



# JUDICIAL STANDARDS COMMISSION

STATE OF MONTANA

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## ADMIN. SECRETARY

SHAUNA RYAN  
Telephone: 444-2634

January 27, 2003

Sharon Parrish  
Executive Secretary  
Judicial Standards Commission  
Room 315, Justice Building  
Helena, MT 59620-3002

RE: Legislative Report

Dear Ms. Parrish:

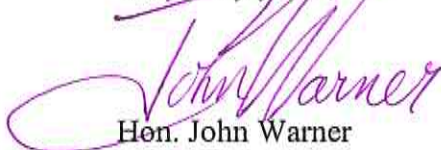
As we discussed, enclosed are eight originals of the Biannual report letter to the fifty-eighth legislature.

One is for each of:

Clerk of the Senate  
Majority Leader of the Senate  
Minority Leader of the Senate  
Clerk of the House of Representatives  
Majority Leader of the House of Representatives  
Minority Leader of the House of Representatives  
Chief Justice of the Supreme Court  
Retain one report in the records of the commission.

As we discussed, please attach a complete report to each report letter.

Very truly yours,

  
Hon. John Warner

**12/31/02**  
**2002**  
**Judicial Standards Commission**  
**Caseload Statistics**

No. of Complaints filed in 2002	43
No. of Complaints pending at the End of 2001	<u>6</u>
Total	<u>49</u>

Disposition of Complaints:

Dismissed	20
Admonition	0
Private Reprimand	0
Public Reprimand	0
Censure	0
Suspension	0
Removed from Bench	0
Permanent Removal	0
Closed without action – Retirement	1
Closed	2
Complaints Pending as of 12/31/02	<u>26</u>
Total	<u>49</u>

**JUDICIAL STANDARDS COMMISSION**

Montana's Judicial Standards Commission was created by amendment to the State Constitution in 1973 to provide for the censure, suspension, or removal of a judicial officer. The Commission is composed of two district court judges elected by the district court judges; one attorney appointed by the Supreme Court, and two members of the public appointed by the Governor.

Members of the 2002 Commission were: Hon. Ed McLean, Chairman; Victor Valgenti, Esq., Vice Chairman; Barbara Evans, Patty Jo Henthorn, and the Hon. John Warner. All members serve a four-year term.



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January 28, 2003

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SHAUNA RYAN  
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State of Montana  
Fifty-eighth Legislature  
State Capitol  
Helena, Montana

Dear Senators and Representatives:

As required by §3-1-1126, MCA, the Montana Judicial Standards Commission submits this report to the legislature for the preceding biennium covering the calendar years of 2001 and 2002.

Article VII, Section 11, of the 1972 Montana Constitution directs the legislature to create a five member Judicial Standards Commission to accept and consider complaints against Montana judicial officers. The 1973 legislature created the commission and it is attached to the Montana Supreme Court for administrative purposes. The work, investigations, and recommendations of the commission are independent of the Supreme Court. Access to commission records is limited to the commission and staff.

The commission has repeatedly prepared forms and instructions clearly stating that the Judicial Standards Commission cannot influence or change judicial decisions. Despite such continuing efforts, most complaints still pertain to a judge's decision and are filed by unsuccessful litigants. These complaints are called "Judicial Opinion" and "Essential Conduct" in the attached statistical information, depending on how the complaint was phrased by the complainant.

As in the past, the great majority of complaints against judicial officers concern dissatisfaction with a judge's ruling or decision. The commission considers and investigates these complaints. However it cannot, and does not, act on those complaints that in essence concern dissatisfaction with a judge's decision. The commission can only take action on those matters that may constitute willful misconduct, willful and persistent failure to perform duties, violation of the canons of judicial ethics or habitual intemperance.

The commission, by rule, requires that complaints be verified.

The commission report to the fifty-seventh legislature, (2001 session), showed that eighteen (18) complaints were still pending at the close of 2000. Seventeen (17) of the pending complaints from 2000 were reviewed and dismissed or closed in 2001. One (1) complaint was continued pending the investigation and filing of formal charges before the commission in 2001. This remaining complaint went to a hearing before the commission which resulted in a recommendation by the commission that the judge be removed from office. Ultimately, in 2002, the Supreme Court suspended the judge for the remainder of his term.

During the calendar year 2001, thirty-four (34) complaints were filed against judicial officers. After consideration and investigation, one (1) admonition was issued; one (1) complaint was closed without action because the judge left office; one (1) was closed in 2002 due to the suspension of the respondent judge; and twenty-five (25) were dismissed. There were six (6) complaints pending as of December 31, 2001.

Of the six pending complaints from 2001, four (4) complaints were dismissed; and one (1) complaint was closed without action. One (1) was held in abeyance as a formal recommendation to the Supreme Court was pending concerning the subject judge. This complaint was dismissed in early 2003.

For the calendar year 2002, forty-three (43) complaints were filed against judicial officers. After consideration and investigation, one (1) complaint was closed without action as the complaint was withdrawn; one (1) complaint resulted in formal charges and was later closed as the judge resigned; fifteen (15) were dismissed and there were twenty-six (26) complaints pending as of December 31, 2002.

Since 1995, the Judicial Standards Commission has kept continuous and accurate records of complaints filed against judicial officers. If more than one complaint was filed against a judicial officer, and if some action on the former complaint was required, the Commission notes such multiple complaints. For the period 2001-2002, no multiple complaints requiring commission action were made against a judicial officer.

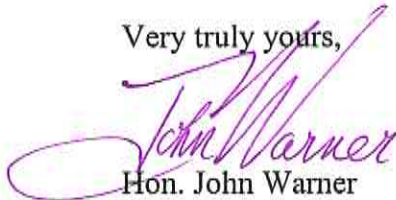
Biennial Legislative Report  
January 28, 2003  
Page 3

In 2002, the Commission began work on the 2<sup>nd</sup> revision of the Rules of the Judicial Standards Commission. It is anticipated that the rules revision will be completed and adopted during the 2003-2004 biennium. The present rules were adopted and published in 1999 and are available to the public by contacting the executive secretary at 406-444-2608.

During the 2003-2004 biennium it will be necessary to conduct an unknown number of factual investigations to determine if the complaints have merit. This will, as in the past, require an expenditure of funds for necessary investigative costs. Budget requirements will be submitted through the office of the Supreme Court Administrator.

Should any member of the legislature, or staff, have questions or desire further information, they may contact Sharon Parrish, the commission's executive secretary, or any member of the Commission.

Very truly yours,



Hon. John Warner  
JUDICIAL STANDARDS COMMISSION

JW/sp

CASE NUMBER	DATE FILED	TYPE OF COMPLAINT	DISPOSITION	DATE OF DISPOSITION
15	05/22/00	Promptness	Closed	07/20/01
20	07/12/00	Promptness	Closed/Left Office	02/02/01
26	08/23/00	Essential Conduct	Dismissed	02/02/01
28	08/31/00	Promptness	Dismissed	02/02/01
29	09/06/00	Essential Conduct	Dismissed	02/02/01
31	09/25/00	Essential Conduct	Dismissed	02/02/01
32	09/25/00	Kinship or Influence	Dismissed	02/02/01
33	10/02/00	Promptness	Dismissed	02/02/01
34	10/02/00	Essential Conduct	Dismissed	02/02/01
35	10/17/00	Opinion	Dismissed	02/02/01
36	10/17/00	Opinion	Dismissed	02/02/01
37	10/23/00	Avoidance of Impropriety	Suspended/Removed	10/25/02
38	10/27/00	Opinion	Dismissed	07/20/01
39	11/21/00	Official Misconduct	Dismissed	02/02/01
40	11/28/00	Conflict of Interest	Dismissed	02/02/01
41	12/12/00	Essential Conduct	Dismissed	02/02/01
42	12/12/00	Essential Conduct	Dismissed	02/02/01
43	12/22/00	Essential Conduct	Dismissed	02/02/01
1	01/05/01	Essential Conduct	Dismissed	02/02/01
2	01/24/01	Judicial Opinion	Dismissed	02/02/01
3	01/29/01	Essential Conduct	Dismissed	02/02/01
4	02/08/01	Essential Conduct	Dismissed	07/20/01
5	02/15/01	Essential Conduct	Written Admonition	07/20/01
6	02/23/01	Judicial Opinion	Dismissed	07/20/01
7	02/26/01	Essential Conduct	Dismissed	07/20/01
8	03/01/01	Judicial Opinion	Dismissed	07/20/01
9	03/01/01	Conflict of Interest	Dismissed	07/20/01
10	03/21/01	Conflict of Interest	Dismissed	07/20/01
11	03/26/01	Judicial Opinion	Dismissed	07/20/01
12	05/14/01	Conflict of Interest	Dismissed	07/20/01
13	06/22/01	Essential Conduct	Dismissed	11/29/01
14	07/03/01	Judicial Opinion	Dismissed	07/20/01
15	07/09/01	Conflict of Interest	Closed w/o Action	07/12/02
16	07/20/01	Conflict of Interest	Dismissed	11/29/01
17	07/24/01	Judicial Opinion	Dismissed	11/29/01
18	07/24/01	Essential Conduct	Dismissed	11/29/01
19	09/10/01	Essential Conduct	Dismissed	11/29/01
20	09/11/01	Essential Conduct	Dismissed	11/29/01
21	09/11/01	Essential Conduct	Dismissed	11/29/01
22	09/20/01	Essential Conduct	Dismissed	11/29/01
23	09/21/01	Judicial Opinion	Dismissed	11/29/01
24	10/02/01	Essential Conduct	Dismissed	11/29/01
25	10/05/01	Judicial Opinion	Dismissed	04/05/02
26	10/12/01	Essential Conduct	Dismissed	11/29/01
27	10/17/01	Judicial Opinion	Dismissed	11/29/01
28	10/18/01	Judicial Opinion	Dismissed	11/29/01
29	11/05/01	Essential Conduct	Cont.	

CASE NUMBER	DATE FILED	TYPE OF COMPLAINT	DISPOSITION	DATE OF DISPOSITION
30	11/14/01	Judicial Opinion	Dismissed	11/29/01
31	11/15/01	Essential Conduct	Dismissed	11/29/01
32	11/19/01	Essential Conduct	Dismissed	04/05/02
33	11/19/01	Essential Conduct	Dismissed	04/05/02
34	12/24/01	Essential Conduct	Dismissed	04/05/02
1	01/16/02	Essential Conduct	Dismissed	04/05/02
2	01/28/02	Essential Conduct	Dismissed	04/05/02
3	02/19/02	Promptness	Dismissed	07/12/02
4	02/20/02	Judicial Opinion	Dismissed	04/05/02
5	02/28/02	Essential Conduct	Dismissed	04/05/02
6	03/05/02	Essential Conduct	Dismissed	04/05/02
7	03/11/02	Essential Conduct	Resignation	09/27/02
8	03/11/02	Essential Conduct	Dismissed	04/05/02
9	03/19/02	Essential Conduct	Dismissed	04/05/02
10	03/19/02	Judicial Opinion	Dismissed	05/13/02
11	04/09/02	Essential Conduct	Dismissed	07/12/02
12	04/24/02	Essential Conduct	Cont.	
13	04/26/02	Essential Conduct	Dismissed	07/12/02
14	05/20/02	Essential Conduct	Dismissed	07/12/02
15	05/24/02	Judicial Opinion	Dismissed	07/12/02
16	06/03/02	Judicial Opinion	Dismissed	07/12/02
17	07/01/02	Essential Conduct	Dismissed	07/12/02
18	07/09/02	Judicial Opinion	Cont.	
19	07/09/02	Essential Conduct	Cont.	
20	07/15/02	Judicial Opinion	Cont.	
21	07/19/02	Essential Conduct	Closed - Comp. w/drawn	08/21/02
22	08/07/02	Promptness	Cont.	
23	07/31/02	Essential Conduct	Cont.	
24	07/31/02	Essential Conduct	Cont.	
25	08/12/02	Essential Conduct	Cont.	
26	08/15/02	Essential Conduct	Cont.	
27	08/19/02	Judicial Opinion	Cont.	
28	08/27/02	Conflict of Interest	Cont.	
29	09/11/02	Essential Conduct	Cont.	
30	09/25/02	Essential Conduct	Cont.	
31	10/01/02	Judicial Opinion	Cont.	
32	10/01/02	Essential Conduct	Cont.	
33	10/07/02	Essential Conduct	Cont.	
34	10/07/02	Essential Conduct	Cont.	
35	10/16/02	Judicial Opinion	Cont.	
36	10/22/02	Judicial Opinion	Cont.	
37	11/16/02	Essential Conduct	Cont.	
38	11/07/02	Judicial Opinion	Cont.	
39	11/15/02	Judicial Opinion	Cont.	
40	11/18/02	Judicial Opinion	Cont.	
41	12/10/02	Judicial Opinion	Cont.	
42	12/10/02	Essential Conduct	Cont.	
43	12/16/02	Essential Conduct	Cont.	

- Judicial Opinion: The complaint is grounded in dissatisfaction with a decision of, or judicial opinion of, the judge complained against. The decision is subject to appeal or other corrective action within the court system, and is not cognizable by the Judicial Standards Commission.
- Ex Parte Communication: The complaint is that the judge communicated with one side of a contested matter when the other side was not present or represented.
- Impropriety: The complaint is that the judge acted in an inappropriate manner toward litigants, attorneys, or others involved in litigation. This could include bias, prejudice, or close relationship with a party or lawyer.
- Delay: Lack of promptness in the performance of judicial duties.
- Kinship or Influence: The judge should not suffer his conduct to justify the impression that any person can improperly influence him or unduly enjoy his favor, or that he is affected by the kinship, rank, position or influence of any party or other person.
- Essential Conduct: A judge should be temperate, attentive, patient, impartial, and, should be studious of the principles of the law and diligent in endeavoring to ascertain the facts.