

JB200V  
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Specific Counterpoints to “I have watched enough lawyer shows to know that if someone goes to call their first witness and there is no witness, the court dismisses the case.”

- (1) This statement is not analogous to an ethics complaint investigation. It presumes a complaint jumps to a hearing.
- (2) The complaint process puts a hearing at the end, but requires an initial review, informal resolution, investigation, and a thorough report before a hearing is set.
- (3) If there are no witnesses/evidence found during an investigation, the Commission would dismiss a complaint at the hearing.
- (4) For criminal court cases, law enforcement generally completes an investigation before the court case starts. Many investigations take years before a charge is filed, with search warrants available as a tool. This is a much different process from the Commission’s complaint process.
- (5) For civil court cases, parties have litigation tools—like subpoenas—readily available. Even with these tools, civil trials are typically set roughly 18 to 24 months after a complaint is filed.
- (6) In my nearly 9 years with the U.S. District Court for the District of North Dakota, I do not remember a single civil or criminal matter resolved within 180 days.
- (7) State cases may resolve sooner with settlements and plea agreements, but the Commission has little control over settling complaints. Informal resolution is complainant driven.
- (8) Other boards and commissions have matters still open that are older than the Ethics Commission itself (and these boards/commissions have a subpoena process and better complaint processes).
- (9) The Commission has 8 pending matters from 2022 and 3 pending matters from 2023. All of those matters, with the exception of 1, are near the end of the process and will have hearings shortly.
- (10) The Commission must complete its investigations with its three staff members. Two contractors are assisting with one investigation each. Commission staff must divide time between investigations, administrative work, operations, and educational initiatives.
- (11) Respondents receive notice at each stage of the process. When respondents don’t hear from the Commission, Commission staff is gathering documentation and interviewing witnesses. Respondents are welcome to reach out for updates, but repeated requests for updates divert time and resources from completing the investigation.
- (12) The root of delays is short staffing and a very flawed process. The Commission acknowledged the delays and proposed a solution: HB 1360 (which failed) and adding an educator/communicator to reallocate attorney time to complaints. A 180-day deadline would create additional problems, not solutions.