to review or act, the Executive Director and/or Commission staff may conduct a confidential investigation. If after initial investigation, documentation, and review that there are insufficient grounds to proceed, the Commission will close the case at its first review at a meeting. The complainant will be informed of the general disposition subject to confidentiality restrictions. A closure of the matter at this stage of the Commission’s proceedings remains confidential.

Investigation. If the complaint appears to allege facts not obviously frivolous or unfounded, and to indicate a disability or violation of the New Mexico Code of Judicial Conduct, the Commission may complete an investigation to determine whether the allegations can be substantiated by credible evidence, whether the Code of Judicial Conduct was violated, and whether Commission

action is necessary. The judge will be notified with a Notice of Investigation that sets forth the nature of the complaint. The judge must respond in writing to the Notice of Investigation. If after review of the response the Commission does not determine that the matter should be closed, the Commission will invite the judge to participate in a voluntary, informal, and confidential conference with the Commission. The Commission's investigative trial counsel assigned to the inquiry is required to provide the judge with initial disclosures when the invitation is sent. At the conference the judge may present the written response in person and offer additional information or explanation to the Commission. The Commission may ask questions or request further explanation from the judge to complete review and determine whether to dismiss, to propose an informal disposition, or to proceed to issue formal charges against the judge. A judge's decision to not participate in the informal conference will not be construed against the judge.

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

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

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

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

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



COMPLAINTS, DISPOSITIONS & PERFORMANCE JULY 1, 2019–JUNE 30, 2020

COMPLAINTS RECEIVED

In FY 2020 the Commission received 176 written complaints, which is comprised of the following: 131 verified complaints (includes Commission-initiated and reopened inquiries) and 45 unverified complaints.

10-YEAR HISTORY OF WRITTEN COMPLAINTS

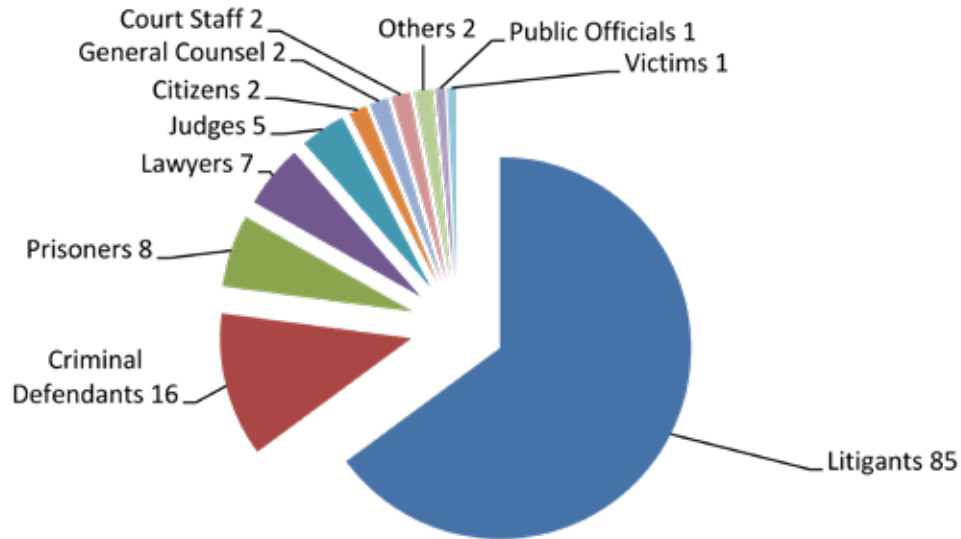


The Commission staff assist the public with telephonic and in-person communications. Staff members make every effort to discuss callers' situations in detail as appropriate, and inform callers about the limited scope of the Commission's jurisdiction under state law. Complaint forms are mailed to all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

SOURCES OF VERIFIED COMPLAINTS

Of the 131 verified complaints filed with the Commission, the distribution of the sources of written, verified complaints was the following: 85 by litigants or their family / friends, 16 by criminal defendants or their family / friends, 2 by citizens, 1 by a victim, 7 by lawyers, 8 by prisoners, 2 by court staff, 5 by judges, 1 by a public official, and 2 by others. Additionally, 0 complaints were initiated by the Commission on its own motion, and 2 were initiated by the Commission's General Counsel. The chart on the following page illustrates these figures.

COMPLAINT SOURCES



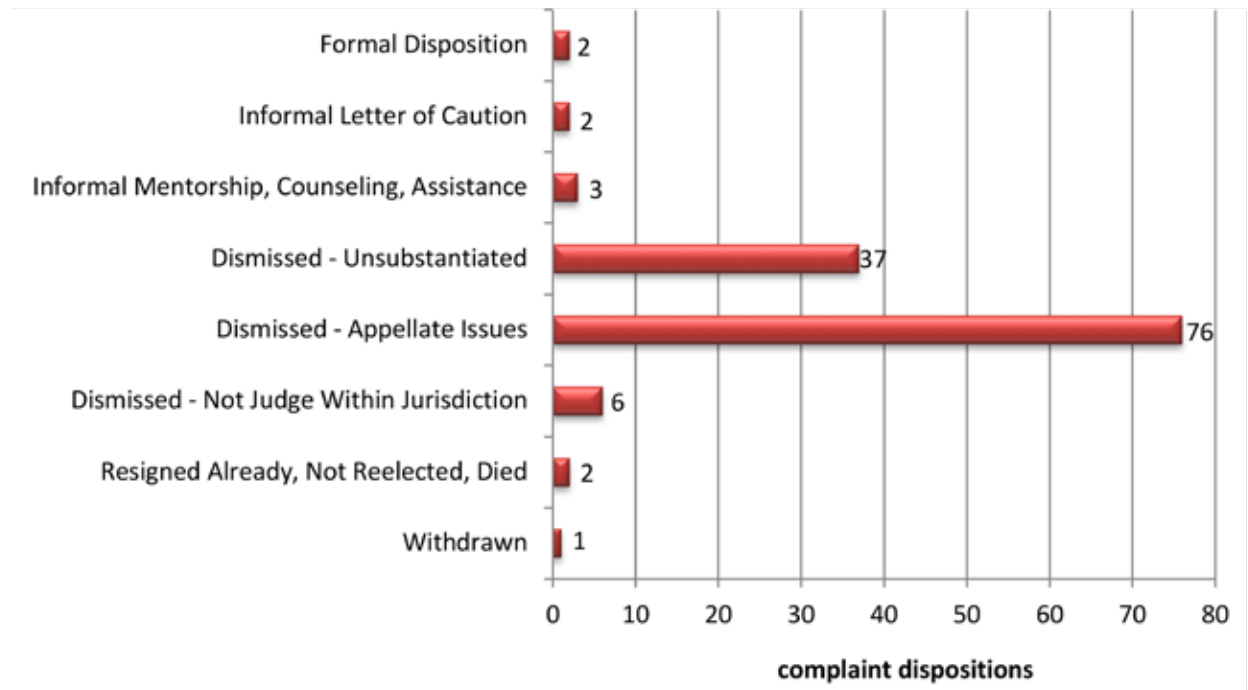
JUDGES REVIEWED

JUDICIAL BRANCH	VERIFIED COMPLAINTS	PERCENTAGE OF CASELOAD
Supreme Court	0	0.00%
Court of Appeals	3	2.29%
District Court	78	59.54%
Metropolitan Court	9	6.87%
Magistrate Court	27	20.61%
Municipal Court	9	6.87%
Probate Court	0	0.00%
Not a Judge	5	3.82%

CASE DISPOSITIONS

Inquiries Pending at Beginning of FY 2020 (July 1, 2019)	33
New Written/Verified Complaints and Inquiries in FY 2020	131
Inquiries Concluded in FY 2020	(129)
Inquiries Pending at End of FY 2020 (June 30, 2020)	35

Of the 129 cases disposed in FY 2020, the Commission concluded 2 cases (involving 1 judges) through formal proceedings (after charges filed, stipulations, trials and/or Supreme Court proceedings) and issued 2 informal letters of caution. 76 cases were dismissed as appellate, 6 cases because they concerned individuals beyond the Commission’s jurisdiction, and 37 cases as unsubstantiated. In 3 cases involving 3 judges, the judges were referred for informal remedial measures, which may have included mentorship, education, counseling, and/or other assistance. Finally, 2 cases were disposed because the judge had resigned, died, or was not re-elected; and 1 complaint was formally withdrawn. The graph below illustrates the FY 2020 case dispositions.

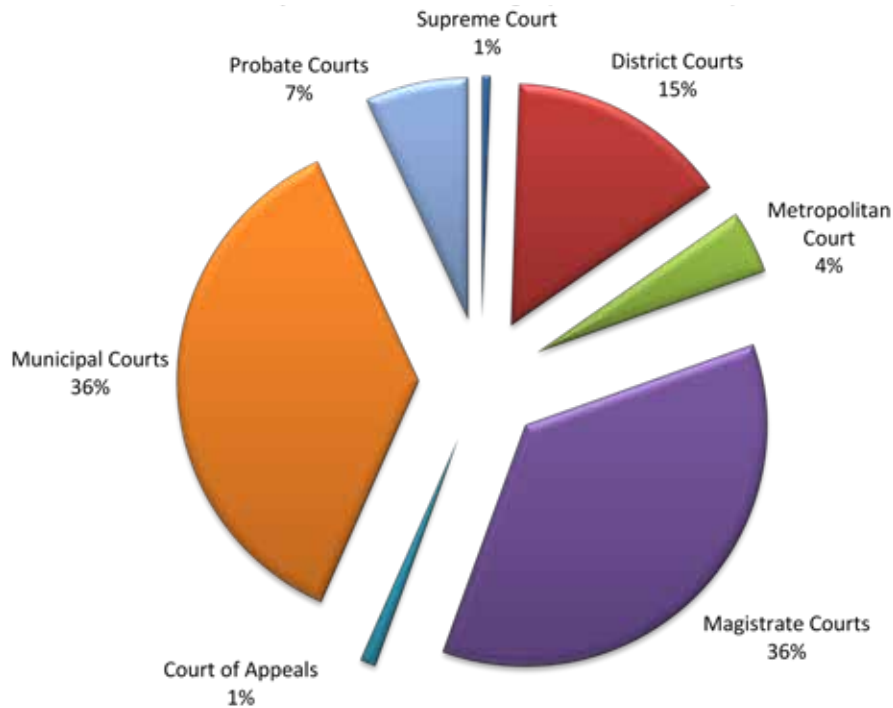


HISTORICAL CASES FILED IN THE SUPREME COURT

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

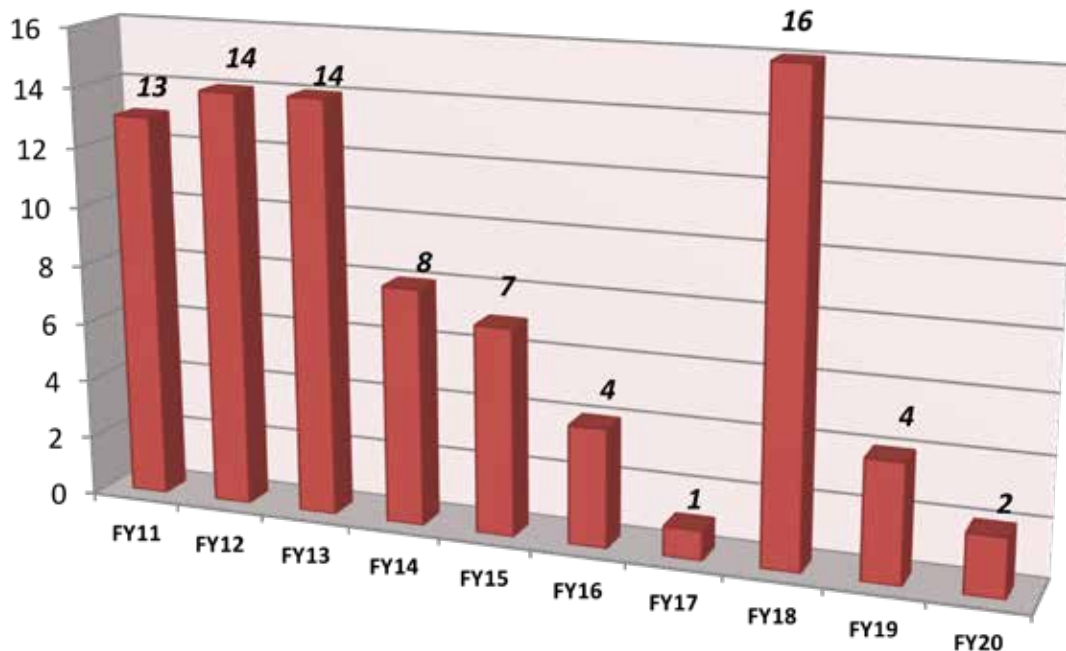
The chart on the following page illustrates the historical distribution of cases filed in the Supreme Court since 1968.

HISTORICAL CASES FILED IN THE SUPREME COURT



PUBLIC CASES DISPOSED BY TERMINATION OF JUDICIAL OFFICE

In FY 2020, 2 case(s) involving 1 judge(s) was/were disposed after termination of judicial office in public proceedings before the Supreme Court. Since its inception, the Commission has disposed of 205 cases concerning 95 judges after the respondent judges terminated their judicial offices. These cases include involuntary or stipulated permanent removal, retirement, or resignation from office after the Commission had issued formal charges and then filed and requested action by the Supreme Court. Following is a ten-year history of cases disposed:



HISTORICAL INFORMAL CASE DISPOSITIONS

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

Informal dispositions include issuing confidential cautionary or advisory letters, referring the judge for mentorship, counseling or assistance, or entering into a confidential stipulation agreement concerning the conduct in question. Since its formation in 1968, the Commission has informally disposed of 472 cases. The following tables illustrate the distribution of the informal cautionary letters and mentorship dispositions. A brief discussion concerning confidential stipulation agreements follows thereafter.

CAUTIONARY LETTERS (332 CASES)

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL CAUTIONS
Supreme Court	1	< 1%
Court of Appeals	3	< 1%
District Court	99	30%
Metropolitan Court	30	9%
Magistrate Court	117	35%
Municipal Court	78	24%
Probate Court	4	1%

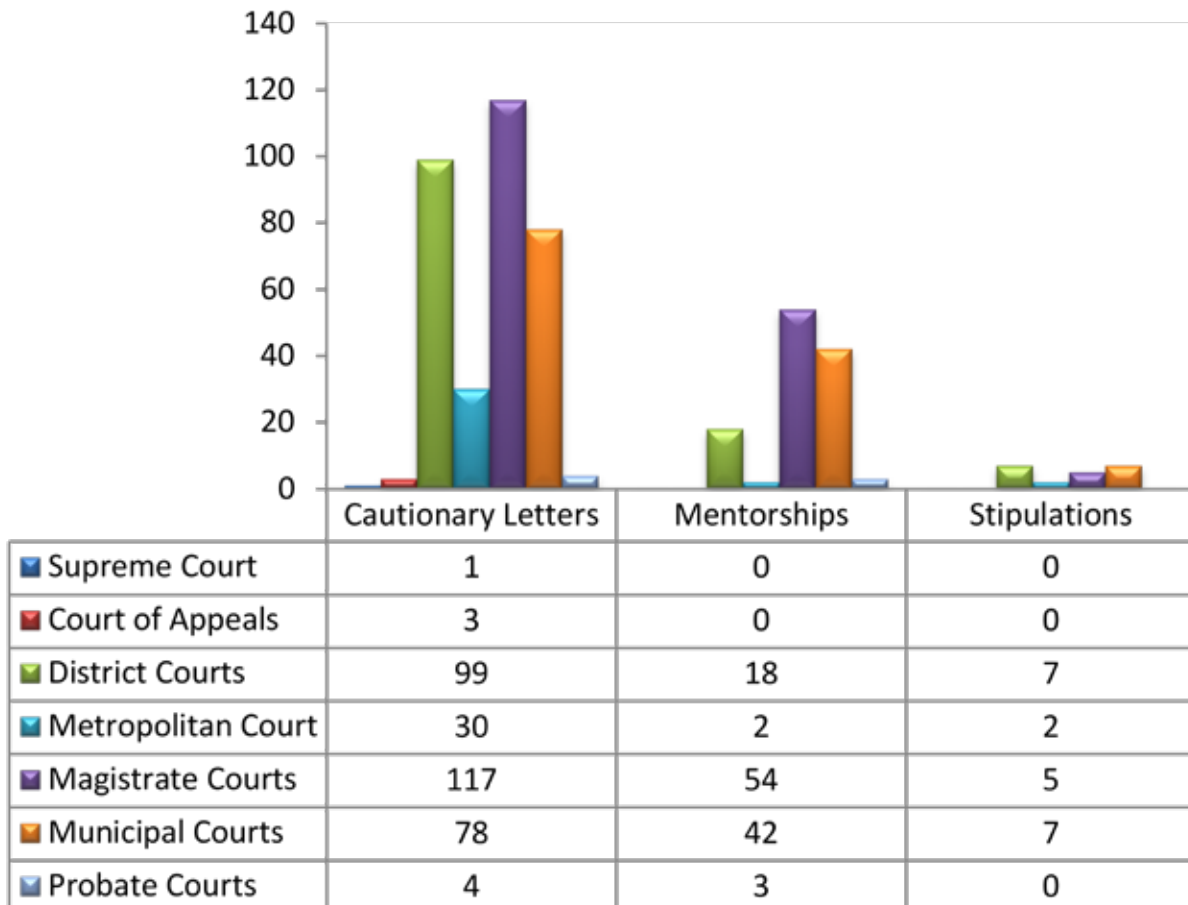
MENTORSHIPS (119 CASES)

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENTAGE OF ALL MENTORSHIPS
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	18	15%
Metropolitan Court	2	2%
Magistrate Court	54	46%
Municipal Court	42	35%
Probate Court	3	2%

CONFIDENTIAL STIPULATIONS (21 CASES)

In addition to confidential cautionary or advisory letters, and referrals to the mentorship program, the Commission may informally dispose of cases through confidential stipulations. These stipulations typically require judges to retire, resign, or cease improper conduct. In FY 2020, no cases were disposed through confidential stipulation. Historically, the Commission has disposed of 21 cases through such stipulations.

HISTORICAL GRAPHICAL SUMMARY OF INFORMAL CASE DISPOSITIONS





PROCEEDINGS BEFORE THE COMMISSION JULY 2019–JUNE 30, 2020

All of the Commission’s proceedings that resulted in either formal or informal dispositions during FY 2020 are summarized in this section. Formal cases are matters the Commission found to involve the most serious ethical issues under the New Mexico Code of Judicial Conduct, thereby warranting formal review and proceedings before the Commission and/or the New Mexico Supreme Court. Informal cases, although less serious in nature and scope, involve significant issues that the Commission addresses confidentially through advisory letters to the subject



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

judges or by asking judges to complete the Commission’s mentorship program. Judicial Standards Commission petitions filed with the Supreme Court after conducting full evidentiary hearings (trials) are public record, but temporary suspension and other matters are required to be filed under seal in the Supreme Court. All Supreme Court hearings, docket sheets, and orders were available to the public, unless it was otherwise ordered by the Court. The

Supreme Court requires in Rule 27-104(B) NMRA that “[t]he contents, the fact of filing, and any other information about any request for temporary suspension, stipulated discipline, or interim relief shall remain confidential until the Court determines that confidentiality is no longer required and enters an unsealing order on its own initiative or grants a motion to unseal pursuant to Paragraph I of Rule 12-314 NMRA.” The Court’s docket sheets in sealed matters accordingly only include the case number and reference to sealed pleadings without specific title information. The Court also has codified that “[a]ny person or entity who knowingly discloses any material obtained from a court record sealed pursuant to this rule may be held in contempt or subject to other sanctions as the Court deems appropriate.” In January 2012 the Supreme Court adopted the most recent comprehensive amendments to the Code of Judicial Conduct that apply to all judges within the Commission’s jurisdiction. Violation of the rules set forth in the Code of Judicial Conduct is an important, but not exclusive consideration for the Supreme Court when exercising its constitutional power for *de novo* review of judicial disciplinary matters.

FORMAL PROCEEDINGS

In FY 2020, the Commission conducted or initiated formal proceedings concerning 3 case(s) involving 2 judge(s) either before the Commission or the New Mexico Supreme Court. Below are summaries of all formal, non-confidential proceedings filed and on

COMMISSION PROCEEDINGS

public record with the Supreme Court with events occurring in and/or completed in FY 2020, including new matters.

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

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

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

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

This matter was ongoing at the end of FY 2020. Subsequent events will be reported in the FY 2021 Annual Report.

IN THE MATTER OF HON. BENJAMIN HARRISON
HOBBS MUNICIPAL COURT
JSC INQUIRY NOS. 2018-143 & 2018-146
SUPREME COURT DOCKET No. S-1-SC-37984

On April 1, 2019, Inquiry Nos. 2018-143 & 2018-146 were consolidated upon order of the Commission. On April 4, 2019, the Commission issued a Notice of Preliminary Investigation (NPI) to Judge Harrison. Following a response to the NPI from the Judge on June 6, 2019, the Commission issued a Notice of Formal Proceedings. The Notice of Formal Proceedings contained the following counts:

1. On or about October 2, 2018, in the case of City of Hobbs v. Tonya F. Lynch, Case 18004306-2, Judge Harrison arraigned the Defendant, who was brought before him on a bench warrant that had not been served and which he knew had not been served and based upon the request of the police officer Mike Stone, he directed that the warrant be recalled, even though it had already been executed. Later that same day, he issued instructions to “unrecall” the warrant.

2. On or about October 2, 2018, Judge Harrison allowed his judicial conduct or judgment to be influenced by his friendship with Officer Mike Stone when he improperly

directed that a warrant be recalled at the request of Officer Stone in the case of City of Hobbs v. Tanya F. Lynch, Case 18004306-2.

3. On or about October 9, 2018, in the case of City of Hobbs v. Amaya Lewis, Case 18004999-1,2,3-a case from which Judge Harrison had recused- he called the Defendant's grandmother to inform her that the Defendant failed to appear and advised the grandmother to have the Defendant return to the court so she would not get a bench warrant.

4. On or about October 9, 2018, Judge Harrison allowed his judicial conduct or judgment to be influenced by his friendship with the Defendant's family in the case of City of Hobbs v. Amaya Lewis, Case 18004999-1,2,3.

5. On or about October 4, 2018, in the case of City of Hobbs v. Tanya F. Lynch, Case 18005693, Judge Harrison initiated a case with an Order for Indirect Contempt of Court rather than with a criminal complaint containing a signed, sworn written statement of the facts, common name of the offense charged, and specific section number of the municipal ordinance or statute violated, as required by Rule 8-201(A)6.

6. On or about October 4, 2018, in the case of City of Hobbs v. Tonya F. Lynch, Case 18005693, in conjunction with his Order for Indirect Contempt of Court, Judge Harrison issued a bench warrant without personal knowledge of the Defendant's failure to appear and without a sworn, written statement of probable cause, as required by Rule 8-206(A) NMRA.

7. On or about October 5, 2018, in the case of City of Hobbs v. Tonya F. Lynch, Case 18005693, Judge Harrison violated the Defendant's due process rights when he accepted a Waiver of Counsel and Guilty plea from the Defendant for "Contempt of Court- Failure to Comply" and sentenced her to jail, despite his failure to legitimately initiate a case of contempt and, further, proceeded in the matter without providing the Defendant notice and the opportunity to present a defense.

8. On or about October 22, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts in the cases of City of Hobbs v. Alberto Bejar, Cases 18002615-1,2, 18003239, 18004338-1,2, and 18006004-1,2, when he set a cash-only bond of \$2000 at a pretrial release hearing without fulfilling any requirements of Rule 8-401(B) NMRA. Judge Harrison subsequently changed the bond to \$2000 cash/ surety, but still failed to make written findings justifying the secured bond as required by Rule 8-401(E) NMRA.

9. On or between October 22 and 24, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts in the cases of City of Hobbs v. Alberto Bejar, Cases 18002615-1,2,18003239, 18004338-1,2, and 18006004-1,2, when, after setting a secured bond at a pretrial release hearing, he failed to make the required written findings within two days of the hearing as dictated by Rule 8-401(F)(2) NMRA.

10. On or about October 22, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts in the cases of City of Hobbs v. Alberto Bejar, Cases 18002615-1,2, 18003239, 18004338-1,2, and 18006004-1,2 when he failed to comply with

Rule 8-401(E)(2), which dictates the order of the options when imposing one of the three types of secured bond.

11. On or about October 22, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts in the cases of *City of Hobbs v. Alberto Bejar*, Cases 18002615-1,2, 18003239, 18004338-1,2, and 18006004-1,2 when he failed to sign the Defendant's conditions of release following the pretrial hearing, and did not do so until the following afternoon, which prevented him from being released from jail even if he posted bond.

12. On or between November 5 and 10, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts in the cases of *City of Hobbs v. Alberto Bejar*, Cases 18002615-1,2, 18003239, 18004338-1,2, and 18006004-1,2 when he summarily denied the Defendant's motion requesting a review of his conditions of release concerning the secured bond he set and, also, consequently failed to set a hearing on the Defendant's motion and deprived the Defendant of his right to counsel at a hearing, in violation of Rules 8-401(G)(1) and (2) NMRA.

13. On or about November 5, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts in the cases of *City of Hobbs v. Alberto Bejar*, Cases 18002615-1,2, 18003239, 18004338-1,2, and 18006004-1,2 when he failed to file a written order setting forth the reasons for declining to amend his order setting conditions of release and/or failed to make findings of the reasons why the amount of secured bond he set was reasonably necessary to ensure the appearance of the Defendant.

14. On or about July 23, 2018, in the cases of *City of Hobbs v. Alberto Bejar*, Cases 18004338-1, 18004338-2, 18002615-1, 18002615-2, and 18003239, Judge Harrison pre-determined that the Defendant would not be released on his own recognizance (OR) in the future when he made an entry on the Register of Action in Case that stated: "NO FUTURE OR'S."

15. On or about August 8, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts at an arraignment in the cases of *City of Hobbs v. Tony Vasquez*, Case Nos. 18002851-2 and 18004659, when he set a cash-only bond of \$1000, but failed to make any written findings of particularized reasons why release or unsecured appearance and any non-monetary conditions of release would not reasonably ensure the Defendant's appearance, as required in Rule 8-401(8) and (E).

16. On or about August 8, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts in the cases of *City of Hobbs v. Tony Vasquez*, Case Nos. 18002851-2 and 18004659, when he failed to comply with Rule 8-401(E)(2), which dictates the order of the options when imposing one of the three types of secured bond.

17. On or about August 8, 2018, Judge Harrison disregarded the law and Rules of Procedure for the Municipal Courts in the cases of *City of Hobbs v. Tony Vasquez*, Case Nos. 18002851-2 and 18004659, when after arraigning the Defendant, he failed to issue an Order Setting Conditions of Release until August 30, 2018.

18. On or about August 8, 2018, after he summarily found Defendant Tony Vasquez in Direct Contempt of Court, fined him \$129 and sentenced him to 30 days in jail, Judge Harrison failed to docket a separate criminal case with a new case number, as required by Rule 8-110(E) NMRA.

19. On or about August 8, 2018, after he summarily found Defendant Tony Vasquez in Direct Contempt of Court, fined him \$129 and sentenced him to 30 days in jail, Judge Harrison failed to sign and file a written order containing the certifying information required by Rule 8-110(C) NMRA.

Judge Harrison filed a response with the Commission on July 18, 2019 and voluntarily resigned from judicial office on August 30, 2019.

Judge Harrison entered into a Stipulation to Permanent Resignation in Lieu of Further Disciplinary Proceedings (Stipulation) on October 29, 2019. A petition to accept the Stipulation was filed with the New Mexico Supreme Court on October 29, 2019. On November 5, 2019, the Supreme Court granted the petition, approved the Stipulation and ordered Judge Harrison's permanent resignation effective August 30, 2019. The Commission then closed the matter.

INFORMAL PROCEEDINGS

CAUTIONARY OR ADVISORY LETTERS. The Commission may dispose of a matter by privately cautioning (in matters filed before March 2019) or advising (in matters filed after March 2019) the judge, without making any finding of wrongdoing, that the judge's alleged conduct may violate the Code of Judicial Conduct. Such dispositions are not discipline; instead they notify the judge of a possible issue and suggestions for change and prevention. In FY 2020, the Commission issued cautionary letters concerning 2 cases to 1 judge(s) who was/ were alleged to have done the following:

1. A judge allegedly failed to enter an order in a timely manner following the parties' submission of Findings of Fact and Conclusions of Law. The judge was cautioned to abide by the Rules of Civil Procedure which require a judge to enter judgments and orders within sixty (60) days after submission.

INFORMAL REMEDIAL MEASURES

The Commission may elect to dispose of matters informally by referring judges for remedial measures or conditions, which may include, but not necessarily be limited to, mentorship, counseling or other assistance. In the mentorship program, the Commission selects an experienced judge who is asked to structure an informal program to meet with the subject judge, address the Commission's issues of concern, and provide the judge being mentored with any needed help and advice. Participation in the program is accomplished through stipulation. The Commission makes no findings of wrongdoing, and these dispositions are not discipline. In FY 2020, 3 inquiries involving 3 judges were disposed through informal remedial measures to judge(s) who were alleged to have done the following:

1. A judge failed to recuse from a case in which the judge's impartiality might reasonably be questioned and created an appearance of impropriety when the judge issued an arrest warrant

with a no bond hold for a defendant charged with larceny, accepted a guilty plea and sentenced the defendant to 90 days in jail when the judge was the victim in the larceny case. The judge entered into a Consent Decree with the Commission and agreed to participate in an informal mentorship, which the judge successfully completed.

2. A judge allegedly initiated and/or permitted ex parte communications and created an appearance of impropriety by allowing prosecutors to come to the judge's office to discuss pending arraignments and/or pretrial detention motions. The judge entered into a Consent Decree with the Commission and agreed to participate in an informal mentorship, which the judge successfully completed.

3. A judge allegedly changed a defendant's sentence on a Judgment and Sentence form from a deferred sentence to a suspended sentence ex parte; issued bench warrants and assessed fines in five (5) cases that had been closed; referred defendants to a diversion program that was not within the judge's discretion; and failed to maintain decorum in the courtroom by addressing an attorney by the first name only. The judge entered into a Consent Decree with the Commission and agreed to participate in an informal mentorship, which the judge successfully completed.

INFORMAL STIPULATIONS

The Commission may enter into stipulation agreements in confidential matters (not filed in the New Mexico Supreme Court) concerning various matters. The Commission makes no findings of wrongdoing, and these dispositions are not discipline. In FY 2020, the Commission entered into 0 informal stipulations.

PUBLISHED DISCIPLINARY CASES

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

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

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

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

Inquiry Concerning Perea, 103 N.M. 617, 711 P.2d 894 (1986)

Matter of Rainaldi, 104 N.M. 762, 727 P.2d 70 (1986)

Matter of Atencio, 106 N.M. 334, 742 P.2d 1039 (1987)

Matter of Garcia, 108 N.M. 411, 773 P.2d 356 (1989)

Matter of Castellano, 119 N.M. 140, 889 P.2d 175 (1995)

Matter of Ramirez, 2006-NMSC-021, 139 N.M. 529, 135 P.3d 230

Matter of McBee, 2006-NMSC-024, 139 N.M. 482, 134 P.3d 769

State v. Maestas, 2007-NMSC-001, 140 N.M. 836, 149 P.3d 933

Matter of Garza, 2007-NMSC-028, 141 N.M. 831, 161 P.3d 876

Matter of Locatelli, 2007-NMSC-029, 141 N.M. 755, 161 P.3d 252

Matter of Vincent, 2007-NMSC-056, 143 N.M. 56, 172 P.3d 605

Matter of Griego, 2008-NMSC-020, 143 N.M. 698, 181 P.3d 690

Matter of Rodella, 2008-NMSC-050, 144 N.M. 617, 190 P.3d 338

Matter of Schwartz, 2011-NMSC-019, 149 N.M. 721, 255 P.3d 299

Matter of Salazar, 2013-NMSC-007, 299 P.3d 409

Matter of Naranjo, 2013-NMSC-026, 303 P.3d 849

OTHER STATE CASES REGARDING COMMISSION MATTERS

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

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

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

OTHER STATE CASES REFERENCING THE COMMISSION

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

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

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

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

Concha v. Sanchez, 2011-NMSC-031, 150 N.M. 268, 258 P.3d 106



EXPENDITURES & COST REIMBURSEMENT

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

For FY 2020, the State Legislature appropriated \$897,700.00 to the Commission from the general fund for operations, investigation, and prosecution of judicial misconduct. FY 2020 Commission expenditures totaled \$889,941.98 from the General Fund. A summary by category of the Commission's expenditures is provided below.

FY 2020 EXPENDITURES FROM THE GENERAL FUND

DESCRIPTION	AMOUNT	PERCENTAGE
Employee Compensation	\$535,387.60	60.16%
Employee Benefits & Taxes	185,514.87	20.80%
Employee/Board Training & Licensing	20,439.05	2.30%
Commission Travel	5,249.27	0.59%
Investigation & Prosecution Expenses	1,017.93	0.11%
Contractual Services	36,709.86	4.12%
Rent, Telecom, IT & Overhead	92,242.48	10.37%
Equipment, Supplies & Postage	13,820.42	1.55%
TOTAL	889,941.48	100.0%

FINES AND COST REIMBURSEMENT DISTINGUISHED

The Supreme Court may impose fines against judges *sua sponte* or upon recommendation by the Commission. Fines are paid to the State of New Mexico and deposited with the Supreme Court. Fines typically are deposited in the general fund, unless otherwise ordered by the Supreme Court. Costs may be assessed by Supreme Court order (JSC stopped requesting reimbursement per FY 2019 rule change), or may be reimbursed on stipulation agreement with the respondent judge. Costs are paid to the State of New Mexico and deposited into the Commission's funds.

OUTSTANDING DEBTS OWED TO THE COMMISSION

In FY 2008 removed judge J. Wayne Griego was ordered by the Supreme Court to reimburse the Commission \$6,704.41 in costs. With annual interest of \$536.35 that accrued in FY 2020, the total amount due from Mr. Griego at the end of this fiscal year is \$13,140.00. Mr. Griego has failed to make any payment to the Commission and his debt to the State remains outstanding.

The Commission recorded judgment liens with county clerks, and by law cannot write off debt, even if it is determined not to be collectable.

FY 2020 GENERAL FUND APPROPRIATION COMPARED TO GENERAL FUND EXPENDITURES

FY 2020 Final Approved Budget	\$ 897,700.00	
Total FY 2020 General Fund Expenditures		\$ (889,941.48)
FY 2020 General Fund Appropriations Reverted		\$ (7,758.52)
Total Expenditures and Reversion		\$ (897,700.00)

AGENCY 10-YEAR GENERAL FUND FUNDING PROFILE

FISCAL YEAR	FINAL APPROVED BUDGET	EXPENDITURES	REVERSION FROM GENERAL FUND APPROPRIATIONS	REVERSION FROM COST REIMBURSEMENTS	GENERAL FUND REVERSION AS % OF FUNDING
2011	731,300.00	717,230.17	14,069.83	\$0.00	1.924%
2012	706,900.00	705,230.69	1,669.31	0.00	0.236%
2013	742,900.00	742,838.03	61.97	0.00	0.008%
2014	839,987.00	836,659.33	3,327.67	0.00	0.396%
2015	858,300.00	855,534.63	2,845.50	0.00	0.332%
2016	853,745.38	847,909.21	5,836.17	0.00	0.684%
2017	818,300.00	817,472.41	827.59	0.00	0.101%
2018	818,300.00	817,270.00	1,030.00	1,899.00	0.126%
2019	849,500.00	838,028.21	11,471.79	994.83	1.350%
2020	897,700.00	889,941.48	7,758.52	0.00	0.871%



STATE OF NEW MEXICO
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