

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 has been stable, at three attorneys plus executive director, since August 1997. Beginning in about 2015 JTC investigations became increasingly complex, causing resolution of grievances to be delayed excessively.

Dramatic Increase in Number of Investigations 2017-19: While the number of grievances filed each year has remained stable for well over a decade (about 500-600), the period 2017 through 2019 saw an 80% increase in the grievances that require a full investigation (the cases that consume by far the most resources). During that same period there has been a several-fold increase in the most complex investigations.

The JTC currently has over 200 open requests for investigation, including 34 full investigations. Eighteen of the open investigations have been pending for longer than 1 year; six of those have been pending more than two years and three have been pending more than three years.

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 500-600 grievances filed each year generate no more than two public charges. These charges almost always reflect extensive investigation, and result in a public hearing to develop the JTC recommendation to the Supreme Court. JTC staff expects six to ten of the current investigations to result in public charges, unless the judges under investigation choose to resign instead (as several did in 2019). Just prosecuting those charges, after they are public, would comprise one staff attorney's entire workload for two 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 excessive cloud over the judiciary.

PROPOSAL: Provide adequate staff to enable the JTC timely to investigate judicial misconduct and hold judges accountable.

The JTC requests \$453,000 in ongoing funding to:

- Add one permanent staff attorney
- Continue to pay contract attorneys to address the backlog, plus pay the increased costs of so many investigations
- Pay for outside counsel now needed to litigate JTC cases in Supreme Court

RESULTS:

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