



# Colorado Commissions on Judicial Performance

## 2018 Training



Ralph L. Carr Colorado Judicial Center at night

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## **SECTION 1: COLORADO JUDICIAL BRANCH**



## **Court Facts**

### **Organization of the Judicial Branch**

The [Colorado Supreme Court](#) is the state's court of last resort. Requests to review decisions of the Colorado Court of Appeals constitute a majority of the Supreme Court's filings.

The [Colorado Court of Appeals](#) is the state's intermediate appellate court. The Court of Appeals has jurisdiction, with exceptions, over appeals from the Colorado District Courts.

There are [22 Judicial Districts](#) within the state of Colorado as established by the [state Legislature](#) in 1963. The last major revision was November 2001 with the consolidation of Broomfield in the 17th Judicial District. Changes in district boundaries require a two-thirds vote of each house of the Legislature.

[District Court](#) is a court of general jurisdiction, handling criminal, civil, domestic relations, juvenile, probate, and mental health cases.

[County Court](#) is a court of limited jurisdiction, handling misdemeanors, criminal traffic violations, civil traffic infractions, small claims, felony complaints (which may be sent to District Court), and civil cases of under \$15,000.

There are seven [water courts](#), one in each of the major river basins ([South Platte](#), [Arkansas](#), [Rio Grande](#), [Gunnison](#), [Colorado](#), [White](#), and [San Juan](#) rivers). They are divisions of the district court in that basin.

[Probation](#) is also the responsibility of the Colorado Judicial Branch. Managed by the chief probation officer in each judicial district, probation employees prepare assessments and pre-sentence information for the courts, supervise the offenders sentenced to community programs, give notification and support services to victims, and provide special program services. As of July 1, 2017, there were 63,046 adults and juveniles on probation. In addition, 17,713 adults were on private probation or DUI monitoring.

### **Personnel**

The head of the Colorado Judicial Branch is the [chief justice](#) of the [Supreme Court](#), who is elected to the position by the justices of the Court. The justices select a [state court administrator](#) to oversee the daily administration of the branch.

As of July 1, 2017, the Colorado Judicial Branch had 328 authorized positions for justices and judges: [seven Supreme Court justices](#), [22 Court of Appeals judges](#), [185 District Court judges](#), and [114 part-time and full-time County Court judgeships](#). This excludes [Denver County Court judges](#) (17), who are appointed by the mayor of Denver. The Branch also had 89 positions for full- and part-time magistrates.

As of July 1, 2017, justices and judges are paid: chief justice of the Supreme Court, \$181,219; associate Supreme Court justices, \$177,350; chief judge of the Court of Appeals, \$174,226; Court of Appeals judges, \$170,324; District Court judges, \$163,303; County Court judges, \$156,278; Magistrates \$139,728.

Approximately 40 senior judges, who are retired from the bench, each hear cases approximately 60 days per year in districts where there are vacancies, a backlog of cases, conflicts of interest, etc.

### **Business**

In Fiscal Year 2017, [county court](#) filings decreased 0.57 percent from Fiscal Year 2016, with the greatest area of decrease in infraction filings. In the same period, [district court](#) filings decreased by 1.01 percent, with the greatest area of decrease in civil filings.

In Fiscal Year 2017, there were 410,355 cases filed statewide at the County Court level (excluding Denver County Court), 215,369 cases filed in District Court, 2,355 in the Court of Appeals, and 1,285 in the Supreme Court. There were 1,068 cases filed in the water courts.

Courts funded by the state's General Fund include: [Supreme Court](#), [Court of Appeals](#), [District Courts](#), and [County Courts](#). Municipal and Denver County courts are funded by their respective local governments.

# Colorado Courts At A Glance



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## **A Message from the Chief Justice of the Colorado Supreme Court**

Thank you for your interest in the Colorado Judicial Branch, one of the three branches of government working independently for a common goal: to protect the rule of law, the ideal that our country's founders worked so hard to reach.

The Colorado Judicial Branch is charged with two responsibilities: resolving disputes and supervising offenders on probation. By resolving disputes according to the rule of law, the judiciary furthers the founders' paramount principal that we are a government of laws and not people. No one is above the law; our courts protect individual rights and are open to all.

Our busy state court system has four levels of courts: county courts, district courts, the Court of Appeals and the Supreme Court. County courts handle about 450,000 case filings per year, and the district courts – including our seven specially designated water courts – handle about 235,000 cases per year. The 22 judges of the Court of Appeals, sitting in panels of three, handle about 2,500 cases annually, and the seven-member Supreme Court, in which all justices hear each case, receive about 1,500 case filings each year.

This document provides an overview of Colorado's state courts and the justice system in order to help you better understand how the courts function and what rights you have in the courts. We believe a more complete understanding of the justice system also will help all citizens appreciate the important role an independent judiciary plays in protecting their constitutional rights. We hope you find this document useful and informative.

We also invite you to visit the Branch's headquarters in downtown Denver to view beautiful artwork and learn more about the courts and the rule of law in the Judicial Learning Center, which is open Monday-Friday, 8 a.m. to 5 p.m. Admission is always free of charge.

Nancy E. Rice  
Colorado Supreme Court Chief Justice

# Introduction

Colorado's courts play important roles in your life. When you buy or sell goods or property, get married or divorced, have children, work, retire, drive a car, and even after you die, your state courts can protect your rights and enforce your responsibilities. If you are the victim of a crime, are accused of committing a crime, or witness a crime, you may be required to appear in a Colorado court. You may also be called upon to serve as a juror, one of the most important privileges we all share as citizens.

In addition to state courts, there are federal courts in Colorado that deal with federal laws, such as bankruptcies and matters involving the United States Constitution. This document does not discuss federal courts. They are part of a parallel but entirely different judicial system.

This booklet is designed to answer questions that you, the people of Colorado, may have about your state judicial branch. The following few pages present an overview of the Colorado Judicial Branch – how it works and how it affects you. A glossary containing legal terms is provided beginning on page 12.

## Your rights in court

If you are arrested or charged with a crime, even some types of traffic violations, you have certain constitutional rights. It is wise to exercise these rights even if you later decide to plead guilty to the charges.

What are these rights?

- You have the right to remain silent and to refuse to answer any questions asked by police officers and other officials about the event. Anything you say may be used against you.
- You have the right to have a lawyer represent you. If you cannot afford to pay for a lawyer, you can ask the judge to appoint one for you.
- You have the right to a public and speedy trial, either by a jury or a judge only.
- You are not required to prove your innocence; instead, you are presumed innocent of any crime unless the district attorney (city attorney in a municipal court) presents sufficient evidence to prove your guilt beyond a reasonable doubt.
- You are entitled to testify in your own defense if you want to, but you cannot be forced to testify.
- You or your attorney may cross-examine any person who testifies against you.
- You are allowed to bring in witnesses, and the judge can order any person you want as a witness to appear in court.

If you are found guilty, you have the right to appeal. You also have the right to make a statement or present additional information to the judge at the time of sentencing. The judge decides the sentence unless the death penalty is a possibility, in which case the jury decides.

Violations of private rights and duties are considered civil cases. Suits can be brought for such matters as the recovery of damages from negligence, breach of contract, or violation of civil rights. The court does not appoint attorneys in civil cases; however, legal aid services may be available for people who cannot afford a lawyer to represent them in civil matters.

Family law cases – involving such matters as dissolution of marriage (divorce), child support, allocation of parental responsibility, and dependency and neglect – also are considered civil cases. People who cannot afford legal representation for family law cases also may qualify for legal aid services or for court-appointed counsel.

For more information on our courts, please [click here](#).



# Types of courts

Several different courts in Colorado handle various kinds of cases. These courts are:

## **MUNICIPAL COURTS**

Municipal (city) courts deal with violations of city laws committed within the city limits. Generally, these laws involve traffic, shoplifting, and minor offenses such as dog leash-law violations and disturbances. For some cases, you may have the right to a jury trial and to tell your side of the story in municipal court. Municipal courts are not state courts; however, you may appeal a municipal court decision to a state court.

## **COUNTY COURTS**

Every county in the state has a county court, with at least one county judge. These courts handle traffic cases and minor criminal matters, as well as civil actions involving no more than \$15,000. You may have a jury trial in many types of county court cases. An appeal from a county court decision may be made to the district court.

## **SMALL-CLAIMS COURTS**

Small-claims courts are divisions of county court. Individuals are allowed to argue their own cases and to have speedy decisions on civil matters involving no more than \$7,500. Court sessions are held during the day or evening to accommodate the public. There are no jury trials in small claims courts, and sometimes a magistrate hears the cases instead of a judge. Normally, neither side may be represented by an attorney. No plaintiff may file more than two claims per month or 18 claims per year in small-claims court.

## **DENVER COURTS**

Denver's court system differs from those in the rest of the state, in part because Denver is both a city and a county.

The Denver County Court functions as a municipal as well as a county court and is paid for entirely by Denver taxes rather than by state taxes.

Denver County Court judges are appointed by the mayor of the city of Denver. Denver has the only separate juvenile court and separate probate court in the state. In other parts of Colorado, district courts handle juvenile and probate matters. The Denver juvenile and probate courts are state courts, along with Denver District Court.

## **DISTRICT COURTS**

Each county in the state is served by a district court. Colorado is divided into 22 judicial districts, many encompassing more than one county. Unlike county courts, where there is at least one judge per county, district judges are assigned to the judicial district and may serve more than one county within that judicial district, particularly in rural areas of the state, where as many as seven counties may be included in a district.

District courts have authority to handle many types of cases, including dissolution of marriage (divorce), civil claims in any amount, juvenile matters, probate (estates), mental health, and criminal matters. You may appeal a district court decision to the Colorado Court of Appeals and/or to the Colorado Supreme Court.

## **WATER COURTS**

Colorado has seven water courts, one in each of the major river basins (South Platte, Arkansas, Rio Grande, Gunnison, Colorado, White, and San Juan rivers). Water court is a division of district court, and the Supreme Court appoints a district court judge from within each river basin to act as water judge. Other personnel include the clerk of the water court and a water referee, who investigates applications for water rights and has the authority – under a water judge's supervision – to rule on such applications and other related matters. Water courts have exclusive jurisdiction over water rights. Cases relating to the determination of water rights and the uses and administration of water resources are determined by water judges. There are no jury trials in water courts, and all appeals from water courts' decisions are filed directly with the Colorado Supreme Court.

## **PROBATE COURT**

Probate courts oversee the distribution of estates after deaths. They also appoint guardians and

conservators to oversee the affairs of living persons who have been declared incapacitated. Probate courts also handle all involuntary mental health and substance-abuse commitments.

## **JUVENILE COURT**

Juvenile courts handle matters of juvenile delinquency, dependency and neglect, paternity, adoption and relinquishment. All cases in juvenile court are civil actions.

Delinquency cases involve allegations that a juvenile has broken criminal laws. The parents of the juvenile also are named in a delinquency petition. If a juvenile is found to have broken criminal laws, the court's options range from ordering special schooling or treatment for the juvenile to incarceration of the juvenile.

Dependency and neglect cases involve allegations of abuse or neglect of children by their parents or legal guardians. If a child is found to be dependent and neglected, the juvenile court will order a treatment plan for the adult involved if possible or, as a last resort, if a treatment plan is unsuccessful, may terminate parental rights.

## **PROBLEM-SOLVING COURTS**

Colorado also has adopted problem-solving courts in all 22 judicial districts. Problem-solving courts offer a sentencing alternative to incarceration for eligible offenders.

Court participants accepted into the voluntary programs are placed under intensive court supervision and receive treatment specific to their needs. These courts rely on close collaboration by members such as probation officers, prosecutors, defense attorneys, treatment providers and mental health professionals. Such courts exist in all 50 states and have proved to reduce substance abuse and recidivism.

Colorado has six types of problem-solving courts: adult drug courts, juvenile drug courts, DUI courts, adult and juvenile mental health courts, family and dependency/neglect courts, and veterans treatment courts.

For more information on problem-solving courts, please [click here](#).

## **COURT OF APPEALS**

The Colorado Court of Appeals, located in Denver, has 22 judges. One is appointed by the Colorado Supreme Court chief justice as chief judge. The court sits in divisions, each consisting of three judges.

Unlike the other courts discussed above, the Court of Appeals is not a trial court. The Court of Appeals usually is the first court to hear appeals of decisions made by Colorado district courts and Denver's probate and juvenile courts. In addition, it is responsible for reviewing the decisions of several state administrative agencies. Its determination of an appeal is final unless, upon petition of a party, the Colorado Supreme Court agrees to review the matter.

## **SUPREME COURT**

The Colorado Supreme Court has seven justices. A chief justice is elected by the court from its membership. The chief justice is the chief executive officer of the judicial branch of state government.

The Supreme Court is the court of last resort or the final court in the Colorado court system. An individual who has appealed to the Court of Appeals and is still dissatisfied with the outcome may ask the Supreme Court to review the case. In most situations, the Supreme Court has a right to refuse to do so. In some instances, such as water-rights or election-related cases, individuals can petition the Supreme Court directly regarding an administrative body's or lower court's decision.

In addition to its legal duties, the Supreme Court has supervisory and administrative responsibilities. The Supreme Court has supervisory power over all other state courts and over all attorneys practicing law in Colorado. The following bodies assist the Supreme Court in its duties:

For more information on our courts, please [click here](#).

## **PRO SE SELF HELP**

To help the growing number of people representing themselves in civil cases navigate the sometimes complicated court system, the Colorado Judicial Branch has created self-help centers in many court locations around the state.

Staff at these centers can't provide legal advice, but they can help steer people toward court forms they need, to community resources, and sometimes provide legal clinics offering the services of volunteer lawyers.

[Click here](#) for an up-to-date list of staff at self-help centers and much more information designed to help people representing themselves in civil matters.

## **COURTS IN THE COMMUNITY**

Both the Supreme Court and the Court of Appeals travel around the state several times per year to hear arguments in real cases at high schools.

The visits are part of the Courts in the Community program, which the courts created in 1986 to help improve students' civic knowledge of the courts and appellate process.

During these visits, students get the opportunity to ask questions of the attorneys who argue cases before the appellate courts, and of the judges or justices.

For more information on Courts in the Community, please [click here](#).

# Judges

Colorado's population increases every year. As a result, the number of cases filed in the courts increases every year. Colorado judges work hard to cope with the increasing number of cases so individuals may have prompt court hearings. This is not an easy task.

Judges do their best to move cases through their courts as fast as possible while still making certain that everyone has a fair hearing. The sheer number of cases sometimes makes this difficult. With the approval of the chief justice, judges who retire from service may assist local courts with case backlogs and fill in for judges during vacations and emergencies.

Trial judges have many responsibilities in addition to presiding over trials. The judges frequently must hold hearings where they listen to evidence and arguments and decide questions of law that are involved in a case. Judges spend considerable time researching legal matters and writing orders and opinions. Trial judges also have the responsibility of advising people of their constitutional rights when they are charged with a crime.

To ensure there is an adequate number of judges to handle cases in a timely manner, the state court system will occasionally request the addition of new judgeships to the Court of Appeals and the trial courts in the districts where they are most needed. Only the Legislature has authority to add new judgeships to the state system.

Judges on the Court of Appeals and justices on the Supreme Court do not handle trials. They decide an appealed case by reading the printed record of the trial and by considering written briefs and hearing the arguments of the lawyers on both sides. They research and review the law involved in the case and then write opinions, some of which are published and become part of the law of Colorado.

## **HOW DOES A JUDGE BECOME A JUDGE?**

A judge must be a special person: fair, just and knowledgeable in the law. How do judges attain their places on the bench?

The people of Colorado passed a constitutional amendment in 1966 which provides that state judges be appointed rather than elected on a political ticket. This is called a merit selection system. When a vacancy occurs in a state court, a judicial nominating commission interviews applicants and recommends two or three individuals to the governor for consideration. The governor then appoints one of them as a judge to fill the vacancy.

Every judicial district has a nominating commission. Each judicial district nominating commission consists of three attorney members and four non-attorney members. The non-attorneys are appointed by the governor, and the attorneys are appointed jointly by the governor, Supreme Court chief justice and the attorney general. Every nominating commission has one more non-lawyer than there are lawyers, and no political party may have a majority of more than one on a commission. A separate state commission recommends individuals for vacancies on the the Court of Appeals and Supreme Court. The state commission is composed of one lawyer and one non-lawyer from each of Colorado's seven congressional districts, plus a non-lawyer member-at-large.

The Colorado Constitution requires each judge wishing to remain in office to stand for retention after serving a full term. Voters select "yes" if they wish to grant the judge another term in office or "no" if they think the judge should not be retained in office.

Initially, a judge serves a two-year provisional term before standing for retention and then serves a full term. A county judge serves a four-year term; a district judge, six years; a Court of Appeals judge, eight years; and a Supreme Court justice, 10 years. All judges must retire by age 72.

Our courts also benefit from the service of retired judges, who may be appointed at the request of trial courts, to hear cases in which judges have recused themselves or to fill in when a judge is absent or when there is a judicial vacancy or an overscheduled docket. Senior judges contract to provide 60 or 90 days of service per year. In return, the judge's retirement benefit is temporarily increased.

For more information on judicial nominating commissions, please [click here](#).

## **JUDICIAL PERFORMANCE**

In 1988, the Colorado General Assembly created judicial performance commissions for the purpose of providing voters with fair, responsible, and constructive evaluations of trial and appellate judges and justices. The evaluations enable voters to make informed decisions in judicial retention elections, and also provide judges with information that can be used to improve their professional skills.

The State Commission on Judicial Performance develops evaluation techniques for district and county judges, judges of the Court of Appeals, and justices of the Supreme Court. Criteria include integrity; knowledge and understanding of substantive, procedural, and evidentiary law; communication skills; preparation for, attentiveness to, and control over judicial proceedings; sentencing practices; docket management and prompt case disposition; administrative skills; punctuality; effectiveness in working with participants in the judicial process; and services to the legal profession and the public.

Each judicial district has its own 10-member Judicial Performance Commission. The governor and chief justice each appoint one attorney and two non-attorneys. The president of the Senate and speaker of the House each appoint one attorney and one non-attorney.

The state commission is responsible for evaluating the performance of judges of the Court of Appeals and of the justices of the Supreme Court. Its members are appointed in a similar manner.

Narrative profiles and recommendations concerning judicial retention are made available at least 45 days before each general election for those judges subject to that year's retention vote. The information is available on the Internet and is published in the Colorado Legislature's Blue Book of Ballot Issues, which is mailed to each voter household prior to the election.

For more information on the commissions, please [click here](#).

## **COMMISSION ON JUDICIAL DISCIPLINE**

The Colorado Commission on Judicial Discipline oversees the ethical conduct and behavior of state court judges, justices, and senior judges. Created in 1966, the commission is composed of 10 members: four citizens, two attorneys, two district court judges, and two county court judges. The citizen and attorney members are appointed by the governor and must be approved by the Colorado Senate. The judge members are appointed by the Colorado Supreme Court. Commission members serve staggered four-year terms.

The commission does not have jurisdiction over Denver County Court or municipal court judges. Complaints against these judges go to the mayors of the respective cities.

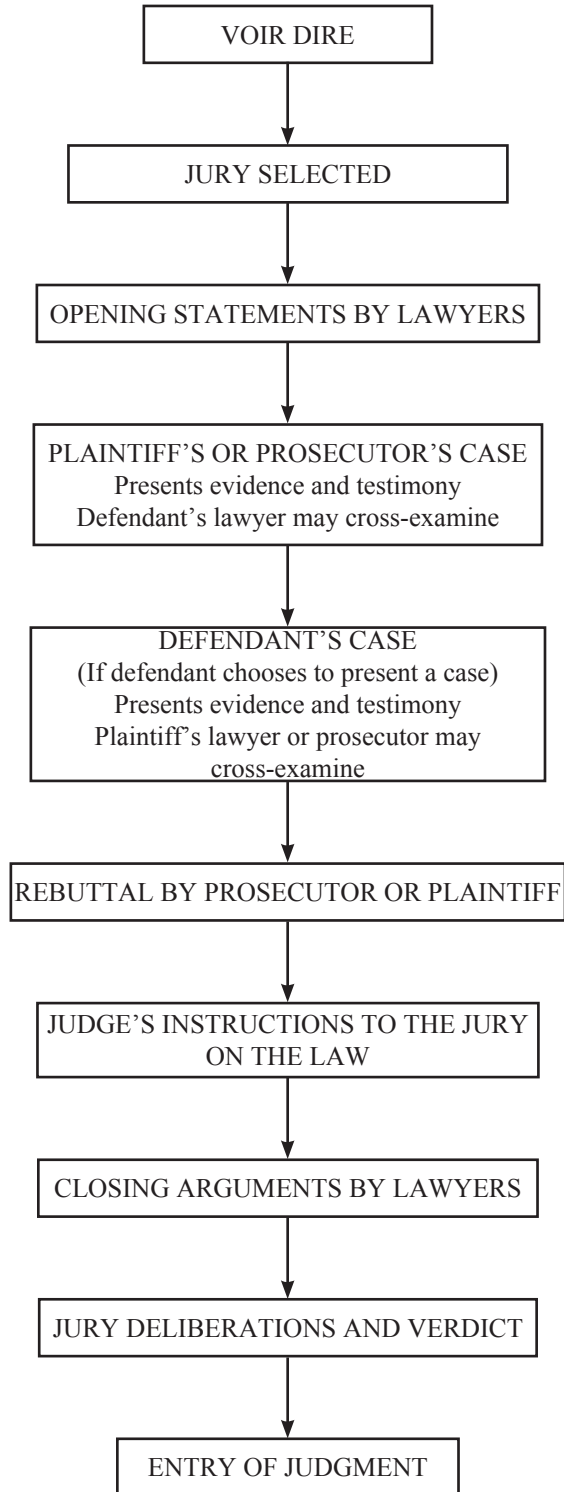
The commission has the constitutional authority to investigate allegations of any of the following acts:

- Willful misconduct by a judge, including misconduct which, although not related to judicial duties, brings the judicial office into disrepute or is prejudicial to the administration of justice;
- Willful or persistent failure of a judge to perform judicial duties, including the incompetent performance of judicial duties;
- Intemperance, including extreme or immoderate personal conduct, recurring loss of temper or control, abuse of alcohol, or the use of illegal narcotics or dangerous drugs;
- Any conduct on the part of a judge that constitutes a violation of the Colorado Code of Judicial Conduct; or
- A disability, which is or is likely to become permanent, that interferes with the performance of judicial duties.

For more information on the commission, please [click here](#).

# The jury system

## Anatomy of a Colorado jury trial



The jury system is an important part of the court process in Colorado. Persons accused of crimes have a right to trial by jury. Parties to a civil suit also may choose to have their case decided by a jury.

Jurors are selected at random from a computerized list of names taken from voter registration and driver's license records, and Department of Revenue lists. Juror summonses are then sent to the people selected, informing them when and where they are to appear for jury service.

About 95 percent of all jury trials in the world take place in the United States. Those who have served as jurors often express a feeling of pride in and respect for our system of justice and an appreciation for the opportunity to be part of the judicial process.

Efforts to streamline the jury system and make it more effective are continuing. Jurors in Colorado serve for only one day or one trial in any calendar year.

Colorado jurors may take notes during trials and submit written questions to be posed to witnesses by the judge if the judge approves. Jurors also are given notebooks containing pertinent information about the case such as the judge's instructions, a glossary of terms used during the trial and information about witnesses and exhibits. If the parties agree, jurors also may discuss the case with each other before the trial is complete. Parties are encouraged to use technology to speed the presentation of evidence.

Employers must pay regular employees who are serving as jurors their regular wages (or up to \$50 per day) for the first three days of the trial. Unemployed jurors may claim a reimbursement for expenses. The state pays \$50 per day to all jurors after the third day.

The opportunity to serve on a jury allows you to become a better informed and more responsible citizen and to learn more about your courts and the law.

For more information on jury service, please [click here](#) and be sure to click on the "Colorado Jury Service Video" link.

# The legal system

Like the United States, the State of Colorado has three branches of government: Executive, Legislative, and Judicial. The Colorado Constitution defines each branch's responsibilities. The Constitution also guarantees many specific legal rights to all Coloradans and provides for the establishment of state courts. Courts are part of the Judicial Branch of government, and their major function is to resolve disputes.

## **CIVIL DISPUTES**

Colorado's courts have power (called jurisdiction) to decide two kinds of disputes – civil and criminal. Civil cases usually involve conflicts between private citizens, such as disputes over contracts, wills, personal injuries, or family law matters. Government departments, agencies, and officials may also be involved in civil cases. In deciding civil cases, judges often must interpret laws made by the Legislative Branch or rules made by government departments or agencies that are part of the Executive Branch.

Court proceedings, however, provide only one way to resolve legal disputes; other methods are called alternative dispute resolution, or ADR. There are two basic types of ADR: negotiation, in which the parties have control of the decision making; and adjudication, in which a neutral person makes the decision.

Mediation is the most commonly used type of negotiation-based ADR. In mediation, a trained neutral third party helps the parties reach a resolution, but the parties make the actual decision. Arbitration is the most common type of adjudication-based ADR. Arbitration is like an informal trial where a neutral third party hears evidence and arguments from the parties and then makes a binding decision (called an award). An award made through binding arbitration may be appealed to the courts only for very limited reasons.

## **CRIMINAL CASES**

Criminal cases in state trial courts involve charges of violations of certain laws enacted by the Colorado General Assembly, the Legislative Branch. Criminal charges are filed by government attorneys, called district attorneys, on behalf of the people of the State of Colorado. Some criminal charges – called indictments – are filed by grand juries, but this procedure is rarely used in Colorado state courts.

The Colorado General Assembly establishes the definition of crimes and sets the ranges of penalties that trial judges may impose on convicted criminals. The Judicial Branch is responsible for the state courts and probation services. The Colorado Department of Corrections – a department of the Executive Branch – is responsible for the state prison system and community corrections facilities. Parole – also under the Department of Corrections – is the supervision of convicted criminals after they are released from the state prison system. The governor has constitutional power to change the sentences of convicted criminals.

City (also called municipal) governments are similar in organization to the state government. City councils pass ordinances that control the behavior of individuals within the city limits. City attorneys may file charges when certain ordinances have been violated, and trials on such charges are held in a municipal court before a municipal judge. Municipal courts are not part of the state court system, but the procedures are very similar to those followed in state courts.

## **CRIMINAL SENTENCES**

Whenever a defendant in a criminal case pleads guilty to or is found guilty of a criminal charge, the judge must sentence the defendant according to the law. Before any defendant is sentenced (except in traffic or other less serious criminal matters), the judge is given a report from the probation department. This report contains information about the defendant and recommendations from the probation department and other professionals involved in the case as to the sentence that should be imposed.

A defendant may be sentenced to serve a stated period of time in a correctional facility. The Department of Corrections decides in which institution the defendant will serve the sentence.

Upon the recommendation of a district attorney, the judge may postpone sentencing a defendant for

a stated period of time after the defendant enters a plea of guilty. If the defendant is a law-abiding citizen for that time, the judge may dismiss the case and the criminal record of the defendant may be erased. This is called a deferred sentence.

A defendant may be granted probation. If this is done, the judge places the defendant under the supervision of the probation department instead of imposing a sentence to a correctional institution. Most defendants who receive probation are first-time offenders involved in nonviolent crimes. Payment to the victim for any losses (called restitution) is usually a requirement of probation. A defendant who violates probation or a deferred sentence may be sent to a correctional facility.

Defendants who are sent to a correctional facility may be released before their sentence is fully served by being granted parole by the State Board of Parole. Defendants on parole must keep a parole officer advised of all their activities for the time required by the board. Defendants who violate conditions of parole may be returned to a correctional facility.

For more information on our court system, please [click here](#).

## Probation

Each judicial district has a probation department that is managed by a chief probation officer who is appointed by the judges of the district, with the approval of the chief judge.

The mission of probation is to protect the community while holding offenders accountable. Probation does this by:

- Providing the judge with information on the offender to help the judge fashion the most appropriate sentence;
- Providing support to victims; and
- Ensuring convicted offenders pay restitution to the victim, comply with conditions of the court, and complete community service as ordered.

Information provided to the judge prior to sentencing is based on details of the current offense and the offender's criminal and social history; circumstances of the victim, such as restitution needed; and recommendations for sentencing. If the offender is granted probation, these reports are helpful to the supervising probation officer for case planning. If the offender is to be incarcerated, the report is forwarded to the Department of Corrections, where it is used in the diagnostic and placement process. Eventually, it may be reviewed by the parole board if the offender applies for parole.

For those granted probation, supervision may include counseling, referral to treatment facilities, collection of restitution, drug and alcohol testing, and home detention. Personalized case management plans are developed through evidence-based assessment tools that are used to determine risk and need to help ensure efficient and effective use of resources. Special-needs offenders are referred to specialized programs. These programs are designed for sex offenders, drunk drivers and drug offenders. Evaluators work to refer offenders to programs that best address their needs. These referrals are often to weekly outpatient groups, individual therapy, or daily outpatient sessions. Certain high-risk offenders are referred to intensive supervision probation programs, which may include home monitoring. Defendants who fail to comply with conditions of probation can be returned to court and may subsequently be incarcerated or at least have their conditions of probation increased.

The probation department's post-sentence victim services program is charged with the responsibility of notifying qualifying victims of crime about changes in the probation status of the person convicted of committing a crime against them. Victims who have asked for the service are told about numerous points of information, such as whether the offender has asked for early termination of probation, whether the offender's probation may be revoked or whether the offender's probation has been modified. Referrals to service agencies are also made for victims in need.

For more information on probation, please [click here](#).

# Education

The Colorado Judicial Branch puts significant effort toward educating the public about courts and legal matters.

Besides formal programs such as Courts in the Community (see the Supreme Court section) and programs designed for adults and high school students run by judges in some parts of the state, the Branch invites everybody to visit its headquarters in downtown Denver. The Ralph L. Carr Colorado Judicial Center features not only numerous beautiful pieces of art, but also a state-of-the-art interactive Judicial Learning Center for youth and adults.

Admission to the Learning Center, open Monday through Friday from 8 a.m. to 5 p.m., is always free. At the Learning Center, people can learn about the American justice system and its history, how judges do their work, the U.S. and Colorado Constitutions, and the importance of the rule of law. For more information, please [click here](#).

# Administration

The Colorado Judicial Branch is centrally administered by the chief justice of the Supreme Court. To assist the chief justice, the Supreme Court appoints the state court administrator. Judicial districts are supervised by chief judges, who are appointed by the chief justice. The chief judge within each district appoints a district administrator, a chief probation officer, and clerks of court to assist in the management of the district.

Innovative business techniques and new procedures are constantly under evaluation for possible introduction throughout the branch at all levels in order to improve efficiency and to make the courts more accessible to the citizens of Colorado.

## USEFUL LINKS

Colorado Judicial Branch: [www.courts.state.co.us](http://www.courts.state.co.us)

Colorado Court Facts: [www.courts.state.co.us/Courts/Education/Court\\_Facts.cfm](http://www.courts.state.co.us/Courts/Education/Court_Facts.cfm)

Colorado State Government: [www.colorado.gov](http://www.colorado.gov)

Colorado Constitution: [www.courts.state.co.us/Courts/Education/Constitution.cfm](http://www.courts.state.co.us/Courts/Education/Constitution.cfm)

Court Case Information: [www.cocourts.com](http://www.cocourts.com) or <http://www.bisi.com/dataservices.php>

## INDEX OF LINKS PROVIDED

Educational resources: [www.courts.state.co.us/Courts/Education/Index.cfm](http://www.courts.state.co.us/Courts/Education/Index.cfm)

Problem-Solving Courts: [www.courts.state.co.us/Administration/Unit.cfm?Unit=prbsolcrt](http://www.courts.state.co.us/Administration/Unit.cfm?Unit=prbsolcrt)

Courts in the Community: [www.courts.state.co.us/Courts/Education/Community.cfm](http://www.courts.state.co.us/Courts/Education/Community.cfm)

Nominating Commissions: [www.courts.state.co.us/Courts/Supreme\\_Court/Nominating.cfm](http://www.courts.state.co.us/Courts/Supreme_Court/Nominating.cfm)

Judicial Performance: [www.coloradojudicialperformance.gov](http://www.coloradojudicialperformance.gov)

Judicial Discipline: [www.coloradojudicialdiscipline.com](http://www.coloradojudicialdiscipline.com)

Jury Information: [www.courts.state.co.us/Jury/Index.cfm](http://www.courts.state.co.us/Jury/Index.cfm)

Courts Overview: [www.courts.state.co.us/Courts/Index.cfm](http://www.courts.state.co.us/Courts/Index.cfm)

Probation: [www.courts.state.co.us/Administration/Division.cfm?Division=prob](http://www.courts.state.co.us/Administration/Division.cfm?Division=prob)

Learning Center: [www.colorado.gov/pacific/cjlc/learning-center](http://www.colorado.gov/pacific/cjlc/learning-center)



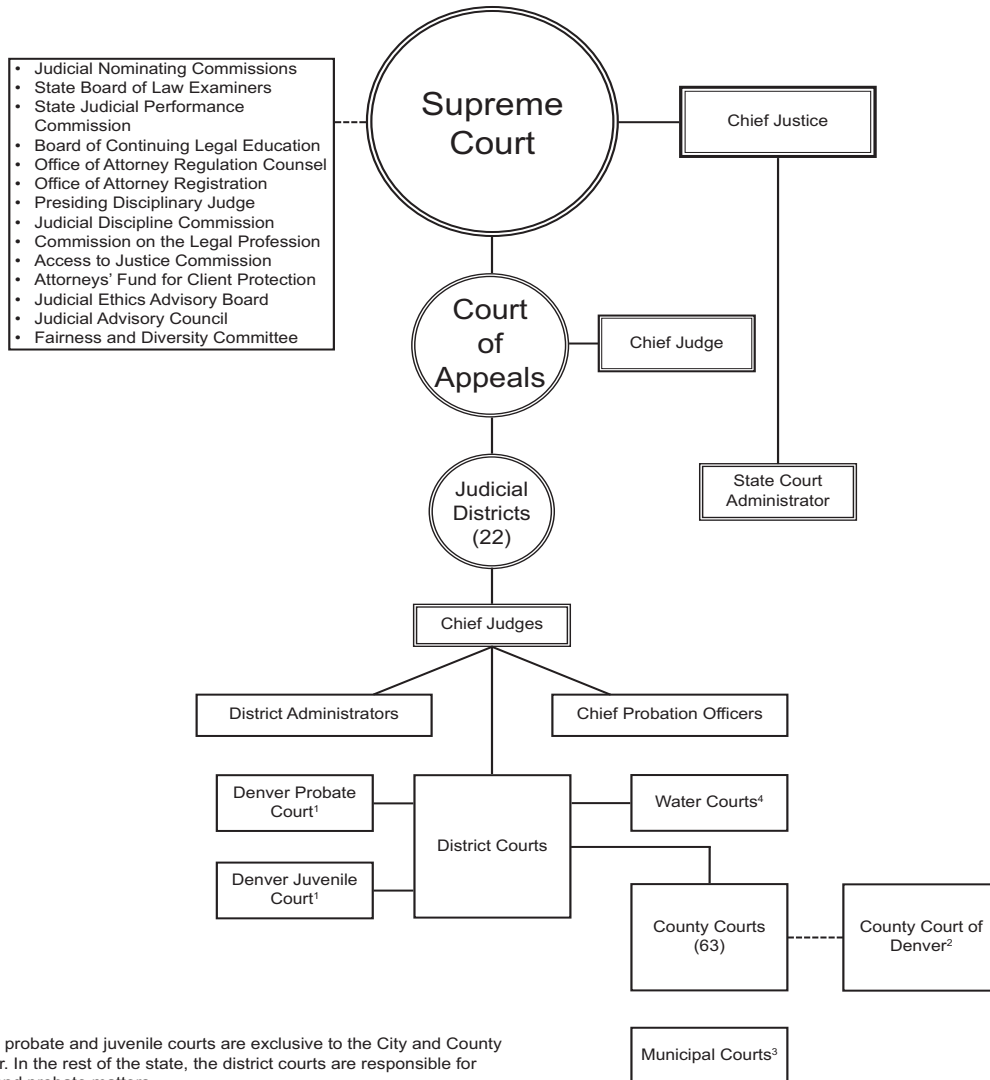
The Colorado court system consists of the Supreme Court, an intermediate Court of Appeals, district courts and county courts.

Each county has both a district court and a county court. Special probate and juvenile courts created by the Colorado Constitution exist in the City and County of Denver.

Colorado statutes also authorize locally funded municipal courts with jurisdiction limited to municipal ordinance violations.

## Colorado Judicial Department Organizational Chart

The Colorado court system consists of the Supreme Court, an intermediate Court of Appeals, district courts and county courts. Each county is served both by a district court and a county court. Special probate and juvenile courts exist in the City and County of Denver. Colorado statutes also authorize locally funded municipal courts with jurisdiction limited to municipal ordinance violations.



- 1 – Separate probate and juvenile courts are exclusive to the City and County of Denver. In the rest of the state, the district courts are responsible for juvenile and probate matters.
- 2 – The Denver County Court functions as a municipal as well as a county court and is separate from the state court system.
- 3 – Created and maintained by local government but subject to Supreme Court rules and procedures.
- 4 – There are seven water courts, one for each of Colorado's major river basins, which are divisions of District Court.

# Glossary

Law has a special language. Some familiar words have a different meaning when used in connection with our courts. This list will help you understand them.

**ALTERNATIVE DISPUTE RESOLUTION (ADR)** A way to resolve legal disputes that involves such methods as mediation or arbitration, as a way to avoid litigation in court. ADR is generally less expensive and less time-consuming and can be less adversarial than litigation.

**APPEAL** A request to take a case to a higher court for review. No new evidence may be introduced during the appellate process; the reviewing court considers whether errors occurred during prior proceedings.

**APPELLATE JURISDICTION** The power of a court to review a case that has already been tried by a lower court.

**BRIEF** A written document presented to the court by a lawyer to serve as the basis for argument.

**CAPITAL CASE** A criminal case in which the death sentence may be imposed.

**CIVIL MATTERS** Matters or cases pertaining to the private rights of individuals.

**COMMON LAW** The law of a country based on custom, usage, and the decisions of courts.

**CONTEMPT OF COURT** The punishable act of showing disrespect for the authority or dignity of a court.

**CONVICTION** The finding that a person is guilty beyond a reasonable doubt of committing a crime.

**COUNSEL** A lawyer or a group of lawyers.

**COURT OF RECORD** A court in which a permanent record of proceedings is made.

**CRIMINAL MATTERS** Matters or cases concerned with acts considered harmful to the general public that are forbidden by law and are punishable by fine, imprisonment, or death.

**DAMAGES** Money claimed by, or ordered paid to, a person who has suffered injury due to the fault of someone else.

**DEFENDANT** A person sued or accused.

**DISTRICT ATTORNEY** A lawyer elected or appointed in a specified judicial district to serve as a prosecutor for the state in criminal cases.

**DOCKET** A list of cases to be heard by a court.

**DOMESTIC RELATIONS** Refers to dissolution of marriage (divorce), parenting time and parenting responsibilities, child support, maintenance (alimony), and property division.

**EVIDENCE** Anything presented to the judge or jury to prove or disprove a fact. Evidence can be witness testimony, statements, writings, recordings, or objects. Statements by lawyers are not evidence.

**FELONY** A crime punishable by death or by imprisonment in a state penal institution.

**GRAND JURY** A jury of 12 to 23 citizens that investigates accusations concerning crimes. If there is sufficient evidence, the jury may return an indictment. Used more often in federal court than in state courts.

**INDICTMENT** A formal accusation against a person by a grand jury, based upon probable cause that the person committed a crime.

**INFORMATION** A formal accusation of crime, based on an affidavit of a person allegedly having knowledge of the offense.

**JEOPARDY** Exposure to possible conviction, such as being on trial in court.

**JURISDICTION** The legal power to hear and decide cases; the territorial range of such power.

**JURY** A group of people who swear or affirm to hear evidence, to inquire into the facts in a case, and to give a decision in accordance with their findings.

**JUVENILE CASES** Cases involving delinquent children (under 18 years of age), children needing oversight, and dependent or neglected children (including abused children).

**MENTAL HEALTH CASES** Cases involving actions in which a mentally ill person is committed to a hospital or other institution for treatment. A guardian may be appointed to handle the person's affairs.

**MISDEMEANOR** A less serious criminal offense punishable by a sentence of two years or less.

**OPINION** A formal statement by a judge or justice hearing a case.

**ORDINANCE** A law passed by a city or town legislative body.

**PLAINTIFF** A person who brings a suit in a court of law.

**PRE-SENTENCE INVESTIGATION REPORTS** Reports by probation officers that present information necessary for the judge to sentence the offender.

**PROBATE MATTERS** Matters or cases having to do with wills or estates.

**PROBATION** An alternative form of sentencing for one convicted of a crime. After the convicted person agrees to behave properly, the person is placed under the supervision of a probation officer, rather than being put in jail or prison.

**PROSECUTOR** A lawyer who represents the government in bringing legal proceedings against an alleged wrongdoer.

**PUBLIC DEFENDER** A lawyer employed by the government to represent an accused person who cannot afford to hire a lawyer.

**RESTITUTION** The act of making good or of giving the equivalent for any loss, damage or injury.

**SENTENCING** When the defendant is brought before the court for imposition of punishment such as fines and costs, time in jail or prison, or probation.

**SUBPOENA** A written legal order directing a person to appear in court.

**SUMMONS** An official order to appear in court in a criminal case. In civil cases, it is a notice that a case has been filed and that an answer is required.

**TESTIMONY** A statement made under oath by a witness or a party to establish a fact.

**WARRANT** A writ or order authorizing an officer to make an arrest, search, or to perform some other designated act.



Updated 2015

## **SECTION 2: JUDICIAL PERFORMANCE MATERIALS**



## OFFICE OF JUDICIAL PERFORMANCE EVALUATION

1300 Broadway, Suite 220  
Denver, Colorado 80203  
(303) 928-7777

[www.coloradojudicialperformance.gov](http://www.coloradojudicialperformance.gov)

### JUDICIAL PERFORMANCE FACT SHEET

#### PURPOSE

- Commissions on Judicial Performance were created in 1988 by the Colorado General Assembly to provide voters with fair, responsible and constructive evaluations of judges and justices seeking retention. The results also provide judges with information to help improve their professional skills as judicial officers.

#### AUTHORITY

- Article VI, Colorado Constitution
- C.R.S. 13-5.5-101 *et seq.*
- Rules Governing the Commissions on Judicial Performance

#### COMMISSIONS

- Colorado has 230 volunteer citizen commissioners providing judicial performance evaluations for State Judges. There is one commission in each of the 22 judicial districts and one state commission. Each commission consists of 10 volunteer citizen members: six non-attorneys and four attorneys. Appointments to the commission are made by the Chief Justice, Governor, Speaker of the House and President of the Senate as follows:

|                          |                                    |
|--------------------------|------------------------------------|
| Chief Justice:           | one attorney and two non-attorneys |
| Governor:                | one attorney and two non-attorneys |
| Speaker of the House:    | one attorney and one non-attorney  |
| President of the Senate: | one attorney and one non-attorney  |

- Commissioners serve a four-year term with a maximum of two terms served within the judicial district.
- The State Commission evaluates the performance of Supreme Court justices and Court of Appeals judges. They also provide oversight to the Office of Judicial Performance Evaluation and adopt rules, guidelines, or procedures that provide guidance to

commissioners during the evaluation process and the evaluation criteria in section 13-5.5-107 C.R.S. 2017.

- District Commissions evaluate the performance of county and district court judges in their local judicial districts.

## **RETENTION EVALUATION PROCESS**

- **Trial Judge Performance Criteria**

- Integrity – including but not limited to whether the judge:
  - Avoids impropriety or the appearance of impropriety
  - Displays fairness and impartiality toward all participants;
  - Avoids ex parte communications; and
  - Promotes public confidence in his/her integrity
- Legal Knowledge – including but not limited to whether the judge:
  - Demonstrates an understanding of substantive law and the relevant rules of procedure and evidence;
  - Demonstrates attentiveness to factual and legal issues before the court;
  - Adheres to precedent or clearly explains the legal basis for departing from precedent; and
  - Appropriately applies statutes, and other sources of legal authority in their decisions
- Communication Skills – including but not limited to whether:
  - The judge’s finding of fact, conclusions of law, and orders are clearly written and understandable;
  - The judge asks understandable, relevant and pertinent questions during oral argument or presentations; decisions;
  - The judge clearly explains the legal and factual basis for all oral decisions;
  - During sentencing the judge listens to all sides, clearly state the sentence and reason for the sentence, and clearly advises the defendant what is to occur next (criminal cases only);
  - In a jury trial the judge explains the process to the jury; and
  - The judge asks if the parties understand, have questions, of need clarification about any matter
- Judicial Temperament – Including but not limited to whether the judge:
  - Demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom
  - Maintains and requires order, punctuality, and decorum in the courtroom; and
  - Demonstrates control over the courtroom
- Administrative Performance – Including but not limited to whether the judge:
  - Is timely in attendance and prepared for for all hearings and trials;

- Explains the reason for any delays for proceedings that begin after a scheduled time;
    - Issues opinions and orders in a timely manner;
    - Manages court time effectively and efficiently;
    - Assist other judges with their workload; and
    - Understands and complies with the directives of the Colorado Supreme Court
  - Service to the Legal Profession and the public
    - By participating in service-oriented efforts designed to educate the public about the legal system and to improve the legal system
- **Appellate Judge Performance Criteria**
  - Integrity – including but not limited to whether the justice or judge:
    - Avoids impropriety or the appearance of impropriety;
    - Displays fairness and impartiality toward all participants; and
    - Avoids ex parte communications
  - Legal Knowledge – including, but not limited to whether the justice’s or judge’s opinions:
    - Are well-reasoned and demonstrate an understanding of substantive law and the relevant rules of procedure and evidence;
    - Demonstrate attentiveness to factual and legal issues before the court; and
    - Adhere to precedent or clearly explain the legal basis for departure from precedent
  - Communication Skills – including, but not limited to whether the justice’s or judge’s:
    - Opinions are clearly written and understandable; and
    - Questions or statements during oral arguments are clearly stated and understandable
  - Judicial Temperament – including but not limited to whether the justice or judge:
    - Demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom; and
    - Maintains and requires order, punctuality, and appropriate decorum in the courtroom
  - Administrative Performance – including but not limited to whether the justice or judge:
    - Demonstrates preparation for oral argument, attentiveness, and appropriate control over judicial proceedings;
    - Manages workload effectively and efficiently;
    - Issues opinions in a timely manner and without unnecessary delay;
    - Participates in a proportionate share of the court’s workload; and
    - Understands and complies, as necessary, with directive of the Colorado Supreme Court



- Service to the Legal Profession and the Public
  - By participating in service-oriented efforts designed to educate the public about the legal system and to improve the legal system
  
- Commissions must use the following information to make recommendations to the voters regarding the performance of an individual judge standing for retention:
  - Survey results
    - Trial Judge
 

Surveys are sent to attorneys (including prosecutors, public defenders, and private attorneys), jurors, litigants, law enforcement personnel, court employees, court interpreters, probation office employees, social services employees, crime victims, and appellate judges
    - Appellate Judge
 

Surveys are sent to attorneys (including prosecutors, public defenders, and private attorneys), other appellate judges, appellate staff attorneys, self-represented litigants, and district judges
  - Information from observing the judge in the courtroom
  - Information furnished by the judge in a self-evaluation
  - Review of decisions/opinions
  - Review of individual judge statistics, including caseload information, and open case reports.
  - Information from meetings held with a representative of the District Attorney's Office and/or a representative of the Public Defender's Office, when requested
  - Interview with the judge
  - Completion of a Performance Standards Matrix
  
- Commissions may also use the following information to make recommendations to the voters regarding the performance of an individual judge:
  - Information and documentation from interested persons
  - Information from interviews with justices and appellate judges and other persons
  - Information from public hearings

***Any information the commission uses must be made available to the judge being evaluated.***

***All commission interviews and deliberations concerning the evaluation of the judge are confidential.***

- Commissions must meet with the chief justice or chief judge prior to initiating the evaluation process for an overview of the court.
- Commissions complete a written narrative for each judge standing for retention, which must include a retention recommendation of “Meets Performance Standards,” or “Does Not Meet Performance Standards,” and the number of commissioners who voted for each.

## PUBLICATION

- Narratives, recommendations, and survey reports are released to the public on the first day following the deadline for judges to declare their intent to stand for retention at [www.coloradojudicialperformance.gov](http://www.coloradojudicialperformance.gov).
- Results are published in the Legislative Council’s Blue Book (Voter Guide).

## STATISTICS

Dating back to the first retention election with commission input held in 1990, 1,431 judicial officers have stood for retention in 14 election cycles. During this time, Commissions recommended to retain 1,396 judicial officers (97.6%), while recommending 22 (1.5%) not be retained. Commissions offered no opinion on 13 judicial officers (0.9%) during this period.

Colorado voters elected to retain 1,419 of the 1,431 (99.2%) judicial officers standing for retention since 1990. As shown in Table B, Colorado voters retained 99.7% of the judges receiving retain recommendations, 63.6% of those receiving do not retain recommendations, and retained all judicial officers where commissions offered no opinion.

| <b>Table B</b>  |                                   |                         |                   |                           |                       |
|---|-----------------------------------|-------------------------|-------------------|---------------------------|-----------------------|
| <b>Commission Recommendations and Election Results: 1990 - 2016</b> |                                   |                         |                   |                           |                       |
| <b>Commission Recommendation</b>                                    | <b>Total # of Recommendations</b> | <b>Election Results</b> |                   |                           |                       |
|   |                                   | <b>Total Retained</b>   | <b>Retained %</b> | <b>Total Not Retained</b> | <b>Not Retained %</b> |
| <b>To Retain</b>  | 1,396                             | 1,392                   | 99.7%             | 4                         | 0.3%                  |
| <b>Do Not Retain</b>  | 22                                | 14                      | 63.6%             | 8                         | 36.4%                 |
| <b>No Opinion</b>   | 13                                | 13                      | 100.0%            | 0                         | 0.0%                  |
| <b>TOTALS</b>   | <b>1,431</b>                      | <b>1,419</b>            | <b>99.2%</b>      | <b>12</b>                 | <b>0.8%</b>           |

Revised: 12/28/2017



# COLORADO

## Office of Judicial Performance Evaluation

Judicial Branch

### Frequently Asked Questions

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#### [What is merit selection and retention of judges?](#)

In 1966, Colorado voters passed a constitutional amendment that *abolished partisan elections for state court judges* and established a new merit selection system for the nomination, appointment, and retention of state court judges. The constitutional amendment provides that state court judges be appointed rather than elected on a political ticket. The system eliminates the influence of partisan politics, striking a balance between an independent judiciary, while maintaining public accountability.

Each time a vacancy occurs, the Governor selects a new judge from a list of two or three highly qualified nominees chosen by a judicial nominating commission. The judge serves a two-year provisional term before his or her name is on the ballot for retention. Once retained, the judge serves a fixed term - four years for county court judges, six years for district court judges, eight years for Court of Appeals judges, and ten years for Supreme Court justices - before his or her name is on a retention ballot again. There is no limit on the number of terms a judge may serve, but the mandatory retirement age is 72.

#### [What judges are state court judges and what judges are not state court judges?](#)

State court judges are county court judges, district court judges, Court of Appeals judges, and Supreme Court justices.

The following judges are not state court judges: Denver County judges (appointed by the Mayor of Denver); municipal court judges serving the cities and towns throughout the state of Colorado; administrative law judges located in the executive branch of government; federal judges and magistrates; and state court magistrates.

Although the Denver County judges are not state court judges, the local district judicial performance commission also evaluates the Denver County judges.

#### [How often do judges stand for retention election?](#)

All judges stand for retention election after serving a two-year provisional term. County court judges then stand every four years, district court judges every six years, Court of Appeals judges every eight years, and Supreme Court justices every ten years.

#### [What are commissions on judicial performance?](#)

Commissions on judicial performance provide voters with fair, responsible, and constructive evaluations of judges and justices seeking retention in general elections. The results of the evaluations also provide judges with information that can be used to improve their professional skills as judicial officers.

There is one commission in each of the 22 judicial districts and one state commission.

District commissions evaluate the county and district judges in the judicial district. A state commission evaluates the justices of the Supreme Court and judges of the Court of Appeals.

#### [What is the composition of the commissions?](#)

Each commission consists of 10 volunteer citizen commissioners: four attorneys and six non-attorneys.

#### [Who makes appointments to the commissions?](#)

Appointments are made by the Chief Justice of the Colorado Supreme Court, the Governor of Colorado, the Colorado Speaker of the House, and Colorado President of the Senate.

The Chief Justice and the Governor appoint one attorney and two non-attorneys; the Speaker of the House and the President of the Senate appoint one attorney and one non-attorney.

### [How are judges evaluated?](#)

Commissions prepare a narrative that includes the recommendation to voters on the performance of the judge. To evaluate the *overall performance* of a judge, commissions are required to use the following information:

- Results from surveys sent to persons who have sufficient experience with a judge: attorneys (including prosecutors, public defenders, and private attorneys), jurors, litigants, law enforcement personnel, employees of the court, court interpreters, employees of probation offices, employees of local departments of social services, victims of crime, and other judges and justices.
- Information from observing the judge in the courtroom
- Information furnished by the judge in a self-evaluation
- Review of decisions/opinions
- Review of individual judge case management statistics
- Interview with the judge
- Completion of a judicial performance standards matrix
- In addition, commissions may use the following information:
  - Information and documentation from interested persons
  - Information from interviews with justices and judges and other persons (if the District Attorney and/or Public Defender request to meet with the commission prior to April 1 of a retention year the commission must meet with a representative of the requesting office.)
  - Information from public hearings

### [Who gets to fill out a survey questionnaire?](#)

The state commission contracts with an independent research company to develop a survey process and identify individuals to be sent judicial performance surveys. When people are involved in a case in a state court, their names are entered into the court's case management system. From the courts data individuals are identified who have a case with a scheduled event that would likely provide an opportunity to observe and interact with the judge assigned their case. These individuals are qualified to receive performance surveys for judges eligible to stand for retention election in the next general election. In some areas, a random sample of individuals

are selected for surveying when the overall sample has more than 500 potential respondents. In cases where a small number of individuals are identified, all identified individuals will be sent a survey.

#### [What happens after the survey questionnaires are completed and returned?](#)

The completed surveys are returned to the independent research company conducting the survey. That company compiles the results of all the completed surveys it receives into a composite report. The final report is supplied to the commissions on judicial performance and each judge eligible to stand for retention that year. Individual survey responses, including written comments, remain confidential. Judges and commissioners do not know the names of the people who make comments or what ratings specific individuals give the judges.

#### [Will judges and commissioners see any completed surveys?](#)

No. Judges and commissioners will not see individual survey responses. They will only be able to see the combined results of the received surveys reported in a final report. That report will include written comments provided by people being surveyed. Those comments confidential and only made available to commissioners and the judge being evaluated. Those comments are not released to the public, but may be summarized in the narrative by the commission when relied on as part of their evaluation and retention recommendation.

#### [Are the overall results of the judicial performance surveys available to the public? How can I see them?](#)

Yes. Final judicial performance evaluation reports and commission narratives and recommendations are available on the Office of Judicial Performance Evaluation's website at [www.ojpe.org](http://www.ojpe.org).

#### [I would like to evaluate a judge. Can I do that?](#)

Yes. Anyone can complete an online survey for a state court judge on the Office of Judicial Performance Evaluation website. Respondents will be asked to provide contact information prior to taking the survey in case we need to contact you regarding your survey responses. Contact information will not be published.

Completed survey responses will be included in a survey report with all collected responses for a given judge and used by the performance commission during their next evaluation. Individuals can also make written comments about a judge, by completing the appropriate form on the [ojpe.org](http://ojpe.org) website. Written submissions outlining performance feedback on a judge may also be mail to the Office of Judicial Performance Evaluation, Ralph L. Carr Judicial Center, c/o Kent J. Wagner, Executive Director, 1300 Broadway, Suite 220, Denver, CO 80203, at any time. The letter must include the senders name and address and the judge will receive a copy of the letter.

#### [Do judicial performance commissions review individual cases of judges?](#)

Commissions do review some decisions of the judge as part of the overall evaluation of the judge's legal knowledge, reasoning, and communication skills. However, commissions have no authority to second guess, change, or reverse any judge's decision in any case.

#### [Why doesn't the narrative include the judge's party affiliation?](#)

In 1966, the people of Colorado passed a constitutional amendment that *abolished partisan elections of state court judges* and established a new merit selection system for the nomination, appointment, and retention of judges. Colorado's merit selection system provides that judges are selected based on their judicial qualifications. Once appointed by the Governor and at the end of each term of office voters decide whether each judge should continue to serve, unless the judge steps down or is required to retire at the age of 72.

#### [Why doesn't the judge run against anyone?](#)

In a merit selection and retention system, judges stand for retention election and therefore do not run against an opponent. The question on the ballot is: "Shall Judge (Justice) .... be retained in office?" Yes/No.

In fact, under the Code of Judicial Conduct, judges are prohibited from campaign activity unless there is active opposition to retention in office. This removes partisan politics and political campaigns from the retention process.

[What if I think a judge has done something illegal or unethical? Does the commission investigate complaints against a judge?](#)

No. The commission on judicial performance evaluates the overall performance of a judge.

The Commission on Judicial Discipline has separate responsibility for judicial disciplinary matters.

[Does the commission evaluate the performance of state court magistrates?](#)

No. Since, state court magistrates are employees of the judicial district; they are evaluated yearly along with all other employees. Complaints about the job performance of a magistrate may be made to the district administrator.

[What if I think a magistrate has done something illegal or unethical?](#)

Since magistrates are attorneys, complaints should be directed to the Office of Attorney Regulation Counsel.



COLORADO REVISED STATUTES

\*\*\* Current through all laws passed during the 2017 Legislative Session. \*\*\*

TITLE 13. COURTS AND COURT PROCEDURE  
COURTS OF RECORD  
ARTICLE 5.5. COMMISSIONS ON JUDICIAL PERFORMANCE

**13-5.5-101. Legislative declaration**

(1) It is the intent of the general assembly to provide:

(a) A comprehensive evaluation system of judicial performance;

(b) Information to the people of Colorado regarding the performance of judges, justices, and senior judges throughout the state; and

(c) Transparency and accountability for judges, justices, and senior judges throughout the state of Colorado.

(2) Therefore, the general assembly finds and declares that it is in the public interest and is a matter of statewide concern to:

(a) Provide judges, justices, and senior judges with useful information concerning their own performances, along with training resources to improve judicial performance as necessary;

(b) Establish a comprehensive system of evaluating judicial performance to provide persons voting on the retention of judges, justices, and senior judges with fair, responsible, and constructive information about individual judicial performance;

(c) Establish an independent office on judicial performance evaluation with full authority to implement the provisions of this article 5.5; and

(d) Conduct statewide judicial performance evaluations, as well as judicial performance evaluations within each judicial district, using uniform criteria and procedures pursuant to the provisions of this article 5.5.

**HISTORY:** Source: L. 2017: Entire article R&RE, ([HB 17-1303](#)), ch. 331, p. 1765, § 1, effective August 9.

Editor's note: This article 5.5 was added in 1988. It was repealed and reenacted in 2017, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this article 5.5 prior to 2017, consult the 2016 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 5.5, see the comparative tables located in the back of the index.

Editor's note: This section is similar to former § 13-5.5-101 as it existed prior to 2017.

### **13-5.5-102. Definitions**

As used in this article 5.5, unless the context otherwise requires:

- (1) "Attorney" means a person admitted to practice law before the courts of this state.
- (2) "Commission" means both the state and district commissions on judicial performance, established in [section 13-5.5-104](#), unless the usage otherwise specifies the state commission or a district commission.
- (3) "Commissioner" means an appointed member of the state commission or one of the district commissions on judicial performance established in [section 13-5.5-104](#).
- (4) "Department" means the state judicial department.
- (5) "Executive director" means the executive director of the office on judicial performance evaluation created in [section 13-5.5-103](#).
- (6) "Fund" means the state commission on judicial performance cash fund, created in [section 13-5.5-115](#).
- (7) "Improvement plan" means an individual judicial improvement plan developed and implemented pursuant to [section 13-5.5-110](#).
- (8) "Interim evaluation" means an interim evaluation conducted by a commission pursuant to [section 13-5.5-109](#) during a full term of office of a justice or judge.
- (9) "Judge" includes all active and senior judges, as defined in subsection (13) of this section.
- (10) "Justice" means a justice serving on the supreme court of Colorado.
- (11) "Office" means the office on judicial performance evaluation created in [section 13-5.5-103](#).
- (12) "Retention year evaluation" means a judicial performance evaluation conducted by a commission pursuant to [section 13-5.5-108](#) of a justice or judge whose term is to expire and who must stand for retention election.
- (13) "Senior judge" means a retired judge who has returned to temporary judicial duties pursuant to [section 24-51-1105](#).
- (14) "Volunteer courtroom observer program" means a systemwide program comprised of volunteers who provide courtroom observation reports for use by state and district commissions in judicial performance evaluations. The state commission shall develop rules, guidelines, and procedures for the volunteer courtroom observer program pursuant to [section 13-5.5-105 \(2\)\(i\)](#).

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\)](#), ch. 331, p. 1766, § 1, effective August 9.

Editor's note: Subsection (1)(a)(II)(B) provided for the repeal of subsection (1)(a)(II)(B), effective July 1, 2014. (See L. 2008, p. 1272.)

### **13-5.5-103. Office on judicial performance evaluation - executive director - duties - oversight**

(1) The office on judicial performance evaluation is established in the judicial department. The state commission on judicial performance, established pursuant to [section 13-5.5-104](#), shall oversee the office.

(2) The state commission shall appoint an executive director of the office. The executive director serves at the pleasure of the state commission. The executive director's compensation is the same as that which the general assembly establishes for a judge of the district court. The state commission shall not reduce the executive director's compensation during the time that he or she serves as executive director. The executive director shall hire additional staff for the office as necessary and as approved by the state commission.

(3) Subject to the state commission's supervision, the office shall:

(a) Staff the state and district commissions when directed to do so by the state commission;

(b) Train state and district commissioners as needed and requested;

(c) Collect and disseminate data on judicial performance evaluations, including judicial performance surveys developed, collected, and distributed, pursuant to [section 13-5.5-105 \(2\)](#);

(d) Conduct public education efforts concerning the judicial performance evaluation process and the recommendations made by the state and district commissions;

(e) Measure public awareness of the judicial performance evaluation process through regular polling; and

(f) Complete any other duties as assigned by the state commission.

(4) Office expenses are paid for from the state commission on judicial performance cash fund created pursuant to [section 13-5.5-115](#).

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\)](#), ch. 331, p. 1767, § 1, effective August 9.

### **13-5.5-104. State commission on judicial performance - district commissions on judicial performance - established - membership - terms - immunity - conflicts - repeal**

(1) The state commission on judicial performance is established, and a district commission on judicial performance is established in each judicial district of the state. In appointing the membership of each commission, the appointing entities must, to the extent practicable, include persons from throughout the state or judicial district and persons with disabilities and take into consideration race, gender, and the ethnic diversity of the state or district. Justices and judges actively performing judicial duties may not be appointed to serve on a commission. Former justices and judges are eligible to be appointed as attorney commissioners; except that a former justice or judge may not be assigned or appointed to perform judicial duties while serving on a commission.

(2) (a) Each commission consists of ten members, appointed as follows:

(I) The speaker of the house of representatives shall appoint one attorney and one nonattorney;

(II) The president of the senate shall appoint one attorney and one nonattorney;

(III) The governor shall appoint one attorney and two nonattorneys; and

(IV) The chief justice of the supreme court shall appoint one attorney and two nonattorneys.

(b) (I) The terms of commissioners appointed prior to August 9, 2017, shall continue through January 31, 2019.

(II) Notwithstanding the term for which the commissioner was appointed, the governor's attorney appointment to a district commission made pursuant to subsection (2)(a)(III) of this section and the chief justice's two nonattorney appointments to a district commission made pursuant to subsection (2)(a)(IV) of this section expire on January 31, 2019.

(III) Except as provided for in subsection (2)(b)(II) of this section, the term of a commissioner appointed prior to January 31, 2019, shall continue after this subsection (2) is repealed until such time as the commissioner's term was originally set to expire.

(c) This subsection (2) is repealed, effective January 31, 2019.

(3) (a) The state commission consists of eleven members, appointed on or before March 1, 2019, as follows:

(I) The speaker of the house of representatives shall appoint one attorney and one nonattorney;

(II) The minority leader of the house of representatives shall appoint one nonattorney;

(III) The president of the senate shall appoint one attorney and one nonattorney;

(IV) The minority leader of the senate shall appoint one nonattorney;

(V) The chief justice of the supreme court shall appoint two attorneys; and

(VI) The governor shall appoint two nonattorneys and one attorney.

(b) The terms of state commissioners appointed prior to January 31, 2019, shall continue until such time as his or her term was originally set to expire; except that the term of the two nonattorneys appointed by the chief justice of the supreme court pursuant to subsection (2)(a)(IV) of this section expires on January 31, 2019.

(c) This subsection (3) becomes effective February 1, 2019.

(4) (a) Each district commission consists of ten members, appointed on or before March 1, 2019, as follows:

(I) The speaker of the house of representatives shall appoint one attorney and one nonattorney;

(II) The president of the senate shall appoint one attorney and one nonattorney;

(III) The minority leader of the house of representatives shall appoint one nonattorney;

(IV) The minority leader of the senate shall appoint one nonattorney;

(V) The chief justice of the supreme court shall appoint two attorneys; and

(VI) The governor shall appoint two nonattorneys.

(b) The terms of district commissioners appointed prior to January 31, 2019, shall continue until such time as his or her term was originally set to expire; except that the following commissioners' terms expire on January 31, 2019:

(I) The two nonattorneys appointed by the chief justice of the supreme court pursuant to subsection (2)(a)(IV) of this section; and

(II) The attorney appointed by the governor pursuant to subsection (2)(a)(III) of this section.

(c) This subsection (4) becomes effective February 1, 2019.

(5) (a) The term for a commissioner is four years and expires on November 30 of an odd-numbered year. The term of a commissioner appointed to replace a member at the end of the commissioner's term begins on December 1 of the same year.

(b) The original appointing authority shall fill any vacancy on a commission, but a commissioner shall not serve more than two full terms including any balance remaining on an unexpired term if the initial appointment was to fill a vacancy. Within five days after a vacancy arises on a commission, the commission with the vacancy shall notify the original appointing authority of the vacancy. The original appointing authority shall make an appointment within forty-five days after the date of the vacancy. If the original appointing authority fails to make the appointment within forty-five days after the date of the vacancy, the governor shall make the appointment.

(c) The appointing authority may remove a commissioner whom he or she appointed for cause.

(6) Each commission shall elect a chair every two years by a vote of the membership.

(7) State and district commissioners and employees of the state or a district commission are immune from suit in any action, civil or criminal, based upon official acts performed in good faith as commissioners and employees of the state or a district commission.

(8) A commissioner shall recuse himself or herself from an evaluation of the person who appointed the commissioner to the commission.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\)](#), ch. 331, p. 1768, § 1, effective August 9.

Editor's note: This section is similar to former § § 13-5.5-102 and 13-5.5-104 as they existed prior to 2017.

## **ANNOTATION**

Annotator's note. Since [§ 13-5.5-104](#) is similar to former § 13-5.5-102 as it existed in 2005, a relevant case construing that provision has been included in the annotations to this section.

Effect of 1997 amendment was to establish that terms of all members expire on November 30 of even-numbered years. *Romanoff v. State Comm'n on Judicial Performance*, 126 P.3d 182 (Colo. 2006).

A member may serve past the expiration of the member's term until a successor is appointed. *Romanoff v. State Comm'n on Judicial Performance*, 126 P.3d 182 (Colo. 2006).

Original appointing official may not appoint a successor more than 45 days after the expiration of a member's term. The state commission is authorized to appoint a successor when the original appointing official fails to make the appointment within 45 days after the expiration of a member's term. *Romanoff v. State Comm'n on Judicial Performance*, 126 P.3d 182 (Colo. 2006).

Editor's note: This section is similar to former § 13-5.5-101.5 as it existed prior to 2017.

### **13-5.5-105. Powers and duties of the state and district commissions - rules**

(1) In addition to any other powers conferred or duties assigned upon the separate commissions by this article 5.5, all commissions have the following powers and duties:

(a) To review any available case management data and statistics provided by the state court administrator, the state commission, and district commissions related to individual justices and judges. A district commission may ask the state court administrator to provide supplemental information and assistance in assessing a judge's overall case management.

(b) To review written judicial opinions and orders authorized by justices and judges under the commission's oversight;

(c) To collect information from courtroom observation by commissioners of justices and judges, as well as information provided to the commissions by the volunteer courtroom observer program;

(d) To interview justices and judges under the commission's oversight and to accept information and documentation from interested persons as necessary, including judicial performance surveys;

(e) To make recommendations and prepare narratives that reflect the results of performance evaluations of justices and judges; and

(f) At an individual commission's discretion after it completes an interim evaluation of a justice or judge pursuant to [section 13-5.5-109](#), to recommend that the chief justice or appropriate chief judge develop

an individual judicial improvement plan pursuant to [section 13-5.5-110](#).

(2) In addition to other powers conferred and duties imposed upon the state commission by this article 5.5 and [section 13-5.5-106](#), the state commission has the following powers and duties:

(a) To appoint and supervise the executive director of the office on judicial performance evaluation;

(b) To assist the executive director in managing the office and providing fiscal oversight of the office's operating budget;

(c) To review data, prepare narratives, and make recommendations related to individual supreme court justices and judges of the court of appeals in accordance with [sections 13-5.5-108](#) and [13-5.5-109](#);

(d) (I) To develop surveys for persons affected by justices and judges, including but not limited to attorneys; jurors; represented and unrepresented litigants; law enforcement personnel; attorneys within the district attorneys' and public defenders' offices; employees of the court; court interpreters; employees of probation offices; employees of local departments of social services; and victims of crimes, as defined in [section 24-4.1-302 \(5\)](#);

(II) To develop rules, guidelines, and procedures to make the results of surveys developed pursuant to this subsection (2)(d) readily available to all parties set forth in subsection (2)(d)(I) of this section;

(III) To develop rules, guidelines, and procedures to provide attorneys, pro se litigants, and clients with accessible and timely opportunities to review the surveys developed pursuant to this subsection (2)(d); and

(IV) To develop rules, guidelines, and procedures to make the surveys developed pursuant to this subsection (2)(d) and any available survey reports available to the public;

(e) To determine the validity of completed surveys developed pursuant to this subsection (2), report to the district commissions on the validity of the surveys for their districts, and prepare alternatives to surveys where sample populations are inadequate to produce valid results;

(f) To produce and distribute survey reports and public narratives that reflect the results of each judicial performance evaluation;

(g) To develop rules, guidelines, and procedures for the review of the deliberation procedures established by the district commissions; except that the state commission does not have the power or duty to review actual determinations made by a district commission;

(h) To promulgate rules pursuant to [section 13-5.5-106](#) concerning:

(I) The evaluation of justices and judges based on performance evaluation criteria set forth in [section 13-5.5-107](#);

(II) The creation of a standards matrix related to the performance evaluation criteria set forth in [section 13-5.5-107](#) and a clear description of the thresholds for the recommendations of "meets performance standard" or "does not meet performance standard" and how that information will be made available to

the public; and

(III) The continuous collection of data for use in the evaluation process, including surveys developed pursuant to subsection (2)(d) of this section;

(i) To develop rules, guidelines, and procedures concerning a systemwide judicial training program and a systemwide volunteer courtroom observer program; and

(j) To prepare a report pursuant to [section 13-5.5-114](#).

(3) In addition to other powers conferred and duties imposed upon a district commission by this article 5.5, in conformity with the rules, guidelines, and procedures adopted by the state commission pursuant to [section 13-5.5-106](#) and the state commission's review of the deliberation procedures pursuant to subsection (2) of this section, each district commission has the following powers and duties:

(a) To obtain information from parties and attorneys regarding judges' handling of cases with respect to the judges' fairness, patience with pro se parties, gender neutrality, racial disparity, and handling of emotional parties;

(b) To review data, prepare narratives, and make evaluations related to judges pursuant to the provisions of [sections 13-5.5-108](#) and [13-5.5-109](#); and

(c) Upon completing the required recommendations and narratives pursuant to subsection (1) of this section, to collect all documents and other information, including all surveys and copies, received regarding each judge who was evaluated and forward such documents and information to the state commission within thirty days.

(4) Unless recused pursuant to a provision of this article 5.5, each commissioner of the state and district commissions has the discretion to evaluate the performance of a justice or judge under the commission's oversight and vote as to whether the justice or judge meets the performance standard based upon the commissioner's review of all of the information available to the commission.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\)](#), ch. 331, p. 1770, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-103 and 13-5.5-105 as they existed prior to 2017.

#### **13-5.5-106. Rules, guidelines, and procedures**

(1) The state commission shall adopt rules, guidelines, and procedures as necessary to implement and effectuate the provisions of this article 5.5, including rules, guidelines, and procedures governing the district commissions.

(2) The state commission shall consider proposed rules, guidelines, or procedures from the judicial department; except that nothing in this section requires the state commission to seek approval from the judicial department. The state commission retains the authority for the adoption of final rules, guidelines, or procedures. The state commission may, at its discretion and within existing appropriations and resources, retain independent legal counsel to review any rules, guidelines, or procedures adopted



pursuant to this section or [section 13-5.5-105](#).

(3) The state commission may adopt rules, guidelines, or procedures that provide guidance to commissioners regarding the review or interpretation of information obtained as a result of the evaluation process and the criteria contained in [section 13-5.5-107](#). Any such rules, guidelines, or procedures must:

(a) Take into consideration the reliability of survey data and be consistent with [section 13-5.5-105](#); and

(b) Not divest any commissioner of his or her ultimate authority to decide whether a justice or judge meets the minimum performance standards, as established by the state and district commissions.

(4) The state commission shall post a notice of the proposed rule, guideline, or procedure; allow for a period for public comment; and give the public an opportunity to address the state commission concerning the proposed rule, guideline, or procedure at a public hearing.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\)](#), ch. 331, p. 1773, § 1, effective August 9.

#### **13-5.5-107. Judicial performance evaluation criteria**

(1) The state commission and each district commission shall evaluate each justice and judge in Colorado utilizing the powers and duties conferred upon each commission in [section 13-5.5-105](#). The evaluations must only include the following performance evaluation criteria:

(a) Integrity, including but not limited to whether the justice or judge:

(I) Avoids impropriety or the appearance of impropriety;

(II) Displays fairness and impartiality toward all participants; and

(III) Avoids ex parte communications;

(b) Legal knowledge, including but not limited to whether the justice or judge:

(I) Demonstrates, through well-reasoned opinions and courtroom conduct, an understanding of substantive law and relevant rules of procedure and evidence;

(II) Demonstrates, through well-reasoned opinions and courtroom conduct, attentiveness to factual and legal issues before the court; and

(III) Adheres to precedent or clearly explains the legal basis for departure from precedent and appropriately applies statutes or other sources of legal authority;

(c) Communication skills, including but not limited to whether the justice or judge:

(I) Presents clearly written and understandable opinions, findings of fact, conclusions of law, and orders;

(II) Presents clearly stated and understandable questions or statements during oral arguments or

presentations, and, for trial judges, clearly explains all oral decisions; and

(III) Clearly presents information to the jury, as necessary;

(d) Judicial temperament, including but not limited to whether the justice or judge:

(I) Demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom; and

(II) Maintains and requires order, punctuality, and appropriate decorum in the courtroom;

(e) Administrative performance, including but not limited to whether the justice or judge:

(I) Demonstrates preparation for oral arguments, trials, and hearings, as well as attentiveness to and appropriate control over judicial proceedings;

(II) Manages workload and court time effectively and efficiently;

(III) Issues opinions, findings of fact, conclusions of law, and orders in a timely manner and without unnecessary delay;

(IV) Participates in a proportionate share of the court's workload, takes responsibility for more than his or her own caseload, and is willing to assist other justices or judges; and

(V) Understands and complies, as necessary, with directives of the Colorado supreme court; and

(f) Service to the legal profession and the public by participating in service-oriented efforts designed to educate the public about the legal system and improve the legal system.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\), ch. 331, p. 1773, § 1](#), effective August 9.

Editor's note: This section is similar to former § 13-5.5-105.5 as it existed prior to 2017.

**13-5.5-108. Judicial performance evaluations in retention election years - procedure - recommendations**

(1) Judicial performance evaluations for justices or judges whose terms are to expire and who must stand for retention election are conducted as follows:

(a) The state commission shall conduct a judicial performance evaluation of each such justice of the supreme court and judge of the court of appeals; and

(b) The district commission shall conduct a judicial performance evaluation for each district judge and county judge.

(2) (a) The applicable commission shall complete a retention year evaluation and related narrative to be communicated to the justice or judge no later than forty-five days prior to the last day available for the justice or judge to declare his or her intent to stand for retention.

(b) The narrative prepared for a retention year evaluation must include an assessment of the justice's or judge's strengths and weaknesses with respect to the judicial performance criteria contained in [section 13-5.5-107](#), a discussion regarding any deficiency identified in an interim evaluation prepared pursuant to [section 13-5.5-109](#), a review of any improvement plan developed pursuant to [section 13-5.5-110](#), and a statement of whether the applicable commission concludes that any deficiency identified has been satisfactorily addressed, or a statement from the chief justice or appropriate chief judge that an improvement plan, if any, was satisfactorily followed by the justice or judge.

(c) The applicable commission shall grant each justice or judge who receives a retention year evaluation the opportunity to meet with the commission or otherwise respond to the evaluation no later than ten days following his or her receipt of the evaluation. If the meeting is held or a response is made, the applicable commission may revise its evaluation.

(3) After the requirements of subsection (2) of this section are met, the applicable commission shall make a recommendation regarding the performance of each justice or judge who declares his or her intent to stand for retention. The recommendations must be stated as "meets performance standard" or "does not meet performance standard". For a justice or judge to receive a designation of "does not meet performance standard", there must be a majority vote by the commission members that the particular justice or judge should receive such a recommendation.

(4) District commissions shall forward recommendations, narratives, and any other relevant information, including any completed judicial surveys, to the state commission according to the provisions of [section 13-5.5-105](#).

(5) The state commission shall release the narrative, the recommendation, and any other relevant information related to a retention year evaluation, including the information forwarded pursuant to [section 13-5.5-105](#), to the public no later than two months prior to the retention election. The state commission shall arrange to have the narrative and recommendation for each justice and judge standing for retention printed in the ballot information booklet prepared pursuant to [section 1-40-124.5](#) and mailed to electors pursuant to [section 1-40-125](#).

**HISTORY:** Source: L. 2017: Entire article R&RE, ([HB 17-1303](#)), ch. 331, p. 1775, § 1, effective August 9.

Editor's note: This section is similar to former § 13-5.5-106 as it existed prior to 2017.

### **13-5.5-109. Judicial performance evaluations in interim years between elections - procedure**

(1) Within the first two years of a justice's or judge's appointment to the bench, the appropriate commission shall conduct an initial evaluation of each justice and each judge. The appropriate commission shall complete and communicate its judicial performance interim evaluations as follows:

(a) The state commission shall communicate its findings, including any recommendations for improvement plans, to the chief justice of the supreme court or the chief judge of the court of appeals and the appellate justice or judge who was evaluated; and

(b) The applicable district commission shall communicate its findings, including any recommendations for improvement plans, to the chief judge of the district and the judge who was evaluated.

(2) If a commission recommends an improvement plan, the procedure development and

implementation for such a plan will follow the guidelines set forth in [section 13-5.5-110](#).

(3) The appropriate commission, at its discretion, may conduct a subsequent interim evaluation of each justice and each judge during the years between when the justice or judge stands for retention, if applicable.

(4) The appropriate commission shall grant each justice or judge who receives an initial or interim evaluation the opportunity to meet with the commission or otherwise respond to the initial or interim evaluation no later than ten days following the justice's or judge's receipt of the initial or interim evaluation. If a meeting is held or a response is made, the appropriate commission may revise its initial or interim evaluation.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\), ch. 331, p. 1776, § 1](#), effective August 9.

Editor's note: This section is similar to former § 13-5.5-106.3 as it existed prior to 2017.

#### **13-5.5-110. Individual judicial improvement plans**

(1) (a) If the state commission or a district commission recommends, pursuant to [section 13-5.5-109 \(1\)](#), that a justice or judge receive an individual judicial improvement plan, the commission shall communicate such recommendation to the chief justice or appropriate chief judge. The chief justice or chief judge shall then develop an improvement plan for such judge and shall send the improvement plan to the state commission for review. After the state commission reviews and approves the improvement plan, the chief justice or chief judge shall have the responsibility for implementing and overseeing the improvement plan.

(b) Once the justice or judge has completed the improvement plan, the chief justice or chief judge shall convey the results of the improvement plan activities to the appropriate commission, which will then maintain a copy of the improvement plan and the statement of results in its files.

(2) If a justice or judge is required to complete an improvement plan pursuant to this section, and he or she fails to satisfactorily complete the requirements of such improvement plan, the appropriate commission shall automatically issue a "does not meet performance standard" designation on his or her performance evaluation summary.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\), ch. 331, p. 1777, § 1](#), effective August 9.

#### **13-5.5-111. Judicial performance evaluations - senior judges**

(1) Every third year following the initial appointment of a senior judge to the bench through a contract pursuant to [section 24-51-1105](#), the state commission shall conduct a performance evaluation of the senior judge based on the judicial performance evaluation criteria set forth in [section 13-5.5-107](#). The state commission shall complete the performance evaluation of such senior judge and communicate the related narrative to the chief justice no later than forty-five days prior to the expiration of the senior judge's contract for that year. The narrative must include an assessment of the senior judge's strengths and weaknesses with respect to the judicial performance evaluation criteria set forth in [section 13-5.5-107](#).

(2) The state commission shall make a recommendation to the chief justice of the Colorado supreme

court regarding the senior judge's performance. The recommendations must be stated as "meets performance standard" or "does not meet performance standard".

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\), ch. 331, p. 1777, § 1](#), effective August 9.

### **13-5.5-112. Recusal**

(1) A commissioner shall disclose to his or her commission any professional or personal relationship with a justice or judge that may affect an unbiased evaluation of the justice or judge, including involvement with any litigation involving the justice or judge and the commissioner, the commissioner's family, or the commissioner's financial interests. A commission may require, upon a two-thirds vote of the other commissioners, the recusal of one of its commissioners because of a relationship with a justice or judge.

(2) A justice or judge who is being evaluated by a state or district commission may not recuse himself or herself from a case solely on the basis that an attorney, party, or witness in the case is a commissioner on the evaluating commission.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\), ch. 331, p. 1777, § 1](#), effective August 9.

### **13-5.5-113. Confidentiality**

(1) Except as provided in subsection (3) of this section, all self-evaluations, personal information protected under [section 24-72-204 \(3\)\(a\)\(III\)](#), additional oral or written information, content of any judicial improvement plans, and any matter discussed in executive session is confidential except as otherwise specifically provided by rule. All surveys must allow for the participant's name to remain confidential. Comments in surveys are confidential but may be summarized in aggregate for use in judicial performance evaluation narratives. A commissioner shall not publicly discuss the evaluation of a particular justice or judge.

(2) Except as provided in subsection (3) of this section, all recommendations and narratives are confidential until released to the public on the first day following the deadline for justices and judges to declare their intent to stand for retention.

(3) Information required to be kept confidential pursuant to this article 5.5 may be released only under the following circumstances:

- (a) To the supreme court attorney regulation committee, as provided by rule of the state commission;
- (b) To the commission on judicial discipline, as provided by rule of the state commission; or
- (c) With the consent of the justice or judge being evaluated.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\), ch. 331, p. 1778, § 1](#), effective August 9.

Editor's note: This section is similar to former § 13-5.5-106.5 as it existed prior to 2017.

**13-5.5-114. Reporting requirements - "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" report**

(1) The state commission shall gather and maintain statewide data and post a statistical report of the statewide data on its website no later than thirty days prior to each retention election. The report must specify, at a minimum:

(a) The total number of justices and judges who were eligible to stand for retention and the number who declared their intent to stand for reelection;

(b) The total number of judicial performance evaluations of justices and judges performed by the state and district commissions;

(c) The total number of justices and judges who were evaluated but did not stand for retention; and

(d) The total number of justices and judges who received a "meets performance standard" or "does not meet performance standard" recommendation, respectively.

(2) Beginning in January 2019, and every two years thereafter, the state commission shall report on the activities of the commissioners to the joint judiciary committee of the general assembly as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation required by [section 2-7-203](#).

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\), ch. 331, p. 1778, § 1](#), effective August 9.

**13-5.5-115. State commission on judicial performance cash fund - acceptance of private or federal grants - general appropriations**

The state commission is authorized to accept any grants of federal or private funds made available for any purpose consistent with the provisions of this article 5.5. Any money received pursuant to this section must be transmitted to the state treasurer, who shall credit the same to the state commission on judicial performance cash fund, which is hereby created. The fund also includes the amount of the increases in docket fees collected pursuant to [sections 13-32-105 \(1\)](#) and [42-4-1710 \(4\)\(a\)](#). Any interest derived from the deposit and investment of money in the fund is credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of any fiscal year remains in the fund and shall not be credited or transferred to the general fund or another fund. Money in the fund may be expended by the state commission, subject to annual appropriation by the general assembly, for the purposes of this article 5.5. In addition, the general assembly may make annual appropriations from the general fund for the purposes of this article 5.5.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\), ch. 331, p. 1779, § 1](#), effective August 9.

**13-5.5-116. Private right of action - definition**

(1) Final actions of the state commission are subject to judicial review as provided for in this section. For purposes of this section, "final action" means a rule, guideline, or procedure adopted by the state commission pursuant to this article 5.5. A "final action" does not include a final recommendation regarding a justice or a judge that is made by the state commission or a district commission pursuant to

[section 13-5.5-108](#) or [13-5.5-109](#), an improvement plan developed pursuant to [section 13-5.5-110](#), surveys developed pursuant to [section 13-5.5-105 \(2\)\(d\)](#), or any aspect of an individual justice's or judge's individual judicial performance evaluation.

(2) A person adversely affected or aggrieved by a final action of the state commission may commence an action for judicial review in the Denver district court within thirty-five days after such action becomes effective. Upon a finding by the court that irreparable injury would otherwise result, the reviewing court shall postpone the effective date of the state commission's action to preserve the rights of the parties, pending conclusion of the review proceedings.

(3) If the court finds no error, it shall affirm the state commission's final action. If the court finds that the state commission's action is arbitrary or capricious; a denial of a statutory right; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, purposes, or limitations; not in accord with the procedures or procedural limitations set forth in this article 5.5 or as otherwise required by law; an abuse or clearly unwarranted exercise of discretion; based upon findings of fact that are clearly erroneous on the whole record; unsupported by substantial evidence when the record is considered as a whole; or otherwise contrary to law, then the court shall hold the action unlawful, set it aside, restrain enforcement, and afford such other relief as may be appropriate. In all cases under review, the court shall determine all questions of law, interpret the statutory and constitutional provisions involved, and apply the interpretation to the facts duly found or established.

**HISTORY:** Source: L. 2017: Entire article R&RE, [\(HB 17-1303\)](#), ch. 331, p. 1779, § 1, effective August 9.

## **SECTION 3: EVALUATION PROCESS**



## 2018 Timeline

|                       |   |
|-----------------------|---|
| Saturdays, Jan. - Mar | Commissioners shall attend training sessions within the assigned dates. Commissions conduct organizational meetings to elect chairs, vice-chairs, and public information liaisons within this timeframe, and provide the Office of Judicial Performance Evaluation (OJPE) with the names of the designated officers. Commissions will want to schedule a meeting with Chief Judges for overview of the court <i>prior to beginning any evaluations</i> .    |
| Thursday, Mar. 1      | Surveyor delivers retention survey reports to Commissioners, retention judges and Chief Judges <b>by this date</b> .  |
| Mar. 1 – June 12      | Commissioners conduct courtroom observations, review written decisions/opinions, review judicial statistics, review judges' self-evaluations, review survey reports, interview retention judges, and prepare draft narratives with retention recommendations.<br><br>Commissions may choose to conduct public hearings and interview other judges and/or other persons (optional) if they feel a need for more information regarding a judge's performance. |
| Tuesday, June 12      | Commission <i>must</i> interview the judges by this date.   |
| Friday, June 22       | Commissions <i>must</i> provide draft narratives to retention judges <b>by this date</b> . Commissions must consider this date when scheduling retention judge interviews, as by rule, the draft narratives must be delivered to the judges <i>within 10 days</i> following the interview. ( <i>See Rule 15</i> )   |
| June 22 – July 30     | Judges may submit written responses and/or request additional interviews. Judges receiving "does not meet performance standard" recommendations may submit 100 word responses to Commissions to be incorporated into narratives. ( <i>See Rule 15</i> )   |
| Monday, July 30       | Commissions must submit final narratives to retention judges and OJPE <b>by this date</b> .   |
| <b>Mon., Aug. 6</b>   | Judicial candidates must declare their intent to stand for retention with the Secretary of State <b>by this date</b> .  |
| Tues., Aug. 7         | OJPE posts final narratives and survey reports to website and issues press releases statewide.<br><br>OJPE submits final narratives to Legislative Council for publication in the Blue Book.  |
| Tues., Nov. 6         | <b>Election Day</b>   |

## **STATE COMMISSION(ER) RESPONSIBILITIES**

- Adopt rules, guidelines and procedures necessary to implement and effectuate the provisions of § 13-5.5-101, *et seq.*, C.R.S., including rules, guidelines and procedures governing the district commissions
- Adopt rules, guidelines and procedures that provide guidance to state and district commissioners regarding the review or interpretation of information obtained as a result of the evaluation process and criteria
- Develop uniform procedures and techniques for evaluating trial and appellate judges based on statutory performance criteria
- Develop rules, guidelines and procedures for the continuous collection of data for use in the evaluation process
- Develop surveys for persons affected by justices and judges including attorneys (including district attorneys, public defenders, and private attorneys), jurors, represented and unrepresented litigants, law enforcement personnel, court and probation employees, court interpreters, social services employees, and crime victims
- Determine the validity of completed surveys, report to the district commissions on the validity of the surveys for their respective judicial districts and prepare alternatives to surveys where sample populations are inadequate to produce valid results.
- Develop procedures for the review of the deliberation procedures established by district commissions
- Evaluate the performance of Supreme Court justices and court of appeals judges
  - Act pursuant to Title 13, Article 5.5 of the Colorado Revised Statutes and abide by the Rules Governing the Commissions on Judicial Performance
  - Attend one training session every two years
  - Elect a chair, vice-chair, and public information liaison
  - Meet with the Chief Justice of the Supreme Court and Chief Judge of the Court of Appeals before conducting evaluations
  - Complete a performance standards matrix for each justice or judge being evaluated
  - Follow recusal requirements
  - Prepare a narrative and recommendation for each judge or justice being evaluated
  - May recommend that a judge or justice be placed on an improvement plan (interim evaluation)
  - Comply with all statutory and rule confidentiality requirements
- Publish narratives and survey reports (without confidential comments) of all justices and judges standing for retention
- Investigate complaints by commissioners or judges who believe there has been a violation of the rules or statute

## **RESPONSIBILITIES**

### **District Commission(er)**

- Act pursuant to Title 13, Article 5.5 of the Colorado Revised Statutes and abide by the Rules Governing the Commissions on Judicial Performance
- Attend one training session every two years
- Elect a chair, vice-chair, and public information liaison
- Meet with the Chief Judge before conducting evaluations
- Follow recusal requirements
- Evaluate the performance county and district judges
- Complete a performance standards matrix for each judge being evaluated
- Prepare a narrative and recommendation for each judge being evaluated
- May recommend that a judge be placed on an improvement plan (interim evaluation)
- Comply with all statutory and rule confidentiality requirements

### **Chair**

- Has primary contact with the Executive Director Office of Judicial Performance Evaluation
- Contacts the members of the commission for meetings and works with the District Administrator to schedule meetings
- Ensures that commissioners who do not meet training, courtroom observation, interview, decision review, completion of performance standards matrix, and statistics review responsibilities do not vote on any matter involving the evaluation of a judge, unless excused by a two-thirds vote of the other commissioners
- Organizes the public hearing, if one is held
- Notifies the Executive Director if a vacancy occurs on the commission

### **District Administrator**

- Assists their respective commissions in the performance of their duties, including:
  - Meeting and interview arrangements, including commission meeting with the Chief Judge
  - Obtaining and distributing information
  - Posting notices
  - Providing statistical information on each judge
- Shall not be involved in the development or production of the narrative
- Shall not be present during interviews or deliberations conducted by the commission

Note: The District Administrator serves at the pleasure of the Chief Judge (not the commission)

**SUPREME COURT OF COLORADO**  
**OFFICE OF THE CHIEF JUSTICE**

**DIRECTIVE CONCERNING COLORADO STANDARDS FOR  
CASE MANAGEMENT IN THE TRIAL COURTS**

**PURPOSE**

The purpose of this Chief Justice Directive (CJD) is to establish standards for timeliness of case processing in the Judicial Branch. The following standards replace those contained in Chief Justice Directive 89-01 and any subsequent modifications to those standards.

**BACKGROUND**

Standards for case management and delay reduction in the trial courts were first established in 1989 with the issuance of Chief Justice Directive 89-01: *Concerning Colorado Standards for Case Management in the Trial Courts* (CJD 89-01). CJD 89-01 was based on a comprehensive study by the Supreme Court Delay Reduction Committee and included the recommendations contained in their final report, “Colorado Standards for Case Management – Trial Courts.”

Since that time, societal, public policy and technological changes have significantly altered the business of the courts. The Branch has made informal adjustments to the standards over the years and introduced additional measures of timeliness in 2000 and 2006.

In 2000, the Branch submitted a request for twenty-four additional district court judges. As part of this request, the Branch committed to meeting updated timeliness goals when all the new judgeships and supporting positions were filled (these were known as the ZBB goals). In 2006, in response to a rule change requiring that specific individual caseload data be made available to judicial performance commissions, the Caseflow Leadership Task Force issued “Resource Realistic” goals. The timeliness goals issued for this purpose are somewhat less stringent than those already in existence for two reasons: first, because the courts had recently undergone severe budget reductions and staff layoffs, they needed to be reflective of the overall understaffing of the courts, and,

secondly, because these goals were to be used by the commissions when reviewing caseload data on individual judges rather than entire districts.

While these adjustments addressed short-term and specific needs, larger issues such as the appropriateness of measuring timeliness, how the various goals fit together, and how timeliness measures should be applied fell second to more immediate demands. Yet, the Branch recognizes that the courts and the public are better served by a comprehensive set of standards that take into account how the work of the courts is accomplished and that operate in concert with each other to measure the success of the organization as well as individual members of the bench. To that end, the Caseflow Leadership Task Force has examined case processing practices, timeliness goals and caseload data to create the following comprehensive measures of case processing timeliness for the Branch.

### **MEASURING TIMELINESS AND THE WORK OF THE COURTS**

The work of the courts revolves around resolving issues of freedom and fairness. Whether it is a criminal case which may result in loss of liberty or a dissolution of marriage case in which parenting time will be determined, each case before the court is of extraordinary importance to the people involved in it. But the courts are not only responsible for achieving a just resolution for the individuals involved in the cases before them, each court must also operate within the expectations, resources and standards of the community in which it is located. As a result, courts must strive to balance fairness and justice with access and timeliness. Given these competing ideals, setting strict timelines for the resolution of all cases, regardless of location or resources, seems a particularly arbitrary and inadequate means for assessing whether a judge, the bench or the organization as a whole, is appropriately addressing the needs of each case. At the same time, it cannot be overlooked that the Branch is accountable to the public for hearing and resolving their disputes in as timely a manner as possible.

Measures of timeliness generally focus on individual judges. However, judges are just one part of a much larger whole. The Colorado trial courts see well over 700,000 new cases a year. These cases are not processed solely by judges but with the assistance of case processing, probation and administrative staff and numerous of other professionals who work in and around the court system. Obviously, the nature of the work before the courts differs between a large urban court and a small

rural one based simply on the volume of cases, availability of staff and the resources available in the community. However, there are also significant differences among urban courts and, similarly, among rural courts. No two locations face the same issues in carrying out the administration of justice. Whether it is a difference in the demographics of a community, the geography covered by a jurisdiction, or the presence of a state hospital, prison or major water basin, each court has a unique set of issues, obstacles and resources that affect how the court can and must operate. Therefore, evaluations of the timeliness with which cases are processed by individual judges are incomplete without taking a broader view of the system in which those individual judges operate.

While the organizational issues which form the foundation of the courts affect how the business of the courts is approached, it is only by combining this information with the manner in which the courts handle the individual cases before them that the effectiveness of the Judicial Branch can be assessed. Each case filed in the court has different requirements for time, services and other resources in achieving a just resolution. The management of individual cases reflects strongly on an individual judge's case processing timeliness; seeing the organization as a whole can provide a clearer picture of what is really happening with these cases. If a judge is assigned a complex civil case or a particularly egregious criminal case, it can delay the remainder of his or her entire caseload. As part of a larger organization, it is possible for other judges, either sitting in that district or from the senior judge program, to assist with the remainder of the docket. Where those resources are not available, the remaining caseload on the judge's docket must linger. A judge, and those who support the judge, must constantly strive to balance the needs of the cases on his or her docket and the needs and resources available to each judge, courtroom and the organization as a whole.

In reviewing the various standards operating in the Branch at the time this effort was undertaken, it became clear that each had their place. Creating one set of standards that can be used at all levels and for all purposes simply does not provide valid or useful evaluative information. One set of standards does not fit all levels of court business. While a district is made up of individual courtrooms and a separate clerk's office, it operates as a whole unit. How an individual judge manages his or her docket is one important measure of access and justice, but how the district as a whole functions is equally as important. Therefore, this CJD establishes two approaches to measuring the work of the courts: organizational goals and individual benchmarks. These goals and benchmarks are being issued as a means of measuring the goals to which the courts aspire, but with

the recognition that the time it takes to process a case is only one measure of whether justice was served in that case.

The organizational goals are rather stringent, aspirational timelines to be applied at the district-wide or higher level. These measures are intended to be used for management at the organizational level and for reporting to external bodies, such as the legislature, on the overall timeliness of case processing in the Branch. These goals are aspirational in that it is believed that, given full staffing and good management practices at all levels, they can be achieved by the organization. The organizational goals do not accommodate variation in case assignment practices or small caseloads and, as such, are not intended to be applied to individual judges. An individual judge is not expected to meet the organizational goals; individual benchmarks have been established for this purpose.

The individual benchmarks are established to provide a more realistic means of measuring the timeliness of case processing at the individual level. These benchmarks are intended to provide feedback to individual judges on their performance, to be used by the Chief Judge of a district in overseeing workload distribution in that particular district and to provide the information required by the Rules of the Commissions on Judicial Performance.

The benchmarks recognize that there are many practical issues outside the control of a judge that can affect the length of time a case remains open. These include, but are not limited to, when and how cases are assigned to judicial officers, the time cases spend with a magistrate, docket rotation, third-party assessments, pre-sentence investigations, transferring of cases to accommodate prolonged trials, and the time required for the filing and processing of paperwork. Further, they recognize the dramatic fluctuations in percentages that can occur when a pool of cases being analyzed is small.

The individual benchmarks go a long way in addressing the unique nature of individual case assignment; however, it is simply not possible for a number-based standard to provide a complete picture of the quality with which an individual judge manages his or her caseload. Therefore, while these individual benchmarks are established as a starting point for evaluating a judge's ability to

manage caseload, it is always recommended that qualitative information about the court and the caseload be obtained whenever the timeliness of an individual judge is being evaluated.

### **THE GOALS AND BENCHMARKS**

The following standards are not being promulgated as mandatory rules but, rather, as goals and benchmarks that strive to balance the need for uniformity in expectations concerning timeliness with an acknowledgement that the diversity of case assignment, docket rotation and local judicial discretion in managing individual cases has a significant impact on timeliness statistics. All judges are encouraged to study these standards and to attempt their implementation in a manner consistent with the overriding goals of eliminating unnecessary delay in the judicial process, making more effective use of judicial resources in the resolution of disputes, and making the judicial process more accessible to litigants and the public.



## ORGANIZATIONAL GOALS

### *District Court:*

| <i>Case Type</i>          | <i>District Court Organizational Goals</i>               |
|---------------------------|--|
| Criminal                  | <b>No more than 5% of cases open more than 1 year</b>    |
| Civil                     | <b>No more than 10% of cases open more than 1 year</b>   |
| Domestic Relations        | <b>No more than 5% of cases open more than 1 year</b>    |
| General Juvenile          | <b>No more than 5% of cases open more than 1 year</b>    |
| Juvenile Delinquency      | <b>No more than 5% of cases open more than 1 year</b>    |
| Dependency and Neglect    | <b>No more than 5% of cases open more than 18 months</b> |
| Expedited Permanency Plan | <b>No more than 10% of cases open more than 1 year</b>   |

### *County Court:*

| <i>Case Type</i> | <i>County Court Organizational Goals</i>                     |
|------------------|--|
| Civil            | <b>No more than 5% of cases open more than six months</b>    |
| Misdemeanor      | <b>No more than 10% of cases open more than six months</b>   |
| Traffic          | <b>No more than 5% of cases open more than six months</b>    |
| DUI/DWAI         | <b>No more than 20% of cases open more than seven months</b> |
| Small Claims     | <b>No more than 1% of cases open more than six months</b>    |
| Infractions      | <b>No more than 1% of cases open more than six months</b>    |

## BENCHMARKS FOR INDIVIDUAL JUDGES

### *District Court:*

| <i>Case Type</i>          | <i>District Court Benchmarks for Individual Judges</i>    |
|---------------------------|---|
| Criminal                  | <b>No more than 10% of cases open more than 1 year</b>    |
| Civil                     | <b>No more than 20% of cases open more than 18 months</b> |
| Domestic Relations        | <b>No more than 10% of cases open more than 18 months</b> |
| General Juvenile          | <b>No more than 10% of cases open more than 1 year</b>    |
| Juvenile Delinquency      | <b>No more than 5% of cases open more than 1 year</b>     |
| Dependency and Neglect    | <b>No more than 5% of cases open more than 18 months</b>  |
| Expedited Permanency Plan | <b>No more than 10% of cases open more than 1 year</b>    |

### *County Court:*

| <i>Case Type</i> | <i>County Court Benchmarks for Individual Judges</i>         |
|------------------|--|
| Civil            | <b>No more than 20% of cases open more than six months</b>   |
| Misdemeanor      | <b>No more than 20% of cases open more than six months</b>   |
| Traffic          | <b>No more than 20% of cases open more than six months</b>   |
| DUI/DWAI         | <b>No more than 20% of cases open more than seven months</b> |
| Small Claims     | <b>No more than 20% of cases open more than six months</b>   |
| Infractions      | <b>No more than 5% of cases open more than six months</b>    |

## **LIMITATIONS**

The data used to determine whether the organizational goals and/or the individual benchmarks are being met are taken from the Branch's ICON/Eclipse database. This is a working database that is used for all court business, such as docketing, electronic filing of paperwork, recording events in a case, entering orders, etc. While the information entered into ICON/Eclipse is used for day-to-day business operations, the Branch is also able to access the database to conduct research and analysis. The data in ICON/Eclipse is a valuable asset to the Branch. However, because it is an active database with thousands of users and hundreds of uses, there are some limitations to the data and its applications.

The data used for these measures are equivalent to a point-in-time snapshot of a judge's open caseload. For purposes of these measures, a judge's open cases are those that are actively managed by that judge at the time the data is extracted from the database. Cases with active bench warrants or mental health stays, cases in which a notice of appeal has been filed, and cases that have been reopened for post-judgment activity are excluded from the pool.

It is always recommended that input from the local Chief Judge regarding additional factors specific to districts or individual judges that may impact case management be obtained any time the organizational goals or individual benchmarks are being used. In addition to the local issues that may be explained during these discussions, the following general information should be taken into consideration when reviewing this type of data:

### **Case Timeliness May be Affected by Factors Outside of the Courtroom**

Many factors outside of the direct control of the judge can affect case timeliness. For example, criminal cases are often dependent on production of various reports and evaluations, such as pre-sentence investigation reports, sex offender evaluations, and/or mental health evaluations. Juvenile case processing is directly affected by the availability of required treatment services. Domestic Relations cases may be delayed by parenting assessments or other necessary evaluations. Statutory deadlines may also influence case timeliness. For example, by law, divorce cases cannot be ruled on until at least 90 days have passed from the date the case is filed with the court.

### **Higher Numbers of “Complex” Cases have Increased Case Processing Time**

Certain case types, such as business litigation, medical malpractice, homicide, and divorce cases with extensive assets, generally take longer to process due to their complexity. Additionally, district judges have indicated that civil litigation has become more complicated in recent years as the issues being brought before the court have increased in complexity, there are more issues to be ruled upon in each case, more motions are being filed, and more attorneys are participating in each case. A few high profile or highly-complex cases may result in longer average disposition times for the judges’ dockets as a whole.

### **Local Case Assignment Practices May Affect Performance Data**

Local case assignment practices affect the case load and case types assigned to judges. In some jurisdictions, cases are processed by a magistrate or by a county court judge before being assigned to another judge or being bound over to district court. In certain county courts, cases are assigned to a magistrate or First Appearance Center before they are sent to a county judge. In many of the larger courts, judges rotate docket assignments on annual or biannual basis thereby inheriting the open caseload of the judge hearing that docket previous to the rotation. Since the Branch’s data management system does not track historical information on case assignments, the data provided shows only the number of days a case is open, but not the number of days a case is assigned to a specific judge. This may pose a challenge for evaluating a particular judge’s data because the amount of time the case spent under any one judicial officer cannot be isolated.

Case processing goals are measured in terms of the percent of cases meeting the goal (e.g., no more than 5 percent of criminal cases open more than one year.) Therefore, in addition to potentially providing a skewed picture of the time a judge has spent on a case, the aforementioned case assignment practices may also weaken the statistical reliability of the caseload data. In jurisdictions where judges manage a docket of mixed case types, the caseload data for judges with small case loads of a particular case type might not be a statistically valid or reliable indicator of performance because only slight changes in the data can move a judge in or out of compliance. For example, a judge with only twenty criminal cases on his or her docket would be considered in compliance with performance goals if he or she had only one case (5%) open longer than 12 months, but out of compliance if two cases (10%) were open longer than 12 months at the time the data was extracted.

Finally, the point-in-time data can present a narrow, and potentially misleading, picture of a judge's caseload. For example, a judge may manage his or her docket by resolving the simpler cases as quickly as possible so as to allow more time for the other, complex cases. An open caseload of primarily complex cases will most likely consist of cases that, due to their complexity, have been open longer. Without the simpler, shorter-lived cases to mitigate the overall length of open cases in the judge's caseload statistics, it would appear that a judge that handles his or her docket efficiently and conscientiously is instead allowing cases to remain open for an above-average amount of time.

### **Resource Constraints Force Courts to Prioritize**

Budget constraints in recent years forced many courts to cut staff and reduce services. At the same time, court case load continued to grow, requiring many courts to focus limited resources on cases with a direct impact on public safety and child welfare. Civil cases, since they do not meet this criteria, are often given the lowest priority for case processing, which can, in turn, increase average case processing time and create a backlog of the civil caseload.

### **FUTURE REVIEW**

These goals and benchmarks are based on the business of the courts as it exists today and the technology currently available to measure it. While these measures are seen as a reasonable means of assessing the timeliness of case processing in the Colorado courts, they do have their limitations. The Branch continually strives to improve on both business practices and the technology to support them. Therefore, the measures established here shall be reviewed and updated as technology allows for improved statistical information or as the business of the courts changes significantly.

Chief Justice Directive 89-01 is hereby repealed.

Done at Denver, Colorado this 15th day of July, 2008.

\_\_\_\_\_  
/s/  
Mary J. Mullarkey, Chief Justice

**JUDICIAL PERFORMANCE DATA UNDER RULE 11(c)  
OF THE RULES GOVERNING THE COMMISSIONS  
ON  
JUDICIAL PERFORMANCE**

HON.

January 9, 2018

**COLORADO JUDICIAL BRANCH**

**OFFICE OF THE STATE COURT ADMINISTRATOR  
1300 BROADWAY, SUITE 1200**

**DENVER, CO 80203**

## Open Caseload Data -- General Caveats

### **Time Period Covered and Who is Included**

The data represents open cases as of January 8, 2018. The open case report in Cognos was used to compile the data. Magistrates and senior judges were excluded from the data. County judges were removed from the district court data. District judges were removed from the county court data.

### **Certain Cases Removed**

Reopened cases, cases with an active warrant, cases in which a Notice of Appeal has been filed, and cases in which a Mental Health Stay has been ordered were eliminated from the analysis.

### **Case Timeliness Affected by Factors Outside Courtroom**

Many factors outside of the direct control of the judge can affect case timeliness. For example, criminal cases are often dependent on production of various reports and evaluations, such as pre-sentence investigation reports, sex offender evaluations, and/or mental health evaluations, and juvenile case processing is directly affected by the availability of required treatment services. Statutory deadlines may also influence case timeliness. For example, by law, divorce cases cannot be ruled on until at least 90 days have passed from the date the case is filed with the court.

### **Local Case Assignment Practices May Affect Performance Data**

Local case assignment practices affect the caseload and case types assigned to judges. In some jurisdictions, cases are processed by a magistrate or by a county court judge before being assigned to another judge or bound over to district court. In certain county courts, cases are assigned to a magistrate or First Appearance Center before they are sent to a county judge. Since the judicial department's data management system does not track historical information on case assignments, the data provided shows only the number of days a case is open, but not the number of days a case is assigned to a specific judge. This may pose a challenge for evaluating a particular judge's data because the amount of time the case spent under the previous judicial officer is not discounted.

Case assignment practices might also weaken the statistical reliability of the caseload data. In jurisdictions where judges manage a mixed docket of various case types, the caseload data for judges with small case loads of a particular case type might not be statistically valid nor a reliable indicator of performance because only slight changes in the data can move a judge in or out of compliance.

### **Higher Numbers of "Complex" Cases have Increased Case Processing Time**

Certain case types, such as business litigation, medical malpractice, homicide, and divorce cases with extensive assets, generally take longer to process due to their complexity. Additionally, judges have indicated that district civil litigation has become more complicated in recent years as the issues being brought before the court have increased in complexity, there are more issues to be ruled upon in each case, more motions are being filed, and more attorneys are participating in each case. High profile or highly complex cases may result in longer average disposition times for judges' dockets as a whole.

## For 2018 Election

Open Cases as of: January 8, 2018

Hon.

| District | Case Class                | Case Type Group                            | Individual Goals     | Cases Open Longer than Benchmark | Total Open Caseload | Percentage Open Longer than Time Benchmark |
|----------|---------------------------|--|----------------------|----------------------------------|---------------------|--|
|          | Criminal (CR)             |  | 90% within 12 months | 1                                | 95                  | 1.05%                                      |
|          | Civil (CV)                |  | 80% within 18 months | 5                                | 26                  | 19.23%                                     |
|          | Domestic Relations (DR)   |  | 90% within 18 months | -                                | 24                  | 0.00%                                      |
|          | Juvenile Delinquency (JD) |  | 95% within 12 months | -                                | 2                   | 0.00%                                      |
|          | Juvenile (JV)             | Juvenile Expedited Permanency Plan (JV-EP) | 90% within 12 months | -                                | 5                   | 0.00%                                      |
|          | Juvenile (JV)             | Juvenile (Other)                           | 90% within 12 months | -                                | 1                   | 0.00%                                      |

Prepared by: Office of the State Court Administrator, Court Services Division  
January 9, 2018



## COURTROOM OBSERVATION

Commissioners are required to collect information from direct courtroom observation of judges being evaluated as part of the retention election evaluation process. Courtroom observation is valuable because it gives commissioners an opportunity to observe the judge's:

- Demeanor
- Control of judicial proceedings
- Timeliness
- Communication skills
- Preparation
- Docket management

Colorado Revised Statutes 13-5.5-105.5 defines the criteria to be used in evaluating judges by judicial performance commissions. We have prepared and attached a "Trial Judge Courtroom Observation Form" for your use during observations that is structured around the criteria in the statute. During your observation you may also want to consider whether the judge:

- displayed judicial fairness and impartiality toward all parties;
- acted in the interests of the parties without regard to personal prejudices;
- listened carefully and impartially;
- applied rules consistently across people and over cases;
- maintained a neutral demeanor or expression while in court;
- was open, clear, and transparent about how the rules of law were applied and how decisions were being made;
- consistently treated participants equally and displayed behavior appropriate for the situation;
- was unhurried, patient and careful
- provided participants with specific information about what to do, where to go, and when to appear;
- treated everyone with courtesy, dignity, and respect;
- maintained appropriate courtroom tone & atmosphere;
- demonstrated appropriate consideration for the rights of all persons in the court;
- demonstrated an intention to do what is right for everyone involved;
- helped interested parties understand decisions and what parties must do as a result;
- used clear language when speaking to jurors, litigants, witnesses, and attorneys;
- demonstrated respect for people's time and acknowledged their patience as needed;
- demonstrated interest in the needs, problems, and concerns of participants;
- seemed prepared for the proceedings;
- demonstrated appropriate body language (e.g., eye contact, facial expressions, posture, attire);
- demonstrated respectful voice quality (e.g., pitch, volume, tone);
- clearly articulated awareness of the practical impact on the parties of the judge's rulings, including the effect of delay and increased litigation expense;
- clearly explained the reasons for his/her decisions when appropriate.
- allowed participants to voice their perspectives/arguments;

- demonstrated to the parties that their story or perspective had been heard;
- behaved in a manner that showed the judge had fully considered the case as presented through witnesses, arguments, and documents before the court;
- attended, where appropriate, to the participants' comprehension of the proceedings

Judge \_\_\_\_\_ Court \_\_\_\_\_  
 Date \_\_\_\_\_ Docket/Case Type \_\_\_\_\_

**Integrity  
Standard**

**Courtroom  
Observation**

**Comments/Notes**

Docket/Case Type and Date:

|   |   |  |
|---|---|--|
| <b>Does the judge avoid impropriety and the appearance of impropriety?</b>                | Yes / No<br><br>N/A<br><br>Insufficient information |  |
| <b>Does the judge display fairness and impartiality toward all participants?</b>          | Yes / No<br><br>N/A<br><br>Insufficient information |  |
| <b>Does the judge avoid ex parte communications?</b>                                      | Yes / No<br><br>N/A<br><br>Insufficient information |  |
| <b>Does the judge's manner convey and promote public confidence in his/her integrity?</b> | Yes / No<br><br>N/A<br><br>Insufficient information |  |

**Overall rating for Integrity: Does the judge meet the performance standard for Integrity? (Please note that an answer of “no” to an individual sub-standard does not need to translate into a “does not meet performance standards” on an overall criterion score.)**

**Yes      No**

**Explain the reasons for your rating:**

Judge \_\_\_\_\_ Court \_\_\_\_\_  
 Date \_\_\_\_\_ Case Type \_\_\_\_\_

**Legal Knowledge  
Standard**

**Courtroom  
Observation**

**Comments/Notes**

**Docket/Case Type and Date:**

|   |  |  |
|---|--|--|
| <p><b>Does the judge demonstrate through well-reasoned opinions and courtroom rulings an understanding of substantive law and relevant rules of procedure and evidence?</b></p> | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge demonstrate attentiveness to factual and legal issues?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge adhere to precedent or clearly explain the legal basis for departing from precedent?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge appropriately apply statutes or other sources of legal authority in their decisions?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |

**Overall rating for Legal Knowledge: Does the judge meet the performance standard for Legal Knowledge? (Please note that an answer of “no” to an individual sub-standard does not need to translate into a “does not meet performance standards” on an overall criterion score.)**

**Yes                      No**

**Explain the reasons for your rating:**

Judge \_\_\_\_\_ Court \_\_\_\_\_  
 Date \_\_\_\_\_ Docket/Case Type \_\_\_\_\_

**Communication  
Standard**

**Courtroom  
Observation**

**Comments/Notes**

Docket/Case Type and Date:

|  |  |  |
|--|--|--|
| <p><b>Does the judge provide clearly written and understandable opinions, findings of fact, conclusions of law, and orders?</b></p>  | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge ask understandable, relevant and pertinent questions during oral arguments, or presentations?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge clearly explain the legal and factual basis for all oral decisions?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>In a sentencing, does the judge listen to all sides, clearly state the sentence and reason for the sentence, and clearly advise the defendant what is to occur next? (criminal matters only)</b></p> | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>In a jury trial does the judge explain the process to the jury? (Jury trials only)</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge ask if the parties understand, have questions, or need clarification about any matters?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |

**Overall rating for Communication: Does the judge meet the performance standard for Communication? (Please note that an answer of “no” to an individual sub-standard does not need to translate into a “does not meet performance standards” on an overall criterion score.)**

**Yes**

**No**

**Explain the reasons for your rating:**



Judge \_\_\_\_\_  
 Date \_\_\_\_\_

Court \_\_\_\_\_  
 Docket/Case Type \_\_\_\_\_

**Judicial Temperament  
 Standard**

**Courtroom  
 Observation**

**Comments/Notes**

|   |  |  |
|---|--|--|
| <p><b>Does the judge demonstrate respect toward attorneys, litigants, court staff, and others in the courtroom?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge maintain and require order, punctuality, and appropriate decorum in the courtroom?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge have control over the courtroom?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Did the judge address issues and correct deficiencies noted in the survey and other evaluation activities?</b></p>  |  |  |
| <p><b>Overall rating for Temperament: Does the judge meet the performance standard for Temperament? (Please note that an answer of “no” to an individual sub-standard does not need to translate into a “does not meet performance standards” on an overall criterion score.)</b></p> <p style="text-align: center;"><b>Yes                      No</b></p> |  |  |

**Explain the reasons for your rating:**

Judge \_\_\_\_\_ Court \_\_\_\_\_  
 Date \_\_\_\_\_ Docket/Case Type \_\_\_\_\_

**Administrative  
 Performance  
 Standard (Management)**

**Courtroom  
 Observation**

**Comments/Notes**

|  |  |  |
|--|--|--|
| <p><b>Is the judge timely in attendance and prepared for hearings?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge explain the reasons for any delays for proceedings that began after a scheduled time?</b></p> | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge issue opinions and orders in a timely manner?</b></p>   | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge manage court time effectively and efficiently?</b></p>  | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge assist other judges with their workload?</b></p>  | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |
| <p><b>Does the judge comply with Directives of the Colorado Supreme Court?</b></p>                                 | <p>Yes / No</p> <p>N/A</p> <p>Insufficient information</p> |  |



**Overall rating for Administrative Performance (Management): Does the judge meet the performance standard for Administrative Performance? (Please note that an answer of “no” to an individual sub-standard does not need to translate into a “does not meet performance standards” on an overall criterion score.)**

**Yes**

**No**

**Explain the reasons for your rating:**

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## DECISION/OPINION REVIEW

### **Trial Judges**

District judges are required to submit to the commission three (3) written orders or rulings that he or she has prepared, including one which was reversed on appeal along with the reversing opinion, if applicable. County court judges may select three (3) written rulings, and submit those for commission review. Because county court rulings are often oral, county court judges may, as an alternative, submit transcripts of three (3) findings of fact, conclusions of law, and orders, also including one which was reversed on appeal along with the reversing opinion, if applicable.

Trial court written orders and rulings may take one of many forms. For example, a *district judge* may enter oral findings of fact and conclusions of law and ask the parties to a dispute to prepare suggested findings and conclusions. The judge usually selects the findings and conclusions proposed by one side and makes necessary modifications. The changes typically remove adversarial rhetoric and state the findings and conclusions in neutral terms. The wholesale acceptance of one side's proposal – although not prohibited – may reflect the lack of a carefully considered impartial judgment and is therefore generally disfavored. A district judge may enter a written ruling granting or denying a motion on a question of law. Summary judgment rulings are the most likely source of rulings that reflect a district court judge's ability to analyze and resolve questions of law in writing. *County judge* rulings are often oral. (In all actions tried upon the facts without a jury, the county court shall orally announce its decision, including findings of fact and conclusions of law, and direct the entry of judgment. No written findings shall be required.) (R. 352, C.R.C.P.)

The rulings should be reviewed for clarity so that the parties receiving the ruling would understand the issue being resolved and the reasons for the court's decision. The commission is not to review a ruling to determine whether it is "correct" in the eyes of the commission -- an appellate court determines whether the substance of the legal ruling is correct. Each commissioner should review the decisions for thoroughness of findings, clarity of expression, logical reasoning, and application of the law to the facts presented. In other words, the rulings should contain enough information about factual allegations or procedural context and the applicable legal principles, along with an explanation of how the judge has applied the law to the facts, to justify the result. The rulings should acknowledge the losing party's arguments and explain why they were rejected.

### **Appellate Judges**

Appellate justices and judges prepare opinions with the assistance of law clerks and staff attorneys. The justices or judges who join in an opinion are responsible for the entire content regardless of how much – or how little – he or she actually wrote.

Each justice or judge is required to submit five (5) opinions he or she has authored, including one concurrence or dissent, which are separate opinions by the justice or judge

disagreeing or further explaining a point of agreement or disagreement with the majority opinion. Each state commissioner should review the opinions, as well as any others authored by the appellate justice or judge that the commission in its discretion may select, for compliance with the statutory criteria, legal knowledge, adherence to the record, clarity of expression, logical reasoning, and application of the law to the facts presented. In other words, appellate decisions should be reviewed for clarity, persuasiveness, and tone. The opinions should contain a fair statement of the pertinent facts and a discussion of the applicable legal principles and case law. The opinions should acknowledge the losing party's arguments and explain why they were rejected. The application of the law to the facts of the case should justify the result, and the holding (the court's ruling) should be clear and concise.

## Opinion Review Worksheet

|                        |                     |
|------------------------|---------------------|
| <b>Judge:</b>          |                     |
| <b>Case Name:</b>      | <b>Case Number:</b> |
| <b>Case Type</b>       |                     |
| <b>Area(s) of Law:</b> |                     |

| Standard   | Meets the Standard   | Comments |
|--|--|----------|
| <b>Integrity</b>   |  |          |
| Interprets and applies the law regardless of personal beliefs.   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |          |
| Fairly considers and addresses the issues.   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |          |
| The judge displays fairness and impartiality toward all parties  |  |          |
| <b>Legal Knowledge</b>   |  |          |
| Opinion is well-reasoned (based on the bulleted standards below).  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |          |
| <ul style="list-style-type: none"> <li>• Describes the parties' arguments and positions.</li> </ul>                        | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |          |
| <ul style="list-style-type: none"> <li>• Sets out pertinent facts, without unnecessary detail, and demonstrates</li> </ul> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |          |

|  |  |  |
|--|--|--|
| knowledge of the record and case history.  |  |  |
| • Discusses and analyzes applicable legal principles, including statutes, rules, and case law.                   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |
| • Explains the basis of the court’s decision.  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |
| • Decides only the issues that need to be decided.   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |
| • Adheres to precedent or clearly explains why it does not.  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |
| <b>Communication Skills</b>  |  |  |
| Opinion is clearly written and understandable (based on the bulleted standards below).                           | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |
| • Describes the issues and the facts necessary to decide the case.   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |
| • States conclusions that are clear, readily understandable, and unambiguous.                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |
| • To the extent practicable, written so that the parties can understand the opinion’s basic logic and reasoning. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |

|   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li>• Displays proper sentence structure and grammar.</li> </ul> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |
| <b>Judicial Temperament</b>   |  |  |
| Opinion is attentive to and respectful of parties.  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A |  |

**Additional Comments** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **SAMPLE INTERVIEW QUESTIONS**

The following categories and questions were developed as guidelines to assist judicial performance commissions in the interview process. Consistency during the interview process will ensure that the commissions receive both appropriate and useful information to assist in evaluating a judge's performance.

### **MANAGEMENT**

1. What case management practices have you employed that have been successful in the reduction of delays and efficiently managing your case load?
2. Describe your relationship with members of your staff and changes you have made to increase their efficiency, performance and management of your cases?

### **CIVIC RESPONSIBILITY – RESPONSIBILITIES OFF THE BENCH**

1. As a judge, what obligation do you have to community involvement and leadership?
2. Describe measures you have taken to increase public confidence in the courts, inside and outside of your courtroom?
3. What are the feedback mechanisms in your courtroom that provide you with information on public confidence and litigant satisfaction?
4. What do you consider to be your obligations and/or role in communicating and educating the organized bar?
5. What do you consider to be your obligation and role to be in educating and communicating with the public and various groups within the public?
6. If you were asked to increase the public confidence in the courts, what would you do and/or implement to do so?

### **SELF-REPRESENTED LITIGANTS**

1. Describe the challenges self-represented litigants present to your court?
2. What assistance do you and your staff give to self-represented litigants?
3. In the future, what can the courts do to better serve self-represented litigants?

### **DEMEANOR**

1. What changes have you made to eliminate or reduce bias based on gender, age, ethnicity, color, sexual orientation, socio-economic status, and physical or mental challenges in your courtroom?
2. Explain how you handle difficult attorneys in your courtroom?
3. Give an example of a situation in which you handled public criticism of an unpopular decision?

### **TRIAL MANAGEMENT SKILLS**

1. Do you put any limitations on the attorneys in trial? If so, specifically what limitations and the reason for them?
2. Do you consider yourself to be a “docket/time conscious” judge (as it relates to the way that you conduct your trials) or do you tailor your handling of trials to the needs and interests of the parties before you?
3. When you are presiding over a trial, what do you consider to be your greatest weaknesses and your greatest strengths?

4. Have you ever become upset and lost your composure? How often does this happen? What do you do as a result? Please give specifics.
5. What procedures have you implemented to expedite your rulings on motions and discovery issues?

#### **FAMILY LAW**

1. Describe any opportunity you have had to directly participate in any process designed to improve the effectiveness and administration of “Family Law” cases.
2. Describe an experience you have had as a judge when you have presided over a case where parties were in conflict over an emotional issue. How did you handle it? What was the outcome?
3. What skills do use when presiding over domestic relations cases? How did you acquire those skills? Do you feel that you have any weaknesses in dealing with domestic cases? If so, what have you done or are you doing, to improve your abilities?
4. Have you ever felt that you did not have sufficient information to properly decide a contested issue concerning children? If so, what did you do to obtain the information you felt you needed?
5. What percentage of your domestic relations caseload involves parties that are self-represented? Do you find these cases more or less difficult to deal with than cases where both parties are represented by counsel?
6. When one party has counsel and the other does not, what issues are particularly difficult in these cases?
7. Do you have any special techniques you use when dealing with unrepresented parties?
8. How important do you believe case management is in domestic relation cases? What, if anything, do you do to manage the domestic cases on your docket?



## GUIDELINES FOR CONDUCTING PUBLIC HEARINGS

When preparing to conduct a public hearing, you will find the following information to be helpful:

1. **Notice.** The commission must give at least 20 days notice of each public hearing. It is a good idea to also issue a press release to local news media, including newspapers and radio stations. They might not run the notice or publish the press release but at least you've made the information available. Also, notices should be posted at each courthouse within the judicial district. Keep a record of efforts made to provide public notice. Avoid scheduling the public hearing during religious and other holidays or civic events.
2. **Location.** The location for public hearings may be determined by each judicial district based on available space and accessibility under the Americans with Disabilities Act (ADA). Schools, courthouses, and public libraries (particularly those with large assembly rooms and audio-visual equipment) are good places. It is important that those persons who testify can hear and be heard. Check that the building is ADA compliant.
3. **Electronic Record.** The commission shall arrange to have the public hearing electronically recorded and shall make the copies of the recording available to members of the public, if requested. Commissions shall supply a copy of the recording at no cost to any judge who is the subject of the hearing. § 13-5.5-106, C.R.S.
4. **Sign-up sheets.** Speakers who testify should give their names, addresses, phone numbers, and any organizational affiliations. Sign-up sheets should be made available so the chair can call people to the microphone to testify. You will want to attach the sign-up sheets to the minutes along with any additional information given to the district commission by persons who testify.
5. **Testimony.** At the start of the hearing, the chair should announce guidelines for the meeting. These might include:
  - Request to sign up
  - Time limit
  - All speakers address the chair

The chair can also decide what form of procedure will be followed. Since the hearings are electronically recorded, request that individuals address the chair when speaking and begin by stating their name for the record. If the chair announces someone's name before the person speaks, it is easier to follow who is speaking. It also makes for a more organized meeting if people do not speak until recognized by the chair.

6. **Interpreter.** It may be necessary to have an interpreter present.
7. **Security.** You may want to consider having security present at a public hearing.
8. **Checklist.**

| <b>Public Hearings Checklist Items</b>  | <b>Complete</b> |
|---|-----------------|
| <b>1. Arrange for Hearing Location</b> (Schools, courthouses, public libraries, etc.)             |                 |
| • ADA Accessible?   |                 |
| • PA System Available?  |                 |
| • Security Available?   |                 |
| <b>2. Public Notice</b> (At least 20 days prior to hearing)                                       |                 |
| • Posted in all County Courthouses within the Judicial District                                   |                 |
| • Write press release including information about the public hearing (date, time, location, etc.) |                 |
| • Send press release to local media   |                 |
| • Follow-up phone reminders to media  |                 |
| <b>3. Prepare sign-up sheets for speakers</b>   |                 |
| • Consider requiring speakers to identify themselves  |                 |
| • Chair to use sheet to call speakers forward to testify  |                 |
| <b>4. Arrange for interpreter</b> (if necessary, depending on population demographics)            |                 |
| <b>5. Determine how to electronically record hearing</b>  |                 |
| <b>6. Testimony at hearing</b>  |                 |
| • Determine which procedure to use  |                 |
| • Chair to announce guidelines  |                 |
| • Use sign-up sheets  |                 |
| • Set time limit  |                 |
| • Have speakers address the chair   |                 |

## RULE 15

### NARRATIVE REQUIREMENTS

A narrative shall consist of **four short paragraphs** totaling not more than **500 words**, as follows:

- (1) The performance recommendation, including the number of commissioners who voted for “meets performance standards” and for “does not meet performance standards”
- (2) Undergraduate and law schools attended, previous substantial legal or public employment, relevant professional activities or awards, volunteer or other community work, and any other relevant or biographical information the commission believes may be of assistance to the public in making an informed voting decision;
- (3) Evaluation methods used by the commission, and the percentages of responses from each surveyed group recommending that a justice or judge meets performance standards or does not meet performance standards. A commission may report the number of survey respondents from each surveyed group, if the commission believes the information may be of assistance to the public in making an informed voting decision; and
- (4) A description of the performance of the judge or justice over the past term, including any areas of notably strong or weak performance with respect to the judicial performance criteria contained in section 13-5.5-107, C.R.S., any deficiencies reflected in the interim evaluation, a review of any improvement plan pursuant to section 13-5.5-110, and a statement of whether the applicable commission concludes that any deficiency has been satisfactorily addressed or a statement from the chief justice or appropriate chief judge that an improvement plan, if any, was satisfactorily followed by the justice or judge, and any additional information that the commission believes may be of assistance to the public in making an informed voting decision.

Any commission issuing a **“does not meet performance standards” recommendation** shall, at the judge or justice’s request, include a **response** from the justice or judge of not more than **100 words**. The judge or justice shall have seven days from receipt of the commission’s final recommendation and narrative to submit the 100-word response.

**The commission may then change its vote count or revise the draft narrative, and shall provide the justice or judge with the final narrative within seven days following the receipt of the response.**

The Second Judicial District Commission on Judicial Performance unanimously agrees that Judge Ann Denver **Meets Performance Standards**.

Judge Denver was appointed to Denver District Court April 2010. Prior to appointment, Judge Denver was in private practice. Judge Denver received an undergraduate degree from Colorado College in 1973 and law degree from the University of Colorado in 1978. Judge Denver has been very active in community service activities, and since appointment has demonstrated a commitment to volunteering for judicial and legal committees and teaching continuing legal education courses.

The Commission conducted a personal interview with Judge Denver, reviewed opinions she authored, observed her in court, reviewed comments received from interested parties during the evaluation, and reviewed survey responses from attorneys and non-attorneys who had experience with Judge Denver. Among the survey questions was “based on your responses to the previous questions related to the performance evaluation criteria, do you think Judge Denver meets judicial performance standards?” Of the attorneys responding to the survey, 88% answered, yes, meets performance standards 9% answered no, does not meet performance standards and 3% had no opinion regarding whether Judge Denver meets or does not meet performance standards. Of non-attorneys responding to the survey, 77% answered yes, meets performance standards, 16% answered no, does not meet performance standards, and 6% had no opinion regarding whether Judge Denver meets or does not meet performance standards. (These percentages may not total 100% due to rounding). A total of sixty-seven attorneys and forty-nine non-attorneys responded to the judicial performance surveys expressing their opinion of Judge Denver’s performance.

Judge Denver presided over domestic relations and other civil matters this term. Based on the Commission’s overall evaluation Judge Denver has demonstrated she meets or exceeds performance standards in all categories. Non- attorneys responding to the surveys were more critical of Judge Denver’s overall performance and the survey results reflect a slightly lower rating when compared to attorney responses. Non-attorneys rated Judge Denver’s performance in “Conducting the Courtroom in a Neutral Manner” lower than all other categories. The Commission did not observe this trait during courtroom observations or in interviews with interested parties and was satisfied during the interview that Judge Denver is aware of the criticism and is taking steps to insure parties feel the judge is conducting trials in a neutral manner. Judge Denver received high marks in case management, application and knowledge of the law, communications and demeanor. Judge Denver is often described as being very fair, treating all participants in the courtroom with respect, and running court in an efficient manner. Commission members observed these traits during their evaluation and interview with Judge Denver. Judge Denver’s opinions reflect her knowledge of the law and her logical and understandable communication style. Based on these findings the Commission unanimously agreed that Judge Denver meets judicial performance standards.