

New Mexico Civil Rights Commission

Chair- Justice Richard C. Bosson (retired)
Vice Chair- Mark Baker
Gerald Byers
Zackaree Kelin
Senator Steven Neville

Victor Rodriguez
Kim Stewart
Denise Torres
Judge Stan Whitaker

September 8, 2020

Via Email

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Dear Colleagues,

The New Mexico Civil Rights Commission was recently created by the New Mexico Legislature and has been tasked with making recommendations regarding a proposed private civil rights action against state and local governmental entities, officers, and employees for violations of rights secured by the New Mexico Constitution. *See* House Bill 5. As part of that inquiry, the legislature has instructed us to “review and assess the need for and the costs of additional insurance policies for public employees and public bodies, or for persons acting on behalf of or under the authority of public bodies” if a civil rights cause of action for violations of the New Mexico constitution were adopted. *Id.* at Section I(H). Accordingly, we invite the head of each of your organizations or the person you believe is most knowledgeable to speak on your

organization's behalf about this subject and the requested material to appear before the Civil Rights Commission on October 2, 2020 at 2:00 pm to discuss this matter with us. To assist us and the New Mexico Legislature, we need you to answer the following questions and submit answers by September 25, 2020.

The information we are seeking is that which addresses information and statistics regarding cases and claims alleging federal civil rights violations against public employees or entities, excluding cases brought by government employees regarding their employment.

1. How many civil rights lawsuits against public employees/public entities covered by your entity have been filed each year for the past five years? If possible, please provide a breakdown of how many of these were against police officers/departments? Corrections officers/correctional facilities? School employees/schools? Other government employees/entities?
2. What percentage of the lawsuits covered by your entity over the last five years have been civil rights cases?
3. What was the total amount of money paid out in settlements and judgments each year for civil rights cases over the last five years? If possible, please delineate how much was paid in settlement and how much in judgement.
4. How much did you pay in plaintiffs' attorneys' fees and costs for civil rights cases each year for the last five years?
5. How much did you pay in defense attorneys' fees and costs for each year over the last five years?
6. What coverage is provided for your civil rights cases and by whom? (e.g. private insurance, self-insure, excess policies)
7. Are insurance policies or certificates issued? If so, please provide sample copies. If not, please provide any other documents that set forth what is covered.
8. How are premiums determined and by whom?
9. Identify any actuarial consultants you have employed over the last five years and please provide any studies or reports they provided to you related to civil rights claims.
10. To the extent there is cost-sharing for civil rights lawsuits, how is the allocation determined between the governmental entity and you or your insurer?
11. Describe any preventative measures you have taken to with your insureds to prevent future civil rights litigation.

Your contact for the Civil Rights Commission is the commission's staff attorney, Alexandra Smith (email: asmith@smith-law-nm.com, phone number (505)417-7432). Please contact her with any questions.

Very truly yours,

Justice Richard C. Bosson

Justice Richard C. Bosson (retired)
Chair- New Mexico Civil Rights
Commission

cc: Mark Baker, Vice Chair
Gerald Byers, Commissioner
Zackeree Kelin, Commissioner
Senator Steven Neville, Commissioner
Victor Rodriguez, Commissioner
Kim Stewart, Commissioner
Denise Torres, Commissioner
Judge Stan Whitaker, Commissioner
Raul Burciaga, New Mexico Legislative Council Service