STATE OF CALIFORNIA

COMMISSION ON JUDICIAL PERFORMANCE

SUMMARY OF DISCIPLINE STATISTICS

1990 – 2009

STATE OF CALIFORNIA

COMMISSION ON JUDICIAL PERFORMANCE

Summary of Discipline Statistics – California Trial Court Judges 1990-2009

Prepared by:
Russell Ganzi, Erica Kang, and David Rizk
Public Policy Program and International Policy Studies
Stanford University

State of California
Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, California 94102
(415) 557-1200
http://cjp.ca.gov

Acknowledgments

The authors would like to thank Stanford University Professor of Public Policy Practice Joe Nation and Teaching Assistant Michael Binder for their feedback throughout the course of this project. Kevin Lane, Assistant Clerk Administrator, Court of Appeal, Fourth Appellate District, Division One, assisted us with the graphs in the report. And most of all, we would like to thank the California Commission on Judicial Performance, in particular Victoria Henley and Nancy Gilmore, who provided us with the support that made this project possible.

Table of Contents

Executive Summary v

Background 1
- **About the Commission** 1
- **About the Judiciary** 3

Data Sources 5
- Table 1: AOC Biographical Information and Usage 5
- Table 2: CJP Disciplinary Information and Usage 6

Findings 8
- Figure 1: Complaints per Judge, 1990-2009 8
- Table 3: Average Issuance of Sanctions by Decade, 1989-2009 9
- Figure 2: Sanctions Imposed per 100 Judges, 1990-2009 9
- **Years on Bench Comparison** 10
  - Table 4: Judicial Experience at Time of Misconduct 10
- **Age Comparison** 11
  - Table 5: Age at Time of Misconduct 11
- **Gender Comparison** 11
  - Table 6: Discipline by Gender 11
- **Initially Appointed or Elected Judges Comparison** 12
  - Table 7: Discipline by Initially Appointed or Elected Status 12
- **Court Size Comparison** 12
  - Table 8: Discipline Issued by County Court Size 12
- **Prior Discipline Comparison** 13
  - Table 9: 5 and 10-year Discipline Rates of Previously Disciplined Judges, 1980-2009 13
- **Types of Misconduct Comparison** 13
  - Table 10: Top Ten Types of Misconduct, 1990-2009 14
- **Source of Complaint Comparison** 14
  - Table 11: Discipline Rate by Complaint Source, 1990-2009 15

Conclusions 16

Appendix: Data Sources A-1

Executive Summary

The California Commission on Judicial Performance, established in 1960, is the independent state agency responsible for investigating allegations of judicial misconduct and disciplining California judges.[1] From 1990 to 2009, the Commission imposed discipline on trial court judges in 790 cases: 496 cases from 1990 to 1999 and 294 cases from 2000 to 2009. These totals include all advisory letters, public reprovals, public and private admonishments, public censures and decisions removing judges from office.[2] This report provides a statistical summary of those cases, including data relating to disciplined judges.[3] The data reported here do not permit conclusions to be drawn regarding causational factors. However, the data reveal the following trends and relationships:

- The number of complaints per judge has decreased slightly since the 1990's, while the number of sanctions imposed per judge has decreased substantially. This decrease was only in the issuance of advisory letters; the frequency of all other sanctions remained relatively constant.
- Female judges were less frequently sanctioned than male judges.
- Initially elected judges were more frequently sanctioned than initially appointed judges.
- Judges on small courts were more frequently sanctioned than judges on larger courts.
- Judges who had previously been sanctioned by the Commission made up a large share of disciplined judges.

This report adopts the following structure: first, background information on the Commission and the state judiciary is presented for context; second, the data collection process is described: finally, basic descriptive statistics are used to summarize the data and draw comparisons across the decades.

---

[1] Cal. Const., art., VI, § 18.

[2] Between 1990 and 1995, the Commission issued public reprovals. The public reproval was eliminated as a sanction in 1995. Until 1995, the Supreme Court was responsible for imposing censures and ordering judges removed from office. Since 1995, those powers have been vested in the Commission, subject to discretionary review by the Supreme Court upon petition by the judge.

[3] The Commission published a comparable report in 2000. See SUMMARY OF DISCIPLINE STATISTICS, 1990-1999, California Commission on Judicial Performance, available at http://cjp.ca.gov/res/docs/Miscellaneous/Statistical_study_1990-1999.pdf.

Background

About the Commission

The Commission is composed of 11 members: one justice of a court of appeal, two superior court judges appointed by the Supreme Court, two attorneys appointed by the Governor, and six public members – two appointed by the Governor, two appointed by the Senate Committee on Rules, and two appointed by the Speaker of the Assembly.[4] All members are unpaid for their service, though expenses related to official Commission business are reimbursed. Members serve four-year terms, and can be reappointed subject to a 10-year limit. Annually, the members elect a chairperson and vice-chairperson. The Commission's professional staff of attorneys, assisted by support personnel, investigate complaints and prepare cases for the Commission's review.

The Commission's mandate is to protect the public, enforce rigorous standards of judicial conduct, and maintain public confidence in the integrity and independence of the judicial system.[5] Its jurisdiction extends to all active state court judges, including superior court judges and the justices of the Court of Appeal and Supreme Court.[6] This report presents data about judicial misconduct of trial court judges only, however.[7]

Judicial misconduct usually involves conduct that conflicts with the standards set forth in the Code of Judicial Ethics.[8] Examples of judicial misconduct include intemperate courtroom conduct (such as yelling, rudeness, or profanity), communications with only one of the parties in a case when not permitted by law, failure to disqualify oneself in cases in which the judge has or appears to have a financial or personal interest in the outcome, delay in performing judicial duties, and abuse of authority. Judicial misconduct also may involve improper off-the-bench conduct such as driving under the influence of alcohol, using court stationery for personal business, or soliciting money from persons other than judges on behalf of charitable organizations.

---

[4] Cal. Const., art. VI, § 8.

[5] *Adams v. Commission on Judicial Performance* (1995) 10 Cal.4th 866, 912 [42 Cal.Rptr. 2d 606, 897 P.2d 544].

[6] The Commission also has authority to impose discipline on former judges in some circumstances. Cal. Const., art. VI, § 18(d).

[7] Between 2000 and 2009, two appellate justices were disciplined by the Commission. In the prior decade, three appellate justices were disciplined. No disciplinary action against appellate justices is considered in this report.

[8] Cal. Const., art. VI, § 18(m).

For record keeping purposes, the Commission has categorized misconduct into 25 types of misconduct. Although a single incident of misconduct may warrant the imposition of discipline, a single disciplinary case may involve multiple occurrences of a single type of misconduct and/or multiple different types of misconduct. These include:

- Abuse of contempt/sanctions
- Administrative malfeasance/improper comments or treatment of colleagues and staff
- Alcohol or drug related criminal conduct
- Bias/appearance of bias toward a particular class
- Bias/appearance of bias (not directed toward a particular class)
- Comment on pending case
- Decisional delay/false salary affidavits
- Demeanor/decorum
- Disqualification/disclosure/post-disqualification conduct
- Ex parte communications
- Failure to cooperate/lack of candor with regulatory authorities
- Failure to ensure rights
- Gifts/loans/favors/ticket-fixing
- Improper business, financial or fiduciary activities
- Improper political activities
- Inability to perform judicial duties/ incapacity
- Miscellaneous off-bench conduct
- Misuse of court resources
- Non-performance of judicial functions/ attendance/sleeping
- Non-substance abuse criminal conduct
- Off-bench abuse of office
- On-bench abuse of authority in performance of judicial duties
- Pre-bench misconduct
- Sexual harassment/inappropriate workplace gender comments
- Substance abuse

Notably, legal error itself is not considered misconduct. The Commission is not an appellate court, and cannot change judicial decisions. The Commission also cannot provide legal assistance to litigants, or intervene in litigation on behalf of a party. When a judge makes an incorrect decision or misinterprets the law, the ruling can be changed only through the proper appellate process.

The Commission's process for handling allegations of misconduct consists of several stages. The Commission members meet approximately seven times a year to consider reports on complaints and pending cases prepared by the staff. Complaints may be submitted to the Commission by any person, including litigants, attorneys, and court employees. Anonymous complaints, facts uncovered during investigations, appellate opinions, and any other public information may also form the basis for a disciplinary case. Complaints are confidential, and the Commission typically does not confirm or deny that a complaint has been received or that an investigation is ongoing.[9]

[9] RULES OF THE COMMISSION ON JUDICIAL PERFORMANCE, rule 102(e) (1996), *available at* http://www.cjp.ca.gov/res/docs/appendix/CJP_Rules.pdf.

When the Commission receives a complaint stating facts, which, if true, would constitute misconduct, the agency opens an investigation. During the investigation, the staff may interview witnesses, review court records and other documents, and observe the judge in court. Cases lacking merit – either because the allegations are untrue or unprovable by clear and convincing evidence – are closed, and the complainant is so notified. Unless evidence is uncovered that establishes a complaint is without merit, the Commission asks the judge for comment.

If "relatively minor" misconduct is found after an investigation and opportunity for comment from the judge, the Commission may issue a confidential advisory letter that "advises caution or expresses disapproval" to the judge. If more significant misconduct is found, the Commission may issue a private admonishment to a judge. Advisory letters and private admonishments are confidential, although the Commission does notify the complainant that appropriate corrective action was taken.[10] The Commission also publishes redacted summaries of all private discipline each year in its annual report.

For serious misconduct, the Commission may publicly admonish or censure a judge. Public admonishments and censures are public notices that describe a judge's improper conduct and state the findings of the Commission. In the most serious cases of misconduct, the Commission may remove a judge from office after holding a formal hearing. All formal proceedings and hearings are public. Once these procedures are exhausted, a judge may petition the Supreme Court to review any discipline or involuntary retirement ordered by the Commission.

About the Judiciary

Between 1990 and 1999, California's trial courts included municipal and superior courts. All trial courts were unified as superior courts by the end of 2001. At the beginning of 2009, the last year of this study, the California judiciary included approximately 1,604 trial court judges,[11] who presided over roughly 10.3 million cases per year.[12] The superior courts in each of California's 58 counties vary significantly in size and organization. Fifteen superior courts, including those in Alpine, Del Norte, Inyo, Lassen, Mono and Trinity Counties, have only two sitting judges each.[13]

---

[10] Private discipline must be released to requesting appointing authorities if a disciplined judge is being considered for another state or federal judicial office, and it may be released to the Chief Justice of California when a retired judge is being considered for judicial assignment after retirement. *See* Rules of the Commission on Judicial Performance, rule 102(i) and (m).

[11] This is the approximate number of filled positions. The Commission's annual report refers to 1643 judgeships, which is the number of authorized positions.

[12] 2010 COURT STATISTICS REPORT STATEWIDE CASELOAD TRENDS, Judicial Council of California, at 57, *available at* http://www.courts.ca.gov/documents/csr2010.pdf. *See also* FACT SHEET, Judicial Council of California (Sept. 2010), *available at* http://www.courts.ca.gov/documents/Calif_Judicial_Branch.pdf.

[13] *Id.* at 139. *See also* CALIFORNIA TRIAL COURT ROSTER, Judicial Council of California, *available at* http://www.courts.ca.gov/2948.htm, *and* EXPLORING THE WORK OF THE CALIFORNIA TRIAL COURTS: A TWENTY-YEAR RETROSPECTIVE, Judicial Council of California, *available at* http://www.courts.ca.gov/7808.htm.

The Los Angeles Superior Court, by contrast, is the largest trial court in the nation, with approximately 431 sitting judges organized into dozens of specialized departments.[14] The number of authorized judicial positions on a given superior court is determined by statute. The Legislature, in consultation with the Judicial Council, determines the relative need for new judgeships based on an assessment of judicial workloads, numbers of filings, population served, and existing judicial resources, among other factors.

Lawyers may become superior court judges in one of two ways. When a vacancy on a court arises at the end of a six-year term, a new judge is elected in nonpartisan, countywide elections.[15] When a vacancy arises in the middle of a term, the Governor, after evaluation of the candidate by the Commission on Judicial Nominees Evaluation, may appoint a replacement. That appointee must stand for reelection at the next general election after the second January 1 following the vacancy. As the data discussed in this report indicate, almost 90 percent of judges are initially appointed. All judges, whether initially elected or appointed, must stand for reelection at the completion of their first term and every subsequent term. However, incumbents who run unopposed are automatically reelected.

The demographics of the California judiciary have shifted significantly in the last two decades. As discussed in the "Findings" section, since 1990 the number of women serving on the bench has more than doubled, from 13.9 percent to 28.4 percent overall. The judiciary has also aged, on average, by 4.9 years since 1990, and the average years of judicial experience have increased by 2.5 years.

---

[14] *Id.*

[15] All judges must have been either a member of the State Bar of California or a judge in California for ten years prior to taking office. Cal. Const., art. VI, § 15.

Data Sources

This report provides a statistical summary of cases in which discipline was imposed by the Commission from 1990 to 2009. This report also summarizes data describing certain characteristics of disciplined judges, such as age, and draws comparisons to the California judiciary as a whole.

The data were collected by two agencies, the Administrative Office of the Courts (AOC) and the Commission on Judicial Performance. The AOC is the staff agency of the Judicial Council, which has policy-making authority over the state court system. The AOC collects basic biographical information about all judicial officers when they first take office.

For each judge, the AOC provided (1) a date of birth, (2) the date on which the judge assumed judicial office, (3) whether the judge was initially elected or appointed to office, and (4) gender. The AOC also identified (5) the court to which each judge belonged and the size of each court, as measured by the number of authorized judicial positions on the court. AOC provided this data to the Commission on an individual basis for each judge in the judiciary, identified by an anonymous and unique number.[16] The AOC variables are summarized in Table 1:

Table 1: AOC Biographical Information and Usage

Biographical Information	Notes and Usage
Birth date	Used to calculate distribution of age judiciary-wide, and age for disciplined judges
Date took office	Used to calculate distribution of judicial experience judiciary-wide, and judicial experience for disciplined judges
Initially elected or appointed status	Used to calculate ratio of initially elected to appointed judges, judiciary-wide
Gender	Used to calculate ratio of female and male judges, judiciary-wide
Court size (number of authorized judicial positions)	Used to calculate distribution of court size

[16] No names were collected. The AOC data are not complete across every variable for every individual judge. For example, there are nine judges for whom the "date took office" is missing. These individuals were excluded from the analysis of years of judicial experience, but not from other analyses. Individual judges with missing values in other fields were treated in the same manner.

The Commission database uses the same anonymous and unique number used by the AOC to identify each disciplined judge. This allows each disciplinary case involving a given judge to be linked to his or her corresponding biographical data. The Commission data also include, for each case that resulted in discipline, (1) the type of misconduct involved, (2) the year in which the first instance of misconduct occurred, (3) the year in which discipline was imposed, (4) the judge's prior disciplinary record, if any, and (5) the source(s) of complaint(s) that prompted the discipline. These data are summarized in Table 2, below:

Table 2: CJP Disciplinary Information and Usage

Discipline Information	Description	Notes
Type of Misconduct	Categorized by Commission staff as one of 25 types of misconduct	More than one type of misconduct may be involved in a single disciplinary case
Year of Misconduct	The year in which recognized misconduct first occurred	Reflects only first instance of misconduct, not ongoing misconduct; used to calculate age and judicial experience at the time of misconduct for disciplined judges
Year of Discipline	The year in which discipline was imposed	Used to calculate age and judicial experience at the time discipline was imposed
Prior Discipline	Whether or not the judge had prior discipline	Does not reflect prior complaints that did not result in discipline
Source of Complaint	Source of complaint to Commission (may be litigant, attorney, judicial officer, anonymous, etc.)	Some disciplinary cases may arise from more than one complaint and/or multiple sources, but cases need not arise from a complaint

The Commission has categorized conduct that resulted in discipline into 25 types of misconduct,[17] listed in the previous section. However, these categories are not mutually exclusive. Some misconduct could conceivably be classified under more than one category. For example, an inappropriate ethnic joke told in the courtroom could be characterized as a demeanor/decorum violation or bias/appearance of bias. For tracking purposes, however, the Commission staff categorized each instance of misconduct according to the classification or emphasis expressed by the Commission in explaining its findings and final decision.

The method of counting instances of misconduct imposed limits on the possibilities for analysis. Discipline imposed by the Commission may involve multiple different types of

[17] In the last decade, one additional type of misconduct was added and some misconduct types were redefined. All discipline from 1990 to 2009 was recategorized according to the revised 25 types of misconduct.

misconduct or repeated incidents of a single type of misconduct. For example, a judge might be disciplined for both improper ex parte communications and abuse of office, or simply charges of repeated inappropriate demeanor. In the latter example, only one type of misconduct (inappropriate demeanor) is counted in the reported data, whereas in the former case, the data note both types of misconduct separately (ex parte communications and abuse of office).[18] Therefore, in the 294 cases resolved by the Commission between 2000 and 2009, discipline was imposed for 746 separate instances of misconduct.

In cases involving only a single act of misconduct, the meaning of the "year of misconduct" is self-evident. In cases involving repeated occurrences of misconduct, the data report the first year in which recognized misconduct occurred. Referring only to the first occurrence of misconduct in each case substantially simplifies presentation and analysis of the data, and may provide better insight into the timing of misconduct and possibly causal factors. On the other hand, dating all misconduct to its first occurrence also conceals durational patterns of repeated misconduct. Unfortunately, the trade-off is unavoidable. The method of counting adopted here follows the precedent set by the Commission's Summary of Discipline Statistics for 1990-1999.[19]

As noted in the "Background" section, a disciplinary case need not arise out of a complaint submitted to the Commission by an outside party. The Commission may initiate investigations itself. Also, disciplinary cases may arise out of multiple complaints. The Commission's records include the sources of all complaints filed, both those that resulted in discipline and those that did not. The distribution of sources of complaints and the frequency of complaints from particular types of sources resulting in discipline are discussed further in the "Findings" section.

Finally, for each individual judge, age was inferred on an annual basis, as of January 1, using the judge's birth date. For disciplined judges, age at the time of earliest misconduct was calculated as of January 1 of the year the misconduct first occurred. Judicial experience also was inferred on an annual basis as of January 1 for each judge, using the date upon which the judge entered judicial office. For disciplined judges, judicial experience at the time of earliest misconduct was calculated as of January 1 of the year the misconduct first occurred. The data collected on age and judicial experience are presented in the "Findings" section, below.

---

[18] SUMMARY OF DISCIPLINE STATISTICS, 1990-1999, California Commission on Judicial Performance, *available at* http://cjp.ca.gov/res/docs/Miscellaneous/Statistical_study_1990-1999.pdf.
[19] *Id.*

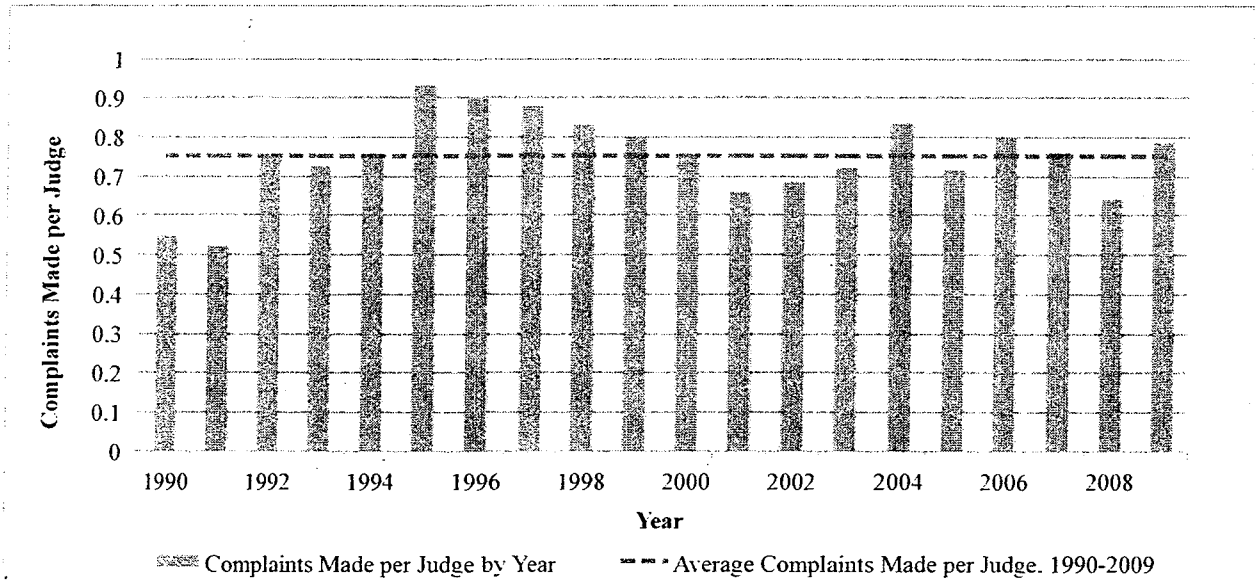
Findings

The purpose of this section is to provide statistical information about judicial misconduct and the Commission's disciplinary cases from 1990 to 2009. The distribution of discipline across each of the characteristics described in the previous section is presented below. The descriptive statistics reported herein suggest the following trends and relationships:

- The number of complaints per judge has decreased slightly since the 1990's, while the number of sanctions imposed per judge has decreased substantially;
- Female judges were less frequently sanctioned than male judges;
- Initially elected judges were more frequently sanctioned than initially appointed judges;
- Judges on small courts were more frequently sanctioned than judges on larger courts;
- Judges who had previously been sanctioned by the Commission made up a large share of disciplined judges.

The absolute number of complaints received by the Commission between 2000 and 2009 decreased slightly from the number of complaints received between 1990 and 1999, and the number of complaints per judge also decreased. From 1990 to 1999, the Commission received 11,464 complaints in total, or 0.766 complaints per judge. From 2000 to 2009, the Commission received 11,390 complaints in total, or 0.736 complaints per judge. The annual number of complaints per judge is shown in Figure 1, below:

Figure 1: Complaints per Judge, 1990-2009



Source: A-1, Appendix

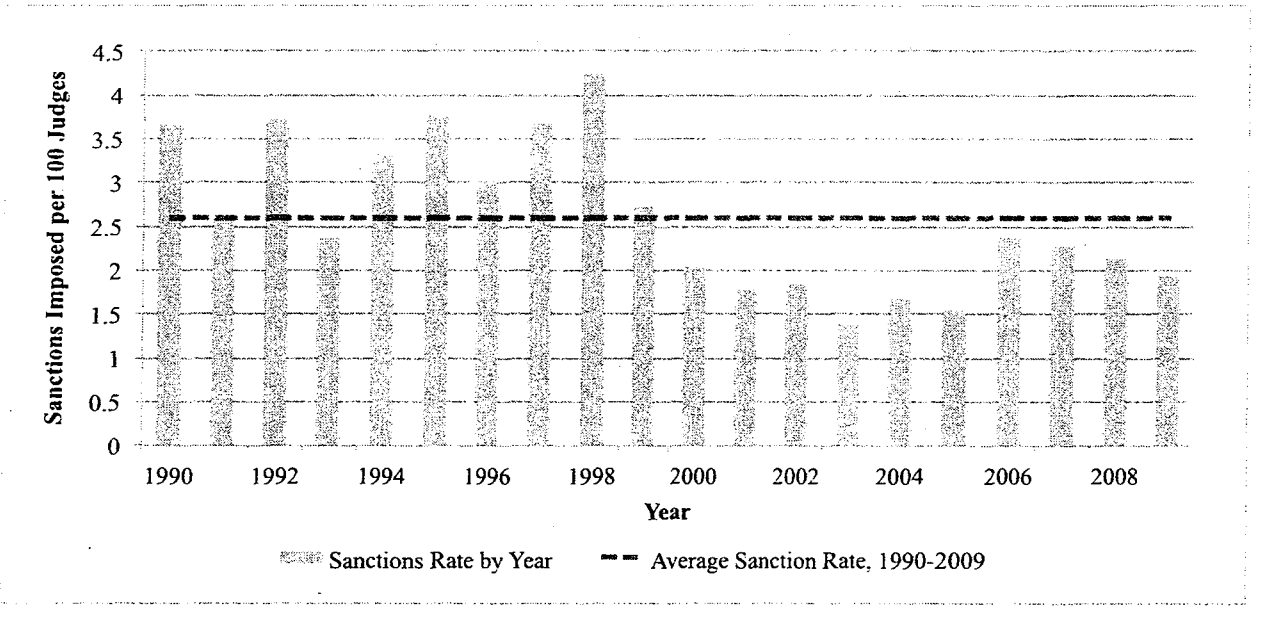
Meanwhile, the number of sanctions issued per judge decreased. From 1990 to 1999, the Commission issued 496 sanctions, or 3.31 sanctions per 100 judges. By comparison, from 2000 to 2009, discipline was imposed in 294 cases, or 1.90 sanctions per 100 judges. The decrease in sanctions was almost entirely in the issuance of advisory letters; over the two decades, the number of other sanctions issued remained relatively constant. Between 1990 and 1999, the Commission issued, on average, 37.7 advisory letters each year. Between 2000 and 2009, the number of advisory letters issued each year averaged only 17.5.

Table 3: Average Issuance of Sanctions by Decade, 1989-2009

Type of Sanction	Annual Average 1989-1998	Annual Average 2000-2009
Advisory Letter	40	17.5
Private Admonishment	7.1	5.9
Public Admonishment/Reproval	3.7	3.8
Public Censure	1	1.6
Removal	0.5	0.9

There may be any number of factors contributing to this decrease; the data reported here do not permit conclusions to be drawn about causational factors. It is noted, however, that in 1999, the California Supreme Court decided *Oberholzer v. Commission on Judicial Performance* 20 Cal.4th 371 [84 Cal.Rptr. 2d 466, 95 P.2d 663]. One of the issues in the case was whether the Commission's issuance of an advisory letter amounts to "discipline." The Commission had maintained that advisory letters represented informal action by the Commission falling short of formal discipline. The Court held that advisory letters were a form of discipline, not merely advisory or informal action. The annual number of sanctions per judge is shown in Figure 2, below:

Figure 2: Sanctions Imposed per 100 Judges, 1990-2009



Source: A-1, Appendix

The total number of complaints filed with the Commission, as well as the number of sanctions issued, and the total number of judges serving in the judiciary, are set forth for each year in Tables A-1.1 and A-1.2 (see Appendix).

The remainder of the "Findings" section is organized by the demographic characteristics of California trial court judges. For each characteristic, the number of sanctions imposed and the number of sanctions per 100 judges serving in all of California's trial courts are presented. In addition, the distribution of complaint sources and types of misconduct are reviewed.

Years on Bench Comparison

Judicial experience was calculated as of January 1 of the specified year, using the date each judge took office. The average judicial experience of all trial court judges increased during 1990 to 2009. In 1990, the mean level of judicial experience across the entire state judiciary was 7.0 years; by 2009, the mean judicial experience for all judges had increased to 9.5 years. For the period of 1990 to 2009, the mean level of judicial experience was 9.1 years.

Table 4, below, shows the judicial experience of disciplined judges at the time of the earliest misconduct, both by the number of cases and the number of cases per 100 trial court judges in each category of experience. By comparing judicial experience at the time of misconduct to the distribution of judicial experience across all trial court judges for the specified years, the relative incidence of misconduct at the varying levels of experience may be calculated. The discrepancy between the misconduct date and the trailing year that discipline was imposed makes this particular assessment of the data less precise.

Table 4: Judicial Experience at Time of Misconduct

	1990-1999		2000-2009		Total	
Years on Bench	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**
0 through 2	97	3.09	46	1.46	143	2.27
3 through 6	117	3.67	44	1.51	161	2.64
7 through 11	139	3.40	62	1.93	201	2.75
12 through 16	93	3.15	64	2.13	157	2.64
17 or More	48	2.99	78	2.45	126	2.63

Source: A-2, Appendix

The data from 2000 to 2009 suggest a positive relationship between years of experience and the sanction rate for the period. But the rates shown in Table 4 indicate that, over the long run, the incidence of misconduct is relatively equally distributed across all experience levels, excepting the most recently appointed or elected judges who were disciplined at a significantly lower rate.

Age Comparison

The judiciary has aged over the period from 1990 to 2009. In 1990, the mean age of the entire judiciary was 51.5 years; by 2009, the mean age was 56.4 years. The mean age for the entire period from 1990 and 2009 for all California state court trial judges was 54.2 years old.

Table 5, below, shows the age of disciplined judges at the time of earliest misconduct and the number of cases per 100 trial court judges in each age group:

Table 5: Age at Time of Misconduct

	1990-1999		2000-2009		Total	
Years of Age	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**
30 through 39	17	3.43	2	1.50	19	3.02
40 through 49	162	3.14	42	1.47	204	2.55
50 through 59	211	3.48	158	2.07	369	2.69
60 or More	104	3.20	91	1.90	195	2.42

Source: A-3, Appendix

Table 5 shows a consistently increasing relationship between age and the discipline rates from 2000 to 2009, but the combined decade rates suggest that age does not have a large influence on discipline. Although the discipline rate for judges of 30 to 39 years of age appears to be slightly higher than for older judges, only a small number of judges and disciplinary cases fall in this age range. The rate is therefore subject to greater variation than the others and is a less reliable indicator. Also, the use of four age ranges makes the assessment of the data less precise.

Gender Comparison

The Commission's previous summary of discipline statistics did not provide a comparison of judicial discipline and gender in California courts. The data presented here shows that from 1990 to 2009 female judges in California were disciplined substantially less frequently than male judges.

As noted in the "Background" section, women constitute a growing proportion of the judiciary, from 13.9 percent in 1990 to 28.4 percent in 2009. During the period 1990 to 2009, 79.2 percent of judges were male, and 20.8 percent were female. Table 6, below, shows the number of judges disciplined in the two decades by gender and the number of cases per 100 trial court judges of each gender:

Table 6: Discipline by Gender

	1990-1999		2000-2009		Total	
Gender	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**
Female	43	1.71	47	1.23	90	1.42
Male	453	3.64	247	2.12	700	2.90

Source: A-4, Appendix

Male judges were approximately twice as likely to be disciplined as female judges. Table 6 also shows that this discrepancy has decreased between the decades.

Initially Appointed or Elected Judges Comparison

Judges who were initially elected were more likely to be disciplined than judges who were initially appointed. Each judge was categorized as either *initially* appointed or elected according to whether the judge first assumed office by gubernatorial appointment or popular election. Table 7, below, presents the number of judges disciplined by their initially appointed or elected status and the number of cases per 100 trial court judges by initial appointed or elected status:

Table 7: Discipline by Initially Appointed or Elected Status

	1990-1999		2000-2009		Total	
Status	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**
Initially Appointed	414	3.15	223	1.65	637	2.39
Initially Elected	82	4.50	68	3.53	150	4.00

Source: A-5, Appendix

Table 7 indicates that initially elected judges were disciplined more frequently than initially appointed judges. Although the disciplinary rate for both groups has fallen in the last decade, the discrepancy between the incidence of discipline for the two groups has grown.

Court Size Comparison

Judges in small courts were more likely to be disciplined than judges in large courts. California's 58 superior courts were categorized according to the number of authorized judicial positions in each. Table 8, below, shows the number of sanctions issued by court size and the number of cases per 100 trial court judges in each court size category:

Table 8: Discipline Issued by County Court Size

	1990-1999		2000-2009		Total	
Authorized Positions	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**	**Cases**	**Per 100 Judges**
1 through 2	15	4.87	13	4.25	28	4.56
3 through 9	60	5.07	30	2.74	90	3.95
10 through 42	127	4.01	78	2.30	205	3.13
43 through 428	294	2.85	173	1.62	467	2.22

Source: A-6, Appendix

Table 8 shows that judges in small courts were more likely to be disciplined than judges in large courts. However, because only a small total number of judges serve in small courts, the disciplinary rates calculated for these courts are less precise.

Prior Discipline Comparison

Judges who had prior discipline were more likely to be disciplined again than judges who had not been disciplined. As noted in the previous section, the data reflect the incidence of repeated sanctions.

To create a larger disciplinary record for members of the judiciary starting in 1990, disciplinary data from the prior decade, 1980 to 1989, were reviewed. Using this expanded data set, the number of times a judge was disciplined after first being disciplined was tracked for both five and ten-year periods. Table 9, below, presents a summary of the results. The five-year repeat rates include all judges who first were disciplined between 1980 and 2004 (five years prior to 2009, the end of the recorded data). The ten-year rates include all judges who were first disciplined between 1980 and 1999.

Table 9: 5 and 10-year Discipline Rates of Previously Disciplined Judges, 1980-2009

Additional Discipline	5-year Rate	10-year Rate
Second Discipline	19.3%	24.6%
Third Discipline	4.3%	8.9%
Fourth Discipline	0.4%	1.4%
Fifth Discipline	0.0%	0.4%
Any Additional Discipline	23.9%	35.5%

Source: A-7. Appendix

Of those judges disciplined for the first time between the years 1980 and 2004, some 23.9 percent were disciplined again within the next five years. Approximately 1 in 5 of these judges were disciplined more than once after their first discipline. Of judges disciplined for the first time between the years 1980 and 1999, some 35.5 percent were disciplined again within the next ten years. Of those judges, approximately 2 in 7 were disciplined more than once after their initial discipline. Previously disciplined judges also made up a large share of the total number of disciplined judges. From 1990 to 1999, 53.5 percent of all discipline was imposed on previously disciplined judges, and from 2000 to 2009, 55.7 percent of all discipline was imposed on previously disciplined judges.

Types of Misconduct Comparison

The relative frequency of the various types of misconduct in the last decade is roughly consistent with the prior decade. Among the types of misconduct for which there are a substantial number of cases, it is possible that there has been a decline in discipline for "Abuse of contempt or sanctions."

As discussed in the "Data Sources" section, misconduct was categorized according to the emphasis expressed by the Commission. In cases involving multiple kinds of misconduct, each type was counted separately. From 1990 to 2009, there were 790 sanctions imposed for 1270 separate instances of misconduct.

Table 10 shows the distribution of the ten most frequent types of misconduct for which a judge was sanctioned during the period from 1990 to 2009. In some years, no judges were disciplined for a particular kind of misconduct. The abbreviated list of the misconduct types, as expressed in a percentage of all discipline imposed, is as follows:

Table 10: Top Ten Types of Misconduct, 1990-2009

Misconduct Type	1990-1999	2000-2009	Percent All
Demeanor/decorum	12.73	17.18	14.57
Disqualification/disclosure/post-disqualification conduct	9.52	8.40	9.06
Bias/appearance of bias not directed toward a particular class	8.45	9.73	8.98
On-bench abuse of authority in performance of judicial duties	8.45	9.35	8.82
Failure to ensure rights	8.85	7.25	8.19
Ex parte communications	7.24	6.30	6.85
Off-bench abuse of office/misuse of court information	6.43	5.73	6.14
Abuse of contempt/sanctions	6.30	3.44	5.12
Administrative malfeasance/improper comments, treatment	4.42	4.77	4.57
Decisional delay/false salary affidavits	4.96	3.24	4.25

Source: A-8. Appendix

Source of Complaint Comparison

Complaints from some sources were more likely to result in discipline than others. For example, complaints from government attorneys and investigations opened by the Commission on its own initiative (based on news reports, information about a judge received in the course of investigating another judge, or anonymous letters) resulted in discipline more frequently than complaints received from other sources.

Table 11. below, shows the number of complaints from sources with 50 or more records from 1990 to 2009 as well as the percentage of those complaints that resulted in discipline. In some cases, discipline may have arisen from complaints from multiple sources.

Table 11: Discipline Rate by Complaint Source, 1990-2009

Source of Complaint	Complaints	Sanctions	Sanction Rate
District Attorney	87	44	50.57
News report	124	54	43.55
Commission investigation of another judge	93	39	41.94
Public Defender	92	34	36.96
Anonymous letter	154	54	35.06
Judicial officer	319	100	31.35
Other types of source/witness	108	23	21.30
Juror	52	11	21.15
Court employee	71	15	21.13
Attorney - private	1131	182	16.09
Witness (in proceeding)	63	6	9.52
Victim/family/friend (criminal case)	108	9	8.33
Citizen	540	44	8.15
Unknown	191	7	3.66
Litigant/family/friend	19814	288	1.45

Source: A-9, Appendix

Notably, Table 11 also indicates that complaints filed by litigants or their family and friends comprise the overwhelming majority of total complaints, but result in discipline only 1.45 percent of the time.

Conclusions

The data reported here do not permit conclusions to be drawn regarding causational factors. However, the data reveal certain trends and relationships.

The number of complaints per judge has decreased slightly in the last decade while the number of sanctions per judge has fallen significantly over the same period. Specifically, the decline is evident starting in 1999.[20]

Comparisons of the demographic characteristics of judges and the size of the court on which they serve suggest some relationships with the rate of sanctions imposed. The increased frequencies of discipline with respect to elected judges in comparison to appointed judges, judges on small courts, and male judges in comparison to female judges are consistent across both decades. A review of the Commission's disciplinary record since 1980 reveals that judges who were previously sanctioned made up the majority of judges who were sanctioned at a later date.

Complaints from certain sources were more like to result in discipline than others. For example, while litigants and their family members and friends filed the majority of complaints each year, complaints from government attorneys and investigations opened by the Commission on its own initiative, based on information about a judge received in the course of investigating another judge, news reports and anonymous letters, were far more likely to result in discipline.

[20] One possible explanation for this decline is the effect of the 1999 *Oberholzer* decision on the Commission's issuance of advisory letters.

Appendix: Data Summary

Numbers of Complaints, Sanctions, and Trial Court Judges

Table A-1.1: Complaints, Sanctions Imposed, and Trial Court Judges, 1990-1999

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Complaints Made	823	770	1,090	1,065	1,109	1,415	1,353	1,367	1,274	1,198	11,464
Sanctions Imposed	55	38	54	35	49	57	45	57	65	41	496
Trial Court Judges	1,503	1,468	1,449	1,468	1,474	1,515	1,506	1,553	1,532	1,499	14,967

Table A-1.2: Complaints, Sanctions Imposed, and Trial Court Judges, 2000-2009

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Complaints Made	1,100	1,000	1,043	1,139	1,249	1,114	1,249	1,211	1,022	1,263	11,390
Sanctions Imposed	30	27	28	22	25	24	37	36	34	31	294
Trial Court Judges	1,470	1,514	1,519	1,575	1,491	1,555	1,561	1,588	1,590	1,604	15,467

Years on Bench Comparison

Table A-2.1: Sanctions Imposed by Years on Bench, 1990-1999

Years on Bench	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
0 through 2	9	11	13	9	6	5	7	18	14	5	97
3 through 6	15	10	15	12	14	15	8	7	11	10	117
7 through 11	20	12	13	5	12	20	8	18	20	11	139
12 through 16	9	4	10	7	8	7	15	12	13	8	93
17 or More	2	1	3	2	9	10	7	1	7	6	48
Total	55	38	54	35	49	57	45	56	65	40	494

Table A-2.2: Trial Court Judges by Years on Bench, 1990-1999

Years on Bench	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
0 through 2	424	370	345	254	222	296	293	343	338	253	3,138
3 through 6	323	338	340	378	399	350	331	244	204	281	3,188
7 through 11	414	418	391	428	411	348	380	450	447	400	4,087
12 through 16	233	219	253	279	276	356	347	327	337	324	2,951
17 or More	109	123	120	129	166	165	155	189	206	241	1,603
Total	1,503	1,468	1,449	1,468	1,474	1,515	1,506	1,553	1,532	1,499	14,967

Table A-2.3: Sanction Rate by Years on Bench, 1990-1999

Years on Bench	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
0 through 2	2.12	2.97	3.77	3.54	2.70	1.69	2.39	5.25	4.14	1.98	3.09
3 through 6	4.64	2.96	4.41	3.17	3.51	4.29	2.42	2.87	5.39	3.56	3.67
7 through 11	4.83	2.87	3.32	1.17	2.92	5.75	2.11	4.00	4.47	2.75	3.40
12 through 16	3.86	1.83	3.95	2.51	2.90	1.97	4.32	3.67	3.86	2.47	3.15
17 or More	1.83	0.81	2.50	1.55	5.42	6.06	4.52	0.53	3.40	2.49	2.99
Total	3.66	2.59	3.73	2.38	3.32	3.76	2.99	3.61	4.24	2.67	3.30

1. The number of years on the bench is here defined by the number of full years a judge has served as of January 1st of the specified year. Only judges serving over the entire calendar year are considered. In cases of disciplinary action, the number of years on the bench is calculated according to the year of the sanctioned judge's earliest instance of misconduct.
2. One sanctioned judge omitted because date of earliest misconduct not reported.
3. One sanctioned judge omitted because earliest date of misconduct precedes first record of judicial position.
4. The sanction rate is here defined by the number of sanctions imposed per 100 judges serving over the year of disciplinary action.

Table A-2.4: Sanctions Imposed by Years on Bench, 2000-2009

Years on Bench	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
0 through 2	3	5	6	3	0	6	6	9	3	5	46
3 through 6	6	5	5	4	6	3	3	5	2	5	44
7 through 11	8	5	7	2	9	4	10	5	7	5	62
12 through 16	9	5	3	5	4	6	7	7	13	5	64
17 or More	4	7	7	8	6	5	11	10	9	11	78
Total	30	27	28	22	25	24	37	36	34	31	294

Table A-2.5: Trial Court Judges by Years on Bench, 2000-2009

Years on Bench	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
0 through 2	265	263	263	364	316	321	316	292	373	376	3,149
3 through 6	278	320	331	240	245	251	255	360	317	318	2,915
7 11	361	339	282	301	294	346	360	324	273	332	3,212
12 through 16	282	327	369	368	331	307	291	238	250	243	3,006
17 or More	284	265	274	302	305	330	339	374	377	335	3,185
Total	1,470	1,514	1,519	1,575	1,491	1,555	1,561	1,588	1,590	1,604	15,467

Table A-2.6: Sanction Rate by Years on Bench, 2000-2009

Years on Bench	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
0 through 2	1.13	1.90	2.28	0.82	0.00	1.87	1.90	3.08	0.80	1.33	1.46
3 through 6	2.16	1.56	1.51	1.67	2.45	1.20	1.18	1.39	0.63	1.57	1.51
7 through 11	2.22	1.47	2.48	0.66	3.06	1.16	2.78	1.54	2.56	1.51	1.93
12 through 16	3.19	1.53	0.81	1.36	1.21	1.95	2.41	2.94	5.20	2.06	2.13
17 or More	1.41	2.64	2.55	2.65	1.97	1.52	3.24	2.67	2.39	3.28	2.45
Total	2.04	1.78	1.84	1.40	1.68	1.54	2.37	2.27	2.14	1.93	1.90

5. The number of years on the bench is here defined by the number of full years a judge has served as of January 1st of the specified year. Only judges serving over the entire calendar year are considered. In cases of disciplinary action, the number of years on the bench is calculated according to the year of the sanctioned judge's earliest instance of misconduct.

Age Comparison

Table A-3.1: Sanctions Imposed by Age of Judge, 1990-1999

Years of Age	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
30 through 39	2	0	2	4	0	1	1	6	0	1	17
40 through 49	21	15	21	8	14	21	12	18	21	11	162
50 through 59	18	14	24	15	26	24	21	23	26	20	211
60 or More	14	9	7	8	9	11	11	9	18	8	104
Total	55	38	54	35	49	57	45	56	65	40	494

Table A-3.2: Trial Court Judges by Age of Judge, 1990-1999

Years of Age	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
30 through 39	98	77	54	45	39	41	35	36	41	30	496
40 through 49	591	569	565	550	526	529	493	496	441	396	5,156
50 through 59	501	495	518	547	582	620	654	690	722	729	6,058
60 or More	313	327	312	326	327	325	324	331	327	343	3,255
Total	1,503	1,468	1,449	1,468	1,474	1,515	1,506	1,553	1,531	1,498	14,965

Table A-3.3: Sanction Rate by Age of Judge, 1990-1999

Years of Age	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
30 through 39	2.04	0.00	3.70	8.89	0.00	2.44	2.86	16.67	0.00	3.33	3.43
40 through 49	3.55	2.64	3.72	1.45	2.66	3.97	2.43	3.63	4.76	2.78	3.14
50 through 59	3.59	2.83	4.63	2.74	4.47	3.87	3.21	3.33	3.60	2.74	3.48
60 or More	4.47	2.75	2.24	2.45	2.75	3.38	3.40	2.72	5.50	2.33	3.20
Total	3.66	2.59	3.73	2.38	3.32	3.76	2.99	3.61	4.25	2.67	3.30

1. Age is presented here in full years as of January 1st of the specified year. Only judges serving over the entire calendar year are considered. In cases of disciplinary action, age is calculated according to the year of the sanctioned judge's earliest instance of misconduct.
2. One sanctioned judge omitted because date of earliest misconduct not reported.
3. One sanctioned judge omitted because earliest date of misconduct precedes first record of judicial position.
4. Date of birth data was not reported for one judge; that judge is omitted from the data in the two places where the judge appeared between 1990 and 1999.
5. The sanction rate is here defined by the number of sanctions imposed per 100 judges serving over the year of disciplinary action.

Table A-3.4: Sanctions Imposed by Age of Judge, 2000-2009

Years of Age	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
30 through 39	0	1	0	0	0	0	1	0	0	0	2
40 through 49	10	6	2	2	1	4	5	8	2	2	42
50 through 59	10	11	19	13	19	14	18	17	20	17	158
60 or More	10	9	7	7	5	6	13	11	11	12	91
Total	30	27	28	22	25	24	37	36	33	31	293

Table A-3.5: Trial Court Judges by Age of Judge, 2000-2009

Years of Age	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
30 through 39	19	15	15	13	6	9	11	17	17	11	133
40 through 49	327	332	306	305	258	263	255	273	268	272	2,859
50 through 59	764	777	782	809	768	786	786	736	714	727	7,649
60 or More	359	389	414	444	455	493	505	559	588	592	4,798
Total	1,469	1,513	1,517	1,571	1,487	1,551	1,557	1,585	1,587	1,602	15,439

Table A-3.6: Sanction Rate by Age of Judge, 2000-2009

Years of Age	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
30 through 39	0.00	6.67	0.00	0.00	0.00	0.00	9.09	0.00	0.00	0.00	1.50
40 through 49	3.06	1.81	0.65	0.66	0.39	1.52	1.96	2.93	0.75	0.74	1.47
50 through 59	1.31	1.42	2.43	1.61	2.47	1.78	2.29	2.31	2.80	2.34	2.07
60 or More	2.79	2.31	1.69	1.58	1.10	1.22	2.57	1.97	1.87	2.03	1.90
Total	2.04	1.78	1.85	1.40	1.68	1.55	2.38	2.27	2.08	1.94	1.90

6. Age is presented here in full years as of January 1st of the specified year. Only judges serving over the entire calendar year are considered. In cases of disciplinary action, age is bound by the year of the sanctioned judge's earliest instance of misconduct.
7. One sanctioned judge omitted because date of birth data was not reported.
8. Dates of birth data were not reported for five judges; these five judges are omitted from the date in twenty-eight places where they appeared from 2000 to 2009.
9. The sanction rate is here defined by the number of sanctions imposed per 100 judges serving over the year of disciplinary action.

Gender Comparison

Table A-4.1: Sanctions Imposed by Gender, 1990-1999

Gender	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Female	5	1	2	3	5	5	4	7	8	3	43
Male	50	37	52	32	44	52	41	50	57	38	453
Total	55	38	54	35	49	57	45	57	65	41	496

Table A-4.2: Trial Court Judges by Gender, 1990-1999

Gender	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Female	209	211	220	232	236	255	260	290	298	299	2,510
Male	1,294	1,257	1,229	1,236	1,238	1,260	1,246	1,263	1,234	1,200	12,457
Total	1,503	1,468	1,449	1,468	1,474	1,515	1,506	1,553	1,532	1,499	14,967

Table A-4.3: Sanction Rate by Gender, 1990-1999

Gender	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Female	2.39	0.47	0.91	1.29	2.12	1.96	1.54	2.41	2.68	1.00	1.71
Male	3.86	2.94	4.23	2.59	3.55	4.13	3.29	3.96	4.62	3.17	3.64
Total	3.66	2.59	3.73	2.38	3.32	3.76	2.99	3.67	4.24	2.74	3.31

1. The sanction rate is here defined by the number of sanctions imposed per 100 judges serving over the year of disciplinary action.

Table A-4.4: Sanctions Imposed by Gender, 2000-2009

Gender	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Female	6	0	1	0	5	1	7	8	11	8	47
Male	24	27	27	22	20	23	30	28	23	23	247
Total	30	27	28	22	25	24	37	36	34	31	294

Table A-4.5: Trial Court Judges by Gender, 2000-2009

Gender	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Female	307	330	342	369	357	382	396	428	447	455	3,813
Male	1,163	1,184	1,177	1,206	1,134	1,173	1,165	1,160	1,143	1,149	11,654
Total	1,470	1,514	1,519	1,575	1,491	1,555	1,561	1,588	1,590	1,604	15,467

Table A-4.6: Sanction Rate by Gender, 2000-2009

Gender	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Female	1.95	0.00	0.29	0.00	1.40	0.26	1.77	1.87	2.46	1.76	1.23
Male	2.06	2.28	2.29	1.82	1.76	1.96	2.58	2.41	2.01	2.00	2.12
Total	2.04	1.78	1.84	1.40	1.68	1.54	2.37	2.27	2.14	1.93	1.90

2. The sanction rate is here defined by the number of sanctions imposed per 100 judges serving over the year of disciplinary action.

Initial Appointment or Election Comparison

Table A-5.1: Sanctions Imposed by Initial Appointment or Election, 1990-1999

Appointment or Election	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Initially Appointed	44	31	44	27	41	51	37	47	60	32	414
Initially Elected	11	7	10	8	8	6	8	10	5	9	82
Total	55	38	54	35	49	57	45	57	65	41	496

Table A-5.2: Trial Court Judges by Initial Appointment or Election, 1990-1999

Appointment or Election	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Initially Appointed	1,333	1,286	1,276	1,284	1,293	1,322	1,316	1,359	1,353	1,317	13,139
Initially Elected	170	182	173	184	181	193	190	194	176	179	1,822
Total	1,503	1,468	1,449	1,468	1,474	1,515	1,506	1,553	1,529	1,496	14,961

Table A-5.3: Sanction Rate by Initial Appointment or Election, 1990-1999

Appointment or Election	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Initially Appointed	3.30	2.41	3.45	2.10	3.17	3.86	2.81	3.46	4.43	2.43	3.15
Initially Elected	6.47	3.85	5.78	4.35	4.42	3.11	4.21	5.15	2.84	5.03	4.50
Total	3.66	2.59	3.73	2.38	3.32	3.76	2.99	3.67	4.25	2.74	3.32

1. Initial appointment or election data was not reported for three judges; these three judges are omitted from the data in six places where they appeared between 1990 and 1999.
2. The sanction rate is here defined by the number of sanctions imposed per 100 judges serving over the year of disciplinary action.

Table A-5.4: Sanctions Imposed by Initial Appointment or Election, 2000-2009

Appointment or Election	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Initially Appointed	26	19	22	18	17	17	27	28	26	23	223
Initially Elected	4	7	5	4	8	7	10	7	8	8	68
Total	30	26	27	22	25	24	37	35	34	31	291

Table A-5.5: Trial Court Judges by Initial Appointment or Election, 2000-2009

Appointment or Election	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Initially Appointed	1,294	1,311	1,330	1,364	1,287	1,347	1,367	1,391	1,409	1,410	13,510
Initially Elected	173	200	186	208	201	205	191	194	178	191	1,927
Total	1,467	1,511	1,516	1,572	1,488	1,552	1,558	1,585	1,587	1,601	15,437

Table A-5.6: Sanction Rate by Initial Appointment or Election, 2000-2009

Appointment or Election	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Initially Appointed	2.01	1.45	1.65	1.32	1.32	1.26	1.98	2.01	1.85	1.63	1.65
Initially Elected	2.31	3.50	2.69	1.92	3.98	3.41	5.24	3.61	4.49	4.19	3.53
Total	2.04	1.72	1.78	1.40	1.68	1.55	2.37	2.21	2.14	1.94	1.89

3. Initial appointment or election data was not reported for one sanctioned judge disciplined on three occasions between 2000 and 2009; that judge was omitted from the data in three places where the judge appeared between 2000 and 2009.
4. Initial appointment or election data was not reported for three judges; these judges are omitted from the data in the thirty places where they appeared between 2000 and 2009.
5. The sanction rate is here defined by the number of sanctions imposed per 100 judges serving over the year of disciplinary action.

County Court Size Comparison

Table A-6.1: Sanctions Imposed by Court Size, 1990-1999

County Court Size	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
1-2 Authorized Positions	1	1	1	1	0	3	4	3	0	1	15
3-9 Authorized Positions	10	5	3	2	5	8	5	5	5	12	60
10-42 Authorized Positions	7	5	14	9	17	19	12	16	20	8	127
43-428 Authorized Positions	37	27	36	23	27	27	24	33	40	20	294
Total	55	38	54	35	49	57	45	57	65	41	496

Table A-6.2: Trial Court Judges by Court Size, 1990-1999

County Court Size	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
1-2 Authorized Positions	29	31	30	30	30	32	31	33	32	30	308
3-9 Authorized Positions	115	118	113	114	115	117	117	126	120	128	1,183
10-42 Authorized Positions	318	312	307	308	315	320	315	330	330	312	3,167
43-428 Authorized Positions	1,041	1,007	999	1,016	1,014	1,046	1,043	1,064	1,050	1,029	10,309
Total	1,503	1,468	1,449	1,468	1,474	1,515	1,506	1,553	1,532	1,499	14,967

Table A-6.3: Sanction Rate by Court Size, 1990-1999

County Court Size	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
1-2 Authorized Positions	3.45	3.23	3.33	3.33	0.00	9.38	12.90	9.09	0.00	3.33	4.87
3-9 Authorized Positions	8.70	4.24	2.65	1.75	4.35	6.84	4.27	3.97	4.17	9.38	5.07
10-42 Authorized Positions	2.20	1.60	4.56	2.92	5.40	5.94	3.81	4.85	6.06	2.56	4.01
43-428 Authorized Positions	3.55	2.68	3.60	2.26	2.66	2.58	2.30	3.10	3.81	1.94	2.85
Total	3.66	2.59	3.73	2.38	3.32	3.76	2.99	3.67	4.24	2.74	3.31

1. The sanction rate is here defined by the number of sanctions imposed per 100 judges serving over the year of disciplinary action.

Table A-6.4: Sanctions Imposed by Court Size, 2000-2009

County Court Size	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
1-2 Authorized Positions	1	1	0	4	2	1	1	1	1	1	13
3-9 Authorized Positions	4	3	2	2	2	7	4	3	2	1	30
10-42 Authorized Positions	4	8	8	7	5	4	9	14	13	6	78
43-441 Authorized Positions	21	15	18	9	16	12	23	18	18	23	173
Total	30	27	28	22	25	24	37	36	34	31	294

Table A-6.5: Trial Court Judges by Court Size, 2000-2009

County Court Size	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
1-2 Authorized Positions	31	31	31	32	31	30	30	32	30	28	306
3-9 Authorized Positions	125	119	114	123	114	123	118	105	75	77	1,093
10-42 Authorized Positions	298	324	330	339	324	341	339	367	359	367	3,388
43-441 Authorized Positions	1,016	1,040	1,044	1,081	1,022	1,061	1,074	1,084	1,126	1,132	10,680
Total	1,470	1,514	1,519	1,575	1,491	1,555	1,561	1,588	1,590	1,604	15,467

Table A-6.6: Sanction Rate by Court Size, 2000-2009

County Court Size	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
1-2 Authorized Positions	3.23	3.23	0.00	12.50	6.45	3.33	3.33	3.13	3.33	3.57	4.25
3-9 Authorized Positions	3.20	2.52	1.75	1.63	1.75	5.69	3.39	2.86	2.67	1.30	2.74
10-42 Authorized Positions	1.34	2.47	2.42	2.06	1.54	1.17	2.65	3.81	3.62	1.63	2.30
43-441 Authorized Positions	2.07	1.44	1.72	0.83	1.57	1.13	2.14	1.66	1.60	2.03	1.62
Total	2.04	1.78	1.84	1.40	1.68	1.54	2.37	2.27	2.14	1.93	1.90

Prior Sanction Comparison

Table A-7.1: Rate of Repeat Sanction, next Five Years, 1980-2004

Additional Discipline	Repeat Disciplines	5-year Discipline
Second Discipline	108	19.3%
Third Discipline	24	4.3%
Fourth Discipline	2	0.4%
Fifth Discipline	0	0.0%
Any Additional Discipline	134	23.9%

Table A-7.2: Rate of Repeat Sanction, next Ten Years, 1980-1999

Additional Discipline	Repeat Disciplines	10-Year
Second Discipline	122	24.6%
Third Discipline	44	8.9%
Fourth Discipline	7	1.4%
Fifth Discipline	2	0.4%
Sixth Discipline	0	0.0%
Seventh Discipline	0	0.0%
Eighth Discipline	1	0.2%
Any Additional Discipline	176	35.5%

1. Only those judges first sanctioned in or after 1980 and only those who served over the entire span of analysis – five or ten years – were compared in the calculation of the number and rate of repeat discipline.
2. The time span of analysis – five or ten years – is calculated from the time the judge was first sanctioned.

Type of Misconduct Comparison

Table A-8.1: Misconduct by Type, 1990-2009

Misconduct Type	1990-1999	2000-2009	Total
Demeanor/decorum	95	90	185
Disqualification/disclosure/post-disqualification conduct	71	44	115
Bias/appearance of bias not directed toward a particular class	63	51	114
On-bench abuse of authority in performance of judicial duties	63	49	112
Failure to ensure rights	66	38	104
Ex parte communications	54	33	87
Off-bench abuse of office/misuse of court information	48	30	78
Abuse of contempt/sanctions	47	18	65
Administrative malfeasance/improper comments. treatment of colleagues and staff	33	25	58
Decisional delay/false salary affidavits	37	17	54
Miscellaneous off-bench conduct	16	29	45
Bias/appearance of bias toward a particular class	27	9	36
Comment on a pending case	25	9	34
Gifts/loans/favors/ticket-fixing	19	13	32
Non-performance of judicial functions/attendance/sleeping	13	11	24
Improper political activities	15	9	24
Failure to cooperate/lack of candor with regulatory authorities	15	8	23
Sexual harassment/inappropriate workplace gender comments	8	10	18
Improper business, financial or fiduciary activities	11	6	17
Misuse of court resources	6	11	17
Alcohol or drug related criminal conduct	5	7	12
Non-substance abuse criminal conduct	3	4	7
Substance abuse	5	2	7
Pre-bench misconduct	1	1	2
Inability to perform judicial duties/incapacity	0	0	0
Total	746	524	1270

1. There were 1270 instances of misconduct for the 790 sanctions imposed by the Commission from 1990 to 2009.

Table A-8.2: Misconduct Share by Type, 1990-2009

Misconduct Type	1990-1999	2000-2009	Percent All
Demeanor/decorum	12.73	17.18	14.57
Disqualification/disclosure/post-disqualification conduct	9.52	8.40	9.06
Bias/appearance of bias not directed toward a particular class	8.45	9.73	8.98
On-bench abuse of authority in performance of judicial duties	8.45	9.35	8.82
Failure to ensure rights	8.85	7.25	8.19
Ex parte communications	7.24	6.30	6.85
Off-bench abuse of office/misuse of court information	6.43	5.73	6.14
Abuse of contempt/sanctions	6.30	3.44	5.12
Administrative malfeasance/improper comments. treatment of colleagues and staff	4.42	4.77	4.57
Decisional delay/false salary affidavits	4.96	3.24	4.25
Miscellaneous off-bench conduct	2.14	5.53	3.54
Bias/appearance of bias toward a particular class	3.62	1.72	2.83
Comment on a pending case	3.35	1.72	2.68
Gifts/loans/favors/ticket-fixing	2.55	2.48	2.52
Non-performance of judicial functions/attendance/sleeping	1.74	2.10	1.89
Improper political activities	2.01	1.72	1.89
Failure to cooperate/lack of candor with regulatory authorities	2.01	1.53	1.81
Sexual harassment/inappropriate workplace gender comments	1.07	1.91	1.42
Improper business, financial or fiduciary activities	1.47	1.15	1.34
Misuse of court resources	0.80	2.10	1.34
Alcohol or drug related criminal conduct	0.67	1.34	0.94
Non-substance abuse criminal conduct	0.40	0.76	0.55
Substance abuse	0.67	0.38	0.55
Pre-bench misconduct	0.13	0.19	0.16
Inability to perform judicial duties/incapacity	0.00	0.00	0.00
Total	100.00	100.00	100.00

Complaint Source Comparison

Table A-9.1: Complaints with Corresponding Rate of Sanction, 1990-2009

Source of Complaint	Complaints	Sanctions	Sanction Rate
N/A	9	0	0.00
Other types of source/witness	108	23	21.30
Litigant/family/friend	19814	288	1.45
Victim/family/friend (criminal case)	108	9	8.33
Grand juror	7	2	28.57
Attorney - private	1131	182	16.09
Bar association/Attorney group	15	7	46.67
District Attorney	87	44	50.57
Public Defender	92	34	36.96
Court of Appeal opinion	15	8	53.33
Commission investigation of another judge	93	39	41.94
Commission member	7	4	57.14
Law enforcement	19	5	26.32
Legislator	10	1	10.00
Judicial officer	319	100	31.35
Other government official (state, county, city)	12	5	41.67
Anonymous letter	154	54	35.06
Citizen	540	44	8.15
Juror	52	11	21.15
Media person	18	4	22.22
News report	124	54	43.55
Organization	41	5	12.20
Witness (in proceeding)	63	6	9.52
Witness (to proceeding)	13	0	0.00
Court employee	71	15	21.13
Other government attorney (state, county, city)	35	13	37.14
Expert	6	2	33.33
Unknown	191	7	3.66

1. Seven complaints omitted because no source data is reported.
2. Sanction rate defined by number of sanctions imposed per one hundred complaints.

STATE OF CALIFORNIA
COMMISSION ON JUDICIAL PERFORMANCE
455 GOLDEN GATE AVENUE, SUITE 14400
SAN FRANCISCO, CALIFORNIA 94102
(415) 557-1200
http://cjp.ca.gov

Printed on Recycled Paper