

**Why a Spotlight must be put on the
Commission on Judicial Performance**

EXECUTIVE SUMMARY

Judicial misconduct is one of the most important, under-investigated and underreported issues affecting Californians. The Commission on Judicial Performance is the agency responsible for investigating and disciplining judicial misconduct in California. When compared to the oversight commissions of other states, California’s commission is a severe, negative outlier in investigating and disciplining judicial misconduct and making efficient use of public funds. This report compares California’s commission to those of Arizona, Texas, and New York.

California v. Arizona (past 10 years)

| | Budget (2015) | No. of Staff (2015) | Avg. number of complaints per year | Avg. number of total disciplines per year | Avg. number of public disciplines per year | Avg. rate of total discipline |
|------------|---------------|---------------------|------------------------------------|---|--|-------------------------------|
| California | \$4,334,000 | 20 | 1082 | 36 | 6 | 3.4% |
| Arizona | \$522,300 | 4.5 | 346 | 47 | 10 | 13.6% |

California v. Texas and New York (past 10 years)

| | No. of Staff (2014) | Budget (2014) | Complaints '05-'14 | Prelim. Inquiry | Prelim. or Full Investig'ns | Public Discipline (Censure, Admonish, Removal/ Suspension) | Resign / Retire / Left office for other reasons with complaints pending | State Pop. |
|------------|---------------------|---------------|--------------------|-----------------|-----------------------------|--|---|--------------|
| California | 20 | \$4.3m | 10,821 | 754 | 712 | 67 (6 removal) | 34 | 38.8 million |
| Texas | 13 | \$933k | 10,964 | 2,629 | 2,636 | 168 (39 removal) | 50 resign (retire or other reasons not reported) | 26.9 million |
| New York | 45 | \$5.5m | 17,719 | 4,318 | 2,139 | 221 (23 removal) | 358 | 19.7 million |

The Commission on Judicial Performance operates in secrecy because it is exempt from California Constitution Article I, Section 3(b), the California Public Records Act, Ralph M. Brown Act, Bagley-Keene Act, and California Rules of Court, rule 10.500. The commission refused to produce *any* records in response to a records request from First Amendment Coalition - even basic staff, salary, and budget information. The request and response are attached herein. The Commission on Judicial Performance resides in the International Waters of public disclosure laws.

The budget of California’s judicial branch is \$3.8 billion, and its 2,200 judicial officers dispose of approximately 7 million cases annually. The disposition of each of these cases has a direct,

lifelong impact on the persons involved. A strong judicial oversight agency is of paramount public importance because bad judges cause innocent people to be found guilty, guilty people to be found innocent, issue unfair and inconsistent sentences, damage the lives of children and families, erode the public trust, and waste millions of taxpayer dollars. Californians should have confidence in their courts, but a 2014 study found that of all 50 states California has the *highest* level of perceived illegal corruption in its judicial branch.

The data compiled in this report suggest that the Commission on Judicial Performance severely under-investigates and under-disciplines judicial misconduct and misappropriates public funds. Potentially hundreds of unfit judges currently sit on California's benches whose removal, resignation, or retirement would have been caused by the commissions of other states.

Given the tremendous disparities in investigation rates, discipline rates, and budget efficiencies between California's commission and those of other states, typically 200-300% differences across the board, the integrity of the Commission on Judicial Performance should be questioned. Oversight of the largest judiciary in the Western world cannot be trusted to a small agency that is an outlier in judicial discipline and subject to minimal public disclosure laws. Californians urge the Legislature to order an audit of the Commission on Judicial Performance and to require increased transparency and accountability.