



## Denver County Court Commission on Judicial Discipline 2024 Annual Report

### Background and Jurisdiction

In 1902, the City and County of Denver consolidated into a single municipality, forming a unified governing body that manages both local and state affairs. It operates independently within Colorado as a separate governing entity, empowered by the Colorado Constitution and the Denver Charter to adopt its own ordinances and rules. This authority provides the City and County of Denver with a level of self-governance, allowing it to function with relative autonomy from the state.

In 1962, Colorado voters approved a Constitutional Amendment that created the Denver County Court (the "DCC"), which began operations in 1965. The state recognized the need for a court uniquely designed to adjudicate both municipal and state laws within the consolidated City and County of Denver. This dual jurisdiction required a tailored judicial structure, and the DCC was established to meet this need. Unlike other courts in Colorado, the DCC operates independently of the state and relies entirely on taxes collected by the City and County of Denver for funding, rather than receiving state funds.

In 1966, Colorado replaced partisan judicial elections with a merit-based selection process. To implement merit selection at the DCC, the City and County of Denver created a Judicial Nomination Commission (the "JNC") under § 4.1.4 of the Denver Charter. The JNC evaluates judicial candidates and submits recommendations to the Mayor of the City and County of Denver, who makes the final appointments.

The Colorado Constitution, the Denver Charter, and the City and County of Denver collectively establish the DCC's autonomy from state oversight. Consequently, the Colorado Commission on Judicial Discipline, which oversees judicial conduct and disability for other courts, does not have authority over DCC judges. Instead, the City and County of Denver created the DCC Judicial Discipline Commission (the "Commission"), in 1972, under § 4.4.1 of the Denver Charter to oversee judicial discipline for the DCC.

Since its inception, the Commission has functioned as an independent oversight body for the DCC judiciary. The Mayor of the City and County of Denver appoints all voting members of the Commission. Additionally, the Presiding Judge, appointed to that position by the Mayor, serves the Commission as an *Ex-Officio*, non-voting member. The Commission submits its findings and

recommendations to the Mayor, who holds the sole authority to censure, suspend, remove, or retire a judge from office.

The Denver Charter, under § 4.4.2, authorizes the Commission to create and enforce its procedural rules, known as the Denver Rules of Judicial Discipline (the "Rules"). In 2024, under new leadership in the Presiding Judge's Office, the Commission recognized the need to update the rules and worked diligently to amend the Judicial Discipline rules to follow the State commission Judicial Discipline Rules and then pending legislation more closely regarding judicial discipline. With the assistance of our legal intern, Mary Kelly, committee member Aaron Hyatt and the Committee Chair, Judge Karen Brody, the Denver County Rules of Judicial Discipline were amended. In revising the Rules, the Commission focused on expanding public access, enhancing transparency, and ensuring due process.

The 2024 revisions of the Denver Rules of Judicial Discipline mark a significant milestone in the Commission's commitment to high ethical standards, accountability, fairness, and public trust in the Denver County Court. The Commission continues its work ensuring that Denver County Court judges and magistrates serve the public honorably and uphold the highest standards of justice.

### **Grounds for Discipline (§ 4.4.3)**

- A. ***In General.*** Grounds for judicial discipline shall include:
- (i) Willful misconduct in office, including misconduct which, although not related to judicial duties, brings the judicial office into disrepute or is prejudicial to the administration of justice;
  - (ii) Willful or persistent failure to perform judicial duties, including incompetent performance of judicial duties;
  - (iii) Intemperance, including extreme or immoderate personal conduct, recurring loss of temper or control, abuse of alcohol, or the use of illegal narcotic or dangerous drugs; or
  - (iv) Any conduct that constitutes a violation of the Colorado Code of Judicial Conduct.
- B. ***Additional Grounds for Removal or Retirement.*** In addition to the grounds delineated in subsection (a), grounds for removal or retirement of a judge shall include any disability interfering with the performance of judicial duties which is, or is likely to become, of a permanent character.
- C. ***Failure to cooperate.*** Failure or refusal of a Judge to cooperate or the intentional misrepresentation of a material fact during any stage of a disciplinary proceeding may constitute willful misconduct in office.
- D. ***Misconduct Distinguished from Error.*** In the absence of fraud, corrupt motive, bad faith, or any of the above grounds, the Commission shall not take action against a judge for making erroneous findings of fact or legal conclusions which are subject to appellate review.
- E. ***Failure to Comply with a Commission Order.*** A Judge's failure or refusal to comply with an order issued under these Rules during disciplinary proceedings or with a disciplinary order resulting from such proceedings may be (i) grounds for initial or

supplemental disciplinary measures or (ii) probable cause to proceed with formal action or (iii) cause for contempt proceedings under Rule 5(d).

The July 1, 2010, revision of the Code reorganized the nine Canons of the previous Code into four Canons which guide Judges and Justices in their conduct: (Colorado Code of Judicial Conduct, published in *Court Rules*, Book 1 of the Colorado Revised Statutes)

- **Canon 1:** A Judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
- **Canon 2:** A Judge shall perform the duties of judicial office impartially, competently, and diligently.
- **Canon 3:** A Judge shall conduct the Judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.
- **Canon 4:** A Judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independent, integrity, or impartiality of the judiciary.

Each Canon includes various rules and subsections. For example, Rule 2.5(A) requires a Judge to perform judicial and administrative duties competently and diligently. The rules are supplemented by comments and annotations/ethics opinions.

A Judge's decision concerning findings of fact and conclusions of law being disputed by a complainant does not provide grounds for disciplinary proceedings unless one of the elements of Colo. RJD 5(a) is present, (willful misconduct; willful or persistent failure to perform judicial duties; intemperance; a disability; a violation of the Canons; or evidence of fraud, corrupt motive, or bad faith).

Other matters beyond the scope of the Commission's jurisdiction include concerns about a Judge's overall performance and fitness for the position. Such issues are more appropriate for evaluation by the Commissions on Judicial Performance, which collects views from jurors, litigants, and attorneys in each judicial district regarding a Judge's competence; provide periodic reports to the Judge; and disseminate public reports on performance prior to the Judge's retention election.

### **The Composition of the Judicial Discipline Commission**

The Judicial Discipline commission is composed of seven voting members, plus the Presiding Judge of the County Court of the City and County of Denver as an ex-officio member in a non-voting advisory capacity. The membership of the Commission is made up as follows:

- (i) Three of the members shall be registered electors of the City and County of Denver who are not acting or retired Judges or Justices and are not licensed attorneys; two of the members shall be Judges of the Bench of District Court in and for the City and County of Denver; and two of the members shall be registered electors who are licensed attorneys engaged in the practice of law, none of whom shall be an acting or retired Judge or Justice.

- (ii) No more than four members shall be affiliated with the same political party.
- (iii) No members shall hold any official position in any partisan political organization.
- (iv) No member shall be related by blood or marriage to any other member.
- (v) No member shall have previously been or at the time of appointment be a member of the Judicial Nominating Commission established by this Article.

Pursuant to charter, the commission members serve four-year terms which are staggered because of three two-year terms at the inception of the Commission. Once their term expires, they remain on the Commission until replaced. The members of the Commission shall not receive any salary or compensation for their service as a member. Any member who is related by blood or marriage within the third degree to a Judge shall be disqualified from considering any matter concerning the Judge.

Similar to Colo. RJD 13, the Commission has, under Rule of Procedure 3, required the Presiding Judge to screen complaints that are frivolous, unfounded, solely appellate in nature, or outside the jurisdiction of the Commission, unless the complaint involves the Presiding Judge. Screened complaints are examined and summarized at the quarterly meetings.

Citizens may file a complaint through email and may now submit complaints on the Denver County Court website portal. In 2024, the Presiding Judge's Office, administration, and the IT department revisited the process to request and file judicial complaints to enhance transparency and ease of filing. Denver County Court created a way for parties to file complaints electronically enabling someone to submit a complaint directly on the website by completing the form and clicking "Submit." This option is in addition to the already provided instructions to submit a complaint through email and regular postage mail.

Information on how to file a complaint with the Judicial Discipline Commission is available on the Denver County Court website. This new process replicates the process of the Colorado State Judicial Commission and makes it easier for anyone wanting to file a complaint. Online filing has streamlined the process for complainants and efficiently sends complaints to the Presiding Judge's office. Additionally, the online process reduces the burden on citizens and staff of corresponding through traditional mail.

### **Processing and Screening Complaints**

The complaint form instructions contain an explanation of grounds for discipline. Once the Presiding Judge's Office receives a complaint, the Executive Assistant is responsible for communicating with the complainant and preparing it for review by the Presiding Judge. The Executive Assistant provides a letter to the complainant notifying them that the Judicial Discipline Commission has received their complaint and will investigate the allegations.

If the complaint is for a Denver County Court Judge, and it is not related to the outcome of a case, it is forwarded to the full Commission for review and follow-up discussion at quarterly meetings. Following review, the Presiding Judge creates a response letter to the complainant on behalf of the Commission with its findings. If other actions are taken, the complainant will be notified by the Commission.

If the complaint is related to a Magistrate, the Presiding Judge will typically address the complaint with the Magistrate and respond to the complainant. On occasion, at the discretion of the Presiding Judge, complaints against Magistrates may be referred to the Commission. Given that the Magistrates work at the pleasure of the Presiding Judge, those complaints rarely get referred to the Commission.

In addition to formal complaints, the Commission, on occasion, provides advice and/or guidance to the Presiding Judge on any outstanding matters.

## **Review of 2024**

In 2024, Denver County Court consisted of 19 County Court Judges, 4 full-time Magistrates, 2 three-quarter time Magistrates and 12 on-call Magistrates.

During 2024, the office of the Presiding Judge received two direct phone calls with requests for instructions on how to file a complaint. Those individuals were provided information on where to obtain the forms and/or submit a complaint online. The Presiding Judge's Office received a total of 30 formal Complaints in 2024 and one informal complaint. Those formal complaints were filed by either using the Formal Complaint Forms and mailing to the Court, or by submitting it online through Denver County Court's website portal. The number of complaints was higher than the prior couple years, likely due to the COVID-19 pandemic.

Of the 30 formal complaints received, seven were against Denver County Court Judges, seven were against Denver County Court Magistrates, 12 were against district judges and should have been filed with the Colorado Commission on Judicial Discipline, one complaint filed was against a Police Officer and not a Judge or Magistrate and three complaints were too vague in that they did not provide enough detail including both the name of the Judge and the case number. The complainants that were levied against District Court Judges were provided information on how to file with the Colorado Commission. The complainant trying to file against a police officer was given instruction on where to file a complaint with the Denver Police Department. Finally, complainants whose information was too vague were given responses with a request to provide additional information so the Presiding Judge's Office could adequately process the complaint. The Presiding Judge's Office received no follow up on any of the three complaints.

Regarding the seven formal complaints against the Denver County Court Judges, three were civil cases that pertained to the outcome of the case which is appropriate for an appeal of the matter and unrelated to the behavior, temperance, and upholding of the judicial canons. Three others were criminal cases, two of which involved bond setting concerns raised by the complainant(s) and the third a warrant concern involving a Failure to Appear. Response letters were provided to the complainants informing them that there was no basis for a finding that the Judges in question violated any canons or misapplied the law. The last complaint proceeded past the initial screening process. In addition, the Presiding Judge had one quasi-complaint raised by a Human Resources (HR) issue that was taken to the Commission for review. The formal complaint and the HR issue involved the same judicial officer. Upon review, the Commission determined that a letter of reprimand was warranted to address the HR complaint and no action was taken on the formal complaint as it was not found to be a discipline issue. On

behalf of the Commission, Judge Brody, Chair of the Committee, authored the letter which was presented to the Judge.

Regarding the formal Magistrate complaints filed, all seven were against on-call/three-quarter time Magistrates. Five of the seven were civil cases that were appellate in nature and not grounds for judicial discipline - However, many of these civil complaints addressed the temperament of the Magistrate(s). The Presiding Judge met privately with the Magistrates overseeing the cases and discussed areas for improvement, including patience, appropriate procedures, following and citing statutes in rulings, and being cognizant of tone. The remaining two complaints regarded criminal cases, one of which involved a victim's concern over the details of a Mandatory Protection Order, and the other involved concerns over the details of a bond setting. Although there was no finding of any canon violations with these two cases, the Presiding Judge still met with the Magistrates who oversaw those cases to discuss the details. Response letters were provided to all seven complainants informing them of any supervisory measures put in place to help the Magistrate perform better. In response to some of the complaints, the Presiding Judge also set up mandatory trainings on Procedural Fairness, bond hearings and domestic violence issues.

### **The Commission and Staff**

The 2024 Commission operated under the coordination of Presiding Judge Kerri Lombardi. Administratively, the day-to-day activities were organized in 2024 with the professional assistance of Presiding Judge Lombardi's Clerk, Amy Apodaca and Executive Assistant, Derek Barnard.

The Commission's membership in 2024 was comprised of the following:

<i>Member</i>	<i>City</i>	<i>Category of Appointment</i>
Nolbert Chavez	Denver	Citizen
Christena Estes Faraci	Denver	Citizen
Aaron Hyatt	Denver	Attorney
Jason Anderson	Denver	Citizen
Hon. Jay Grant	Denver	District Judge
Linda Weinerman	Denver	Attorney
Hon. Karen Brody	Denver	District Judge
Hon. Kerri Lombardi	Denver	Ex-Officio

Throughout 2024, appointments and reappointments occurred under the guideship and direction of Senior Advisor, Boards and Commissions, Esther Lee Leach and the aid of Presiding Judge Kerri Lombardi. Commission Meetings were held in August, October, and November. The next upcoming meeting is scheduled at the beginning of March 2025.

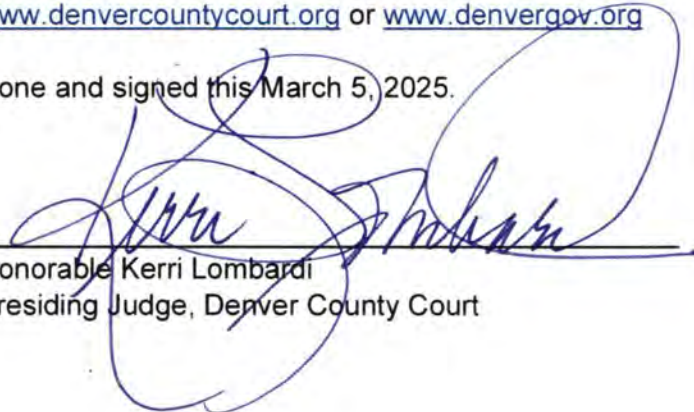
## 2025 Goals

The Judicial Discipline Commission is currently preparing a handbook to provide welcoming materials, the applicable rules and other helpful information for new Commission Members, including a possible orientation video.

This annual report is submitted in accordance with Denver's Rules of Judicial Discipline, Rule 3(d)(10) and Rule 8(j) and in recognition of § 13-5.3-108, C.R.S.

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Done and signed this March 5, 2025.



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Honorable Kerri Lombardi  
Presiding Judge, Denver County Court