



JUDICIAL COUNCIL OF
CALIFORNIA
ADMINISTRATIVE OFFICE
OF THE COURTS
Public Information Office
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courtinfo.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

NEWS RELEASE

Release Number: 81

Release Date: December 15, 2009

Statewide Commission Issues Proposals To Protect Impartial, Accountable Courts

Judicial Council Accepts Report on Judicial Campaigns, Selection and Retention, and Public Education

San Francisco—After a comprehensive two-year study, the statewide Commission for Impartial Courts presented its final report to the Judicial Council of California, including wide-ranging recommendations for safeguarding judicial quality, impartiality, and accountability in California.

At a public meeting on December 15, the 28-member council accepted the commission's 71 recommendations and also directed that an implementation plan be developed to carry out them out.

Chief Justice Ronald M. George appointed the commission in 2007 in the wake of attacks on the independence of state court systems across the country, a trend that has been accompanied by an increase in politicization of judicial election campaigns and escalation of campaign spending.

Chaired by California Supreme Court Justice Ming W. Chin, the 88-member commission drafted recommendations designed to (1) promote ethical and professional conduct by judicial candidates; (2) better regulate campaign finance practices; (3) expand public information and education about the judiciary, both during judicial election campaigns and otherwise; and (4) improve procedures for selecting and retaining judges.

The commission's recommendations include the following:

- All judicial candidates in California, including incumbent judges, should be required to complete a mandatory training program on ethical campaign conduct.

(more)

- A system should be adopted under which each trial court judge is required to disclose to litigants, counsel, and other interested persons appearing in the judge's courtroom all contributions of \$100 or more made to the judge's campaign, directly or indirectly.
- All trial court judges and appellate justices should be subject to mandatory disqualification from hearing any matter involving a party, counsel, party affiliate, or other interested party who made a monetary contribution of a certain amount to a judge's or justice's campaign, directly or indirectly.
- Efforts should be made to increase diversity among the judiciary. For example, the State Bar's Commission on Judicial Nominees Evaluation should be required to gather information about judicial applicants' exposure to and experience with diverse populations and issues about those populations and to communicate this information to the Governor.
- The judicial branch should take a leadership role to ensure that every child in California receives a quality civics education.
- To improve transparency and better inform the public about the role and operations of the state court system, the judicial branch should disseminate essential information that would increase both the public's access to justice and its opportunities for input.

The report of the Commission for Impartial Courts is available on the California Courts Web site at this link: www.courtinfo.ca.gov/jc/documents/reports/121509item15.pdf .

-#-

The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts carries out the official actions of the council and promotes leadership and excellence in court administration.

INFORMATION SHEET

The Commission for Impartial Courts’ Final Report and Recommendations

The Commission for Impartial Courts was composed of a steering committee and four task forces, each charged with making recommendations in specific subject areas. Highlights of the work of each task force are presented below.

Task Force on Judicial Candidate Campaign Conduct

The Task Force on Judicial Candidate Campaign Conduct, chaired by Justice Douglas P. Miller, of the Court of Appeal, Fourth Appellate District, Division Two (Riverside), found that many states are experiencing contentious judicial elections in which candidates and third-party special interest groups are spending large amounts of money and engaging in negative and unethical campaign conduct. The task force sought ways to avoid the negative aspects of judicial elections and to promote ethical campaign conduct. The recommendations include:

- The Code of Judicial Ethics should be amended to require all judicial candidates, including incumbent judges, to complete a mandatory training program on ethical campaign conduct.
- The Code of Judicial Ethics should be amended by adding a new canon 3E(2), providing that a judge is disqualified if he or she, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that a person aware of the facts might reasonably believe commits the judge to reach a particular result or rule in a particular way in the proceeding or controversy.
- The formation of unofficial local fair judicial elections committees to educate candidates, the public, and the media about judicial elections; to mediate conflicts; and to issue public statements regarding campaign conduct in local elections should be encouraged.

Task Force on Judicial Campaign Finance

The Task Force on Judicial Campaign Finance was chaired by Judge William A. MacLaughin of the Superior Court of Los Angeles County. A major consideration of this group was the growing influence of money in judicial elections, as polling data reflects that the public, and a significant number of judicial officers, perceive that campaign contributions in judicial elections have an effect on judicial decision-making. The recommendations include the following:

- A system should be adopted under which each trial court judge is required to disclose to litigants, counsel, and other interested persons appearing in the judge’s courtroom all contributions of \$100 or more made to the judge’s campaign, directly or indirectly.
- Each trial court judge and appellate justice should be subject to mandatory disqualification from hearing any matter involving any party, counsel, party affiliate, or other interested party who has made a monetary contribution of a certain amount to a judge’s or justice’s campaign, directly or indirectly, subject to various provisions.
- Appellate courts should be required to send to the parties—with both first notice from the court and the notice of oral argument—information on how the parties may learn of campaign contributions if there is an upcoming retention election or there was a recent election.

Task Force on Public Information and Education

The Task Force on Public Information and Education, chaired by Administrative Presiding Justice Judith D. McConnell of the Court of Appeal, Fourth Appellate District (San Diego), focused on the need to improve transparency and better inform the public of the role and operations of the state court system. The recommendations included these:

- A leadership advisory group should be appointed to oversee, identify, and coordinate public outreach programs and opportunities for public input. Educational materials for K–12 teachers and for judges and court administrators making classroom visits should also be collected.
- The judicial branch should take a leadership role to ensure that every child in California receives a quality civics education. The task force outlined a strategic plan for civics education.

Task Force on Judicial Selection and Retention

The Task Force on Judicial Selection and Retention, chaired by Justice Ronald B. Robie of the Court of Appeal, Third Appellate District (Sacramento), did not propose a major overhaul of judicial selection and retention. The task force found that the current system of review by the State Bar’s Commission on Judicial Nominees Evaluation (JNE Commission), gubernatorial appointments, appellate retention elections, and relatively infrequent contested trial court elections has served California well. Recommendations include:

- An important component of judicial selection in California is examining how to increase diversity among the judiciary. Recommendations would encourage the JNE Commission to gather information about judicial applicants’ exposure to and experience with diverse

populations and issues related to those populations and to communicate this information to the Governor.

- Judicial selection processes must be transparent to maintain public confidence in the courts and ensure that all segments of the bar feel engaged and represented. Recommendations to encourage greater publicity of JNE members, JNE ratings, and the evaluation processes are designed to promote such transparency.