

Supreme Court of Colorado

2 East 14th Avenue
Denver, CO 80203
(720) 625-5410

BRIAN D. BOATRIGHT
CHIEF JUSTICE

SUPREME COURT OF COLORADO

OFFICE OF THE CHIEF JUSTICE

Statement from Chief Justice Brian D. Boatright regarding ILG investigation and assessment of Colorado Judicial Branch workplace culture

Today we make public the full independent report prepared by Investigations Law Group, LLC, an organization independently selected by leaders from the executive and legislative branches to accomplish three objectives:

First, to investigate the informal, unsigned list of talking points allegedly prepared by former Human Resources Director Eric Brown in 2019, describing alleged misconduct by judges and other Judicial Department employees.

Second, to conduct a comprehensive assessment of the Judicial Branch workplace environment, focusing especially on any issues of sexual harassment and gender discrimination.

Third, to propose improvements based on its assessments and investigations.

In February 2021, I told the legislature that the Colorado Judicial Branch faced a crisis, and I committed to changing our culture for the better. To do that, we asked for an independent, unvarnished assessment of where we stand. And we got it.

ILG's findings are simultaneously clarifying and sobering. They highlight the considerable progress we've already made, while underscoring that we still have much work to do.

To be sure, there are positives in the investigation's assessment of Branch culture:

From Report Page 77 ... "Given the nature of our project for the CJB [Colorado Judicial Branch], we expected that there would be more concerning or negative feedback provided by the voluntary interviews. As will be highlighted in the below sections, the work environment at the CJB is overall quite positive."

From Report Page 79 ... "Overall, the survey results indicated that the Colorado Judicial Branch is a positive place to work. A majority, 72% of participants, said they were satisfied with their job at CJB, with satisfaction level for Court Services at 76% and Probation Services division at 67%. Overall, satisfaction for appointed officials was higher, at 89% (47% reported being 'very satisfied' and 42% reported being 'satisfied')."

From Report Page 88 ... "We reviewed the statistics on promotions and separations for men

versus women at the CJB between the years 2017 and 2021 and did not find evidence of systemic gender bias. In fact, statistics showed that women have been promoted at the same rate as men since 2019.”

But in continuing to move forward, we must also take to heart all of ILG’s findings, beginning with its thorough investigation of Brown’s list.

On the one hand, ILG’s findings clearly refute the often-reported assertion that alleged misconduct was systematically ignored or covered up by the Branch:

From Report, Page 9 ... “First, every one of these instances was responded to in some way by the Judicial Branch. In most instances, Ms. Masais and Mr. Brown were the individuals responding. They investigated many of these allegations and in some cases, recommended that actions be taken. These were not instances where misconduct was ignored without some response.”

And ILG’s findings also place events in context, by noting the size of the Judicial Department and the period of time at issue:

From Report, Page 9 ... “Finally, it should be noted that the Eric Brown List contains allegations that span more than 20 years of history at the Judicial Branch and encompass 22 separate Judicial Districts, containing more than 4,000 employees and judicial officers. Sixteen allegations of wrongdoing over 20 years and in the context of thousands of employees is not a statistically significant number. It, on its own, does not suggest a systemic problem of harassment within the Branch.”

At the same time, however, ILG is rightly critical of how some of these complaints were handled over those two decades. The firm’s findings echo those of the separate Troyer investigation into the Masias contract award:

From Report, Page 9 ... “...My investigations revealed some problems in how some of these matters were handled (or not handled) by the Judicial Branch. There are instances where proper investigations were not done, or discipline that was recommended was not proportionate, or that other failures of process and accountability occurred.”

ILG’s report spans more than 130 pages. I offer here a synopsis, organized in the order that the incidents appeared on Brown’s much-publicized list. (ILG’s report instead breaks out the allegations based on their nature and origin: *Judicial, Finance Department, Probation Department.*)

While this synopsis provides a brief overview (with each allegation from the list in bold followed by ILG’s core conclusion), I strongly encourage you to read the entire investigation summaries contained in ILG’s report, as they provide important detail and insights to consider as we build an enhanced culture of governance throughout the Branch.

Synopsis of Investigations into the 16 Allegations on Brown's List

1. **“No investigation was held when the anonymous allegations of sexism and harassment were made against the Chief Justice and [an IT leader]. She was told to destroy the letter.”**

There was such a letter in 2017, but the allegations in the letter are not substantiated. Even so, the allegations should have been investigated at the time.

There is no evidence that anyone was directed to destroy the letter, but leadership either discounted or destroyed the letter.

2. **“Judge sent pornographic video over judicial email”**

The allegation that a judicial officer transmitted pornography in 2002 to another judicial officer over judicial email is not substantiated. There was no discipline imposed, but nothing seemed to warrant discipline.

3. **“Negotiated a release agreement with a law clerk who accused her COA judge of harassment in order to keep the COA judge ‘safe’ during the Supreme Court Justice selection process per the Chief Justice.”**

The allegation that a settlement agreement was negotiated to keep the judge “safe” during the nomination process is not substantiated.

The allegation that an agreement was negotiated or concealed by the Chief Justice or anyone else is also not substantiated.

HR and court administration failed to properly address other concerns raised by the clerk. Those concerns were unrelated to the unfounded allegation of harassment by the judge.

4. **“Judge exposed and rubbed his hairy chest on a female employee’s back; no action taken against the judge; Judge is currently being considered for the Senior Judge Program.”**

This incident occurred fifteen years ago, in 2007. It was reported to the Judicial Discipline Commission, which imposed a sanction it deemed appropriate. The judge’s conduct warranted more serious consequences.

(Note: Although the judge served in the Senior Judge Program for two years, his contract was terminated.)

5. **“Current pending EEOC complaint against two justices.”**

ILG was instructed not to investigate this matter because it was in litigation.

(Note: In February 2022, a federal district court judge dismissed the complaint, finding “definitively no” evidence of illegal discrimination.)

6. **“Mindy recommended to [a chief judge] that it was in the best interest of the Branch to terminate [an employee] due to the sexual relationships he had with his staff. [The chief**

judge] stated that Mindy needed ‘to leave the courthouse and drive slowly out of town.’”

(Note: ILG concluded that this allegation is related to the next one. Therefore, ILG considered them together.)

Masias, then the SCAO HR director, investigated this matter approximately twelve years ago, when the complaint was first made.

The chief judge was extremely unhappy with how HR handled the investigation, believing the investigation took too long and was unnecessarily disruptive of court operations.

HR ultimately concluded that the underlying allegations of sexual misconduct were not substantiated. The chief judge acknowledged that he may have told Masias that she “was not welcome in [his] district,” reflecting his issues with her investigation methods.

7. “Was told by chief judges she needed to seek their permission to conduct harassment and discrimination investigations in Districts”

HR was directed to notify the judicial districts before commencing investigations there, or visiting for any other reason, but the allegation that this directive was made to dissuade proper complaints is not substantiated.

8. “Evidence a financial manager accessed personal information on various leaders . . . for no business reason; no discipline taken on him and he was promoted less than two years later to deputy director.”

ILG substantiated this allegation after considering competing statements about this twelve-year-old incident.

9. “Financial manager investigated twice for harassing behavior. Receives more staff and a better office. No mention of the complaints in his 2017 performance appraisal.”

HR investigated alleged harassing behavior by this manager in 2015, 2017, and 2021. HR found no sexual harassment, but ILG substantiated this allegation in all respects and concluded that HR and Finance Division management have been reluctant to take claims against this manager seriously.

10. “Director of FSD [Financial Services Division] complained about not working ‘even banker’s hours’ by staff. Staff of other division follow him to his bar, home, and track that he does not place time in PTO system and is seen at home at 3:00 pm often or at bar.”

These allegations were not substantiated, and ILG expressed concern that HR’s investigation of the allegations was inadequate, biased, and possibly retaliatory based on the director’s role in events culminating in Masias’s resignation.

The “bar” was run by the director’s brother, and the director received permission from the then State Court Administrator to help his brother with the books for the bar on the director’s time.

11. “CPO [Chief Probation Officer] takes picture of penis and sends to vendor; no disciplinary action taken; CPO has sex with a vendor on state time and on state property who later complains she felt she had to in order to keep her job; no disciplinary action taken.”

The probation officer in question, before his promotion to CPO, shared such a photo close in time to the dissolution of a long-term, consensual relationship with the vendor in 2012, but the allegation is misleading because this was not a workplace situation.

HR, through Masias and Brown, investigated the matter at the time. They concluded that the relationship was consensual and that the probation officer did not have a position of authority over the vendor. Therefore, no discipline was imposed.

ILG found that it is not substantiated that the probation officer had sex with the vendor on state time or on state property.

12. Consolidated into 11.

13. “Court Administrator accused of asking an employee to backdate a document, no disciplinary action taken.”

ILG tried to investigate this but found no information.

14. “Director of Court Services and FSD Director.”

ILG found this to be an incomplete statement that could not be investigated.

15. “CPO directing all staff to swat a female on the backside, no disciplinary action.”

The incident in question occurred during an all-hands meeting in 2018. The CPO joked about everyone spanking a female probation officer for leaving them to work in another district. The female probation officer said she thought it was a distasteful joke. No one swatted her.

HR investigated. There was no recommendation for discipline.

16. “Report from a Justice about why MM was not selected for the position: Insinuates the entire Supreme Court made the decision she did not get the SCA position based on her gender.”

The allegation that Masias was not selected for promotion to State Court Administrator because of her sex and/or sex stereotyping is not substantiated.

At the same time, however, the process by which Chris Ryan received the job was highly irregular.

A Path for Continued Change, Transparency & Accountability

Again, ILG’s 360-degree-view of Branch culture reiterates that the Colorado Judicial Branch is largely a good place to work, that we are all working hard to do the right thing. This is also the reality that I hear from judges and staff across the state every day.

But the findings also underscore an urgency to continue building on the improved reporting and oversight

we've implemented over the last 19 months, beginning with new leadership throughout the State Court Administrator's Office (SCAO).

This investigation provides the Branch with a roadmap to remedy deficiencies:

From Report Page 120 ... "Our work in the Colorado Judicial Branch revealed several primary weaknesses in the workplace:

- *The absence of shared cultural values, to which everyone is held accountable, as the driver for decisions;*
- *Insufficient avenues for confidential and safe reporting;*
- *Broadly stated fears of retaliation, and concerns that nothing is done in response to complaints of misconduct;*
- *A need for more transparency and accountability; and*
- *Insufficient (and insufficiently modern) training on workplace conduct issues.*

Going forward, let me be clear about two things:

First, harassment and retaliation will not be tolerated, and everyone — appointed officials, senior executives and staff — will be held accountable. My colleagues on the Colorado Supreme Court and I, along with SCAO leadership, are totally committed to this, and we will continue to put the necessary tools in place to accomplish this.

Second, the ILG report reinforces the Troyer investigation findings that the Branch must "*improve the legitimacy of the process for handling complaints.*"

As I said then, it isn't enough to simply have the processes of accountability in place. Our judges, their staffs, probation department, the legal community, elected officials, regulators and Coloradans who rely on our system of justice must know how we deal with allegations of misconduct.

They must have confidence that the system works, because if they don't it isn't working.

To that end, I have asked Justice Monica Marquez, who will be Colorado's next Chief Justice, and State Court Administrator Steven Vasconcellos to lead an assertive *Colorado Judicial Branch Workplace Culture Initiative*. While they will be leading this effort, the rest of the court and I will be laboring oars as well. Together, we will navigate the choppy waters we find ourselves in.

We will begin with a comprehensive review of the specific recommendations made by the two independent investigation teams to determine how we can further implement their suggestions.

More information will be forthcoming, and we will be involving many people across the department.

We thank ILG for conducting this investigation. And I thank all of you for your continued dedication and hard work for the people of Colorado.