

# COLORADO COMMISSION ON JUDICIAL DISCIPLINE

Joint Judiciary Committee SMART Government Act Hearing  
February 1, 2023

David Prince,  
Vice-Chair

Christopher Gregory,  
Executive Director

## Purpose of CCJD

- **CCJD Created w/ Merit Selection**
- **Purpose to Provide Independent Impartial Ethical Oversight of Judges**
- **Credible Ethical Oversight Permits Decisional Independence for Judges**

## Judicial Members

Hon. Sara Garrido

Hon. Bonnie McLean

Hon. David Prince

Hon. Mariana Vielma

## Attorney Members

Elizabeth Espinosa Krupa

Mindy Sooter

## Citizen Members

Jim Carpenter

Bruce A. Casias

Yolonda Lyons

Drucilla Pugh



Screening

Investigation

Formal  
Proceedings

Recommendation

Final

## COJD Staffing

- **Executive Director**
- **½ Time Administrative Assistant**
  
- **SB22-201 Expanded to include:**
  - **Staff Attorney**
  - **Investigator**
  - **To Full Time Admin Asst**

## Judicial Misconduct Caseload

- **3,924 RFE's 2001-2021**
- **373 Examinations conducted since 2001, rest dismissed at screening**
- **~70 Judges step down, voluntarily or involuntarily, since start**
- **Issued ~250 Corrective Actions since start**

## Current Judicial Misconduct Caseload

- **2022: 250 RFE's, 25% increase in over 2021**
- **Recent Averages:**
  - **7 corrective actions per year and**
  - **2 judges per year stepping away from duties**

## RFE Filing- Credible Serious Allegations

- Credible allegations of serious judicial misconduct rising at a higher rate than gross RFE filings
- In prior 20 years, file “formal proceedings” (a serious complaint) an average of 1 every 3.3 years.
- In last 12 months, filed 4 formal proceedings
- At historic rate, took 12 years to require as many formal proceedings as required in last 12 months.



## SB22-201 Reforms

- Restore Commission Funding on Conflict Free Basis
  - Create “Office” as funding mechanism
- Codify Judicial Branch Duty of Disclosure
  - Bar use of NDA’s to avoid disclosure of alleged judicial misconduct
  - Bar claims of confidentiality to avoid disclosure of alleged judicial misconduct
- Authorize Information Sharing Among Judicial Oversight Entities
- Created Interim Committee to Examine Judicial Ethics Oversight System

# Legislative Interim Committee on Judicial Discipline

## Interim Committee Proposals

- **The Discipline Commission supports the passage of the draft legislation proposed by the Interim Committee on Judicial Discipline Structural Reform**

## Interim Committee Results

- RCT, ILG Reports and Interim Committee testimony revealed that Colorado's current system is not working
- The oversight system does not assure the public of independent examination of judicial misconduct allegations
- Of 6 sample judicial misconduct allegations, only 1 was submitted to constitutional process. 2 against current justices were placed off limits even for examination by RCT and ILG
- Judicial misconduct complaints in addition to the Memo samples have not been submitted to constitutional process

## Summary of Interim Committee Proposals

- **Structural Reform** (Constitutional and Statutory)
  - Special Court for Supreme Ct. Conflicts
  - Separate investigative, adjudicative, and review phases
  - Reduce Supreme Court role
  - End Confidentiality at Formal Proceedings
  - Two Rulemaking Systems
- New **Data Reporting** Standards
- **Anonymous** Reporting System
- Still In Progress
  - **Ombuds** Bill
  - Repeal of **Criminal Penalty** on Confidentiality
  - Codification of **Subpoena** Power

Interim  
Committee  
Proposals--  
Rulemaking

- HCR 1001 Divides a case into two parts with two separate rulemaking processes
- Should be single rulemaking process
- Rulemaking committee comprised of all three major stakeholders (Investigation, Adjudication, and Appeal) with no one group holding final control
- Collaboration, compromise, and credibility will be promoted

Interim  
Committee  
Proposals—  
Special Court  
Selection Pool

- HCR 1001 creates special court when supreme court members involved in a case.
- Replacement judges drawn exclusively from Court of Appeals
- Commission supports larger pool to minimize undue influence comprised of all judges
  - Challenge with narrow pool already illustrated
- Negotiated compromise on pool with Judiciary to include only Appeals and District Court judges

Interim  
Committee  
Proposals—  
Appellate  
Review

- HCR 1001 grants only the respondent judge a right to appeal from the adjudication decision
- Both sides of the case should have a right of appellate review so that victims of alleged misconduct have a path to seek appellate review



Interim  
Committee  
Proposals—  
Independent  
Ombuds

- Demonstrated need for robust safe reporting system, protecting complainants from intimidation
- Past and current problem is that complaints of judicial misconduct have been disposed of internally by Judiciary rather than submitted to Colorado's constitutional process for independent oversight
- Ombuds that is independent of Judiciary can be practical limit on Judiciary's ability to prevent reporting of complaints to constitutional process



Questions??