January 12, 2024 Joint Judiciary Committee State Measurement for Accountable, Responsive, and Transparent Government (SMART) Act Hearing

Jim Carpenter, CCJD Vice Chair

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Constitutional and Statutory Mandates

- Protect the Public from Improper Judicial Conduct

- Preserve the Integrity of the Judicial Process

- Maintain Public Confidence in the Judiciary

- Create Greater Awareness of Proper Judicial Behavior

- Provide for the Fair and Expeditious Disposition of Complaints of Judicial Misconduct or Judicial Disabilities

Stages of a Judicial Discipline Proceeding & Standards of Proof

- Intake / Evaluation—Reasonable Grounds for Discipline Proceedings

- Complaint / Investigation—Judge's Response / Evidence Gathering

- Determination—Preponderance of Evidence (Dismissal, Informal Discipline, Decision to Initiate Formal Proceedings)

- Formal Proceedings / Adjudication—Clear and Convincing Evidence

- Recommendation--Agency Review

- Supreme Court / Special Tribunal Review—Fact Finding (Clearly Erroneous Review) / Legal Determinations (*De Novo*) with a Final Written Disciplinary Order

Performance Measures

- Office of Judicial Discipline Operations
  - Current Employees: Executive Director, Special Counsel, Office Manager
  - Investigation Services are Provided through Independent Contracts
  - Anticipated hiring of a paralegal / public information officer in 2024 to support office operations and expanded compliance with complainant notification requirements under

    § 13-5.3-112, C.R.S.
- Improved Website
  - RFE Form Available Online--§ 13-5.3-112, C.R.S.
  - Contains the Commission's Annual Reports from 1980-Present with Statistical Information Relevant to the Data Enumerated in § 13-5.3-108, C.R.S.
- Rules Revision Project—In anticipation of the potential approval of HCR23-1001 by Voters and funding approved for FY23, the Commission is negotiating to consult with the National Center for State Courts to propose revisions to the Colo. RJD

Performance Measures (Continued)

- Working to establish the Office of Administrative Support for Independent Agencies (ASIA), which will help the OJD and other independent agencies operate more efficiently and independently.

- Key goal for 2024 is more education for judges about ethics, the discipline process, changes in statute and potential constitutional changes.

Core Statistics for 2023

- 346 RFEs Received (Compared with 250 in 2022)
  - Majority of Dismissed RFEs Involved Disputed Rulings (49.4%)
  - Significant # of RFEs Generalized Conspiracies or Sovereign Citizen Theories (6.9%)
  - 2023 was unique with 20.8% or 73 cases investigated through the Secretary of State's Records of Judges' financial disclosures
- 114 Jurisdictional Denials
- 84 Investigations Performed or in Process
- 62 Cases (or approximately 18% of the total RFEs received in 2023) were processed as Complaints
  - In 2 Cases, complaints were either fully or partially unsubstantiated following investigation

Core Statistics for 2023 (Continued)

- Formal Proceedings Initiated in 2 Cases
- 1 Case was fully litigated through a Formal Adjudicatory Hearing

- Dispositions / Sanctions
  - 3 Dismissals with Concern / Deferred Disciplinary Action
  - 1 Private Reprimand
  - 2 Private Censures
  - 3 Public Disciplinary Opinions
  - 4 Cases Resulting in Resignations from Office

Demographic Information

- Subject Judges in Cases with Recognized Complaints (Excluding Financial Disclosure Cases)
  - 73% Male / 27% Female
  - 77% White / Non-Hispanic
  - 9% Black or African-American
  - 18% Hispanic or Latino
  - 1% LGBTQ+

- Directly Impacted Persons
  - 44% Male / 56% Female
  - 87% White/ Non-Hispanic
  - 4% Black or African-American, Asian, or Hispanic (Respectively)
  - 4% LGBTQ+

2024 Legislative Priorities

- Clarify Judges' Financial Disclosure Obligations under §§ 24-6-202 and 24-6-203, C.R.S.

- Repeal Categorical Prohibition Against Judges with Disciplinary Histories from Serving in the Senior Judge Program-- § 24-51-1105, C.R.S.

Questions?