

Mr. Chair, Madame Co-Chair, and Members of the Committee:

As I begin, I offer the following quote from John Wooden that has been particularly meaningful for me as of late, “Be more concerned with your character than your reputation. Character is what you really are. Reputation is what people say you are. Reputation is often based on character – but not always.”

I want to thank you for the opportunity to share my perspectives and recommendations concerning the Judicial Discipline process in Colorado. While I would like to respond to the personal denigration inflicted by the Judicial branch in detail, I realize this Committee has a monumental task at hand. This coupled with a tight timeframe for developing policy recommendations for legislative action, does not lend itself to the vetting of the totality of circumstances. So, my commentary will be brief. Hopefully, in the roles you perform you will have an opportunity, at some point, to personally review all the underlying information, not just the portions that the Judicial Branch deems fit to publish and will be in a position to make determinations for yourselves.

Over the course of my almost thirty-year career, I exclusively worked for judges in one manner or another and always performed my duties understanding the role and responsibilities with which I was tasked. Given that most of the written work I produced over the course of my career was issued under someone else’s name, I clearly knew who was in charge. My duties from the time I was a Bailiff forward were always performed with the advice and consent of the judicial officers for whom I worked.

The Branch has taken the position that “No investigation has revealed that this basic structure of Colorado’s current system [of judicial discipline] is deficient,” Thus, the justification for making such a significant and novel change to the current system is conspicuously lacking.” In light of that statement, I would ask you to look at the role the Branch played in the investigations that have reported findings thus far. Remember, Judicial controlled the timing, execution, and terms of

the contracts with RCT and ILG, including the conditions concerning retention of materials after their publication. Further, the Judicial Branch and its attorneys were granted multiple opportunities to review the State Auditor's report and executive summary and redact information they identified as privileged, attorney work product, or subject to other legal protections. In this respect, although not the primary actor, Judicial was in full control of these investigations.

Let me be clear, my devotion was always to the institution, not to any individual concerns including my own. I was a true believer, and always a supporter of trusting in the process. In retrospect, it seems that I became blind to motivations of individuals, and what I believed was an appropriate personal sacrifice to make on behalf of the Branch was ill advised.

Despite what has transpired, I hold nearly all the judicial officers and staff in Colorado's courts in the highest regard. Any spillover from the actions of the Chief Justice, the Supreme Court, and key senior staff members onto them makes me extremely sad. Their already challenging jobs have been made more difficult, by the taint of the branch's responses thus far. I do not believe there is now, or has ever been, wide-ranging systematic corruption or bias at work in state's trial courts. With that in mind, I would like to address the areas, in my opinion, where the interim committee should focus its efforts.

It has been my experience that, in addressing policy matters that impact areas of particular interest to the branch, there has been a broad sweeping application of the concept of separation of powers and the use of the umbrella of judicial independence as cover for keeping outsiders "out of judicial business". While I am not advocating for violating constitutional principles, given the actions of the Court to control access to information, to define the narrative, and to obfuscate in order to protect the actions of those who wear the robes, the time has come to look with particular scrutiny on the motivations behind those self-protectionist actions and the resulting difficulties they inflict. It has been my experience that Judges, and Courts themselves, are insular beings, and as a former insider, I never really appreciated the degree to which that shaped their actions. Now, having spent significant time

outside of the circle, I have a new sense of what it is like to draw their ire, and the degree to which they are focused on self-protection.

When it comes to Judicial Discipline, the Supreme Court and the Judicial Branch have controlled all the processes from start to finish, beginning in the 1960's until the changes in this last legislative session that gave rise to this committee. The first priority the committee should consider is, once again, taking up the topic of the Judicial department's lack of inclusion under CORA. Access to information is essential to garnering any ability to evaluate the actions and behaviors in question and, as a result, should not be at the discretion of the branch.

Representative Weismann, I know this was a particular interest of yours some years ago when legislation was passed which provided some limited inclusion of judicial records regarding sexual harassment under CORA, which was set to sunset in 2021. The opportunity for meaningful review of issues that involve administrative actions, and access to information that can shed light on them, should not vary based on the institutional actor in question.

In making further adjustments to the Judicial Discipline process, the committee should next focus on minimizing the appearance of impropriety, through either institutionalization of a more formalized recusal process or the formation of a separate tribunal, entity, or panel who would oversee the process and act as the ultimate decision-making authority when matters involving the State's highest court are in question.

Finally, the Committee should consider making the proceedings more transparent. While I can appreciate firsthand the concerns about having to deal with unfounded accusations and untruths about one's behavior being bantered about publicly, the process should nevertheless be structured in such a manner that provides the opportunity for public access to the proceedings, while balancing the interests of fairness and due process. In Colorado's system, most meritorious complaints and the sanctions ultimately imposed remain cloistered. This does nothing but generate additional questions and concerns about the ability to of the disciplinary process to achieve any real accountability for misdeeds.

Judicial independence is one thing, but complete autonomy is another. Judicial independence does not extend to self-determination in review of its own internal actions.

In closing, take a moment to ask yourself what I have to gain from any of this. I am an unemployed 53-year-old, with zero prospects for the future given the results that come from a Google search of my name. I no longer have the ability to serve the public and work in the field of public policy, which gave my career meaning. It is important for you to understand that I am doing this because I believe that this opportunity to address the deficiencies of the disciplinary process, improve the environment at judicial, and correct the extreme imbalance of power between the staff and the black robes, has the best chance for success. I remain hopeful that some chance for meaningful review of these type of actions and a corresponding improvement in the conditions of those who have been affected by them, is able to result from my coming forward more than a year and 1/2 ago.

Thank you.