



NEW MEXICO

JUDICIAL STANDARDS COMMISSION

ANNUAL REPORT

Fiscal Year 2006





FY 2006 ANNUAL REPORT

JUDICIAL STANDARDS COMMISSION

COMMISSION MEMBERS

DAVID S. SMOAK, Chairman
GLORIA TARADASH, PH.D., Vice-Chair
LARRY GARCIA
HON. BUDDY J. HALL
HON. JAMES A. HALL
ALBERT J. LAMA, ESQ.

PAUL F. SENA
HON. DAN SOSA, JR. (RETIRED)
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*

ELIZABETH A. GARCIA, ESQ.
Staff Attorney

SHARIESSE T. MCCANNON
Administrative/Legal Assistant

EVONNE SANCHEZ
Paralegal

KRISTA M. GIANES
Paralegal

MAILING ADDRESS

Post Office Box 27248
Albuquerque, NM 87125-7248

PHYSICAL ADDRESS

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

OFFICE HOURS

7:00 a.m. – 4:00 p.m.
Monday – Friday

TELEPHONE

(505) 222-9353

WEB SITE

<http://fscll.org/JSC/Main.htm>



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 2006 Annual Report of the Judicial Standards Commission. 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. We did our job. We were the second most active such commission in the country as only New York had more public discipline of judges.

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. We believe our activities in the last several years are helping to create a stronger more credible judiciary. We believe there are more complaints because more people believe the Commission will deal promptly and fairly with them. Our success depends on the Supreme Court reviewing our recommendations and imposing recommended discipline. This system is working and provides appropriate checks and balances to assure credibility in this part of the judicial process.

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,

A handwritten signature in black ink that reads "David S. Smoak".

DAVID S. SMOAK
Chairman



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:

New Mexicans have been blessed with 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. The Commission and its staff hope our efforts have enhanced public confidence in New Mexico's judiciary, and have helped maintain the integrity and independence of all those New Mexicans who have dedicated their professional lives to the bench.

Of the 128 docketed cases resolved in fiscal year 2006, approximately 18% resulted in disciplinary recommendations to the Supreme Court, while most were dismissed as frivolous, unsubstantiated, or outside the Commission's jurisdiction.

Also during fiscal year 2006, the confidentiality restriction imposed on the Commission by the New Mexico Constitution (Art. VI, §32) was challenged in federal court. That provision of the state constitution, which created the Commission in 1968, provides that all matters before the Commission and all papers filed with the Commission are confidential. The plaintiff in that case claimed his first amendment right to free speech was being violated by the state constitution and the Commission's rules because he was prevented from publicly disclosing his complaint against a judge. At the end of the fiscal year, the case remained pending before the federal district court of New Mexico.

The end of fiscal year 2006 also marked the end of Commissioner Mark Filosa's term with the Commission. Mr. Filosa brought an unbridled passion and sincerity to the Commission, which was complimented by his unique sense of humor. Mr. Filosa will be missed by the staff and the Commission as he returns to his law practice in Truth or Consequences, NM. At the same time, we take this opportunity to welcome new Commissioner, Albert J. Lama, Esq., to fill that position.

On behalf of the Commission and its staff, thank you for your support. We welcome your comments and suggestions.

With best regards,

A handwritten signature in cursive script, appearing to read "J. C. Noel".

JAMES A. NOEL
Executive Director & General Counsel



TABLE OF CONTENTS

Commission Membership as of June 30, 2006.....	1
Statutory Position Terms as of June 30, 2006.....	2
Commissioner Biographies.....	3
Commission Staff.....	6
Staff Biographies.....	6
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.....	11
Case Statistics for July 1, 2005 to June 30, 2006.....	12
Complaints, Disciplinary Inquiries & Other Inquiries.....	12
Complaint, Disciplinary Inquiry & Other Inquiry History.....	12
10-Year History of Written Complaints.....	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
FY 2006 Legislative Performance Measures.....	17
Historical Summary of Informal Case Dispositions.....	18

Cautionary Letters.....	19
Mentorships.....	19
Stipulations.....	19
All Informal Dispositions.....	19
Proceedings before the Commission in FY 2006.....	20
Formal Proceedings.....	20
Informal Proceedings.....	52
Private Letters of Caution.....	52
Informal Mentorships.....	54
Proceedings before the New Mexico Supreme Court FY 2001 - FY 2005.....	55
Published Opinions and Orders of the New Mexico Supreme Court.....	61
FY 2006 Expenditures and Cost Reimbursement.....	62
FY 2006 Expenditures.....	62
FY 2006 Fines and Cost Reimbursement.....	63
FY 2006 Budget Appropriation Compared to FY 2006 Expenditures.....	63
Appendix A - Judicial Standards Commission Process Flow Chart.....	64
Appendix B - Supreme Court Clarification of Rules for Reporting Judicial Misconduct Involving Unlawful Drug Use.....	65
Appendix C - Supreme Court Establishment of Committee on Confidential Healthcare.....	69
Appendix D - Supreme Court Establishment of a Privilege for Communications to Lawyers' Assistance Program and Rule for Docket Management during Long-Term Health Care.....	71
Appendix E - Supreme Court Administration of the Magistrate Court System.....	74
Appendix F- Supreme Court Order of Approval of the Harassment Policy for the Judicial Branch of Government.....	76
Appendix G - Supreme Court Order Regarding Filing of Pleadings by the Judicial Standards Commission	77
Appendix H - Supreme Court Order of Approval of a Drug-Free and Alcohol-Free Work Place Policy and a Drug/Alcohol Testing Policy for the New Mexico Judicial Branch	78
Appendix I - Constitutional Authority: NM Constitution Article VI, §32.....	79
Appendix J- Statutory Authority: NMSA 1978, §§34-10-1 through 34-10-4.....	80
Appendix K - Code of Judicial Conduct.....	82
Appendix L - Judicial Standards Commission Rules.....	103
Appendix M - Supreme Court Rules Governing Review of Judicial Standards Commission Proceedings.....	113



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 Chairperson and Vice-Chairperson from the lay membership.

COMMISSION MEMBERS AS OF JUNE 30, 2006



Front row (from left to right): Bob F. Turner, Esq.; Vice-Chairwoman Gloria Taradash, Ph.D.; Chairman David S. Smoak; Hon. Frank K. Wilson; and Paul F. Sena. Back row: Hon. Buddy J. Hall; Hon. James A. Hall; Hon. Dan Sosa, Jr. (Retired); Mark A. Filosa, Esq.; William R. Valentine, D.M.D.; and Larry Garcia.

Photographs by Michael Jacobs/Rio Grande Studios © 2005

STATUTORY POSITION TERMS AS OF JUNE 30, 2006

See NMSA 1978, §34-10-1, as amended June 1999.

<u>Position No.</u>	<u>Filled By</u>	<u>Appointed By</u>	<u>Statutory Term</u>
1	David S. Smoak (D)	Governor	7/1/04-6/30/09
2	William R. Valentine, D.M.D. (R)	Governor	7/1/05-6/30/10
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	Bob F. Turner, Esq.	Bar Commissioners	7/1/04-6/30/08
8	Hon. Frank K. Wilson	Supreme Court	7/1/03-6/30/07
9	Hon. James A. Hall	Supreme Court	7/1/05-6/30/09
10	Larry Garcia (R)	Governor	7/1/04-6/30/09
11	Hon. Buddy J. Hall	Supreme Court	7/1/03-6/30/07

COMMISSIONER BIOGRAPHIES



MARK A. FILOSA, ESQ. was appointed to the Commission by the Board of Bar Commissioners 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. 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.



LARRY GARCIA was appointed to the Commission by Governor Bill Richardson in 2004. He is a New Mexico native and a successful entrepreneur. He is the proprietor of Suits Unlimited, a full-line men's clothing and specialty store that has operated in Albuquerque since 1971. He is a part-time chef and caters events with Chef Victor Rede of Rede-to-Cater. Prior to establishing his retail business, Mr. Garcia served as Gunnery Sergeant in the United States Marine Corps and was honorably discharged after 14 years of regular and reserve service. Mr. Garcia is a strong community and political activist. He has served as campaign chairman and treasurer for numerous city, county and state political candidates. He has also served on a variety of community and professional boards and commissions, including Presbyterian Hospital Foundation, and the City of Albuquerque Campaign and Elections Board of Ethics. He has served as chairman of the New Mexico Retailers Association, in addition to serving on the Association's Board of Trustees and Self-Insured Group. Mr. Garcia is also an active member of the Albuquerque Hispano Chamber of Commerce and the Rio Grande Minority Purchasing Council.



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, De Baca County DWI Task Force, Rotary International, De Baca County Chamber of Commerce, Christ Full Gospel Church (Assistant Pastor), and the Valley Volunteer Fire Department.



HON. JAMES A. HALL was appointed to the Commission by the New Mexico Supreme Court in 2004 and reappointed in 2005. Judge Hall became a district judge in the First Judicial District Court in Santa Fe 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. Since his appointment to the bench, Judge Hall has worked in various divisions of the First Judicial 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. Since September of 2001, Judge Hall has served as chief judge of the First Judicial District Court.



PAUL F. SENA was appointed to the Commission by Governor Bill Richardson in 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.



DAVID S. SMOAK was appointed to the Commission by Governor Bill Richardson in 2004 and was elected Chairman in August 2004. Mr. Smoak is chairman of Coldwell Banker Commercial - Las Colinas. He has actively participated in various projects, including power center development, shopping center ownership, management and leasing and office building development, ownership and management. Mr. Smoak started his career on the audit staff of Price Waterhouse in Atlanta, Georgia, as a CPA with bachelor and masters degrees in accounting. He has been a controller and chief financial officer of public companies, and served as chief executive officer of Wilson Foods, a Fortune 500 company. Mr. Smoak served as vice-president of Export-Import Bank of the United States, executive director of the White House Conference on Small Business, and associate director of the Office of Business Liaison-Office of the U.S. Secretary of Commerce. Mr. Smoak also served as chairman of the board of trustees for the Jimmy Carter Inaugural Trust for approximately ten years. Mr. Smoak has an extensive background in accounting, finance and corporate management and has developed extensive experience with deal analysis and structuring. He is also president of New Mexico Ventures, Inc., which acts as the general partner or managing member of several real estate investment entities in New Mexico involved in the holding, planning, sale, development and management of property.



HON. DAN SOSA, JR. (RET.) was appointed to the Commission by Governor Bill Richardson in 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 to the Commission by Governor Bill Richardson in 2003 and was elected Vice-Chair in August 2004. 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. Since 2004, Dr. Taradash has served as past-president of The Association for the Gifted, a division of the International Council for Exceptional Children.



BOB F. TURNER, ESQ. was appointed to the Commission by the Board of Bar Commissioners in 2004. He received a bachelor of science degree in the business school at the University of Missouri in 1955 and received a juris doctor degree in 1960 from the University of Colorado Law School. He started practicing law in Roswell, New Mexico in June 1960 and for 37 years worked as a trial attorney in areas of personal injury, products liability, medical malpractice, oil and gas contract matters, and commercial and complex litigation. He is now of counsel for the law firm of Atwood, Malone, Turner & Sabin in Roswell. He served on the Medical Legal Malpractice Screening Panel and the New Mexico Medical Review Commission for over 20 years. He was appointed by the New Mexico Supreme Court to serve on the Uniform Jury Instructions-Civil Committee from 1998 to 2002. He is a past president of the Chaves County Bar Association and of the New Mexico Defense Lawyers Association. He is a member of the State Bar of New Mexico; a Fellow in the American College of Trial

Lawyers; and has been listed in all editions of the *Best Lawyers in America*. He is presently a lay leader in the Crown Financial Ministry of Grace Community Church in Roswell.



WILLIAM R. VALENTINE, D.M.D. was appointed to the Commission by Governor Bill Richardson in 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.



HON. FRANK K. WILSON was appointed to the Commission by the New Mexico Supreme Court in 1999 and reappointed in 2003. 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 Judicial 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. In 2005, he was ordained priest in the Episcopal Church and is serving on a part-time basis as interim rector at St. John's Episcopal Church in Alamogordo.

❧ PAST CHAIRPERSONS ❧

LUTHER A. SIZEMORE, June 1968 - November 1969
 BOYD WEST, November 1969 - June 1970
 MORRIS E. H. BINGHAM, June 1970 - October 1972
 LUCY M. SALAZAR, October 1972 - June 1974
 RICHARD VANN, June 1974 - June 1975
 DORIS WAKELAND, July 1975 - August 1977
 LUCY M. SALAZAR, August 1977 - July 1979
 LOIS CHAPMAN, July 1979 - August 1980
 LUCY M. SALAZAR, August 1980 - July 1981
 SUSAN S. DIXON, July 1981 - September 1982
 ELOY A. DURAN, September 1982 - August 1983
 ALBERT N. JOHNSON, August 1983 - December 1984

JUNE O. KELLER, December 1984 - June 1985
 HARRY THOMAS, June 1985 - July 1989
 HUBERT QUINTANA, July 1989 - September 1991
 PEGGY C. TRAVER, September 1991 - June 1992
 FRED HARRIS, July 1992 - August 1994
 DONALD PERKINS, August 1994 - February 1996
 ELEANOR SELIGMAN, February 1996 - April 1997
 DOUGLAS W. TURNER, April 1997 - August 1999
 BARBARA A. GANDY, August 1999 - June 2001
 DOUGLAS W. TURNER, July 2001 - March 2003
 HON. DAN SOSA, JR., October 2003 - August 2004
 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, 2006, the Commission's staff consisted of the personnel pictured below.



Current Staff: Front row (from left to right): Shariesse T. McCannon; Krista M. Gianes; and Elizabeth A. Garcia, Esq. Back row: Douglas H. Carver; James A. Noel, Esq.; Randall D. Roybal, Esq.; and Evonne Sanchez.

STAFF BIOGRAPHIES

EXECUTIVE DIRECTOR & GENERAL COUNSEL

JAMES A. NOEL, ESQ. joined the Judicial Standards Commission in January 2004 as Executive Director and 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 management and engineering positions throughout the Department of Energy Complex, including posts at Lawrence Livermore National Laboratory, the 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 doctorate 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 has participated in or served on various legal, civic, and governmental organizations, including the Association of Judicial Disciplinary Counsel, Albuquerque Bar Association, New Mexico Trial Lawyers Association, Association of Trial Lawyers of America, Federalist Society, Judicial Selection Commissions for Metropolitan Court (2002 and 2003), New Mexico Legislature's Election Reform Task Forces (2004 and 2005), and Governor Richardson's Ethics Reform Task Forces (2006 and 2007).

DEPUTY DIRECTOR & CHIEF STAFF ATTORNEY

RANDALL D. ROYBAL, ESQ. joined the Commission staff in 1998 and serves as Deputy Director and 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 Law School. 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, both 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, Albuquerque Bar Association, American 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.

STAFF ATTORNEY

ELIZABETH A. GARCIA, ESQ. joined the Commission staff in 2005 and serves as Staff Attorney. She is a native New Mexican and earned a bachelor of arts degree in political science in 1995 from the University of New Mexico, where she graduated *cum laude*, and a juris doctor degree in 1998 from Washington and Lee School of Law. Prior to joining the Commission, she served as an assistant district attorney in the Thirteenth Judicial District and handled a serious violent felony caseload. Before entering public service, Ms. Garcia practiced law privately for four years as an associate of a large civil defense firm handling education, employment and tort law cases. She has participated in or served on various legal, civic and charitable organizations, including the Association of Judicial Disciplinary Counsel, American Bar Association, current co-chair of the State Bar's Women and the Legal Profession, the State Bar's Pro Bono Subcommittee, New Mexico Hispanic Bar Association, New Mexico Women's Bar Association, Albuquerque Bar Association, EmergeNM, Washington and Lee NM Alumni Chapter-Board of Directors/Treasurer, and the UNM Young Alumni Association-Charitable Activities Chair.

PARALEGAL

EVONNE SANCHEZ joined the Commission in 2004 as a 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 the Albuquerque area coordinator for the division's monthly continuing legal education programs and serves on the committee for statewide CLE programs. She is a native New Mexican and has legal assistant and paralegal experience spanning over 19 years. Prior to joining the Commission staff, the majority of Ms. Sanchez' legal work was performed as a paralegal and

office manager for an Albuquerque law firm specializing in criminal defense. Ms. Sanchez also has substantial experience in the areas of personal injury and civil litigation.

PARALEGAL

KRISTA M. GIANES joined the Commission staff in 2005 as a Paralegal. She earned her paralegal certificate from the Albuquerque Technical Vocational Institute in 2006 and is an active member of the Paralegal Division of the State Bar of New Mexico. Prior to joining the Commission, she was employed for over three years at the Second Judicial District Court, Children's Court Division.

ADMINISTRATIVE/LEGAL ASSISTANT

SHARIESSE T. MCCANNON joined the Commission staff in 2004 and serves as Administrative/Legal Assistant. Ms. McCannon also serves as Clerk of the Commission and handles the Commission's personnel matters. Originally from Florida, Ms. McCannon made New Mexico her home in 1974. She has more than 19 years experience as a legal assistant and paralegal, including extensive trial experience. Prior to joining the Commission, Ms. McCannon was employed as a paralegal for an Albuquerque law firm handling complex litigation, personal injury and nursing home cases.

LAW CLERK

DOUGLAS H. CARVER joined the Judicial Standards Commission in the summer of 2005 as the Commission's first Law Clerk. He earned a bachelor of arts degree in history from Yale University. He then worked as a technical writer for a construction management firm supervising a multi-million dollar project in Washington, DC, before heading to Trinity College, Dublin, Ireland to obtain a master of philosophy degree in medieval history. He began work on a doctorate in medieval history, taught classes in medieval and early modern history, and was awarded a year-long Rome Prize Fellowship to the American Academy in Rome. Upon returning from Ireland, Mr. Carver worked as a manager in a bookstore and in wildlife rehabilitation before deciding to pursue a legal career. He entered the University of New Mexico School of Law in 2004, and expects to receive his juris doctor degree in 2008. He is active in many organizations at the law school, including the Student Bar Association, Environmental Law Society, Native American Law Students Association, Mexican American Law Students Association, and Phi Alpha Delta legal fraternity. Additionally, Mr. Carver is a law student member of the State Bar of New Mexico Young Lawyers Division.

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. A closure of the matter at this stage of the Commission's proceedings remains confidential.

Preliminary Investigation. If the complaint appears to allege facts not obviously frivolous or unfounded indicating a disability or a violation of the New Mexico Code of Judicial Conduct, the Commission may complete a preliminary investigation to determine whether formal proceedings should be initiated and a hearing held. The Commission may also initiate a preliminary investigation on its own motion.

The judge will be notified with a notice of 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 closed and the complainant and the judge will be informed of the disposition. A closure of the matter at this stage of the Commission's proceedings remains confidential.

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.

Upon filing and issuance of the Notice of Formal Proceedings, the Commission will set a date for a formal 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 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
or
Any Combination of Above



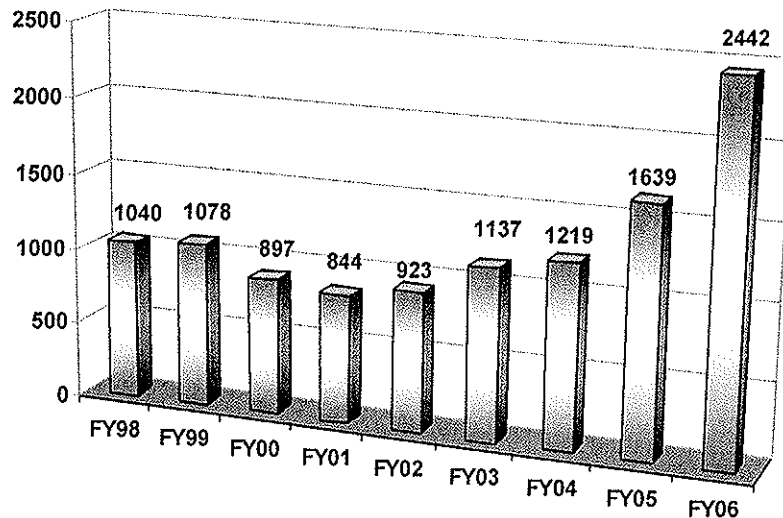
STATISTICS
JULY 1, 2005 TO JUNE 30, 2006

COMPLAINTS, DISCIPLINARY INQUIRIES & OTHER INQUIRIES

During FY 2006 the Commission handled 2,441 complaints, disciplinary inquiries and other inquiries concerning judicial misconduct and disability. Of these complaints/inquiries, 185 were written complaints in the following categories: 130 verified complaints (includes Commission-initiated complaints) and 56 unverified complaints. Approximately 2,256 disciplinary inquiries and other inquiries were made by telephone or in person.

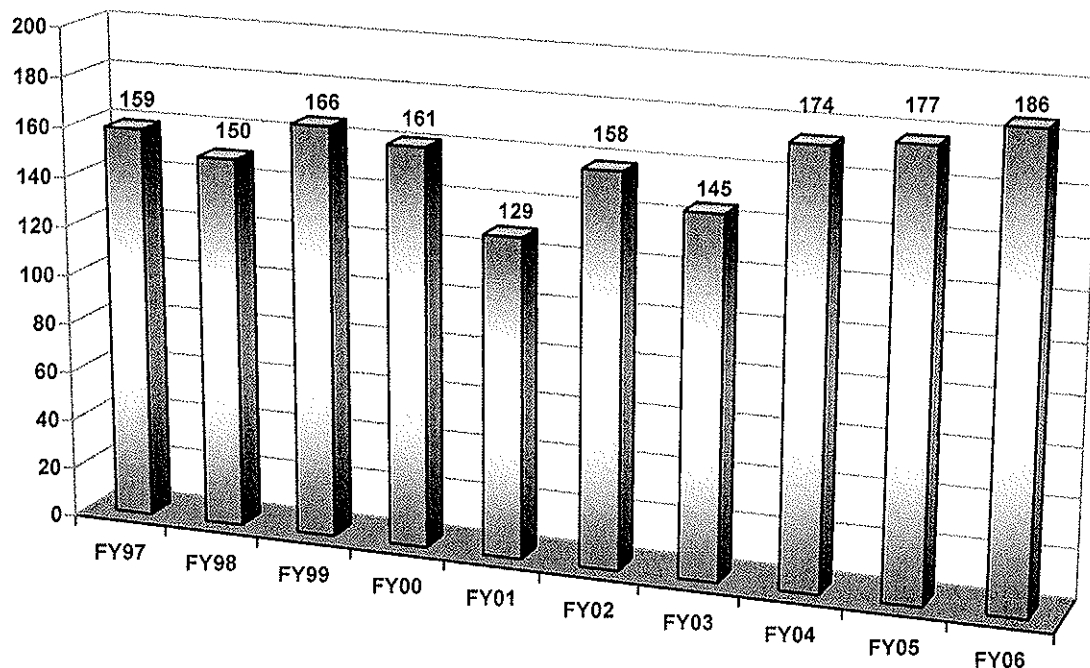
Written/Verified	130
Written/Unverified	56
<u>Telephonic/In-Person</u>	<u>2,256</u>
TOTAL	2,442

COMPLAINT, DISCIPLINARY INQUIRY & OTHER INQUIRY HISTORY



The Commission has an established pre-screening process for telephonic and in-person complaints. Staff members make every effort to discuss callers' situations in detail. 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 to download from the Commission's web site.

10-YEAR HISTORY OF WRITTEN COMPLAINTS¹

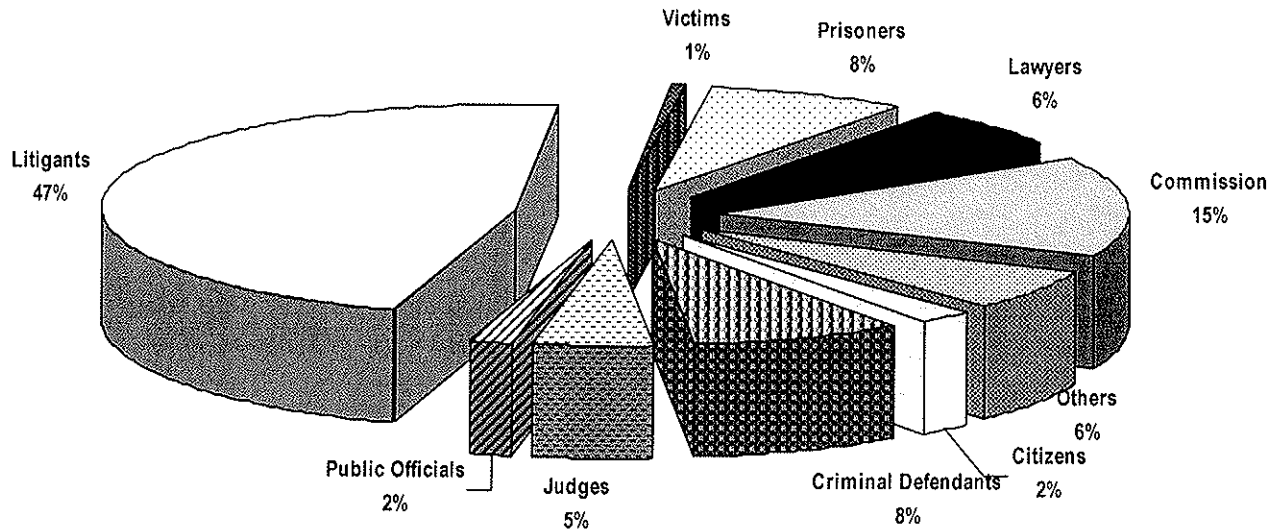


SOURCES OF VERIFIED COMPLAINTS

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: 61 by litigants or litigants' family/friends, 11 by criminal defendants or criminal defendants' family/friends, 3 by citizens, 10 by prisoners, 2 by public official(s), 8 by lawyers, 6 by judge(s), 1 by victim(s) and/or victims' family/friends, and 8 by other(s). Additionally, 20 complaints were initiated by the Commission on its own motion. The chart below illustrates these figures.

¹ This graph in the FY 2005 Annual Report depicted the FY 2005 complaint total as 126. The correct figure was 177.

COMPLAINT SOURCES



JUDGES REVIEWED PURSUANT TO VERIFIED COMPLAINTS

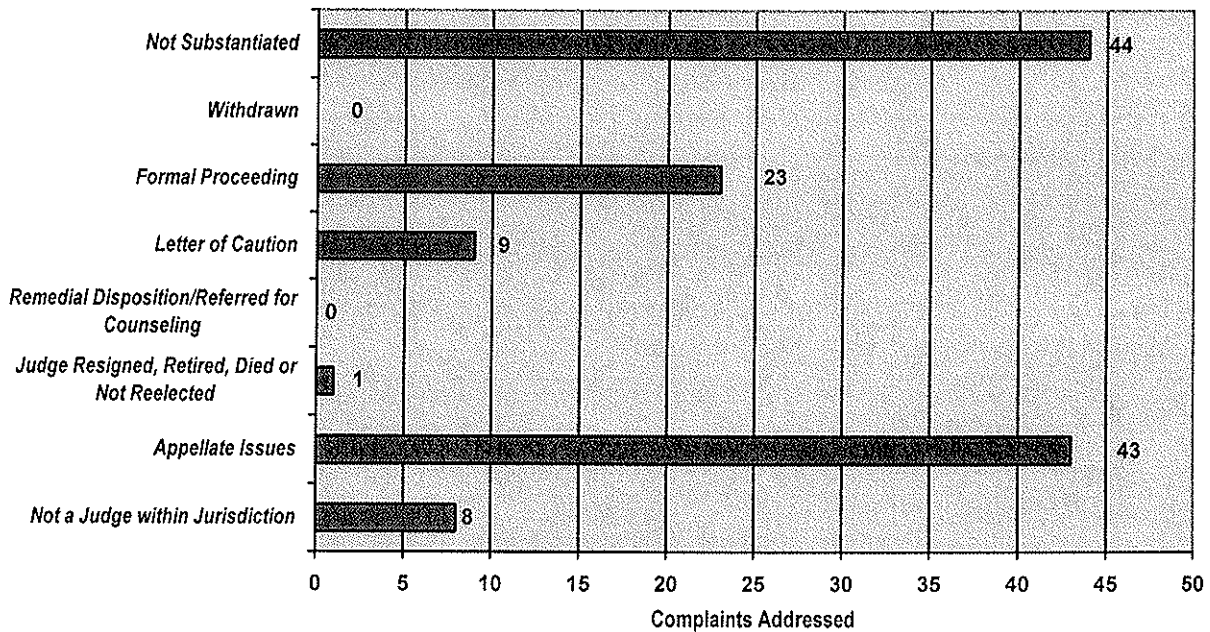
Judges in most levels of the judiciary were the subjects of complaints in FY 2006. Consistent with the Commission's history, the predominance of complaints were filed against judges of the district courts (46%), followed by magistrate judges (29%), municipal judges (16%), and metropolitan judges (5%). Court of Appeals judges and probate judges accounted for less than 1% each of the complaints.

JUDICIAL BRANCH	VERIFIED COMPLAINTS	PERCENTAGE OF CASELOAD
<i>Supreme Court</i>	0	0%
<i>Court of Appeals</i>	1	< 1%
<i>District Court</i>	60	46%
<i>Metropolitan Court</i>	6	5%
<i>Magistrate Court</i>	37	29%
<i>Municipal Court</i>	21	16%
<i>Probate Court</i>	1	< 1%
<i>Other</i>	4	3%

CASE DISPOSITIONS

Inquiries Pending at Beginning of FY 2006 (July 1, 2005)	52
New Written/Verified Complaints and Inquiries in FY 2006	130
Inquiries Concluded in FY 2006	128
Inquiries Pending at End of FY 2006 (June 30, 2006)	54

Of the 128 cases completed and disposed in FY 2006, the Commission concluded 23 cases through formal proceedings (trials and/or Supreme Court proceedings) and issued 9 confidential letters of caution. The Commission dismissed or closed 43 cases because they were appellate in nature and 8 cases because outside the Commission's jurisdiction. The Commission dismissed 44 cases that were not substantiated after investigation and inquiry. 1 case was closed because the subject judge resigned, died, or was not reelected. No judges were referred for confidential remedial assistance or counseling.

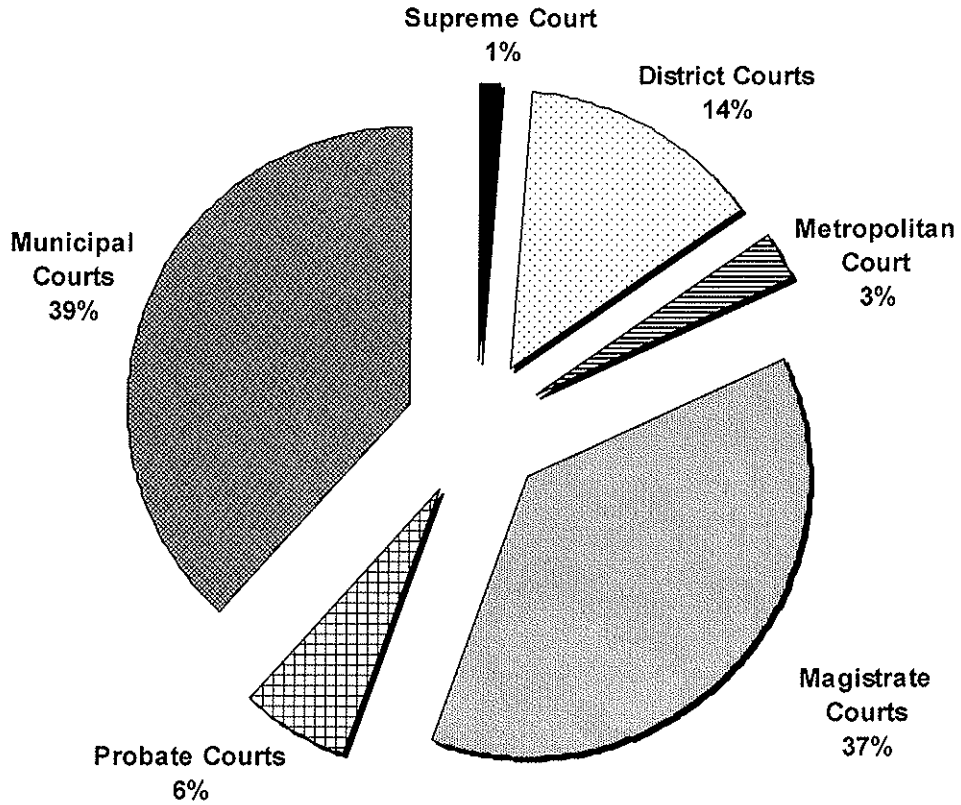


HISTORICAL SUMMARY OF CASES FILED IN SUPREME COURT

From 1968 through June 30, 2006, the Commission has filed 99 petitions for discipline and/or temporary suspension in the New Mexico Supreme Court involving 76 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: 1 Supreme Court, 14 district court, 3 metropolitan court, 37 magistrate court, 38 municipal court, and 6 probate court. The chart on the following page illustrates the proportional distribution of these filings.

ALL SUPREME COURT FILINGS (1968 - PRESENT)

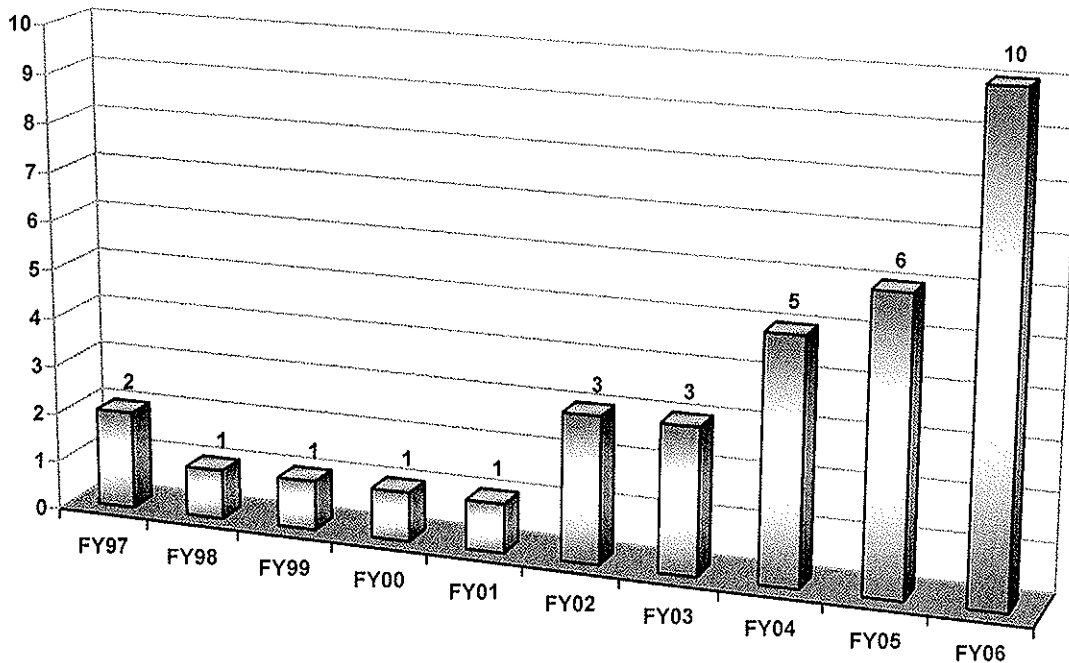


The table below indicates the levels of the judiciary and the corresponding applicable geographical areas involved in the Commission's filed 99 formal cases filed with the Supreme Court since 1968.

APPELLATE COURTS (1)	DISTRICT COURTS (14)	METROPOLITAN COURTS (3)	MAGISTRATE COURTS (37)	MUNICIPAL COURTS (38)	PROBATE COURTS (6)
Supreme Court 1	First 1 Second 2 Third 3 Fourth 1 Fifth 1 Seventh 1 Ninth 1 Eleventh 3 Thirteenth 1	Bernalillo County 3	Cibola 1 Colfax 1 Doña Ana 6 Eddy 1 Guadalupe 1 Hidalgo 1 McKinley 2 Mora 1 Rio Arriba 5 Sandoval 1 San Juan 3 San Miguel 2 Santa Fe 2 Socorro 1 Taos 5 Union 1 Valencia 3	Bernalillo 1 Bosque Farms 1 Cimarron 1 Clovis 2 Columbus 1 Dexter 1 Española 2 Gallup 2 Grants 3 Hurley 1 Las Cruces 5 Las Vegas 2 Mountainair 3 Portales 1 Roswell 3 Ruidoso Downs 1 San Jon 1 Santa Fe 6 Taos 1	Sandoval 1 Taos 5

PUBLIC CASES DISPOSED BY TERMINATION OF JUDICIAL OFFICE

In FY 2006, 10 cases concerning 4 judges were disposed after termination of judicial office. Since its inception, the Commission has disposed of 73 cases concerning 41 judges after termination of judicial office. These cases for the past ten years 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.



FY 2006 LEGISLATIVE PERFORMANCE MEASURES

The New Mexico Legislature has instituted performance-based budgeting for all departments and agencies. In FY 2006 the following performance measures were mandatory and were reported to the New Mexico Legislature (these measures will be eliminated in FY 2007):

Average Time for Complaint to Reach Disposition (in months): 4.3 months.

Efficiency measure. No target.

Average Case Duration Rate by Meeting Cycle: 2.3 meetings.

Efficiency measure. Target: 5 meetings.

Number of Complaints/Inquiries: 2,441 (2,256 telephone/in-person, 130 written/verified or JSC initiated, and 55 written/not verified).

Percentage of Complaints Requiring Research and Investigation: 95%.

The following performance measures were voluntary in FY 2006, but will be mandatory in FY 2007:

Upon knowledge of cause for emergency interim suspension, time for Commission to file petition for temporary suspension with Supreme Court (in days): 9 days.²

Efficiency measure. Target: 2 days.

Time for release of annual report to public from end of the fiscal year (in months): 10 months.

Output measure. Target: 2 months.

For cases in which formal charges are filed, average time for formal hearings to be reached (in meeting cycles): 3.4 meeting cycles.

Efficiency measure. Target: 3 meeting cycles.

Number of inquiries regarding judicial disciplinary matters: 2,441.

Explanatory Measure. No target.

Number of docketed complaints: 130.

Explanatory measure. No target.

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, 2006, the Commission has informally disposed of 244 case files.

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

² Knowledge is marked when the Commission is informed by its staff of allegations that a judge has engaged in serious misconduct or disability requiring the filing of an emergency petition with the Supreme Court. For this measure in FY06, the Commission filed petitions in six cases, but the Commission intentionally delayed the filing of petitions in two cases to allow for additional investigation and evidence gathering confirming whether the allegations could be substantiated. In the remaining cases, the Commission filed within two days in two cases, and filed within one day in two other cases.

**CAUTIONARY LETTERS
(176 cases)**

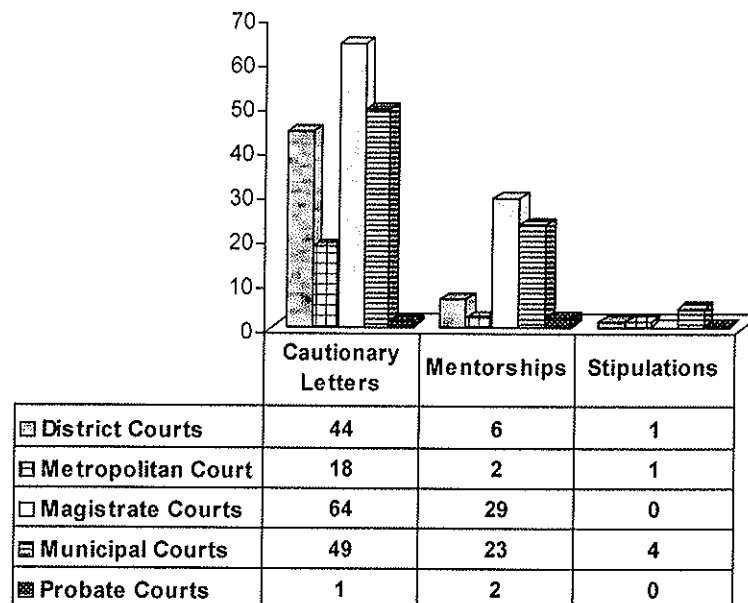
Judicial Branch Involved	Number of Case Files	Percentage of All Cautionary Letters
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	44	25%
Metropolitan Court	18	10%
Magistrate Court	64	36%
Municipal Court	49	28%
Probate Court	1	1%

**MENTORSHIPS
(62 cases)**

Judicial Branch Involved	Number of Case Files	Percentage of All Mentorships
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	6	10%
Metropolitan Court	2	3%
Magistrate Court	29	47%
Municipal Court	23	37%
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 2006, no cases were dismissed by informal stipulation. Historically, the Commission has disposed of 6 cases through informal stipulation. The following chart illustrates the historical breakdown of all informal dispositions by judicial branch.

ALL INFORMAL DISPOSITIONS (1968 - PRESENT)





PROCEEDINGS BEFORE THE COMMISSION IN FY 2006

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 that 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 2006, the Commission had cases involving 26 judges before the New Mexico Supreme Court. These cases are summarized below:

IN RE HON. FRANCES GALLEGOS³

Municipal Judge, Santa Fe

Inquiry No. 2002-080

Supreme Court Docket No. 27,906

Prior to FY 2006 and pursuant to a Plea and Stipulation Agreement with the Commission, the Commission filed a *Verified Petition for Discipline* with the Supreme Court concerning Judge Gallegos's failure to reside within city limit (a qualification to hold the judicial office). The Supreme Court issued a public reprimand and ordered the judge to reimburse the complainant

³ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

for private investigator fees and to reside within city limits while holding office as Municipal Judge.

The Commission then filed a motion to take final disposition of the case under advisement until the Commission completed proceedings concerning 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. Pursuant to a subsequent stipulation, the Supreme Court granted the motion and took final disposition of this case under advisement. Respondent later entered into a *Stipulation Agreement and Consent to Discipline* in the new matter. The Court imposed discipline (see summary for Inquiries 2003-058, 2003-089 & 2003-108 below).

In FY 2006, Judge Gallegos resigned on November 4, 2005. The Commission then abated further action on the case unless or until Judge Gallegos were to hold a judicial position in the future.

IN RE HON. WILLIAM A. VINCENT, JR.⁴

Magistrate Judge, San Juan County

Inquiry No. 2003-099

Supreme Court Docket No. 27,266

After conducting an initial inquiry into a verified complaint, the Commission filed a *Verified Petition for Temporary Suspension* with the Supreme Court on January 26, 2004. The allegations included display of inappropriate behavior after

⁴ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

declaring mistrial and recusing from a 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 a subsequent stipulation with the Commission and *Petition for Discipline upon Stipulation*, the Supreme Court ordered the judge to undergo psychological evaluation/fitness for duty evaluation and anger management counseling, to receive public censure, and to complete six months of supervised probation.

Judge Vincent successfully completed all of the disciplinary measures by August 22, 2005. The Commission subsequently notified the Supreme Court, filed the supervisor's report with the Court, and closed the matter.

IN RE HON. REUBEN GALVAN⁵
Magistrate Judge, Doña Ana County
Inquiry No. 2003-048
Supreme Court Docket No. 28,609

On April 8, 2004, Judge Galvan agreed to enter into a *Plea and Stipulation Agreement* with the Commission concerning allegations that he engaged in a clandestine relationship with a prosecutor and failed to recuse from cases where she appeared before him and then displayed improper demeanor with the prosecutor after their relationship ended. The Commission filed a *Petition for Discipline upon Stipulation* with the Supreme Court. The Court granted the petition and ordered that Judge Galvan receive the recommended discipline: 30-day suspension without pay and an in-person formal reprimand. Imposition of the suspension was suspended on conditions that the judge (1) complete six months

⁵ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

of supervised probation and (2) that his salary would be summarily suspended if the Commission initiated formal proceedings against him in any other matter.

Formal proceedings were later initiated in Inquiry No. 2004-099, which concerned criminal investigation, indictment, and proceedings on allegations of felony criminal sexual penetration and solicitation of bribery. The Supreme Court temporarily suspended the judge until formal proceedings in the new matter terminated. Upon notice and motion by the Commission, the Supreme Court also summarily suspended judge's salary in the prior case (2003-048) until the criminal matters and Commission proceedings in Inquiry No. 2004-099 terminated. Respondent had not yet completed his probationary period in 2003-048.

The judge resigned during period of temporary suspension in 2004-099. The matter nonetheless proceeded through trial before the Commission (see summary below) and permanent removal was recommended to the Supreme Court. The Court ordered that Respondent was permanently barred from judicial office in the future.

IN RE HON. REUBEN GALVAN⁶
Magistrate Judge, Doña Ana County
Inquiry No. 2004-099
Supreme Court Docket No. 28,609

Prior to FY 2006, and upon the Commission's petition, the Supreme Court temporarily suspended Judge Galvan until the Commission completed formal proceedings concerning allegations that included grand jury indictment for felony criminal sexual penetration and solicitation of bribery. After the Commission issued formal charges, the Court suspended the judge's salary pursuant to the order in Inquiry No. 2003-048 (see summary above). The judge

⁶ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

later resigned while on period of temporary suspension before the formal proceedings had been held.

The events reported below took place during FY 2006. On April 11, 2006, the Commission held formal proceedings in Inquiry No. 2004-099. After considering the testimony and evidence, the Commission found:

1. A *First Amended Notice of Formal Proceedings* was subsequently issued and filed on March 14, 2006. Respondent's unverified *Answer to the First Amended Notice of Formal Proceedings* was filed on April 6, 2006. Respondent's unverified answer made several admissions and placed other facts at issue.

a. Respondent admits speaking with Cecilia Tellez on the night of August 25, 2004 about her husband's case, *State of New Mexico v. Eligio Soto*, Cause No. M-14-VR-200400128, which was pending before his court, Doña Ana County Magistrate Court.

b. Respondent admits that on the night of August 25, 2004, he engaged in sexual contact with Cecilia Tellez in the public area of Hurricane Alley, a bar in Las Cruces, New Mexico.

c. Respondent admits that on the night of August 25, 2004, he and Cecilia Tellez had sexual intercourse in his vehicle.

d. Respondent denies all other allegations as contained in Counts I through VIII of the Commission's *First Amended Notice of Formal Proceedings*.

2. At or about 10:30 PM, on or about Wednesday, August 25, 2004, Respondent was drinking beer and other liquor with a friend of his, Gene Webster, at a bar called Hurricane Alley in Las Cruces, New Mexico.

3. There were members of the public at the bar that night.

4. Among the members of the public at the bar that night, Respondent noticed two young women in the bar.

5. Respondent approached both women and began a conversation with them. Respondent's friend Gene Webster joined them. All four of them drank alcoholic beverages over a period of 30-60 minutes.

6. The two young women were Cecilia Tellez and Joanna Contreras. Respondent knew the two women, and they knew him as a judge because he had conducted a "stand-in" or "proxy" marriage between Cecilia Tellez and Eligio Soto, with Joanna Contreras "standing-in" for Soto because he was incarcerated at the time.

7. Respondent discussed a matter pending before Doña Ana County Magistrate Court with both Ms. Tellez and Ms. Contreras involving Ms. Tellez's husband, Eligio Soto (*State of New Mexico vs. Eligio Soto*, Cause No. M-14-VR-200400128).

8. During the time they were drinking at the bar, Respondent was flirting with, and in fact engaged in sexual contact with Ms. Tellez in the public area of Hurricane Alley, including making contact with Ms. Tellez's breasts, and Ms. Tellez making contact with Respondent's penis through his pants. As a result of the contact between Respondent and Ms. Tellez, Respondent became aroused and had an erection in the public area of Hurricane Alley.

9. During this time, Respondent engaged in discussion about having sexual intercourse with Ms. Tellez in exchange for Respondent assisting in the dismissal of charges against Mr. Soto and arranging visitation for Ms. Contreras to visit her incarcerated brother.

10. Respondent and Ms. Tellez then exited Hurricane Alley to take a ride in Respondent's red Porsche.

11. At that time, Respondent got into his red Porsche and drove carelessly, recklessly, and at speeds exceeding the speed limit(s) on the public

streets of Las Cruces, NM, with Ms. Tellez in his vehicle.

12. During this ride, Respondent and Ms. Tellez continued to have sexual contact with each other, including fellatio, while Respondent was driving his red Porsche.

13. Respondent pulled into a parking lot, parked his vehicle, and in view of any passers-by, proceeded to have sexual intercourse with Ms. Tellez in the passenger seat of his red Porsche.

14. After having sexual intercourse with Respondent, Ms. Tellez became ill and threw-up behind Respondent's red Porsche while it was stopped on a public street in Las Cruces, New Mexico.

15. Respondent then drove himself and Ms. Tellez back to Hurricane Alley on the public streets of Las Cruces, New Mexico.

16. On August 27, 2004 during a police interview with Detective Myers, Respondent stated that he had ingested so much liquor and beer during the period prior to driving himself and Ms. Tellez on the public streets of Las Cruces that he blacked out and lost his memory of some of the events.

17. On August 27, 2004, Ms. Tellez and Ms. Contreras met with Respondent in his chambers. Respondent admitted to Ms. Tellez and Ms. Contreras that he was "drunker than shit" prior to driving himself and Ms. Tellez on the public streets of Las Cruces and having sexual intercourse with Ms. Tellez in the passenger seat of his red Porsche.

The Commission specifically found:

Respondent engaged in egregious conduct off the bench that damaged public confidence in his integrity, eroded public confidence in the judiciary, and undermined the credibility of the Doña Ana County Magistrate Court. A reasonable member of the public

observing the behavior of the Respondent at the Hurricane Alley bar and/or on the public streets of Las Cruces would find Respondent's behavior unacceptable and inconsistent with the dignified behavior expected of a member of the judiciary.

The Commission concluded:

As alleged in COUNT II of the Commission's *First Amended Notice of Formal Proceedings*, the Commission finds clear and convincing evidence that Respondent engaged in sexual conduct in the public area of a bar with Cecilia Tellez, whose husband had a case pending before the Doña Ana County Magistrate Court: *State of New Mexico vs. Eligio Soto*, Cause No. M-14-VR-200400128, in violation of Canons 21-100 NMRA 1995, 21-200(A) and (B) NMRA 1991, 21-300 (B)(2), (B)(7) NMRA 1995, and 21-500(A)(1)-(A)(4) NMRA 1995 of the Code of Judicial Conduct.

As alleged in COUNT IV of the Commission's *First Amended Notice of Formal Proceedings*, Respondent drove his vehicle carelessly in Las Cruces, New Mexico, including but not necessarily limited to exceeding the speed limit and engaging in sexual activity, in violation of Canons 21-100 NMRA 1995, 21-200(A) and (B) NMRA 1991, 21-300 (B)(2) NMRA 1995, and 21-500(A)(1)-(A)(4) NMRA 1995 of the Code of Judicial Conduct.

As alleged in COUNT V of the Commission's *First Amended Notice of Formal Proceedings*, Respondent engaged in sexual intercourse in his vehicle with Cecilia Tellez, whose husband had a case pending before the Doña Ana County Magistrate Court: *State of New Mexico vs. Eligio Soto*, Cause No. M-14-VR-

200400128, in violation of Canons 21-100 NMRA 1995, 21-200(A) and (B) NMRA 1991, 21-300 (B)(2), (B)(7) NMRA 1995, and 21-500(A)(1)-(A)(4) NMRA 1995 of the Code of Judicial Conduct.

The Commission found that Respondent's conduct, as to Counts II, IV, and V, was established by clear and convincing evidence and constituted willful misconduct in office.

On May 25, 2006, the Commission filed a Petition for Discipline recommending the Supreme Court impose the following discipline upon the Respondent:

Permanent bar from judicial office. Respondent Reuben Galvan is unfit to hold judicial office and shall permanently be barred from holding any judicial office in the State of New Mexico.

Assessment of costs and expenses. Within 15 days of the date of the Supreme Court's order in this matter, Respondent shall pay all of the Commission's costs and expenses incurred in this matter. The Commission shall file a cost bill with the Supreme Court. Payment shall be by certified check made payable and delivered to the Judicial Standards Commission. Respondent shall promptly file proof of all payments with the Supreme Court and the Judicial Standards Commission.

Respondent did not file a response to the *Petition for Discipline*.

On July 20, 2006, the Supreme Court ordered that Reuben Galvan be permanently barred from ever holding judicial office in the State of New Mexico. The Court further ordered that the Commission was denied its motion for costs or any other relief on the basis that Galvan had already resigned from office when the Commission conducted its hearing and that the Commission failed to prove its case by clear and convincing evidence.

IN RE HON. FRANK W. GENTRY⁷
Metropolitan Court Judge, Bernalillo County
Inquiry No. 2004-046
Supreme Court Docket No. 28,986

Prior to FY 2006 and pursuant to a *Stipulation Agreement and Consent to Discipline* between Judge Gentry and the Commission, the Commission petitioned the Supreme Court for discipline based on the judge's use of his judicial position to advance private interests, *ex parte* communication, and improper involvement in, interference with, and attempt to influence child placement in his nephew's domestic relations case. The judge received one-week suspension without pay (deferred on completion of six months of unsupervised probation and no other formal proceedings initiated against him) and a formal reprimand.

In FY 2006, Judge Gentry completed the unsupervised probation on July 13, 2005. On July 29, 2005, the Supreme Court issued the formal reprimand.

IN RE HON. JAMES D. ATCITY⁸
Magistrate Judge, San Juan County
Inquiry Nos. 2003-035, 2003-038 & 2003-057
Supreme Court Docket No. 29,076

Prior to FY 2006, the Commission issued a *Notice of Formal Proceedings* to Judge Atcity on February 9, 2005. The same day, the Commission filed a *Petition for Temporary Suspension* with the Supreme Court. In the petition, the Commission informed the Court that Judge Atcity was being formally charged on allegations that he had a hearing disability that seriously interfered with the

⁷ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

⁸ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

performance of his judicial duties and committed acts that may constitute willful misconduct in office.

On March 31, 2005, the Supreme Court denied the petition on the following conditions: (1) Judge Atcitty take paid medical leave as soon as practicable for up to 90 days to remedy medical condition, (2) Judge Atcitty report to AOC Magistrate Division and Commission concerning remediation and ability to return to job, and (3) if the judge did not seek appropriate medical remediation in a timely manner, or if medical treatment should prove unsuccessful, Commission may re-file for appropriate relief. Respondent did not begin his Court-ordered medical leave until June 20, 2005. During the paid medical leave, the only remediation that Judge Atcitty obtained was to purchase new hearing aids.

The events reported below took place during FY 2006. On September 14, 2005, the Commission received a letter from Judge Atcitty's attorney stating that the judge believed his hearing was sufficient to return to work and had his clerks schedule a docket for September 16. On September 15, 2005, the Commission filed an *Emergency Motion to Extend Medical Leave and Request for Temporary Suspension*. The grounds stated in the motion were that Judge Atcitty had not been reevaluated by the independent panel of experts whose evaluation formed the basis for the Supreme Court-ordered paid medical leave; the judge had not provided the Court, the Commission, or the AOC with a medical report from a licensed medical doctor certifying that his hearing disability had been cured and that the Judge was fit to resume his judicial duties.

On September 16, 2006, the Supreme Court issued an order extending Judge Atcitty's leave with pay until further order of the Court, requiring him to file a response to the Commission's emergency motion by September 30, 2005, and setting oral argument on the motion for October 5, 2005. On September 29, 2005, Judge Atcitty filed his response to the emergency motion with the Supreme Court. On

October 4, 2005, the Commission promptly filed a reply to the response with the Court the day after the Commission received it. The same day, Judge Atcitty underwent a second evaluation by the independent medical panel.

The Court heard oral argument from the parties on October 5, 2005. After considering the arguments and the pleadings, the Court ordered that Judge Atcitty's leave with pay be continued for six weeks ending November 18, 2005. Thereafter, Judge Atcitty would be on leave without pay until the merits of the allegations pending before the Commission were resolved. The Court ordered that Judge Atcitty shall not return to the bench until resolution was final.

On December 21, 2005, the Commission filed a *Motion for Summary Retirement* with the Supreme Court. The Court ordered Judge Atcitty to file a response to the motion by January 17, 2006. On January 4, 2006, the judge filed his response to the motion. The Court set oral argument on the motion for February 1, 2006. On January 31, 2006, the Commission filed a *Supplement to its Motion for Summary Retirement*, providing a copy of the written report of the independent medical panel concerning the follow-up evaluation that took place on October 4. After hearing the arguments of counsel on February 1, 2006, the Court denied the Commission's motion.

Because this case was not completed by the end of FY 2006, subsequent events will be reported in the Annual Report for FY 2007.

IN RE HON. FRANCES GALLEGOS⁹
Municipal Judge, Santa Fe
Inquiry Nos. 2003-058, 2003-089 & 2003-108
Supreme Court Docket No. 27,906

Prior to FY 2006 and pursuant to a *Stipulation Agreement and Consent to Discipline* between Judge

⁹ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

Gallegos and the Commission, the Commission petitioned the Supreme Court for discipline based on the following allegations: ordering defendants to attend a specific driving safety course, contrary to statute, for which the paid course instructor was her court administrator; allowing the court administrator (acting in court administrator's personal for-profit business interests) to use the property and facilities of the judge's court for the administrator's driving safety course; allowing the court administrator to teach driving safety courses for profit while administrator is employed by the court. The judge's acts occurred prior to and during time she negotiated stipulation agreement with Commission in Inquiry No. 2002-80 and when she became subject to Supreme Court's disciplinary order (see summary above).

On March 9, 2005, the Supreme Court heard oral argument from the Commission and Respondent and issued an order granting the Commission's petition and ordering that Judge Gallegos be disciplined as follows: suspended 30 days without pay (deferred on conditions: formal mentorship in judicial ethics and court administration, and complete "Ethics for Judges" course at National Judicial College on own time and at own expense). The Supreme Court approved the Commission's recommendation and appointed Judge Barbara Vigil as mentor on March 29, 2005. Judge Gallegos underwent the mentorship with Judge Vigil.

The events reported below took place during FY 2006. Due to the conduct prompting the Commission to file petitions for temporary suspension against Judge Gallegos with the Supreme Court on Friday, August 12, 2005 in Inquiry Nos. 2005-019 and 2005-076 (summaries below), the Commission filed a *Motion for Immediate Imposition of Stipulated Summary, Temporary Suspension without Pay and/or for Imposition of 30-Day Suspension without Pay* the same day concerning the present case (Inquiry Nos. 2003-058, 2003-089 & 2003-108). The motion sought imposition of the stipulated summary temporary suspension and 30-day

suspension, both without pay, based on the following arguments:

1. In consideration of Judge Gallegos' pattern of conduct that underlies the Commission's new investigations and petition for temporary suspension, the Commission determined that Respondent failed to complete successfully the formal mentorship required concerning her obligations under the Code of Judicial Conduct and concerning proper court administration.

2. Judge Gallegos failed to comply substantially with the terms of the formal mentorship, specifically by engaging in a pattern of conduct underlying the Commission's investigations in Inquiry Nos. 2005-019 and 2005-076 and the concurrent petition for temporary suspension.

Shortly after the Commission's office closed on August 12, 2005, the Commission received via fax Judge Vigil's mentorship report. The Commission filed a *Notice of Receipt of Mentorship Report* with the Supreme Court on Monday, August 15, 2005.

On August 17, 2005, the Court issued a Show Cause Order to Judge Gallegos requiring her to file a written response on or before 12:00 noon on August 23, 2005, showing cause, if she had any, why she should not be immediately temporarily suspended from her duties pending completion of the investigation and proceedings by the Commission. The show cause order further commanded Judge Gallegos to appear before the Court on August 24, 2005.

On August 23, 2005, Judge Gallegos filed her response through counsel to the Commission's petition, the motion, and the Supreme Court's show cause order.

The parties presented oral argument to the Supreme Court on August 24, 2005. At the conclusion, the Court issued an order that with respect to the present case (Inquiry No. 2003-058, 2003-089 & 2003-108), the motion was denied. However, the Court ordered the immediate temporary suspension of Judge

Gallegos concerning Inquiry No. 2005-019 for 90 days with pay effective August 29, 2005.

On October 19, 2005, Judge Gallegos's counsel filed a *Motion to Withdraw* from the case. The Supreme Court granted the motion the same day. On November 4, 2005, Judge Gallegos resigned from judicial office. The Commission abated further action on the case unless or until Judge Gallegos were to hold a judicial position in the future.

IN RE HON. SUSANA CHAPARRO¹⁰
Magistrate Judge, Doña Ana County
Inquiry No. 2003-082
Supreme Court Docket No. 27,923

During FY 2005 on February 7-9, 2005, a trial was held before the Judicial Standards Commission. Allegations included improper involvement in and interference with adjudication of a matter involving her son (*State of New Mexico vs. Michael Benavidez*, Cause No. M-14-TR-200205837), and thereby giving the appearance that she was trying to influence the outcome of her son's case and compromising the integrity, independence and impartiality of the judiciary. The Commission found that Respondent's conduct constituted willful misconduct in office and recommended a sixty-day suspension deferred on the condition that Respondent successfully complete one year of supervised probation, a formal public reprimand by the Supreme Court and assessment of the Commission's costs. The Supreme Court imposed greater discipline than recommended by the Commission and suspended Respondent without pay for two weeks, along with one year of supervised probation, a formal reprimand, and assessed \$5,000 of costs against Respondent.

On July 8, 2005, the Commission filed a recommendation with the Court for the

¹⁰ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

appointment of Hon. Judith Nakamura, Chief Judge of the Bernalillo County Metropolitan Court, as the probation supervisor. On July 12, 2005, the Supreme Court issued an order appointing Judge Nakamura as the probation supervisor, thereby beginning the one-year term of Judge Chaparro's supervised probation.

On July 21, 2005, the Commission filed a motion with the Supreme Court for the establishment of a date by which Judge Chaparro pay the \$5,000.00 reimbursement for the Commission's costs. On July 25, 2005, the Commission received Judge Chaparro's payment. On July 27, 2005, the Commission filed notice of the payment with the Court. On August 2, 2005, the Court issued an order dismissing the motion as moot.

During the time that Judge Chaparro was on supervised probation with Judge Nakamura, a Notice of Formal Proceedings was initiated against Judge Chaparro concerning a new matter, Inquiry Nos. 2004-074 & 2005-005. On March 21, 2006, Judge Chaparro tendered a letter to the Chief Justice of the Supreme Court resigning from her judicial office. Judge Chaparro subsequently entered into a stipulation agreement with the Commission on March 31, 2006, in which she agreed to never again hold, become a candidate for, or accept appointment to judicial office, among other terms. The Commission petitioned the Supreme Court on April 3, 2006 to accept the stipulation to permanent resignation and moved to dismiss without prejudice all of Judge Chaparro's disciplinary matters pending before the Court, including this inquiry (No. 2003-082). The Court granted the petition and motion on May 3, 2006. A complete summary of the other proceedings (Nos. 2004-074 & 2005-005) is provided later in this annual report.

IN RE HON. JAVIER LOZANO¹¹

Municipal Judge, Columbus

Inquiry No. 2004-067

Supreme Court Docket No. 29,264

Pursuant to a *Stipulation Agreement and Consent to Discipline* entered between Judge Lozano and the Commission, the Commission petitioned the Supreme Court to discipline Judge Lozano. The allegations included having business relationship concerning J-Loz Auction Service, which had contracted with Village of Columbus to auction impounded vehicles for 17% commission fee; receiving compensation for work with J-Loz Auction Service paid from profits of the auctions; and having jurisdiction to order the forfeiture or release of the impounded vehicles.

On July 5, 2005, the Supreme Court issued an order imposing the stipulated discipline against Judge Lozano. The Court ordered that Judge Lozano shall:

Never again maintain employment, have business relationships, or engage in other financial dealings that could be affected by proceedings that could come before him or that may reasonably be perceived to exploit Respondent's judicial position or that involve respondent in frequent transactions or continuing business relationship with persons likely to come before Judge Lozano's court;

Receive a formal reprimand from the Supreme Court, which shall be published in the *Bar Bulletin*;

Pay a \$500.00 fine on or before July 15, 2005;

Be on supervised probation with Hon. John R. Barber for the duration of Judge Lozano's current term of office, which would expire in March 2006.

¹¹ This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

On July 5, 2006, the Supreme Court also issued the written formal reprimand to Judge Lozano, which was published in the *Bar Bulletin* a few weeks later. On July 8, 2005, the Commission filed a *Notice of Payment of Fine* with the Supreme Court and forwarded Judge Lozano's check to the Court.

On April 5, 2006, the Commission received Judge Barber's written probation report. On April 12, 2006, the Commission filed a report with the Supreme Court concerning Judge Lozano's completion of the Court's disciplinary measures. The matter was then closed.

IN RE HON. WILLIAM A. MCBEE¹²

District Judge, Fifth Judicial District Court

Inquiry No. 2004-011

Supreme Court Docket No. 29,265

Pursuant to a *Stipulation Agreement and Consent to Discipline* entered between Judge McBee and the Commission in June 2005, the Commission filed a Petition for Discipline upon Stipulation with the Supreme Court. The stipulated facts included failing to recuse from criminal case, *State v. Busch*, CR-2002-378, after personally and verbally acknowledging that he should recuse because he could not be impartial in the adjudication and because his impartiality had been compromised because of his personal relationship with the defendant's attorney/boyfriend who Ms. Busch subsequently married.

During oral argument before the Supreme Court, disputes arose regarding the findings of fact and conclusions of law issued by the Respondent. Consequently, upon request of the Commission's general counsel, the Court remanded the matter to the Commission for further proceedings.

¹² This case was not completed by the end of reporting period for the Commission's FY 2005 Annual Report. This summary contains events that occurred during FY 2006.

On remand, the Commission's general counsel, who served as the Examiner to prosecute the disciplinary charges against Respondent, filed a *Motion for Order to Show Cause* why Respondent should not be held in contempt of the Commission for his alleged intentional misrepresentation of material facts during the hearing before the Supreme Court. The Commission amended its *Notice of Formal Proceedings* against Respondent to add a second count alleging violation of Commission rules and the Code of Judicial Conduct based on the same conduct at issue in the contempt motion.

While the contempt proceedings were pending, the Commission filed a *Second Petition for Discipline upon Stipulation* with the Supreme Court, which included findings of fact and conclusions of law based on a second stipulation agreement and consent to discipline between the Commission and Respondent. Following a second hearing before the Supreme Court, the Court granted the stipulated petition and ordered the stipulated discipline against Respondent. The Court ordered that Respondent receive a public reprimand, which the Court issued as a formal opinion: *In the Matter of Hon. William A. McBee*, 2006-NMSC-024.

In its opinion, the Court noted that Respondent's conduct violated several provisions of the Code of Judicial Conduct and constituted willful misconduct in office. The Court noted that "at every turn, the choices Respondent made with regard to Ms. Busch's case were in conflict with his obligations under the Code of Judicial Conduct." *Id.*, ¶ 12. In fact, the Court stated that Respondent's unwillingness to acknowledge the appearance of personal bias in favor of Ms. Busch and his failure to take action to eliminate any appearance of impropriety arising from his participation in Ms. Bush's case was at the center of this case. The Court found that by failing to step aside even though he knew he should, Respondent's conduct breached several fundamental ethical duties that every judge is

obligated to uphold under the Code of Judicial Conduct.

The Court agreed that the stipulated disciplinary measures for Respondent's violations of the Code of Judicial Conduct were appropriate. Accordingly, Respondent was disciplined as follows:

Respondent shall receive a public reprimand, which shall be published in the *Bar Bulletin*;

Respondent shall recuse from the matter of *State v. Tami Busch*, CR-2002-378, as well as any additional current or future matters involving Ms. Busch, and all matters coming before Respondent in which attorney Max Proctor is a party or serves as counsel;

Respondent shall disclose to all parties appearing before him in matters in which attorney C. Barry Crutchfield appears as either a party or counsel to a party, all instances in which Mr. Crutchfield represented Respondent;

Respondent shall abide by all terms and conditions of the second stipulation and consent to discipline as well as the Code of Judicial Conduct;

Respondent shall pay a \$1000.00 fine to a non-profit drug treatment organization or affiliated state agency upon approval by the Supreme Court of the intended recipient;

Respondent shall pay \$2,500.00 in cost reimbursement to the Commission on November 30, 2005;

Respondent shall be suspended for seven days without pay on February 2, 2006, in consultation with the Human Resources Division of the Administrative Office of the Courts;

Respondent shall be suspended for an additional thirty days without pay, which shall be deferred for a period of one year and

which shall be dismissed upon successful completion of a twelve-month probationary period during which he shall have a mentor who shall monitor Respondent's docket and provide periodic reports to the Commission. Upon successful completion of probation, the mentor shall certify to the Commission that Respondent has completed his probation. The thirty day suspension shall be imposed only by this Court by order following notice and opportunity to be heard;

Respondent shall be held in contempt of the Commission should he fail to comply with any one of the conditions and terms contained in the formal reprimand and opinion, the second stipulation agreement and consent to discipline, or the amended order of discipline entered by the Court on November 2, 2005.

After considering the pleadings and the transcript of the oral argument before the New Mexico Supreme Court on August 17, 2005, the Commission ultimately denied the Examiner's *Motion for Order to Show Cause*.

This case was ongoing at the end FY 2006. Subsequent events will be reported in the Commission's Annual Report for FY 2007.

IN RE HON. ERMINIO MARTINEZ
Magistrate Judge, Taos County
Inquiry No. 2005-024
Supreme Court Case No. 29,309

The Commission issued a *Notice of Preliminary Investigation* and a *Notice of Intent to File a Petition for Injunction in the New Mexico Supreme Court*, confirming that Respondent was no longer serving as Taos County Magistrate Judge while also serving as the Tribal Judge for Taos Pueblo on March 16, 2005. Respondent filed an answer on March 21, 2005 stating that he agreed to serve as a pro-tem judge for the Tribal Court for Taos Pueblo on a limited basis. On May 31, 2005,

Respondent filed a *Motion to Resolve* the pending matter. The parties entered into stipulated findings of fact and conclusions of law and consent to discipline on June 28, 2005. The Commission's findings of fact and conclusions of law are summarized as follows:

During the months of January, February, and March of 2005, while employed as a full-time magistrate for Taos County New Mexico, and while receiving a salary from the State of New Mexico as a full-time magistrate for Taos County, Respondent served as Tribal Judge Pro Tempore for Taos Pueblo Tribal Court. Respondent negotiated and agreed to accept and received \$30.00 per hour to serve as Tribal Judge Pro Tempore for Taos Pueblo Tribal Court during hours in which Respondent was being paid by the State of New Mexico to serve as Taos County Magistrate Judge. At a minimum, Respondent was paid \$840.00 for 28 hours (3.5 days) of services rendered to Taos Pueblo as Tribal Court Judge Pro Tempore at times when he was being paid by the State of New Mexico to serve as Taos County Magistrate Court Judge.

The agreement further stipulated that Judge Martinez's conduct, as set forth in the *Findings of Fact* and the *Stipulation Agreement and Consent to Discipline*, constituted willful misconduct and violated the following Canons of the Code of Judicial Conduct: 21-100, 21-200(A), 21-500(H) and 21-500(I) NMRA 1995 of the Code of Judicial Conduct and constituted willful misconduct in office.

On June 28, 2005, the Commission filed a *Petition for Discipline upon Stipulation*, requesting approval of the stipulation agreement and imposition of the agreed disciplinary measures against Judge Martinez. On August 9, 2005, the Supreme Court granted the Commission's disciplinary petition and imposed the following substantive disciplinary measures against Judge Martinez:

Respondent shall receive a formal reprimand, which shall be published in the *Bar Bulletin*.

Respondent shall pay an \$850.00 fine on or before August 24, 2005.

Respondent shall be placed on a 3.5 day suspension without pay to be scheduled and arranged with the Administrative Office of the Courts as soon as practicable.

On August 22, 2005, the Commission filed a *Notice of Payment of Fine* with the Supreme Court. The formal reprimand was published in the October 31, 2005 issue of the *Bar Bulletin*.

IN RE HON. CHARLES R. BARNHART
Municipal Court Judge, Santa Fe
Inquiry Nos. 2004-126 & 2005-059
Supreme Court Docket No. 29,379

The Commission issued a *Notice of Preliminary Investigation* in Inquiry No. 2004-126 to Judge Charles R. Barnhart on January 10, 2005. Judge Barnhart filed his response on January 26, 2005. The Commission issued formal charges against Judge Barnhart by a *Notice of Formal Proceedings* on March 15, 2005. Judge Barnhart filed his response to the charges on March 24, 2005. The Commission issued a *Notice of Preliminary Investigation* in Inquiry No. 2005-059 to Judge Barnhart on June 28, 2005.

On July 26, 2005, Judge Barnhart agreed to enter into a *Stipulation Agreement and Consent to Discipline* with the Commission concerning both pending inquiries. In the agreement, Judge Barnhart made factual and legal admissions and consented to receive formal discipline from the Supreme Court. The Commission accepted and filed the agreement, and filed findings and conclusions, and a disciplinary recommendation on July 28, 2005.

On July 29, 2005, the Commission filed a *Petition for Discipline upon Stipulation* with the Supreme Court. In the petition, the Commission provided the following summary of allegations to which Judge Barnhart admitted:

A. Respondent systematically violated Bernalillo County Metropolitan Courthouse security policies and when reported by a security officer, threatened that officer's job, and systematically harassed and challenged Courthouse security personnel about established security procedures.

B. Respondent engaged in a pattern of hostile behavior towards Court security officers and employees, and routinely used offensive language towards security officers and court employees.

C. Respondent engaged in abusive behavior to Court employees tossed objects at court employees, yelled, pounded his fist on a desk, and asserted that only he could communicate with his Trial Court Administrative Assistant (TCAA) on matters pertaining to court business.

D. Respondent disregarded court policy on how traffic arraignments were to be handled, violated court rules, and agreements with his colleagues on the Court, and in so doing, caused an increased workload for all of his colleagues on the bench.

E. Respondent permitted his TCAA to behave in an unprofessional manner, and condoned and assisted her in violating court policies. Respondent failed to prohibit his TCAA from routinely being rude to court employees and incessantly complaining about the Chief Judge, the Presiding Criminal Judge, Court Administration, and court policies.

F. Respondent made inappropriate comments manifesting a gender bias during a domestic violence arraignment.

G. Respondent willfully and knowingly disregarded state law and Metropolitan Court policy by waiving *a priori* supervised probation costs for all criminal cases where supervised probation costs are statutorily imposed.

H. Respondent engaged in a pattern and practice of improperly disqualifying himself from

traffic cases to avoid additional work for himself and his TCAA.

I. During the pendency of this inquiry before the Judicial Standards Commission, Respondent failed to adhere to almost all provisions of the Commission Orders and directives, failed to appear for duly notice hearings, and failed to appear for his own deposition pursuant to a duly served and noticed deposition subpoena.

In the stipulation agreement, Judge Barnhart further admitted that his conduct violated numerous specified Canons of the Code of Judicial Conduct and constituted willful misconduct in office. In the petition, the Commission stated that Respondent's conduct, as set forth in the Findings of Fact and the *Stipulation Agreement and Consent to Discipline*, constituted obstruction of Commission business, violated Rules 4(D) and 4(E) of the Rules of the Judicial Standards Commission constituting contempt, and violated the following Canons of the Code of Judicial Conduct: Canons 21-100 and 21-200(A) NMRA 1995, and 21-300(A), 21-300(B)(1), 21-300(B)(2), 21-300(B)(3), 21-300(B)(4), and 21-300(B)(5) NMRA 2004, and 21-300(C)(1) NMRA 2004 of the Code of Judicial Conduct. The Commission further stated that Judge Barnhart's conduct constituted willful misconduct in office, which was manifest prior to and throughout the proceedings before the Commission.

The Commission recommended that the Supreme Court impose formal discipline upon Judge Barnhart, as consented in the *Stipulation Agreement and Consent to Discipline*. The recommended substantive discipline was the following:

Respondent shall submit his letter of retirement from office to the New Mexico Supreme Court, with copy to the Judicial Standards Commission, with an effective date no more than thirty (30) days from the filing of a Supreme Court Order or

Reprimand in this matter, whichever is filed first, and shall never again hold judicial office, whether by election or appointment, which shall include never serving as judge *pro tempore*.

Respondent shall pay \$1,000.00 fine within fifteen (15) days of issuance of a Supreme Court Order or Reprimand in this matter.

Respondent shall receive a formal reprimand from the Supreme Court, which will be published in the *Bar Bulletin* at the Supreme Court's discretion.

The petition also included Judge Barnhart's request that the Supreme Court schedule oral argument on whether the formal reprimand should be published in the *Bar Bulletin*.

On August 8, 2005, the Supreme Court ordered Judge Barnhart file a response to the Commission's petition by August 18, 2005. The Court also scheduled oral argument on August 29, 2005. Judge Barnhart timely filed his response with the Court, which argued why his formal reprimand should not be published in the *Bar Bulletin*. Judge Barnhart also filed a motion to vacate and reset the oral argument. On August 23, 2005, the Supreme Court issued an order resetting the oral argument for September 7, 2005. The order further stated that the parties agreed that the Court will enter its order approving the petition on August 31, 2005, reserving only the issue of publication for oral argument.

The Supreme Court issued the order imposing the stipulated discipline on August 31, 2005. On September 2, 2005, the Commission filed a reply to Judge Barnhart's response to the Commission's petition concerning the publication issue.

The Supreme Court heard oral argument as scheduled. On September 8, 2005, the Court issued an order stating that Judge Barnhart's formal reprimand will be published in the *Bar*

Bulletin. The order further opined that the Commission's press release, considering the timing and manner of its premature release, was inconsistent with the Commission having negotiated with Judge Barnhart to preserve his right to request that the Court not publish the reprimand in the *Bar Bulletin*. The Court ordered that this opinion would be included in the reprimand.

On September 15, 2005, Judge Barnhart paid the \$1,000.00 fine. The Commission filed notice of payment with the Supreme Court on September 20, 2005. On September 29, 2005, Judge Barnhart rendered his letter of resignation effective the following day. The Commission filed notice of the resignation with the Supreme Court on September 29, 2005. On October 19, 2005, the Supreme Court issued its formal reprimand to Judge Barnhart, which was later published in the *Bar Bulletin*.

IN RE HON. FRANCES GALLEGOS
Municipal Court Judge, Santa Fe
Inquiry Nos. 2005-019
Supreme Court Docket No. 27,906

The Commission issued a *Notice of Preliminary Investigation* to Judge Frances Gallegos on August 12, 2005. The same day, the Commission filed a *Verified Petition for Temporary Suspension* with the Supreme Court.¹³ In the petition, the Commission informed the Court that Judge Gallegos was being formally investigated on allegations that she had done the following:

1. Respondent failed to conduct proper, constitutional arraignments for *pro se* defendants concerning criminal charges and/or probation violation charges. She informed *pro se* defendants

¹³ Also on August 12, 2005, the Commission filed another *Petition for Temporary Suspension* with the Supreme Court against Judge Gallegos in Inquiry No. 2005-019 and a *Motion for Imposition of Stipulated Summary Temporary Suspension without Pay* in Inquiry Nos. 2003-058, 2003-089 & 2003-108 (see summaries reported separately above).

that they could enter "guilty" or "no contest" pleas, but failed to advise them that they had a third plea option of "not guilty." After conducting the flawed arraignments, she summarily sentenced the *pro se* defendants. In addition to the complainant, Respondent's conduct was witnessed by three other licensed attorneys.

2. On or about August 18, 2004, Respondent failed to lawfully arraign and conducted a summary trial against a *pro se* defendant in the matter of *City of Santa Fe v. Elizabeth M. Sorsabal*, Santa Fe Municipal Court Cause No. L-201-RV2003-000143. Respondent failed to arraign the *pro se* defendant properly, ignored the defendant's request for an attorney, denied the defendant an opportunity to present evidence in defense of the alleged failure to appear charge, improperly entered a guilty plea on the failure to appear charge, and summarily found the defendant guilty and sentenced her to 20 days incarceration (with 5 days then credited for time served).

3. Respondent implemented an established policy of sentencing all DWI offenders to a specific 6-month aftercare program at Millennium Treatment Services ("MTS"), regardless of the results of the defendants' DWI screening and contrary to NMSA 1978, § 66-10-11.

4. On or about January 23, 2004, Respondent improperly and concurrently conducted a summary trial against a *pro se* defendant in the following matters: *City of Santa Fe vs. Kristi Seibold*, Santa Fe Municipal Court Cause No. L-201-AN-2003000131 (filed April 29, 2003, charges of Dog Running at Large-6th, No License, and No Vaccinations) and *City of Santa Fe vs. Kristi Seibold*, Santa Fe Municipal Court Cause No. L-201-AN-2003000349 (filed November 26, 2003, charge of Dangerous Animal). Respondent summarily found her guilty for failure to comply and for contempt of court for a previously adjudicated criminal complaint of the same nature. However,

Respondent's jurisdiction expired over the prior case. Respondent failed to arraign the defendant on the failure to comply/contempt charge, failed to set a hearing upon reasonable notice, failed to provide the defendant with a reasonable opportunity to defend herself on the charge, and failed to appoint an attorney to her.

The Commission certified to the Supreme Court that Respondent's immediate temporary suspension from judicial office was necessary pending completion of the Commission's proceedings against her.

On August 17, 2005, the Court issued a Show Cause Order to Judge Gallegos, requiring her to file a written response on or before 12:00 noon on August 23, 2005, showing cause, if she had any, why she should not be immediately temporarily suspended from her duties pending completion of the investigation and proceedings by the Commission. The show cause order further commanded Judge Gallegos to appear before the Court on August 24, 2005.

On August 23, 2005, Judge Gallegos filed her response through counsel to the Commission's petition and the Supreme Court's show cause order. The parties presented oral argument to the Supreme Court on August 24, 2005. At the conclusion, the Court issued an order that with respect to the present case (Inquiry No. 2005-019), Judge Gallegos would be temporarily suspended for 90 days with pay effective August 29, 2005. The same order also provided that the Commission's petition for immediate temporary suspension concerning another inquiry (Inquiry No. 2005-076) would be held by the Court in abeyance.

On September 1, 2005, the Commission issued formal charges against Judge Gallegos by a Notice of Formal Proceedings. The matter was set for a trial on the merits before the Commission on November 14, 2005.

On October 19, 2005, Judge Gallegos's counsel filed a Motion to Withdraw from the case, which the Supreme Court granted that afternoon. The

following day, Judge Gallegos filed a petition with the Supreme Court requesting a continuance of the proceedings, a 30-day extension of her Court-ordered suspension with pay, and the provision of an attorney to represent her. On October 21, 2005, the Commission filed a response in opposition to Judge Gallegos's petition. On October 26, 2005, the Supreme Court issued an order denying Judge Gallegos's petition.

On November 4, 2005, Judge Gallegos resigned from judicial office. On November 14, 2005, the Commission held the trial on the merits as scheduled. Judge Gallegos was subpoenaed to appear, but failed to do so. The trial proceeded pursuant to Rule 23 and Rule 38 of the Judicial Standards Commission Rules. The Examiners moved to have all alleged facts and Code of Judicial Conduct violations deemed admitted based on the Judge's failure to appear at the hearing, pursuant to Rule 23(C), which was granted. The Examiners then made an offer of proof with respect to the relevant witnesses and the admitted evidence.

After considering the pleadings, offer of proof, admitted evidence, Examiners' arguments, and the applicable law, the Commission made findings of fact and conclusions of law. On November 22, 2005, the Commission filed a Petition for Discipline with the Supreme Court, recommending that Judge Gallegos be permanently removed from judicial office, be assessed the Commission's costs and expenses incurred in this matter, be fined \$5,000.00, and be publicly reprimanded by the Court.

The Commission filed the record of the formal proceedings with the Court on November 29, 2005. The same day, the Supreme Court issued an order on its own motion sealing the record proper, transcript of proceedings, and exhibits. On November 30, 2005, the Supreme Court issued an order denying the Commission's petition for discipline and ordering that the sealed record proper, transcript of proceedings, and exhibits be returned to the Commission and that they remain confidential.

IN RE HON. FRANCES GALLEGOS
Municipal Court Judge, Santa Fe
Inquiry Nos. 2005-076
Supreme Court Docket No. 27,906

The Commission issued a Notice of Preliminary Investigation to Judge Frances Gallegos on August 12, 2005. The same day, the Commission filed a Verified Petition for Temporary Suspension with the Supreme Court.¹⁴ In the petition, the Commission informed the Court that Judge Gallegos was being formally investigated on allegations that she had done the following:

1. Respondent failed to properly prepare and forward to the Department of Motor Vehicles accurate and complete abstracts of the record for traffic complaints, uniform traffic citations, and other forms of traffic charges adjudicated in the City of Santa Fe Municipal Court in violation of §66-8-135, NMSA. When this failure to completely and accurately report the abstracts became public, Respondent attributed the failure to “clerical errors” and commenced an effort to amend all DWI matters she adjudicated in an attempt to falsely enhance her standing with the public. Respondent improperly and illegally amended those abstracts by imposing greater sentences than was contained on the judgment and sentence orders, and that all such amendments were not clerical in nature, but instead were substantive sentencing modifications.

2. Respondent failed to maintain professional competence in judicial administration by failing to satisfy her legal and judicial obligations to properly prepare and forward to the Department of Motor Vehicles accurate and complete abstracts of the record for

¹⁴ Also on August 12, 2005, the Commission filed another *Petition for Temporary Suspension* with the Supreme Court against Judge Gallegos in Inquiry No. 2005-019 and a *Motion for Imposition of Stipulated Summary Temporary Suspension without Pay* in Inquiry Nos. 2003-058, 2003-089 & 2003-108 (see summaries reported separately above).

traffic complaints, uniform traffic citations, and other forms of traffic charges adjudicated in the City of Santa Fe Municipal Court in violation of §66-8-135, Record of Traffic Cases, NMSA, since 1996.

3. Respondent failed to inform and require her staff, court officials, and others subject to her direction and control, to observe the standards of fidelity and diligence that apply to Respondent in the performance of her legal and judicial duties. Respondent failed to properly inform, train, supervise, manage, and direct her staff, court officials, and others subject to her direction and control, to properly prepare and forward to the Department of Motor Vehicles accurate and complete abstracts of the record for traffic complaints, uniform traffic citations, and other forms of traffic charges adjudicated in the City of Santa Fe Municipal Court in violation of §66-8-135, Record of Traffic Cases, NMSA, since 1996. In so doing, Respondent failed to satisfy her legal and judicial duties.

The Commission certified to the Supreme Court that Respondent’s immediate temporary suspension from judicial office was necessary pending completion of the Commission’s proceedings against her.

On August 17, 2005, the Court issued a *Show Cause Order* to Judge Gallegos requiring her to file a written response on or before 12:00 noon on August 23, 2005, showing cause, if she had any, why she should not be immediately temporarily suspended from her duties pending completion of the investigation and proceedings by the Commission. The show cause order further commanded Judge Gallegos to appear before the Court on August 24, 2005.

On August 23, 2005, Judge Gallegos filed her response through counsel to the Commission’s petition and the Supreme Court’s show cause order. The same day, the Commission filed a supplement to its temporary suspension petition.

The parties presented oral argument to the Supreme Court on August 24, 2005. At the

conclusion, the Court issued an order that with respect to the present case (Inquiry No. 2005-076), the petition for suspension would be held by the Court in abeyance. However, the same order did impose the immediate temporary suspension of Judge Gallegos in another inquiry for 90 days with pay effective August 29, 2005.

On October 19, 2005, Judge Gallegos's counsel filed a *Motion to Withdraw* from the case. The Supreme Court granted the motion the same day. On November 4, 2005, Judge Gallegos resigned from judicial office. The Commission later abated further action on the case unless or until Judge Gallegos were to hold a judicial position in the future.

IN RE HON. HECTOR PINEDA
Municipal Court Judge, Roswell
Inquiry Nos. 2005-025
Supreme Court Docket No. 29,479

The Commission issued a *Notice of Preliminary Investigation* to Judge Hector Pineda on May 17, 2005. The allegations concerned improper demeanor and summary determination of a criminal defendant's guilt and sentencing during the prosecutor's opening statement. The judge filed his response on May 24, 2005. On June 9, 2005, the Commission issued formal charges against Judge Pineda by a *Notice of Formal Proceedings*. The judge filed his response to the charges on July 14, 2005.

On September 13, 2005, Judge Pineda agreed to enter into a *Stipulation Agreement and Consent to Discipline*. In the agreement, Judge Pineda admitted the following:

On March 15, 2005, Respondent displayed improper demeanor towards a *pro se* defendant in the matter of *City of Roswell v. John Herrera*, Cause No. 2005-702. Respondent failed to maintain order and decorum in a judicial proceeding and failed to be patient, dignified and courteous to the *pro se* defendant.

During a bench trial, Respondent became agitated with and yelled at John Herrera. While yelling at Mr. Herrera, Respondent stood up from his chair and hit his gavel on his bench so hard that it caused debris, including but not necessary limited to paper clips, to scatter across the room. Mr. Herrera and the prosecuting Police Officer reported that the debris and/or paper clips struck them. Judge Pineda reported that he did not see the debris scatter or strike the men.

Respondent's conduct violates the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) NMRA 1995; and 21-300(B)(2), (B)(3) and (B)(4) NMRA 2004.

Respondent's conduct constitutes willful misconduct in office.

Judge Pineda asserted that Mr. Herrera was not following his verbal directives from the bench concerning the procedure for cross-examining the prosecuting officer. Respondent further asserted that Mr. Herrera told Respondent to find him guilty, that Respondent was unreasonable, and that he (Mr. Herrera) would appeal Respondent's ruling.

Judge Pineda consented to accept the following substantive discipline from the Supreme Court: formal reprimand; \$500.00 fine; formal mentorship in judicial demeanor, temperament, and responsibilities under the Code of Judicial Conduct; and 6-month supervised probation.

The Commission conducted a formal presentment hearing on October 3, 2005, in which all matters contained in and relevant to the stipulation agreement and consent to discipline were formally placed on record. At the conclusion, the Commission adopted and entered into the agreement.

On October 4, 2005, the Commission entered *Findings of Fact, Conclusions of Law, and Recommendation for Discipline* consistent with the agreement. The Commission also filed a *Petition*

for *Discipline upon Stipulation* with the Supreme Court the same day. On October 5, 2005, the Commission filed the formal record of the stipulation presentment proceedings with the Court.

On October 14, 2005, the Supreme Court issued an order imposing the discipline that Judge Pineda stipulated to receive. Specifically, the Court ordered:

Formal reprimand to be published in the *Bar Bulletin*;

\$500.00 fine to be paid on or before October 31, 2005;

Formal mentorship (remedial training) concerning obligations and responsibilities under the Code of Judicial Conduct and concerning proper judicial demeanor and temperament; and

Supervised probation for six months.

The Court further ordered that if the Commission initiated formal proceedings against Judge Pineda in any new matter, he shall be summarily temporarily suspended without pay until the new formal proceedings are terminated by the Commission.

On November 7, 2005, the Commission filed a notice with the Court that Judge Pineda had timely paid his fine. The payment was concurrently forwarded to the Supreme Court. On November 10, 2005, the Commission filed a recommendation with the Supreme Court that Hon. David W. Bonem, retired District Judge, serve as the mentor and probation supervisor. On November 29, 2005, the Supreme Court issued the written formal reprimand to Judge Pineda, which was published in the *Bar Bulletin* at a later date. On December 13, 2005, Judge Bonem was appointed as Judge Pineda's mentor and probation supervisor.

This case was ongoing at the end FY 2006. Subsequent events will be reported in the Commission's Annual Report for FY 2007.

IN RE HON. MELISSA MILLER-BYRNES
Municipal Court Judge, Las Cruces
Inquiry Nos. 2004-072 & 2004-077
Supreme Court Docket No. 28,716

consolidated with

IN RE HON. JAMES A. LOCATELLI
Municipal Court Judge, Las Cruces
Inquiry Nos. 2004-073 & 2004-081
Supreme Court Docket No. 29,508

The Commission issued a *Notice of Formal Proceedings* to Respondent Miller-Byrnes on March 1, 2005. Respondent Miller-Byrnes filed her response to the *Notice of Formal Proceedings* on April 4, 2005.

The Commission issued a *Notice of Formal Proceedings* to Respondent Locatelli on March 1, 2005. Respondent Locatelli filed his response to the *Notice of Formal Proceedings* on April 5, 2005.

A *Stipulated Order of Joinder* consolidating the inquiries concerning Respondents Miller-Byrnes and Locatelli was issued on May 5, 2005. Thereafter, these matters proceeded together. The cases involved the nature and character of published statements made by sitting judges and whether their conduct violated the New Mexico Code of Judicial Conduct.

A *Motion to Dismiss Formal Proceedings* was filed on July 12, 2005, raising a number of challenges to the violations alleged in the *Notice of Formal Proceedings*, including protections based on the First Amendment to the Constitution. The *Examiners' Response in Opposition to Respondents' Motion to Dismiss Formal Proceedings* was filed on July 27, 2006. The Respondents filed a *Reply Brief in Support of Motion to Dismiss Formal Proceedings* on August 3, 2006. The Commission denied the *Motion to Dismiss*.

A trial was held before the Commission on October 3 and 4, 2005. The Commission's findings of fact and conclusions of law are summarized as follows:

1. Respondent, Hon. Miller-Byrnes, was elected Municipal Judge of the City of Las Cruces, New Mexico in 1999 and was re-elected in 2003. Respondent Miller-Byrnes is the Presiding Judge of the Las Cruces Municipal Court.

2. Respondent, Hon. James Locatelli, was elected Municipal Judge of the City of Las Cruces, New Mexico in 2001 and is currently up for election in November 2005.

3. The Judicial Standards Commission has jurisdiction over the Respondents and the subject matter thereof.

4. The *Notices of Formal Proceedings* were issued and filed on March 1, 2005.

5. Respondent Miller-Byrnes' *Answer to Notice of Formal Proceedings* was filed on April 4, 2005. The response put each count at issue.

6. Respondent Locatelli's *Answer to Amended Notice of Formal Proceedings* was filed on April 5, 2005. The response put each count at issue.

7. The parties stipulated to joinder of Inquiries 2004-072 and 2004-077 with 2004-073 and 2004-081. The Respondents and the above style cause numbers were consolidated for trial and pretrial proceedings by a *Stipulated Order of Joinder* on May 5, 2005.

8. As Municipal Court Judges in the State of New Mexico, Respondents are subject to, and their conduct on and off the bench is governed by, the New Mexico Code of Judicial Conduct, Rules 21-001 *et seq.*, NMRA.

9. On June 12, 2004, the *Las Cruces Sun News* published a story entitled "Rubio and Romero answer allegations." In that article,

Judge Miller-Byrnes made improper public comments about Assistant City Attorney Richard Jacquez, who regularly appears in her court, and Las Cruces City Manager Jim Ericson. Judge Miller-Byrnes stated: "There is a big difference between the way (Assistant City Attorney) Richard Jacquez conducts himself in City Hall and in my court. He is a smart ass; a smart aleck (in my court) who has interfered with the administration of justice." Additionally, Judge Miller-Byrnes is attributed with the following quote regarding City Manager Ericson in the June 12, 2004 article: "This is the result of Ericson's management style. This town could use a new city manager."

10. Respondent Locatelli wrote a letter for publication to the editor of the *Las Cruces Sun-News*. Respondent Locatelli's memorandum was published in the newspaper on June 29, 2004. Respondent Locatelli's letter contained improper accusations of mismanagement in and misconduct of the Las Cruces Police Department and City Attorney's Office as set forth in the May 25, June 9, and June 16, 2004 joint memorandums. Additionally, Judge Locatelli's letter to the editor stated, "We [Respondents Judge Locatelli and Judge Miller-Byrnes] are tired of seeing intoxicated drivers and other offenders go free because the prosecution is not doing its job." The letter also stated "Neither the city attorney, the police chief, nor city manager have responded constructively to the problems but have instead indulged in childish well you make mistakes too rationalization."

11. Based on the totality of the circumstances, and by their comments to the media and others, the Commission found that the Respondents engaged in conduct and/or language calculated to erode public confidence.

12. All findings were established by clear and convincing evidence as required by Rule 30.A of the Rules of the Judicial Standards Commission.

Based on these findings, the Commission concluded that Respondents Judge Miller-Byrnes and Judge Locatelli had violated several

provisions of the New Mexico Code of Judicial Conduct.

For Judge Miller-Byrnes, the Commission concluded:

As to Counts VI & VII, Respondent Miller-Byrnes engaged in conduct or language calculated to erode public confidence, and compromised the integrity, independence, and impartiality of the judiciary. In so doing, Respondent Miller-Byrnes violated Canons 21-100 NMRA 1995, 21-200(A) NMRA 1991, 21-300(B)(4) and 21-300(B)(10) NMRA 1991 of the Code of Judicial Conduct.

For Judge Locatelli, the Commission concluded:

As to Count IV, Respondent Locatelli engaged in conduct or language calculated to erode public confidence, and compromised the integrity, independence, and impartiality of the judiciary. In so doing, Respondent Locatelli violated Canons 21-100 NMRA 1995, 21-200(A) NMRA 1991, 21-300 (B)(10) NMRA 1991 of the Code of Judicial Conduct.

As to both judges, the Commission further found:

Respondents' conduct was established by clear and convincing evidence and constituted willful misconduct in office.

Respondents' public memorandums and media comments posed a serious and imminent threat to the public's confidence in the integrity and impartiality of the judiciary and are therefore subject to judicial discipline.

Judicial discipline for injudicious speech is constitutional.

On October 27, 2005, the Commission filed a *Petition for Discipline* recommending that the

Supreme Court impose the following discipline upon the Respondents:

FOR RESPONDENT JUDGE MILLER-BYRNES

Formal public reprimand by the Supreme Court.

Thirty-day suspension without pay.

Assessment of 25% of costs and expenses incurred by the Commission in the prosecution of this matter.

FOR RESPONDENT JUDGE LOCATELLI

Formal public reprimand by the Supreme Court.

Fine of \$500.00.

Assessment of 25% of costs and expenses incurred by the Commission in the prosecution of this matter.

One-Year Formal Mentorship.

Respondents filed a response to the *Petition for Discipline* on November 21, 2005. Respondents additionally filed an *Unopposed Motion for Permission to File a Brief with the Supreme Court* on November 9, 2005. The American Civil Liberties Union of New Mexico also filed a *Motion for Leave to File Brief as Amicus Curiae* on November 9, 2005. On November 16, 2005, the Supreme Court granted both motions. Respondents filed their brief on December 14, 2005, and the ACLU filed their brief on December 15, 2005. Respondents argued that their actions did not violate the Code of Judicial Conduct and that their actions were protected by the First Amendment to the United States Constitution. The ACLU argued that the New Mexico Constitution affords greater protection for free speech than the First Amendment to the United States Constitution, and thereby Respondents speech was protected. The Commission's response was filed on January 18, 2006, arguing

that Respondents' speech in this case falls outside of the First Amendment protections afforded the average citizen, as judges are held to a higher standard of conduct.

After reviewing the record of the proceedings before the Commission, after reviewing the Commission's *Petition for Discipline* and the Respondents' response to the petition, and after hearing arguments by the parties, the Supreme Court ordered the following:

FOR RESPONDENT MILLER-BYRNES

Respondent's verbal remarks to a reporter were inconsistent with the Code of Judicial Conduct Rule 21-300(B)(4) NMRA, requiring that a judge be "patient, dignified and courteous" towards litigants, lawyers, and others when acting in an official capacity;

This order shall be made part of Respondent's permanent records including her record with the Judicial Standards Commission.

No further discipline was ordered for Judge Miller-Byrnes. The order as to Respondent Miller-Byrnes was issued on February 2, 2006.

FOR RESPONDENT LOCATELLI

The *Petition for Discipline* was dismissed;

All requested relief was denied for failure of the Judicial Standards Commission to prove willful misconduct by clear and convincing evidence.

The order as to Respondent Locatelli was issued on February 2, 2006.

IN RE HON. FLORENCIO "LARRY" RAMIREZ¹⁵
District Judge, Third Judicial District
Inquiry Nos. 2004-097 & 2005-009
Supreme Court Case No. 29,552

The Commission issued a *Notice of Preliminary Investigation* to Respondent Judge Florencio "Larry" Ramirez, on January 12, 2005. On January 26, 2005, Respondent filed his response to the *Notice of Preliminary Investigation*. On May 17, 2005, the Commission issued a *Notice of Formal Proceedings* to Respondent. Respondent filed his response to the *Notice of Formal Proceedings* on June 2, 2005.

On November 14, 2005, the Commission conducted a presentment hearing placing on record all matters contained in and related to the stipulation agreement that was negotiated by Examiner and Respondent's counsel. After the conclusion of the hearing, the Commission adopted entered the *Stipulation Agreement and Consent to Discipline*.

Based upon the *Stipulation Agreement and Consent to Discipline*, in accordance with the Judicial Standards Commission Rules, and upon the majority vote of its Commissioners, the Commission entered the *Findings of Fact, Conclusions of Law, and Recommendation for Discipline to the New Mexico Supreme Court* consistent with the agreement. The admitted facts and conclusions were the following:

A. Respondent is a full-time District Judge for the Third Judicial District Court, Doña Ana County, New Mexico.

B. On June 25, 2004, two Las Cruces Police Department officers, Officer Frederick Upshaw, Jr. and Detective Gabriela Graham, were issuing citations to Respondent's 22-year old son, Jaime Ramirez, and several of his son's adult friends at

¹⁵ This matter was ongoing at the end of FY 2006. Any subsequent reportable events in this case will be included in the FY 2007 annual report.

Paz Park in Las Cruces. The citations charged the men with drinking alcoholic beverages in public, a violation of Las Cruces Municipal Code §5-1 (Drinking or Possessing in Public). As the officers were issuing the citations, Respondent told Officer Upshaw that Jaime Ramirez was his son. Respondent also took out his wallet and showed his Third Judicial District Court identification card and his driver's license to Officer Upshaw without being requested.

C. After talking to Officer Upshaw, Respondent walked over to Detective Graham, who was issuing citations to some of Respondent's son's friends. Respondent asked Detective Graham if she remembered who he was, without being requested to do so. Detective Graham said that she did remember him, but continued to write and issue the citations. Without being asked, Respondent told Detective Graham that one of the individuals receiving a citation was his wife Nancy's son.

D. Respondent maintains that he was not attempting to intimidate the officers and/or gain preferential treatment, but merely identify himself and confirm his son's identity at his son's request. Respondent made no verbal request for preferential treatment for his son and friends. However, Respondent acknowledges the impropriety of using his judicial title and court identification card in connection with the matter.

E. After issuance, Respondent asked the citation recipients to give Respondent their citations. Respondent collected all eight citations from the recipients, who were now standing in a group. Respondent has stated that he collected the citations to have available the citation numbers and personal information because he was going to inquire about the possible penalties for the citations. As the police officers were leaving the park, they reported hearing laughter from the group of young men with Respondent and that some of the men were looking back at the officers. Respondent maintains that no laughter was directed at the officers. Respondent subsequently left the park in his vehicle.

F. The citations for Respondent's son and his son's friends were pending adjudication before the Las Cruces Municipal Court. Respondent involved himself in the adjudication of the matters in the following respects:

i. Respondent asked his volunteer court bailiff, Clint Dozier (who previously worked for Respondent when he was in the private practice of law), to assist Respondent's son and his friends in responding to the citations. Respondent gave the original citations to Mr. Dozier, who prepared and filed written *Waiver of Arraignment and Entry of Plea* (not guilty) forms with the Las Cruces Municipal Court.

ii. On July 19, 2005, Judge Melissa Miller-Byrnes mailed a Notice of Pretrial Conference to all eight of the citation recipients. The conference was scheduled before Judge Miller-Byrnes on August 11, 2004 at 2:00 p.m.

iii. On or about August 3, 2004, Respondent called for Las Cruces Municipal Court Judge James T. Locatelli and left a message with Judge Locatelli's assistant, Michele Nevarez, asking that Judge Locatelli call Respondent back and advising that Respondent was sending in his son and a couple of his son's friends to change their pleas on August 4, 2004. Respondent maintains that his son and some of the citation recipients wanted to appear on August 5, 2004.

iv. Judge Melissa Miller-Byrnes was scheduled to perform public arraignments on August 4, 2004. Judge Locatelli was scheduled to perform public arraignments on August 5, 2004.

v. The following citation recipient appeared before Judge Miller-Byrnes on August 4, 2004 to change his plea and receive sentencing: Ernesto Ortiz, age 26 at incident, *City of Las Cruces vs. Ernesto Ortiz*, Las Cruces Municipal Court Cause No. 2004-0011626-PM. Plea was changed to "no contest" and Judge Miller-Byrnes imposed a deferred sentence (including deferred \$500 fine).

vi. On August 5, 2004, Judge Ramirez came to the Las Cruces Municipal Court. Respondent states that he came to the court to confirm that his son had appeared for the hearing and that Respondent left prior to the commencement of any hearings.

vii. The following citation recipients appeared before Judge Locatelli on August 5, 2004 to change their pleas and receive sentencing:

a. Jaime Ramirez (Respondent's son), age 22 at incident, *City of Las Cruces vs. Jaime Ramirez*, Las Cruces Municipal Court Cause No. 2004-011637-PM. Plea was changed to "no contest" and Judge Locatelli imposed a 90-day deferred sentence and \$35 fees.

b. Isaac Gomez, age 21 at incident, *City of Las Cruces vs. Isaac S. Gomez*, Las Cruces Municipal Court Cause No. 2004-0011559-PM. Plea was changed to "no contest" and Judge Locatelli imposed a 90-day deferred sentence and \$35 fees.

c. Jesse McDermott, age 22 at incident, *City of Las Cruces vs. Jesse P. McDermott*, Las Cruces Municipal Court Cause No. 2004-0011618-TR. Plea was changed to "no contest" and Judge Locatelli imposed a 90-day deferred sentence and \$35 fees.

Prior to this plea change and sentencing, on or about July 1, 2004, Jesse McDermott was at the clerk's office of the Las Cruces Municipal Court and asked to leave his Waiver of Arraignment and Entry of Plea of Not Guilty form for Judge Ramirez. Docketing Clerk Cristella Rodriguez advised him that there was no Judge Ramirez at the Municipal Court, so Mr. McDermott took the form and left. On July 2, 2004, Respondent's volunteer bailiff, Clint Dozier, brought Mr. McDermott's Waiver of Arraignment and Entry of Plea of Not Guilty back to the court for filing and asked Ms. Rodriguez to mark out the July 1 file date stamp

and file stamp it July 2, 2004 along with the other waiver and plea entry forms he was filing.

d. James Lopez, age 21 at incident, *City of Las Cruces vs. James Lopez*, Las Cruces Municipal Court Cause No. 2004-0011617-PM. Plea was changed to "no contest" and Judge Locatelli imposed a 90-day deferred sentence and \$35 fees.

e. Brandon Shaw, age 23 at incident, *City of Las Cruces vs. Brandon Shaw*, Las Cruces Municipal Court Cause No. 2004-0011739-PM. Plea was changed to "no contest." Judge Locatelli ordered that Mr. Shaw's case would be consolidated with an outstanding DWI case that Shaw had before the court and that sentencing on drinking in public citation would be deferred until after the DWI trial.

viii. The following citation recipients appeared before Judge Miller-Byrnes for the noticed pretrial conference on August 11, 2004:

a. Don Sedillo, age 26 at incident, *City of Las Cruces v. Don L. Sedillo*, Las Cruces Municipal Court Cause No. 2004-0011737-PM. Mr. Sedillo and the prosecuting police officer appeared before Judge Miller-Byrnes. Mr. Sedillo and the police officer agreed that Sedillo would change his plea on stipulation that the sentence would be deferred. Judge Miller-Byrnes approved and entered a 6-month deferred sentence (including deferred \$500 fine) for Mr. Sedillo.

b. Christopher Ewen, age 22 at incident, *City of Las Cruces v. Christopher Ewen*, Las Cruces Municipal Court Cause No. 2004-0011548-PM. Mr. Ewen and the prosecuting police officer appeared before Judge Melissa Miller-Byrnes. Mr. Ewen and the police officer agreed that Ewen would change his plea on stipulation that the sentence would be deferred. Judge Miller-Byrnes approved and entered a 6-month deferred sentence for Mr. Ewen (including deferred 90 days jail and deferred \$500 fine).

G. On May 18, 2004 during a hearing in *In the Matter of Paul Astorga, a Child*, Third Judicial District Court Cause No. JR-02-133, Respondent failed to be patient, dignified and courteous toward defense attorney, Deborah Thuman. Respondent raised his voice with Ms. Thuman, prevented her from making her full objections for the record, and admonished her in front of her client (who was an adult, but still subject to the jurisdiction of the juvenile court).

H. Respondent's conduct set forth in paragraphs 1(B)-(G) above violates the following Canons of the Code of Judicial Conduct: 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; 21-300(B)(2), (B)(3), (B)(4), (B)(7), and (B)(8) NMRA 1995; and 21-500(A) NMRA 1995 of the Code of Judicial Conduct.

I. Respondent's conduct constitutes willful misconduct in office.

Judge Ramirez consented to receive the following formal discipline from the Supreme Court:

Formal reprimand.

Six-month supervised probation and formal mentorship.

National Judicial College "Ethics for Judges" course at own expense.

Respondent shall reimburse the Judicial Standards Commission's costs in the amount of \$1,500.00.

On November 22, 2005, the Commission filed a *Petition for Discipline upon Stipulation* with the Supreme Court. On December 8, 2005, the Court scheduled oral argument on the petition for December 21, 2005. On December 9, 2005, the Supreme Court issued an order requiring the parties to be prepared to discuss the consistency of the proposed stipulated discipline with other similarly situated cases. On December 13, 2005, the Commission filed the formal record of the

Commission's stipulation presentment hearing with the Supreme Court.

The Supreme Court heard oral argument on December 21, 2005. At the conclusion, the Court ordered that the disciplinary petition was granted and imposed the stipulated discipline.

On January 25, 2006, the Commission filed its *Recommendation for Appointment of Mentor and Probation Supervisor* with the Court. The Commission recommended the appointment of Hon. Lynn Pickard of the New Mexico Court of Appeals.

On March 16, 2006, the Supreme Court issued an order appointing Judge Pickard to serve as Judge Ramirez's probation supervisor and mentor.

On April 11, 2006, in a new matter, the Commission filed a new *Verified Petition for Temporary Suspension without Pay and to Seal the Court File* with the Supreme Court. See Inquiry No. 2006-038 below.

On May 5, 2006, the Supreme Court issued its formal reprimand and substantive opinion concerning the conduct in this case. The opinion was later published in the *New Mexico Reports* and may be located with the following citation: 2006-NMSC-021, 139 N.M. 529, 135 P.3d 230.

During the proceedings ongoing in Judge Ramirez's new matter before the Commission and the Supreme Court (Inquiry No. 2006-038), the probation and mentorship with Judge Pickard was abated. On June 2, 2006, Judge Ramirez tendered a letter of resignation to the Chief Justice of the Supreme Court, effective the same day.

IN RE HON. RHODA A. HUNT
Magistrate Judge, McKinley County
Inquiry No. 2005-113
Supreme Court Case No. 27,525

On November 28, 2005, the Commission issued a *Notice of Preliminary Investigation* to Judge Rhoda Hunt. The following day, the Commission filed a *Verified Petition for Immediate Temporary Suspension without Pay* with the Supreme Court and a motion to seal an exhibit. The same day, the Court granted the motion to seal. The allegations set forth in the Commission's petition were the following:

1. The Federal Bureau of Investigation had conducted a criminal investigation into possible felony criminal violations by Judge Hunt. The investigation report included a summary of the interview(s) and included alleged admissions by Judge Hunt to criminal and ethical violations. Upon information and belief, the Second Judicial District Attorney's Office was also conducting a criminal investigation concerning Judge Hunt.

2. The Eleventh Judicial District Attorney (Division II) had formally sought Judge Hunt's recusal and disqualification from all criminal matters in which their office appears. The motion was first filed in the McKinley County Magistrate Court, but Judge Hunt denied the motion. Subsequently and in accordance with the rules governing magistrate courts, the Eleventh Judicial District Attorney filed the required certification under Rule 6-106(G) or alternative petition for writ of superintending control or other extraordinary writ and emergency request for stay with the Eleventh Judicial District Court.

3. If the pending criminal allegations are true, such criminal acts would constitute willful misconduct in office.

4. Additionally, Judge Hunt is alleged to have committed other non-criminal acts that may also constitute willful misconduct in office.

The Commission requested that the Supreme Court immediately suspend Judge Hunt from judicial office without pay pending completion of the ongoing criminal investigation and any prosecution that may result there from, and pending completion of the Commission's proceedings against her.

On December 5, 2005, the Court issued an order to Judge Hunt requiring her to file a written response on or before 12:00 noon on December 12, 2005, showing cause, if she had any, why she should not be immediately temporarily suspended from her judicial duties. The Court further ordered that Judge Hunt appear before the Court on Wednesday, December 14, 2005 at 2:30 p.m.

On December 9, 2005, the Commission filed a supplement to its petition for temporary suspension with the Court. On December 12, 2005, Judge Hunt filed her *Response to Order to Show Cause and a Motion to Vacate Show Cause Hearing* with the Court. Her response stated, in part, that she denied engaging in any acts, criminal or otherwise, that would constitute willful misconduct. She further argued that no criminal charges had yet been filed against her. Later on December 12, 2005, the Supreme Court denied Judge Hunt's motion to vacate hearing.

On December 13, 2005, the Commission filed second and third supplements to its petition for temporary suspension under seal. On the morning of December 14, 2005, the date of the scheduled argument, Judge Hunt entered into a stipulated agreement with the Commission wherein Judge Hunt agreed to permanently resign from judicial office effective December 14, 2005. Concurrently, the Commission moved to vacate the show cause hearing scheduled for the afternoon. A short time later on December 14, 2005, the Supreme Court issued an order quashing its show cause order, vacating the hearing, and granting the parties' motion to accept Judge Hunt's permanent resignation from judicial office and to dismiss without prejudice. The Commission then abated further proceedings.

IN RE HON. LINDA GASPARICH-PADILLA
Municipal Judge, Gallup
Inquiry No. 2005-114
Supreme Court Case No. 29,558

On November 28, 2005, the Commission issued a *Notice of Preliminary Investigation* to Judge Linda Gasparich-Padilla. The following day, the Commission filed a *Verified Petition for Immediate Temporary Suspension without Pay* with the Supreme Court and a motion to seal an exhibit. The same day, the Court granted the motion to seal. The allegations set forth in the Commission's petition were the following:

1. The Federal Bureau of Investigation had conducted a criminal investigation into possible felony criminal violations by McKinley County Magistrate Judge Rhoda Hunt. Judge Padilla gave a statement to the FBI agents in the course of the Hunt investigation, in which Judge Padilla admitted to conduct that violates several provisions of the New Mexico Code of Judicial Conduct.

2. Judge Padilla is alleged to have committed acts that also constitute willful misconduct in office, including throwing a stack of citations in the trash that Magistrate Hunt wanted dismissed and which were shoved under Judge Padilla's door with Judge Hunt's business card attached; providing preferential treatment for a specified group of individuals and their families in Gallup, including dismissing cases and/or conducting special favors for Mohammed Aysheh, who has funded Judge Padilla's past election campaigns; dismissing a suspended license citation for Jowdat Aysheh, the son of Mohammed Aysheh, not requiring Jowdat Aysheh to personally appear in court, and directing her staff to fax clearance documents to the Motor Vehicle Division so that his license suspension would be removed; and dismissing citations for Amjad Khalaf on at least two occasions based on preferential treatment.

The Commission requested that the Supreme Court immediately suspend Judge Padilla from

judicial office without pay pending completion of the Commission's proceedings.

On December 5, 2005, Judge Padilla filed a motion to obtain sealed documents seeking relevant portions of the exhibit sealed by the Court, which in part argued that Judge Padilla had reasonable explanations for her actions, that some of the factual allegations were inaccurate, and that additional evidence would put the allegations into a context confirming that she had not engaged in acts of misconduct. The same day, on December 5, 2005, the Court issued an order to Judge Padilla requiring her to file a written response on or before 12:00 noon on December 12, 2005, showing cause, if she had any, why she should not be immediately temporarily suspended from her judicial duties. The Court further ordered that Judge Padilla appear before the Court on Wednesday, December 14, 2005 at 2:30 p.m.

On December 7, 2005, Judge Padilla filed a *Notice of Withdrawal of Motion to Obtain Sealed Documents*. The Commission filed a *Motion to Close Oral Argument*, which the Supreme Court denied on December 12, 2005.

On December 9, 2005, the Commission filed a *Supplement to Petition for Temporary Suspension* and an *Unopposed Motion to Seal File and Close Hearing*.

On December 12, 2005, Judge Padilla filed her response to the Court's show cause order under seal. The same day, the Court issued an order denying the motion to close the hearing.

On December 14, 2005, Judge Padilla filed a supplement to her response to the Court's show cause order. The same day, the Court held oral argument in the matter. After the arguments, the Supreme Court issued an order denying the Commission's temporary suspension petition.

IN RE HON. SUSANA CHAPARRO
Magistrate Court Judge, Doña Ana County
Inquiry Nos. 2004-074 & 2005-005
Supreme Court Case No. 27,923

On April 3, 2006, the Commission filed a *Notice of, and Petition to Accept Stipulation to Permanent Resignation from Judicial Office, and Motion to Dismiss without Prejudice Respondent's Pending Disciplinary Matters before this Court*. In that pleading, the Commission advised the Court of the facts stated below.

After conducting an initial inquiry into a verified complaint, the Commission issued a *Notice of Preliminary Investigation* to Judge Chaparro on November 30, 2004. On December 17, 2004, Judge Chaparro filed a *Response to Notice of Preliminary Investigation*. Judge Chaparro subsequently filed an *Amended Response to Notice of Preliminary Investigation* on May 27, 2005. On June 23, 2005, the Commission issued a *Notice of Formal Proceedings* to Judge Chaparro. On July 13, 2005, Judge Chaparro filed a response to the *Notice of Formal Proceedings*. The Commission issued its *First Amended Notice of Formal Proceedings* on August 30, 2005. Respondent filed her verified answer to the Commission's *First Amended Notice of Formal Proceedings* on September 19, 2005. On November 22, 2005, the Commission issued a *Second Amended Notice of Formal Proceedings* to add charges and to consolidate inquiry matters 2004-072 and 2005-005. The case was vacated from the Commission's December trailing docket, and reset on the Commission's April 10-14, 2006 trailing docket.

The charges set forth in the *Second Amended Notice of Formal Proceedings* were that on or after November 3, 2003, Judge Chaparro improperly retaliated against, harassed, interfered with, intimidated, and prohibited work of Robert Felton, who was a duly authorized contract holder for language interpreters for the Doña Ana County Magistrate Court. Additionally, and in demonstration of Respondent's ongoing harassment and dissatisfaction with Robert

Felton because of his confrontation with Respondent's sister, Judge Chaparro began to routinely conduct court proceedings in the Spanish language in order to bypass the official court interpreter(s) by inappropriately and improperly assuming that function. Finally, it was charged that after being instructed by Judge Caleb Chandler to discontinue the harassment and improper treatment of Mr. Felton, including instructing Mr. Felton and/or other interpreters to use consecutive instead of simultaneous translation, and to discontinue conducting court proceedings in Spanish, Judge Chaparro continued to routinely conduct court proceedings in Spanish.

Judge Chaparro tendered a letter of resignation to Hon. Richard Bosson, Chief Justice of the New Mexico Supreme Court, on March 21, 2006, resigning her position as Doña Ana County Magistrate, effective April 16, 2006. The Commission argued in the notice and petition that it retained jurisdiction over this matter pursuant to Rule 38 of the Commission's rules, which provides that the "Judicial Standards Commission's jurisdiction is invoked when notice of formal proceeding is served upon the judge under investigation. The jurisdiction continues irrespective of the judge's subsequent resignation and/or termination from office."

Upon a majority vote, the Commission entered into a *Stipulation Agreement* with the Respondent on March 31, 2006, which included the following terms:

Respondent agrees to never again hold, become a candidate for, or accept appointment to any judicial office.

The Commission shall promptly file a notice of permanent resignation from judicial office and motion to dismiss without prejudice all disciplinary matters pending before the Supreme Court (Inquiry Nos. 2002-26, 2002-43, and 2003-82).

Upon execution of this *Stipulation Agreement*, the Commission shall abate all

disciplinary matters pending before it (Inquiry Nos. 2004-074, 2005-005, 2005-101, and 2005-108).

Acting upon its own motion, and in consideration of the executed *Stipulation Agreement*, the Commission has issued orders abating all matters [pending].

In the event Respondent seeks relief from this Court as to her permanent resignation from office, the Commission shall re-open all matters pending before it, including those pending before the Supreme Court, and including any and all undocketed initial inquiries.

On May 3, 2006, the New Mexico Supreme Court granted the Commission's *Petition to Accept Stipulation to Permanent Resignation from Judicial Office*, and granted its *Motion to Dismiss without Prejudice*.

IN RE HON. FLORENCIO "LARRY" RAMIREZ
District Court Judge, Third Judicial District
Inquiry No. 2006-038
Supreme Court Case No. 29,662

After conducting an investigation into a verified complaint, on April 11, 2006, the Commission filed a *Verified Petition for Temporary Suspension without Pay and to Seal the Court File* with the Supreme Court. On April 20, 2006, the Supreme Court granted the Commission's *Motion to Seal File* and designated Court of Appeals Judge A. Joseph Alarid to participate in this case. Respondent filed his response to the *Petition* on May 1, 2006. The Supreme Court heard oral argument on the Commission's *Petition for Temporary Suspension* on May 3, 2006, and denied the petition without prejudice.

The Commission filed a *Second Verified Petition for Temporary Suspension without Pay* on May 4, 2006 with the Supreme Court. On May 15, 2006, the Commission filed a *First Supplement in Support of the Second Verified Petition for Temporary Suspension*

without Pay. On May 16, 2006, the Supreme Court, on its own motion, ordered Respondent to file a response to the Commission's petition to be filed by May 30, 2006. Respondent filed an *Offer of Settlement* with the Supreme Court on May 26, 2006. Respondent subsequently tendered his resignation as district judge to the Supreme Court on June 1, 2006.

On June 12, 2006, the Supreme Court filed a *Show Cause Order* to the Commission regarding Respondent's *Offer of Settlement*. The Commission filed its *Response* to the Court's *Show Cause Order* on June 21, 2006. The Commission also filed a *Motion for an Order to Show Cause* and a *Motion to Unseal Portions of the Court File* on June 23, 2006.

This case was ongoing at the end FY 2006. Subsequent events will be reported in the Commission's Annual Report for FY 2007.

IN RE HON. CARLOS GARZA
Magistrate Judge, Doña Ana County
Inquiry No. 2005-003
Supreme Court Case No. 29,764

The Commission issued a *Notice of Formal Proceedings* to Respondent on May 17, 2005. Respondent filed a response to the *Notice of Formal Proceedings* on June 15, 2005. The case was scheduled for a formal hearing on the April 2006 docket. The parties reached a stipulated agreement as to the resolution of the case two weeks before the trial. On April 11, 2006, the case came before the Commission for a formal presentment hearing. The Commission accepted and entered into a *Stipulation Agreement and Consent to Discipline* with the Respondent. On April 21, 2006, the Commission filed a *Petition for Discipline upon Stipulation*, along with *Findings of Fact, Conclusions of Law and a Recommendation of Discipline* and the *Record of Formal Proceedings*. The stipulated factual and legal conclusions are briefly summarized as follows.

Judge Carlos Garza was at all times relevant to this matter and currently is a full-time magistrate for Doña Ana County, New Mexico. Judge Garza became improperly involved in and interfered with the adjudication of the matter of *State of New Mexico v. Lauren Spilsbury*, M-14-DR-200400146, in which he had a personal relationship with the defendant Lauren Spilsbury. Judge Garza permitted and engaged in *ex parte* communications about *State of New Mexico vs. Lauren Spilsbury* with Doña Ana County Magistrate Judge Susana Chaparro and Magistrate Judge Maria Rodriguez, who were presiding judges in the case. On November 22, 2004 (the day of a scheduled video arraignment in the case), Judge Garza told Judge Rodriguez he knew that Lauren Spilsbury was scheduled to appear for arraignment and that he did not think it was fair that she [Lauren Spilsbury] should be punished on account of her friendship and past relationship with him. Respondent also requested from Judge Rodriguez that no bond be set, or alternatively, a reasonable bond be set in the *Spilsbury* case. Additionally, on January 11, 2005 (the same day as the probation violation hearing scheduled in the case), Respondent spoke to Judge Chaparro, who had been assigned the *Spilsbury* case after Judge Rodriguez's departure from the bench, at least two times prior to the hearing concerning the sentencing and disposition of the case.

In the plea and stipulation agreement with the Commission, Judge Garza stipulated that the Commission had sufficient evidence to prove that his conduct violated the following canons of the Code of Judicial Conduct: 21-100 NMRA 1995 (judge shall uphold integrity and independence of judiciary); 21-200(A) NMRA 1991 (judge shall avoid impropriety and appearance of impropriety in all activities); 21-300(B)(2) NMRA 1995 (judge shall perform the duties of office impartially and diligently); 21-300(B)(7) NMRA 1995 (judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard); and 21-500(A) NMRA 1995 (judge shall conduct all of the judge's extra-judicial

activities so that they do not cast doubt on the judge's capacity to act impartially as a judge). Judge Garza further stipulated that his conduct was a sufficient basis for the imposition of discipline pursuant to Article VI § 32 of the New Mexico Constitution.

On June 7, 2006, the Supreme Court issued an order granting the Commission's petition and ordering that Judge Garza be disciplined as follows.

Formal reprimand.

Six-month supervised probation and formal mentorship.

Reimburse the Commission in the amount of \$600.00 for costs incurred in the matter by June 22, 2006.

On June 20, 2006, the Commission filed a recommendation that Hon. James Waylon Counts of the Twelfth Judicial District Court be appointed by the Supreme Court as the probation supervisor. A *Motion for Order to Show Cause* was filed on June 26, 2006 regarding Respondent's failure to submit reimbursement. Respondent's fine was received on June 29, 2006, and a *Notice of Payment* was filed with the Supreme Court that same day.

Because this case was not completed by the end of FY 2006, subsequent events will be reported in the Annual Report for FY 2007.

IN RE HON. STEPHEN K. QUINN
District Judge, Ninth Judicial District
Inquiry No. 2005-006
Supreme Court Docket No. 29,765

The Commission issued a *Notice of Preliminary Investigation* to Judge Stephen K. Quinn on July 14, 2005. The allegations were that the judge had excessively delayed in issuing decision, judgments, rulings, orders, or otherwise resolving cases on his docket. The Commission included a

non-exclusive listing of cases that were under advisement and substantially overdue for decision. Judge Quinn filed a response to the preliminary investigation notice on August 5, 2005. On September 1, 2005, the Commission issued formal charges against Judge Quinn in a *Notice of Formal Proceedings*. The same day, the Commission also issued an order to Judge Quinn requiring him to show cause why the Commission should not petition the Supreme Court to suspend him. On September 16, 2005, Judge Quinn filed his response to the formal proceedings notice.

An amended show cause order was issued on September 26, 2005, which provided that the order would be rescinded if Judge Quinn provided the Commission with documented proof that he issued and entered all decisions, judgments, rulings, and orders in the matters that had been taken under advisement and that were substantially overdue for decision. Judge Quinn resolved the overdue matters he had under advisement. On September 28, 2005, Judge Quinn filed the requested documentation with the Commission. On October 4, 2005, the Commission issued an *Order Dismissing Order to Show Cause*.

The Commission set the matter for trial on April 10, 2006. The Examiner and Judge Quinn filed a stipulation to the relevant facts of the case, which the Commission accepted. The Commission heard closing arguments and disciplinary recommendations from the Examiner and Judge Quinn. The Commission decided to recommend that the Supreme Court impose the following discipline: formal reprimand, one-year supervised probation, and reimburse the Commission's costs.

On April 24, 2006, the Commission filed a *Petition for Discipline* and the *Record of Formal Proceedings before the Judicial Standards Commission* with the Supreme Court. On April 24, 2006, the Commission filed a *Certified Memorandum of Costs* with the Supreme Court, requesting that Judge Quinn be assessed and reimburse the

Commission for \$1,106.17 of costs incurred in the disciplinary proceedings.

On May 15, 2006, Judge Quinn filed a *Response to Findings of Fact, Conclusions of Law and Recommendation for Discipline* with the Supreme Court. In his response, Judge Quinn did not dispute the basis for the formal proceedings, but disagreed with the formal reprimand recommended as a disciplinary measure by the Commission.

On May 16, 2006, the Supreme Court issued its disciplinary order in this matter. The Court imposed only the recommended supervised probation and assessment of the Commission's costs and expenses. The Court further ordered Judge Quinn to reimburse the Commission for the costs by May 31, 2006. On May 30, 2006, the Commission received Judge Quinn's payment of costs. The following day, the Commission notified the Court of the costs payment.

This case was ongoing at the end FY 2006. Subsequent events will be reported in the Commission's Annual Report for FY 2007.

IN RE HON. CHARLES MCCLAIN
Municipal Judge, Dexter
Inquiry No. 2004-113
Supreme Court Docket No. 29,767

The Commission issued a *Notice of Preliminary Investigation* to Judge Charles McClain on May 23, 2005. Judge McClain filed a response to the preliminary investigation notice on June 15, 2005. On August 30, 2005, the Commission issued formal charges against Judge McClain in a *Notice of Formal Proceedings*. On October 7, 2005, Judge McClain filed his response to the formal proceedings notice.

The Commission set the matter for trial on April 10, 2006. The Examiner and Judge McClain filed a stipulation to the relevant facts of the case, which the Commission accepted. The Commission heard closing arguments and

disciplinary recommendations from the Examiner and Judge McClain.

The Commission concluded in pertinent part:

1. . . . Respondent improperly failed to recuse from the matter of *City of Dexter v. Connie Bass*, Cause No. 5817A; summarily tried Ms. Bass on the charge on October 20, 2004; and demonstrated a critical lack of understanding of due process, court procedures, the law, and limits of jurisdiction.

Respondent's conduct violated Canon 21-400(A)(1), NMRA 2004 of the Code of Judicial Conduct and constituted willful misconduct in office.

2. . . . Respondent improperly failed to recuse from the matter of *City of Dexter v. Anita Gonzalez*, Cause No. 5819A; summarily tried Ms. Gonzalez on the charge on October 20, 2004; and demonstrated a critical lack of understanding of due process, court procedures, the law, and limits of jurisdiction.

Respondent's conduct violated Canon 21-400(A)(1) NMRA 2004 of the Code of Judicial Conduct and constituted willful misconduct in office.

3. . . . Respondent improperly failed to recuse from the matter of *City of Dexter v. Michelle Alvidrez*, Cause No. 5820; summarily tried Ms. Alvidrez on the charge on October 20, 2004; and demonstrated a critical lack of understanding of due process, court procedures, the law, and limits of jurisdiction.

Respondent's conduct violated Canon 21-400(A)(1) NMRA 2004 of the Code of Judicial Conduct and constituted willful misconduct in office.

The Commission recommended that the Supreme Court impose the following discipline on Judge McClain:

Formal reprimand.

\$250.00 fine.

One-year supervised probation and formal mentorship in constitutional due process, proper court procedures, direct and indirect contempt, limits of municipal court jurisdiction, and the Code of Judicial Conduct.

Refund/pay witnesses for fines and fees paid, and compensate for community service.

Expungement of defendants' cases from the Dexter Municipal Court records.

Assessment of the Commission's costs and expenses.

On April 21, 2006, the Commission filed a *Petition for Discipline*, the *Record of Formal Proceedings before the Judicial Standards Commission*, and a *Certified Memorandum of Costs* with the Supreme Court. The petition asked for imposition of the recommended disciplinary measures, based on the grounds for discipline fully set forth in the Commission's *Findings of Fact, Conclusions of Law, and Recommendation for Discipline*. The record was comprised of the certified copies of pleadings filed with the Commission and the original stenographic transcript of the formal proceedings with original exhibits admitted into evidence. The *Certified Memorandum of Costs* requested that Judge McClain be assessed and reimburse the Commission for \$1,409.30 of direct costs incurred in the disciplinary proceedings.

On April 28, 2006, Judge McClain filed objections to the Commission's *Findings of Fact, Conclusions of Law, and Recommendation for Discipline* and to the Commission's costs memorandum. The Commission filed responses to the objections on May 8, 2006.

On The Supreme Court heard oral argument on the Commission's disciplinary petition, costs memorandum, and Respondent's objections. The Supreme Court issued its disciplinary order imposing the following discipline against Judge McClain:

Respondent shall pay Michelle Alvidrez \$123.60 by certified check made payable to Michelle Alvidrez, and shall deliver said check to the Judicial Standards Commission on or before August 4, 2006. Respondent shall promptly file proof of payment with this Court and with the Judicial Standards Commission.

On or before July 26, 2006, Respondent shall expunge the respective contempt/false testimony cases numbered 5817A, 5819A, and 5820 from the Dexter Municipal Court records concerning Connie Bass, Anita Gonzales, and Michelle Alvidrez. Respondent shall promptly notify each defendant in writing of the Expungement. Respondent shall file proof with the Court and the Commission of the expungement and of the notice given to the defendants on or before July 31, 2006.

Additionally, the Court ordered that Judge McClain was required to take a course in constitutional law as related to due process rights of an accused and specifically contempt vs. perjury. In the event no such course was available, the Court accepted the offer from Judge McClain's attorney (a former district court judge) to provide the instruction. All other recommended discipline was denied.

Judge McClain complied with the reimbursement and expungement requirements. Judge McClain was unable to find an applicable course, so Judge McClain was receiving instruction from his attorney as ordered by the Court.

This case was ongoing at the end FY 2006. Subsequent events will be reported in the Commission's Annual Report for FY 2007.

IN RE HON. JOHN W. POPE

*District Judge, Thirteenth Judicial District
Inquiry No. 2006-046*

Supreme Court Docket No. 29,778

After conducting an initial inquiry on its own motion, on April 26, 2006, the Commission issued a *Notice of Preliminary Investigation* and a *Rule 8 Order to Provide Waivers and Releases* to Judge Pope pursuant to Judicial Standards Commission Rule 8. The same day, the Commission filed a *Verified Petition for Temporary Suspension or for Immediate Administrative Medical Leave* with the Supreme Court. In the petition, the Commission informed the Court that Judge Pope had failed to perform his judicial duties since April 17, 2006, failed to notify the Chief Judge or Court Administrator of his extended absence, left a criminal jury trial unfinished prior to the defense concluding its case (ultimately resulting in substantial prejudice, error, and a mistrial), and failed to make arrangements for coverage of his daily dockets.

The Commission further notified the Supreme Court that it was formally investigating whether Judge Pope's conduct constituted persistent failure or inability to perform judicial duties and/or willful misconduct in office. The Commission certified that immediate temporary suspension or administrative medical leave was necessary pending completion of the Commission's proceedings.

On April 27, 2006, the Supreme Court noticed a hearing on the Commission's petition for May 3, 2006. On May 1, 2006, Judge Pope's counsel entered an appearance in the case and moved to vacate the setting. The Court granted the motion on May 2, 2006.

On May 9, 2006, the Commission filed a *First Amended Verified Petition for Immediate Temporary Suspension*, supplemental supporting medical records, and a companion *Motion to Seal Supplemental Records* (the records supporting the amended petition). The Supreme Court sealed

the supplemental records, and *sua sponte*, sealed the Commission's amended petition.

The same day, Respondent's counsel filed a *Request for Confidentiality and Motion to Seal* with the Supreme Court. The Supreme Court issued an order granting the Commission's *Motion to Seal Supplemental Records* and the Respondent's *Request for Confidentiality and Motion to Seal*. The following day, the Commission filed a *Response to Respondent's Request for Confidentiality and Motion to Seal*, which the Court sealed *sua sponte*.

Respondent agreed to enter into a *Stipulation Agreement and Consent to Discipline* with the Commission. On May 15, 2006, the Commission filed a *Petition for Discipline upon Stipulation* with the Supreme Court. The Court sealed the petition *sua sponte*.

On May 16, 2006, the Court issued an order that (1) required Respondent to file a written response to the petition, (2) placed Respondent on medical leave with pay until further order of the Court, and (3) denied Respondent's request for an order to show cause. Respondent timely filed his response on May 30, 2006, which the Court sealed *sua sponte*. The following day, the Commission filed a *Reply and Request for Remand*, which was sealed by the Court.

On June 9, 2006, Respondent filed a *Request to Supplement the Record; for Leave to File a Sur-Response; and for Oral Argument*. The Commission filed a *First Amended Reply and Request for Remand* later the same day. The Court sealed these pleadings *sua sponte*. On June 19, 2006, the Supreme Court issued an order requiring the parties to file responses addressing specific matters.

This case was not completed by the end of FY 2006. Subsequent case events will be reported in the FY 2007 Annual Report.



INFORMAL PROCEEDINGS

PRIVATE LETTERS OF CAUTION. The Commission may dispose of a matter by privately cautioning the judge that the conduct alleged may violate the Code of Judicial Conduct. The allegations in these cases were not proven by clear and convincing evidence and no specific findings of willful misconduct were made. However, the Commission was concerned that if true, the conduct may violate the Code, which required the matters to be addressed. In FY 2006, the Commission issued 2 private cautionary letters to judges addressing the issues listed below:

1. A judge allegedly had a litigant's confidential psychological evaluation report that was part of a sealed court file filed with the court clerk and then attached the report to an order denying a motion in a custody case, thereby making the report public and compromising its confidential, sealed status. The Commission cautioned the judge to take care when filing or attaching any type of confidential document from sealed court files to the judge's orders, and to not make sealed documents public or otherwise compromise their confidential, sealed status, without proper legal basis.

2. A judge allegedly expressed partiality and bias against a respondent and in favor of the petitioner and prejudged the issues that had yet to be heard in a custody case, prior to receiving any argument, testimony, or other evidence. The Commission cautioned the judge to take care not to harbor or express any prejudice, partiality or bias toward litigants that appear before the judge, especially prior to taking any argument, testimony, or other evidence.

3. A judge allegedly failed to recuse from a case prior to issuing a temporary restraining order. The plaintiff was a client from the judge's former law practice. The Commission cautioned the judge that where a party, a party's lawyer, or any other person involved in a case pending before the judge was a client from the judge's

prior law practice, the judge must determine whether the judge is disqualified and required to recuse from the matter pursuant to Canon 21-400(A) of the Code of Judicial Conduct. If the judge determines that recusal is not required, the judge should refrain from taking any action in the case without first disclosing the prior legal representation on the record to all involved parties so that the parties may decide (outside the judge's presence) whether to request the judge's excusal or agree to waive the issue as set forth in Canon 21-400(C).

4. A judge allegedly made an improper public endorsement in the news media for a candidate for public office in the same judicial district in which the judge presided. The Commission cautioned the judge to not publicly endorse a candidate for public office through the news media or in campaign literature.

5. A judge, who conducted a hearing at an off-site commercial site, allegedly displayed inappropriate behavior, which allegedly included making inappropriate statements, yelling, and grabbing one of the parties. The Commission cautioned the judge to (1) be patient, dignified and courteous to *pro se* litigants with whom the judge deals with in an official capacity, including to refrain from operating as a court bailiff and inappropriately touching or grabbing any individuals while performing judicial duties; (2) refrain from using profane language with *pro se* litigants and all others with whom the judge deals in a judicial capacity, (3) conduct hearings with all parties present; all hearings are to be on the record; and (4) preserve the judge's position as an independent and neutral adjudicator, including recusing from cases in which the judge becomes personally embroiled in or an appearance of a personal conflict of interest.

6. A judge allegedly dismissed DWI cases improperly at arraignments. The cases were allegedly dismissed without the presence of the assistant district attorney, contrary to the standard operation of the court, and on behalf of a particular defense attorney who was alleged to have unusual access to the judge's court. The

Commission cautioned the judge to (1) ensure that all parties, specifically including the State of New Mexico and its legal representatives such as assistant district attorneys, law enforcement officers, etc., are given proper advance notice of all arraignments and setting changes; (2) ensure that all parties, specifically including the State of New Mexico and its legal representatives such as assistant district attorneys, law enforcement officers, etc., are timely provided with copies of all court orders, including dismissals without prejudice; and (3) comply with all applicable procedural laws, rules, statutes, and orders and take all necessary measures to avoid appearances of impropriety.

7. A judge allegedly failed to take action on a petition for writ of *habeas corpus* for more than 18 months, contrary to Rule 5-802(E). The Commission cautioned the judge to (1) review and comply with the procedures and deadlines mandated by Rule 5-802(E) of the Rules of Criminal Procedure for the District Courts; and (2) with respect to the specific case, review the judge's actions and take required measures to comply with the procedures and deadlines mandated by Rule 5-802(E) of the Rules of Criminal Procedure for the District Courts. The Commission reminded the judge that Rule 5-802(E) does not require petitioners, as a prerequisite to the district court taking the actions mandated by the rule, to serve the correctional facility's warden/administrator or to file pleadings or letters to remind the judge's court that action was needed. The Commission also reminded the judge that upon the filing of a petition for *habeas corpus* and the matter being assigned to the judge's court, Rule 5-802(E) requires the judge to first promptly review the petition, attachments, and case history to determine if the petitioner may be entitled to relief. If after this review the judge finds that the petitioner is not entitled to relief, the judge may order a summary dismissal of the petition. However, if the judge's initial review leads the judge to conclude that the petitioner may be entitled to relief, the judge is required to appoint counsel to represent the petitioner, unless the

petitioner has his/her own attorney, before a response is ordered.

After the Commission's inquiry began, the judge ordered the warden to respond to the inmate's petition. However, the Commission expressed concern that the prerequisite appointment of counsel for the petitioner was not done and entered into the court record. This step allows for petitioner's appointed counsel to determine whether an amended petition should be filed.

Within thirty (30) days of counsel being appointed, petitioner's appointed counsel can file an amended petition. If no amended petition is filed, the original petition would be deemed accepted by the judge's court. After this step was completed, then within thirty (30) days the judge is required to order the warden to file a response to the petition or to order that the petition be dismissed pursuant to 5-802(E)(1). If a response is ordered, a copy of the petition and a copy of the order requiring the response must then be served on the respondent by the clerk of the court in accordance with Rule 5-103, 5-103.1 or 5-103.2 NMRA. The Rule clearly provides that service of the petition is the court clerk's responsibility at that time, not the inmate's duty to serve upon initial filing, which had been asserted by the judge. Within thirty (30) days after service of the petition and order, the warden's response to the petition is due for filing with the court.

8. A judge allegedly signed a release order on a probation violation charge that was not assigned to the judge. The assigned judge had previously issued a no-bond hold in the same case. The Commission cautioned the judge to (1) not intervene, take substantive action, or otherwise interject into any case that is assigned to another judge, unless there is a recusal or disqualification order on file and the case in question has been appropriately re-assigned to the judge, and (2) to comply with the applicable procedural rule regarding the determination of bail.

9. A judge allegedly appeared in a photograph used in a political candidate's campaign flyer.

The photograph depicted the judge sitting on the judge's bench in the judge's courtroom, wearing the judge's robe, and appearing to preside over a proceeding where the candidate was purportedly examining a witness. The Commission cautioned the judge against publicly endorsing candidates for political office through the news media or campaign literature. The Commission also suggested that the judge take prompt, appropriate measures to prevent or stop candidates, campaign committees, or the media from using the judge's image, name, or judicial title in campaign endorsement or opposition pieces.

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 2006, no judges completed the informal mentor program.



PROCEEDINGS BEFORE THE NEW MEXICO SUPREME COURT FY 2001 – FY 2005

Following is a summary of cases Commission filed with and disposed by the New Mexico Supreme Court since FY 2000. For editorial reasons, the Commission is only including cases within the five previous fiscal years in this section. Cases are listed in sequential order of filing.

Matter of Hon. Beatrice R. Vigil, Taos County Probate Judge, JSC Inquiry No. 99-04, Supreme Court Docket 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.

Matter of Hon. John W. "Buddy" Sanchez, Valencia County Magistrate Judge, JSC Inquiry No. 2000-32, Supreme Court Docket 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.

Matter of Hon. Archie A. Valdez, Colfax County Magistrate Judge, JSC Inquiry No. 2000-42, Supreme Court Docket 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.

Matter of Hon. Frederick Arnold, Portales Municipal Judge, JSC Inquiry No. 99-101, Supreme Court Docket 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.

Matter of Hon. Beatrice R. Vigil, Taos County Probate Judge, JSC Inquiry No. 2000-53, Supreme Court Docket 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.

Matter of Hon. Barbara A. Brown, Bernalillo County Metropolitan Judge, JSC Inquiry Nos. 2001-88, 2001-93 & 2001-95, Supreme Court Docket 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.

Matter of Hon. Thomas G. Cornish, Dona Ana County District Judge, JSC Inquiry No. 2001-96, Supreme Court Docket 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.

Matter of Hon. William A. Vincent, Jr., San Juan County Magistrate Judge, JSC Inquiry Nos. 2001-30, 2001-31, 2001-32, 2001-34, 2001-35 & 2001-36, Supreme Court Docket 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.

Matter of Hon. Charles Maestas, Espanola Municipal Judge, JSC Inquiry No. 2001-09,

Supreme Court Docket 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 upon incarceration, judge resigned.

Matter of Hon. George A. Harrison, San Juan County District Judge, JSC Inquiry Nos. 2000-39, 2001-48, 2001-53, 2001-55, 2001-58 & 2001-74, Supreme Court Docket 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.

Matter of Hon. Anthony Fuller, Bosque Farms Municipal Judge, JSC Inquiry No. 2002-07, Supreme Court Docket 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.

Matter of Hon. Rhoda A. Hunt, McKinley County Magistrate Judge, JSC Inquiry Nos. 2002-24 & 2002-32, Supreme Court Docket 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.

Matter of Hon. Charles E. Maestas, Espanola Municipal Judge, JSC Inquiry No. 2002-40, Supreme Court Docket 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.

Matter of Hon. Edward L. Brown, Cimarron Municipal Judge, JSC Inquiry No. 2002-21, Supreme Court Docket 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.

Matter of Hon. Frances Gallegos, Santa Fe Municipal Judge, JSC Inquiry No. 2002-80, Supreme Court Docket No. 27,906 (N.M. 2003); JSC Inquiry No. 2002-80. 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. See also JSC Inquiry Nos. 2003-58, 2003-89 & 2003-108 below for related information.

Matter of Hon. Susana Chaparro, Dona Ana County Magistrate Judge, JSC Inquiry Nos. 2002-26 & 2002-43, Supreme Court Docket 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. See also JSC Inquiry No. 2003-82 below for related information.

Matter of Hon. Rudy C. Montoya, Mora County Magistrate Judge, JSC Inquiry Nos. 2002-62, 2002-76, 2002-83, 2003-11 & 2003-81, Supreme Court Docket 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.

Matter of Hon. David J. Ramos, Jr., Hurley Municipal Judge, JSC Inquiry No. 2003-76, Supreme Court Docket 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.

Matter of Hon. William A. Vincent, Jr., San Juan County Magistrate Judge, JSC Inquiry No. 2003-99, Supreme Court Docket 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.

Matter of Hon. Ruben Galvan, Dona Ana County Magistrate Judge, JSC Inquiry No. 2003-48, Supreme Court Docket No. 28,609 (N.M. 2004). Allegations included engaging in a clandestine relationship with prosecutor and failing to recuse from cases where she appeared before him; and improper demeanor with prosecutor after their clandestine relationship ended. Judge disciplined (30-day suspension without pay and in-person formal reprimand. Imposition of suspension was suspended on conditions: (1) that judge complete six months of supervised probation and (2) that his salary would be summarily suspended if the Commission initiated formal proceedings against him in any other matter. Formal proceedings were later initiated in Inquiry No. 2004-99, which concerned criminal investigation, indictment, and proceedings on allegations of felony criminal sexual penetration and solicitation of bribery. Upon notice and motion by the Commission, Supreme Court summarily suspended judge's salary until criminal matters and Commission proceedings in Inquiry No. 2004-99 terminated. Judge resigned during period of temporary suspension.

Matter of Hon. Jesus Gonzales, Taos County Probate Judge, JSC Inquiry No. 2004-53, Supreme Court Docket 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 allegedly caused while judge was driving while intoxicated. Commission petitioned for immediate temporary suspension based on questions of mental incompetency. Judge stipulated to temporary suspension, but resigned from judicial office prior to Supreme Court ruling on petition and stipulation.

Matter of Hon. W. John Brennan, Second Judicial District Court Judge, JSC Inquiry No. 2004-60, Supreme Court Docket 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 judicial office prior to hearing and Supreme Court dismissed Commission petition as moot. Retired judge was subsequently charged with aggravated DWI, pleaded guilty to aggravated DWI and possession of cocaine, and sentenced on aggravated DWI charge to 90 days incarceration (88 days suspended and 2 days electronic monitoring) and 364 days of probation. Drug possession charge conditionally discharged pending successful completion of sentencing conditions.

Matter of Hon. Melissa Miller-Byrnes, Las Cruces Municipal Judge, JSC Inquiry No. 2003-92, Supreme Court Docket No. 28,716 (N.M. 2004). Allegations included making false or misleading statements during radio broadcast debate that no judicial disciplinary complaints had been filed against her with Judicial Standards Commission. On stipulation, Supreme Court formally reprimanded judge.

Matter of Hon. Ruben Galvan, Dona Ana County Magistrate Judge, JSC Inquiry No. 2004-99, Supreme Court Docket No. 28,609 (N.M. 2004). Allegations included criminal

investigation (and subsequent grand jury indictment) for felony 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. Judge resigned while on period of temporary suspension.

Matter of Hon. Frank W. Gentry, Bernalillo County Metropolitan Court Judge, JSC Inquiry No. 2004-46, Supreme Court Docket No. 28,986 (N.M. 2005). Allegations included use of judicial position to advance private interests; *ex parte* communication; and involvement, interference, and attempt to influence child placement in nephew's domestic relations case. Judge received one-week suspension without pay (deferred on completion of six months unsupervised probation and no other formal proceedings initiated against him) and formal reprimand.

Matter of Hon. James D. Atcitty, San Juan County Magistrate Judge, JSC Inquiry Nos. 2003-35, 2003-38 & 2003-57, Supreme Court Docket No. 29,076 (N.M. 2005). Allegations included inability to conduct fair hearings because of profound hearing loss in both ears and profound impairment of speech determination; and failing to follow substantive and procedural law while presiding over cases. Commission ordered independent medical examination, which concluded that judge is temporarily unfit to continue working as a Magistrate. Commission petitioned for judge's temporary suspension. Supreme Court denied petition on following conditions: (1) take paid medical leave as soon as practicable for up to 90 days to remedy medical condition, (2) report to AOC Magistrate Division and Commission concerning remediation and ability to return to job, and (3) if judge does not seek appropriate medical remediation in a timely manner, or if medical treatment should prove unsuccessful, Commission may re-file for appropriate relief. Respondent did not begin his Court-ordered medical leave until June 20, 2005. Case pending.

Matter of Hon. Thomas G. Fitch, Seventh Judicial District Court Judge, JSC Inquiry Nos. 2005-010 & 2005-015, Supreme Court Docket No. 29,082 (N.M. 2005). Allegations included that while on official court business, while acting as Chief Judge for his District Court, and while driving a State vehicle en route to Santa Fe to testify at legislative budget hearings, Respondent arrested and charged with aggravated DWI (first offense), careless driving, and open container. After trial (on stipulated factual findings and legal conclusions), Commission found willful misconduct and recommended permanent removal and costs. Upon further stipulation, judge permanently resigned and ordered to pay Commission costs.

Matter of Hon. Larry E. Wood, Eddy County Magistrate Court Judge, JSC Inquiry Nos. 2003-73 & 2003-95, Supreme Court Docket No. 29,085 (N.M. 2005). Allegations included knowingly failing to follow and/or apply the law when incarcerating citizens for failure to pay fines. Judge only credited inmates with \$5.00 per day of time served toward payment of fines and fees, rather than the greater amount required by statute. Supreme Court rejected initial stipulation with judge, but approved second. Judge permanently resigned and received formal reprimand.

Matter of Hon. Frances Gallegos, Santa Fe Municipal Court Judge, JSC Inquiry Nos. 2003-58, 2003-89 & 2003-108, Supreme Court Docket No. 27,906 (N.M. 2005). Allegations included ordering defendants to attend a specific driving safety course, contrary to statute, for which the paid course instructor was the judge's court administrator; allowing court administrator (acting in court administrator's personal for-profit business interests) to use the property and facilities of the judge's court for the administrator's driving safety course; allowing court administrator to teach driving safety courses for profit while administrator is employed by the court. Judge's acts occurred prior to and during time she negotiated stipulation agreement with Commission in Inquiry No. 2002-80 and when she became subject to Supreme Court's

disciplinary order. Judge ceased and agreed to desist from newly stated conduct. Judge suspended 30 days without pay (deferred on conditions: formal mentorship in judicial ethics and court administration, and complete "Ethics for Judges" course at National Judicial College on own time and at own expense.

Matter of Hon. Susana Chaparro, Dona Ana County Magistrate Court Judge, JSC Inquiry No. 2003-82, Supreme Court Docket No. 27,923 (N.M. 2005). Allegations included improper involvement in and interference with adjudication of a matter involving her son (*State of New Mexico vs. Michael Benavidez*, Cause No. M-14-TR-200205837), and thereby giving the appearance that she was trying to influence the outcome of her son's case and compromising the integrity, independence and impartiality of the judiciary. After merits hearing, Commission found that Respondent's conduct constituted willful misconduct in office and recommended a sixty-day suspension deferred on the condition that Respondent successfully complete one year of supervised probation, a formal public reprimand by the Supreme Court and assessment of the Commission's costs. Supreme Court imposed greater discipline than recommended by Commission and suspended Respondent without pay for two weeks, along with a year of supervised probation, a formal reprimand, and assessed \$5,000 of costs against Respondent.

Matter of Hon. Tony F. Martinez (Retired), Rio Arriba County Magistrate Judge Pro Tem, JSC Inquiry No. 2004-127, Supreme Court Docket No. 29,180 (N.M. 2005). Allegations included permitting and engaging in *ex parte* communications with the defendant's mother; allowing defendant's mother to negotiate plea agreement; failing to notify defendant of court hearings; failing to conduct arraignment; failing to advise defendant of constitutional rights; failing to appoint legal counsel for defendant; holding court proceedings in defendant's absence; and signing judgment and sentence order that falsely stated that the defendant appeared *pro se*, pleaded no contest/guilty, and

was sentenced (when in fact defendant was incarcerated and did none of the foregoing). On stipulation, judge publicly reprimanded, ordered to pay \$500.00 fine, and permanently resigned from judicial office.

Matter of Hon. Javier Lozano, Columbus Municipal Court Judge, JSC Inquiry No. 2004-67, Supreme Court Docket No. 29,264, (N.M. 2005). Allegations included having business relationship concerning J-Loz Auction Service, which had contract with Village of Columbus to auction impounded vehicles for 17% commission fee; receiving compensation for work with J-Loz Auction Service paid from profits of the auctions; and having jurisdiction to order the forfeiture or release of the impounded vehicles.

In re Hon. William A. McBee, Fifth Judicial District Court Judge, JSC Inquiry No. 2004-11, Supreme Court Docket No. 29,265 (N.M. 2005). Allegations included failing to recuse from criminal case, *State v. Busch*, CR-2002-378, after personally and verbally acknowledging that he should recuse because he could not be impartial in the adjudication and because his impartiality had been compromised because of his personal relationship with the defendant's attorney, boyfriend, and husband.



PUBLISHED OPINIONS AND ORDERS 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 substantive 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).

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

Matter of Romero, 100 N.M. 180, 668 P.2d 296 (1983).

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

Matter of 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).

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).

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

Matter of 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).

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

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



FY 2006 EXPENDITURES AND COST REIMBURSEMENT

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. The state legislature appropriated \$580,154.00 for Commission operations in FY 2006. This amount represents a 35.42% increase from the previous fiscal year. The Commission still did not receive sufficient funding to carry out its statutory and constitutional mandate to investigate and prosecute allegations of judicial misconduct. Thus, the Commission sought a State Board of Finance grant to cover trial costs for FY 2006. The Commission did not receive the grant, but did receive a loan in the amount of \$57,318.00.

In FY 2006, the Commission's expenditures totaled \$650,253.11. The Commission did not expend \$562.89 of its appropriation, which was reverted to the general fund. The Commission was unable to make payment on the State Board of Finance loan. A summary categorization of the Commission's expenditures is provided below.

FY 2006 EXPENDITURES

DESCRIPTION	AMOUNT	PERCENTAGE
Employee Salaries	\$346,786.26	53.3%
Employee Benefits	114,454.77	17.6%
Employee Training & Licensing	3,939.70	0.6%
Commission Travel	13,435.04	2.1%
Investigation & Prosecution	77,485.75	11.9%
Contractual Services ¹⁶	15,424.76	2.4%
Overhead & Rent	73,989.49	11.4%
Supplies & Postage	4,737.34	0.7%
Total	\$650,253.11	100%

The Commission is authorized to seek imposition of fines and cost reimbursement from the Supreme Court. Historically, the Commission had not made these disciplinary recommendations to the Supreme Court, but began to do so in FY 2005. Since then, the Supreme Court has assessed fines and cost reimbursement in several cases that have gone before the Commission with a disciplinary recommendation to the Supreme Court.

¹⁶ Contractual services costs are expenditures made in support of investigation and prosecution of Commission cases, and include medical/psychological evaluations. However, these costs are budgeted, tracked, and managed as a separate line item. Thus, total investigation and prosecution costs represent 14% of total expenditures, not including staff salaries and benefits.

Cost reimbursements are received and processed by Commission staff. Fines are received by Commission staff, and forwarded to the New Mexico Supreme Court Clerk for processing.

FY 2006 FINES AND COST REIMBURSEMENT

The Supreme Court is the only entity that may impose fines against judges, on recommendation by the Commission. Fines are paid to the State of New Mexico and deposited in the general fund through the Supreme Court.

Costs may be assessed by the Supreme Court or may be reimbursed on stipulation with the respondent judge. Costs are paid to the State of New Mexico and deposited into the Commission's account with the Office of the State Treasurer for the Commission's use during the same fiscal year.

DESCRIPTION	FINE	COST REIMBURSEMENT
2004-116, Confidential		\$ 2,500.00
2004-097, 2005-009, Florencio "Larry" Ramirez		1,500.00
2003-082, Susana Chaparro ¹⁷		5,000.00
2004-011, William McBee		2,500.00
2005-096, Stephen Quinn ¹⁸		1,106.17
2005-003, Carlos Garza ¹⁹		600.00
Total	\$ 0.00	\$ 13,206.17

FY 2006 BUDGET APPROPRIATION COMPARED TO FY 2006 EXPENDITURES

FY 2006 APPROVED BUDGET	\$ 580,154.00	
FY 2006 Budget Adjustments		
State Board of Finance Loan	57,318.00	
Reimbursed Costs (B.A.R. <i>Authority up to \$25,000</i>)	13,206.00	
Refund	138.00	
Total Adjusted Budget	\$ 650,816.00	
Total FY 2006 Expenditures		\$ (650,253.11)
FY 2006 Reversion to General Fund ²⁰		(562.89)
Total Expenditures and Reversion		\$ (650,816.00)

¹⁷ Imposed during FY2005, but not collected until FY2006.

¹⁸ Imposed and collected during FY2006, but case open and ongoing at end of fiscal year.

¹⁹ Imposed and collected during FY2006, but case open and ongoing at end of fiscal year.

²⁰ Reversion represents .086% of the Commission's total adjusted budget.



State of New Mexico
Judicial Standards Commission
Post Office Box 27248
Albuquerque, New Mexico 87125-7248
(505) 222-9353
<http://fscll.org/JSC/Main.htm>