



Commission on Judicial Performance

*Weaknesses in Its Oversight Have Created
Opportunities for Judicial Misconduct to Persist*

Background

The Commission on Judicial Performance's (CJP) mission is to protect the public, enforce standards of judicial conduct, and maintain public confidence in the judicial system. CJP investigates complaints about judicial misconduct and disciplines judges who engage in misconduct. CJP has jurisdiction over all judges of California's superior courts, the justices of the courts of appeal, and the justices of the Supreme Court of California, and it can also impose certain discipline against former judges. CJP is overseen by 11 commissioners composed of judges, attorneys, and members of the public.

Key Recommendations

- The Legislature should do the following:
 - » Propose and submit to voters an amendment to the California Constitution to reform CJP's structure and disciplinary proceedings to ensure the public has a significant role in deciding judicial discipline.
 - » Provide CJP a one-time budget increase to ensure it makes critical improvements to effectively investigate complaints and discipline judges for misconduct.
- The CJP should do the following:
 - » Implement safeguards, such as requiring investigation strategies and management reviews, to ensure it adequately investigates alleged judicial misconduct.
 - » Require investigators to review all prior complaints to identify patterns that may indicate chronic judicial misconduct.
 - » Improve public outreach, accept online complaints, and hold meetings that are open to the public.

Key Findings

- CJP's investigative processes are flawed—we reviewed 30 investigations and found that CJP investigators failed to pursue allegations thoroughly and ignored warning signs of ongoing misconduct.
 - » Investigators did not thoroughly investigate over one-third of the 30 investigations to determine the existence or extent of alleged misconduct even though they involved serious allegations.
 - » Investigators did not prepare a preliminary investigation plan with planned objectives and timelines in any of the 30 investigations we reviewed.
 - » It does not take steps to identify patterns of complaints and initiate investigations when numerous complainants allege similar problems involving a judge—in one case, a judge who was the subject of many serious complaints about on-the-bench misconduct avoided discipline for years.
- Because the commissioners currently serve as a single body, CJP's structure and disciplinary processes do not align with judicial discipline best practices or the intent of California's voters.
 - » Commissioners are involved in both investigatory and disciplinary functions, resulting in judges facing potential discipline from a body of commissioners that is privy to unfounded allegations of misconduct.
 - » Instead of hearing cases itself, the commission delegates a significant component of CJP's disciplinary proceedings to a panel of judges who review evidence and reach conclusions about other judges' misconduct, which decreases the public's role in discipline and falls short of the voters' intent.
 - » Unlike comparable entities, CJP lacks clear authority to require corrective actions that might reduce judicial misconduct.
- CJP has not taken critical steps to improve its transparency and modernize its operations.
 - » It has performed limited public outreach to ensure the public is aware of its role in the judicial system, it only accepts complaints through the mail, and its website needs more information about the complaint process.
 - » Unlike many other government boards and commissions, it does not hold meetings open to the public to discuss its rules or operations.
 - » Its case management system is outdated and does not have the technical capabilities necessary to improve its investigation processes.
 - » It has not maximized its resources for its core functions—nearly 40 percent of its budget is spent on non-core functions such as operations and administration.