

# COMMISSION ON JUDICIAL PERFORMANCE



# ORGANIZATION

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- **Appointed by the Governor**  
Two attorney members and two public members
- **Appointed by the Senate Rules Committee**  
Two public members
- **Appointed by the Speaker of the Assembly**  
Two public members
- **Appointed by the Supreme Court**  
One appellate justice and two superior court judges

# STAFF ORGANIZATION

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## ■ Director-Chief Counsel

- reports to commission
- supervises intake process and intake attorneys
- supervises investigations and investigation attorneys
- supervises prosecution of cases, including formal proceedings
- supervises trial counsel (examiner)

# STAFF ORGANIZATION

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- **Intake Supervisor**

- reviews and assigns complaints to intake attorneys
- supervises intake attorneys

- **Investigations Supervisor**

- reviews and approves investigative strategies
- oversees execution of investigative strategies
- supervises investigations and investigation attorneys

# STAFF ORGANIZATION

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## ■ Trial Counsel

- acts as examiner (prosecutor) during formal proceedings
- tries cases before special masters
- reports to Director-Chief Counsel

# STAFF ORGANIZATION

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## ■ Legal Advisor

- reports to commission (not Director)
- advises commission during formal proceedings, contested admonishments, and requests to correct advisory letters
- liaison to special masters
- conducts biennial commission rules and policies review
- periodically reviews quality of investigations

# MANDATE

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The purpose of a commission disciplinary proceeding is not punishment, but rather

- the protection of the public,
- the enforcement of rigorous standards of judicial conduct, and
- the maintenance of public confidence in the integrity and independence of the judicial system.

# CONFIDENTIALITY

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- Complaints, investigations, and the identity of the complainant are confidential.
- Complaints, the identity of the complainant, and witness statements are not given to the judge unless they are required to be turned over in discovery in formal proceedings.

# BURDEN OF PROOF

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The commission has the burden of proving allegations of misconduct by clear and convincing evidence.

**Notice:** In response to the COVID-19 pandemic, we have limited personnel onsite. Other commission staff continue to work remotely. In compliance with public health guidance, any member of the public who wants to enter commission offices must wear a mask. The commission will continue to receive complaints online via a link on this website and by U.S. Mail at its mailing address: Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, CA 94102. Commission staff continues to process and investigate complaints. Commission staff also monitors, and responds to, voicemail and email messages.

**CJP PUBLIC MEETING  
USING REMOTE TECHNOLOGY (ZOOM)**

The Commission on Judicial Performance will hold a public meeting using remote technology (Zoom) to discuss operational statistics, and complaint data trends. The public meeting will take place on October 15, 2021, from 10-11 a.m.

Individuals wishing to attend the public meeting must register by 5 p.m. October 6, 2021 by completing [online registration](#). In addition, due to commission rule 102 governing confidentiality, all comments and questions must be submitted for consideration in advance by sending an email to [publicmeeting@cjp.ca.gov](mailto:publicmeeting@cjp.ca.gov) no later than 5 p.m. October 6, 2021.

## Home

The Commission on Judicial Performance, established in 1960, is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges, pursuant to article VI, section 18 of the [California Constitution](#).

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. While the majority of California's judges are committed to maintaining the high standards expected of the judiciary, an effective method of disciplining judges who engage in misconduct is essential to the functioning of our judicial system. Commission proceedings provide a fair and appropriate mechanism to preserve the integrity of the judicial process.

The commission's jurisdiction includes all judges of California's superior courts and the justices of the Court of Appeal and Supreme Court. The commission also has jurisdiction over former judges for conduct prior to retirement or resignation. Additionally, the commission shares authority with the superior courts for the oversight of court commissioners and referees. The Director-Chief Counsel of the commission is designated as the Supreme Court's investigator for complaints involving the judges of the State Bar Court. The commission does not have authority over federal judges, judges pro tem or private judges. In addition to its disciplinary function, the commission is responsible for handling judges' applications for disability retirement.

The commission's authority is limited to investigating allegations of judicial misconduct and, if warranted, imposing discipline. Judicial misconduct usually involves conduct in conflict with the standards set forth in the [Code of Judicial Ethics](#). The commission cannot change a decision made by any judicial officer; this is a function of the state's appellate courts. After investigation, and in some cases a public hearing, the commission may impose sanctions ranging from confidential discipline to removal from office.

Anyone may submit a complaint to the commission. See [Filing a Complaint](#) and [Overview of Commission Proceedings](#).

LAST UPDATED: **9/15/2021**.

### FILING A COMPLAINT



#### Featured Links

- [Pending Cases - Press Releases & Documents](#)
- [Case Statistics](#)
- [Public Discipline & Decisions](#)
- [Private Discipline](#)
- [Overview of Commission Proceedings](#)
- [Filing a Complaint](#)
- [FAQ's](#)
- [Mandate & Legislative History](#)
- [Legal Authority](#)
- [Gift Limit - CCP § 170.9](#)
- [Videos](#)

#### Announcements

- [Commission announces public meeting using remote technology \(Zoom\)](#)
- [Michael J. O'Gara - Public Admonishment](#)
- [Patrick E. Connolly - Public Admonishment](#)
- [Commission Announces Release of 2020 Annual Report, Acceptance of Online Complaints, and Adoption of Interim Rule 102\(s\)](#)
- [Commission Adopts New Gift Limit](#)
- [Barbara L. Roberts - Public Admonishment](#)
- [David A. Mason - Severe Public Admonishment](#)
- [Commission Adopts Amended Rules](#)
- [Frank Roesch - Public Admonishment](#)
- [Robert L. Tamietti - Public Admonishment](#)

#### Current Annual Report

- [2020 Annual Report](#)

## Filing a Complaint

[Online Complaint Instructions and Form](#)[Printable Complaint Form](#)

### How Do I File a Complaint?

Complaints must be in writing. You may use the commission's [Online Complaint Form](#), [Printable Complaint Form](#), or write a letter to the commission. Complaints not submitted online must be submitted to the commission office:

**COMMISSION ON JUDICIAL PERFORMANCE**  
**455 Golden Gate Avenue, Suite 14400**  
**San Francisco, California 94102**

You may fax a complaint under 10 pages to (415) 557-1266. The commission does not accept complaints by phone. If you have a disability that prevents you from submitting a written complaint, please contact the commission's office to discuss how this office can best accommodate your needs.

If your complaint is about a subordinate judicial officer (an attorney employed by the court to serve as a court commissioner or referee), your complaint must first be directed to the court in which the subordinate judicial officer serves. If you are unsatisfied with the court's response to your complaint, you may submit your complaint to the commission, within 30 days of the mailing of the court's response.

See [Overview of Commission Proceedings](#) and [Commission Proceedings Chart](#) for further information.

#### Resources for Complainants

- [Overview of Commission Proceedings](#)
- [Commission Proceedings Chart](#)
- [Types of Misconduct](#)
- [Exemplar Complaints](#)
- [FAQ's](#)
- [Public Discipline Database](#)
- [Private Discipline Summaries](#)
- [Code of Judicial Ethics](#)
- [Printable Complaint Form](#)
- [Online Complaint Instructions and Form](#)

## Online Complaint Form



**COMPLAINT ABOUT A CALIFORNIA JUDGE, COURT COMMISSIONER OR REFEREE**  
*Confidential under California Constitution Article VI, Section 18, and Commission Rule 102*  
 For instructions on filling out and submitting this form, please visit the commission's [Online Complaint Instructions webpage](#).

### Your information

#### Complainant 1

Your name \*

First  Middle  Last

Your email \*  Your telephone number \*

Your address \*

Address Line 1

Address Line 2

City  State  Zip Code

➔ Add Complainant

### Your attorney (if any)

#### Attorney 1

Your attorney's name

First  Middle  Last

Your attorney's email  Your attorney's telephone number:

➔ Add Attorney

### Judge and conduct

#### Judge 1

Name of judge: \*

First  Middle  Last

Or Name of court commissioner or referee: \*

First  Middle  Last

If your complaint involves a court commissioner or referee, you must first submit your complaint to the local court. If you have done so, please attach copies of your correspondence to and from that court.

Court Level \*

Superior Court    Court of Appeal    Supreme Court    State Bar Court

Type of court case \*

None    Criminal    Family Law    General Civil    Small Claims    Traffic    Other

Case name  Case number

Your relationship to the case \*

Litigant/Family/Friend    Attorney    Judge/Court Staff    Other

Date or dates conduct occurred: \*

Please specify what action or behavior of the judge, court commissioner or referee is the basis of your complaint. Provide relevant dates and the names of others present. (Attach additional pages if necessary.)

Description of conduct

File Upload

or drag files here.

If a court document, such as a minute order or transcript, or an audio or video recording shows the misconduct, you may submit a copy (avoid sending originals) or mention it in your complaint. If your complaint involves a court commissioner or referee, please attach copies of your correspondence to and from that court.

➔ Add Judge

Submit

**Resources for Complainants**

- [Overview of Commission Proceedings](#)
- [Commission Proceedings Chart](#)
- [Types of Misconduct](#)
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- [Printable Complaint Form](#)
- [Online Complaint Instructions and Form](#)

## COMPLAINT PROCEDURES

### REVIEW OF COMPLAINTS

- Intake attorneys review and conduct an initial review, conduct legal research, and present a summary and recommendation to the commission.
- The commission votes to take action on every complaint.

## COMMISSION OPENS AN INVESTIGATION

- The investigation may include interviewing witnesses, obtaining court records, audio recordings, and transcripts.
- The investigation may include court observation if authorized by the commission.
- Public employees and officials of the court are required to cooperate with the commission's investigation (Gov. Code, §68725).
- Witnesses are advised of confidentiality.

# CONTACTING JUDGE

- Date and location of the alleged conduct
- Identifying information for the case
- Text of any alleged comments
- A statement of the reason why the conduct may constitute misconduct

# JUDGE'S RESPONSE

- Judge bound by statements in response
- Judges can make both legal and factual arguments
- Judges almost always represented by counsel
- Sometimes a follow-up letter is sent because the response is not complete

# COMMISSION ACTION AFTER INVESTIGATION

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- Close without discipline
- Mentoring/monitoring
- Issue tentative discipline
- Institute formal proceedings

# DISCIPLINE AVAILABLE TO COMMISSION

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- Advisory Letter
- Private Admonishment
- Public Admonishment
- Censure
- Removal

# POLICY DECLARATION 7.1

## NON-EXCLUSIVE FACTORS RELEVANT TO SANCTIONS

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### Characteristics of Misconduct:

- (a) The number of acts of misconduct;
- (b) The nature and seriousness of the misconduct;
- (c) Whether the misconduct occurred in the judge's official capacity or in the judge's private life;
- (d) Whether the misconduct involved dishonesty or lack of integrity;
- (e) Whether the misconduct was intentional, premeditated, negligent, or spontaneous;
- (f) The nature and extent to which the misconduct has been injurious to other persons;
- (g) Whether the judge was motivated by a desire to satisfy a personal or venal interest, vindictiveness, or an interest in justice, or compassion;
- (h) Whether the misconduct undermines the integrity of the judiciary, respect for the judiciary or the administration of justice;
- (i) Whether the misconduct involves unequal application of justice on the basis of such considerations as race, ethnicity or national origin, gender, sexual orientation, or religion.

# POLICY DECLARATION 7.1

## NON-EXCLUSIVE FACTORS RELEVANT TO SANCTIONS

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### Service and Demeanor of the Judge:

- (a) Whether the judge has acknowledged the acts occurred and has shown an appreciation of the impropriety of his or her acts;
- (b) Whether the judge cooperated fully and honestly in the commission proceedings;
- (c) Whether the judge has evidenced an effort to change or modify the conduct;
- (d) The judge's length of service in a judicial capacity;
- (e) Whether there has been prior disciplinary action concerning the judge;
- (f) Whether there are exceptional personal circumstances that warrant consideration;
- (g) The judge's reputation for administering his or her judicial duties in a fair, impartial, and dignified manner and for making positive contributions to the court or community.

# FORMAL PROCEEDINGS

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- The judge receives a notice of formal proceedings
- The judge must file an answer
- The notice, answer, and all documents filed thereafter are public documents
- The judge then receives discovery
- A **public** evidentiary hearing is held
- The hearing is presided over by three special masters appointed by the Supreme Court

# FORMAL PROCEEDINGS

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- The Evidence Code applies.
- The Examiner bears the burden of proof (clear and convincing).
- Both parties submit briefs to the special masters.
- The special masters submit a report with findings of fact and conclusions of law to the commission.

# FORMAL PROCEEDINGS

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- After receipt of the special masters' report, the parties file briefs with the commission, and there is an appearance before the commission.
- At the conclusion of the appearance, the commission can impose any discipline including removal from office.
- Typically, only 2-3 cases per year go to formal proceedings.

# AUDITOR'S RECOMMENDATIONS

Number	Recommendation	Status
4	To ensure that it adequately investigates alleged judicial misconduct, by April 2020 CJP should implement processes to ensure that for each of its investigations, CJP's management reviews and approves an investigation strategy that includes all steps necessary to substantiate whether misconduct occurred .	<u>Fully Implemented</u>
5	To ensure that it adequately investigates alleged judicial misconduct, by April 2020 CJP should create and fill a new investigations manager position and task that individual with reviewing and approving investigative strategies, as well as overseeing the execution of those strategies.	<u>Fully Implemented</u>
6	To ensure that it adequately investigates alleged judicial misconduct, by April 2020 CJP should expand the role of its legal advisor's office to include periodic reviews of the quality of closed investigations and, as warranted, to recommend changes to CJP's investigative practices.	<u>Fully Implemented</u>
7	To ensure that it leverages all available information to uncover misconduct, CJP should establish procedures by April 2020 for more regularly exercising its oversight authority to open investigations into patterns of potential misconduct. At a minimum, these procedures should require that intake attorneys assess complaints to identify when patterns of complaints merit recommending an investigation.	<u>Fully Implemented</u>
8	To allow it to detect potential judicial misconduct associated with legal errors, CJP should immediately direct its staff to use more appropriate allegation codes when closing complaints at intake. By October 2019, CJP should determine what data it will need to begin tracking so it can trend information—voluntarily provided by complainants—that could indicate complaints about legal error should be investigated because there is a risk that legal error is the result of underlying misconduct, such as bias. By October 2019, CJP should also develop procedures that indicate how often it will evaluate its data for such trends and establish guidelines for when trends warrant CJP staff recommending that the commission open an investigation. CJP should begin tracking that information and implement these procedures as soon as possible.	<u>Fully Implemented</u>

# AUDITOR'S RECOMMENDATIONS

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9	To prevent the risk that it will fail to detect chronic judicial misconduct, CJP should create and implement procedures by October 2019 that require an investigator to review all prior complaints when investigating a judge and determine whether the prior complaints are similar to the current allegations. Further, the procedures should require that if a pattern of complaints indicates the potential for chronic misconduct, the investigator must recommend that the commission expand the investigation.	<u>Fully Implemented</u>
10	To improve its transparency and accessibility to the general public, by April 2020 CJP should implement a plan to regularly engage in outreach activities that target the general public.	<u>Fully Implemented</u>
11	To improve its transparency and accessibility to the general public, by April 2020 CJP should update its website to include better resources for complainants, including examples of high-quality complaints that illustrate what CJP looks for when evaluating a complaint to decide if it will open an investigation.	<u>Fully Implemented</u>
12	To ensure that it expeditiously improves the public's ability to submit complaints, CJP should begin accepting complaints online upon updating its electronic case management system.	<u>Fully Implemented</u>
13	To improve public transparency and offer opportunities for the public to provide testimony on its proposed rules and operations, CJP should hold at least one public meeting during its biennial rulemaking process. It should ensure that it properly notifies the public about the meeting and provides the public the opportunity to comment at the meeting.	<u>Fully Implemented</u>

# AUDITOR'S RECOMMENDATIONS

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<u>14</u>	To maximize the resources available for its core functions, CJP should immediately begin exploring options for relocating its office to a less expensive location and relocate as soon as possible.	<u>Pending</u>
<u>15</u>	<p>To ensure that it obtains the resources necessary to fulfill its mission, CJP should report to the Legislature by May of each of the next three years about the following:</p> <ul style="list-style-type: none"><li>- Its progress in implementing our recommendations and any associated effects on its workload.</li><li>- The steps it has taken to realize efficiencies in its operations.</li><li>- Its evaluation of whether the investigations manager is a full-time position and any funding it will need in the future to support that position.</li><li>- Its progress in purchasing and implementing a new electronic case management system.</li><li>- Its progress in relocating its office space to a more affordable location.</li><li>- Any savings or unforeseen costs arising from the changes we identify above.</li></ul>	<u>Partially Implemented</u>

# CJP WEBSITE

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<http://cjp.ca.gov>