

JUDICIAL INTEGRITY PROPOSAL

Judicial Tenure Commission

PROBLEM: Lack of staff and increased complexity and size of Judicial Tenure Commission (JTC) caseload continues unacceptably to delay resolution of allegations of significant judicial misconduct. Investigations of new complaints are postponed for lengthy periods, and the public's faith in the integrity of the discipline process is corroded.

Staff Not Adequate Prior to 2017: The JTC staff size was stable, at three attorneys plus executive director, for more than 24 years, from 1997 until the Legislature allocated us another attorney at the start of FY22. Meanwhile, beginning in about 2015 JTC investigations became increasingly complex, causing resolution of grievances to be delayed excessively even prior to 2017.

Dramatic Increase in Number of Investigations 2017-21: The investigations that consume by far the greatest share of our resources are those the Commission opens as "full investigations." The period 2017 through 2021 saw a 65% increase in the full investigations the Commission opened, plus a several-fold increase in the number of the most complex full investigations.

The JTC currently has over 200 open requests for investigation, including 36 full investigations. Twenty-one of the open investigations have been pending for longer than one year; twelve of those have been pending more than two years and five have been pending more than three years. Our backlog has become worse every year since 2017, as shown by the accompanying chart and graphs. The backlog has become worse even though we were given resources to hire 1.2 contract attorneys beginning in 2019 and another contract attorney beginning in 2021.

The large backlog plus lack of staff means the JTC has no ability to investigate and prosecute new cases, other than by further delaying other cases that are already much too old.

Anticipated Public Charges Increase Dramatically: Historically, the 400-600 grievances filed with the Commission each year generate no more than two public charges. These charges generally reflect extensive investigation, and result in a public hearing to develop the JTC recommendation to the Supreme Court. JTC staff expect six to nine of the current investigations to result in public charges, unless the judges under investigation choose to resign instead (as seven did in 2019, one did in 2020, and three did in 2021). Just prosecuting those charges *after* they are public would comprise one staff attorney's entire workload for at least three full years.

Delays Cause Public to Doubt Integrity of the Discipline Process: Ongoing delays in the investigation and prosecution of judicial misconduct cause the public to lose faith in the integrity of the discipline process, and result in an unacceptable cloud over the judiciary.

PROPOSAL: Provide adequate staff to enable the JTC to eliminate backlog in order timely to investigate judicial misconduct and hold judges accountable

The JTC requests \$192,000 in ongoing funding to add one paralegal, provide funding for additional hearings, and restore merit increases that were suspended to help pay for contract attorneys. It also requests \$374,000 in one-time funding to pay three contract attorneys to address the backlog.

RESULTS:

- ✓ Current investigations can be resolved
- ✓ New complaints can be investigated promptly
- ✓ Public can be assured that judges will *timely* be held accountable for their misconduct

Opened & Pending Full Investigations 2015-2021					
CY	New Full Investigations Opened During CY	Pending at end of CY	>1 year old at end of CY**	>2 years old at end of CY**	>3 years old at end of CY**
2015	21	12*	5	0	0
2016	22	12*	3	0	0
2017	38	20*	3	1	0
2018	27	26	16	4	1
2019	38	32	13	6	3
2020	29	33	20	11	5
2021	38	39	20	12	5

* These numbers are estimates because our data are incomplete

** The number of case > 1 year old also includes all cases > 2 years old; the number of cases > 2 years old also includes all cases > 3 years old.

