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1981 REPORT OF THE
COMMISSION ON JUDICIAL PERFORMANCE
TO THE GOVERNOR

U.S. Department of Justice
National Institute of Justice

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LETTER OF TRANSMITTAL

To: His Excellency, Edmund G. Brown, Jr.
Governor of the State of California

The 1981 Report of the Commission on Judicial
Performance is presented herewith.

NCJRS

OCT 8 1982

ACQUISITIONS

January
1982

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Chairperson

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First Appellate District, Div. One
San Francisco

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Associate Justice, Court of Appeal
Fourth Appellate District, Div. One
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Public Member
Sacramento

* Membership terminated July 1981 -- elevated to Supreme Court
** Membership terminated October 1981 -- term expired

COMMISSION ON JUDICIAL PERFORMANCE

1981 ANNUAL REPORT

The Commission may recommend, under Article VI, section 18(c) of the California Constitution, that the Supreme Court publicly censure or remove a judge for wilful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The Commission may also recommend involuntary retirement for disability that interferes with the performance of duties and is, or is likely to become, permanent.

In 1981 the California Supreme Court imposed discipline recommended in 1980 by the Commission on Judicial Performance upon two judges. The Court removed an El Dorado County Justice Court judge for wilful misconduct in office and conduct prejudicial to the administration of justice that brings the judicial office into disrepute (Wenger v. Commission on Judicial Performance, 29 Cal.3d 615 (1981)), and publicly censured a Los Angeles Superior Court judge for conduct prejudicial to the administration of justice that brings the judicial office into disrepute (In re Robert S. Stevens, 28 Cal.3d 873 (1981)).

The Commission recommended to the Supreme Court on December 4, 1981, that a judge of the San Diego Superior Court be publicly censured for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The Commission found, after a formal hearing, that the judge repeatedly received ex parte communications concerning a lengthy and complex matter pending before him. (In re Hugo M. Fisher, L.A. 31504.) The Supreme Court imposed censure in the six prior cases in which the Commission made that recommendation.

Also on December 4, 1981, the Commission sent to the Supreme Court a recommendation that a judge of the San Diego Municipal Court be suspended from office for conviction of crimes involving moral turpitude. After hearing, the Commission found the judge's five convictions of violations of Penal Code section 647(b), soliciting or engaging in an act of prostitution, warranted the recommendation. (In the Matter of Lewis A. Wenzell, a Judge, L.A. 31506.) This marked the first occasion upon which the Commission has recommended suspension from office for conviction of a crime that involves moral turpitude. (Article VI, Section 18(b) of the California Constitution.)

II.

The Commission's jurisdiction extended over 1,280 California state court judges as of December 1, 1981. The total is comprised of:

Supreme Court Justices	7
Justices of Courts of Appeal	59
Superior Court Judges	628
Municipal Court Judges	488
Justice Court Judges	98

The Commission met nine times in 1981: eight one-day sessions and one two-day session for a total of ten meeting days. At the conclusion of the year's last meeting, December 3, 1981, 16 pending matters were carried forward into 1982.

Of the 267 complaints the Commission received and considered during 1981, 215 were closed, after initial scrutiny, without further action. This is the customary disposal of complaints where allegations fail either to merit further action or state a case of misconduct within the Commission's jurisdiction. Complainants are notified by letter of this determination.

The Commission investigated 52 complaints before deciding whether to proceed or close; in 48 instances the judges involved were contacted by letter and invited to respond. The majority of cases were closed after the Commission received an explanation from the judge involved. Both judge and complainant are notified of this disposition by letter. The Commission may comment on or criticize certain aspects of a judge's action in such letters, and suggest that some practices be modified or remedied.

Eighteen preliminary investigations into a judge's conduct under the California Rules of Court began during 1981. This step is taken when the allegations of a complaint include significant questions about a judge's conduct. Most of the investigations undertaken in 1981 were ordered after initial inquiry to the judge. A five-year summary of cases is attached.

Four formal hearings into a judge's conduct, under Rule 908, were held during 1981. This is the greatest number of hearings in one calendar year since the Commission's founding. During 1981 three judges have, while under Commission investigation, resigned or retired.

In addition to recommendations of censure, removal, or involuntary retirement, the Commission has the power privately to admonish a judge for improper actions, dereliction of duty, or other constitutional grounds. Seven private admonishments were imposed in 1981; five upon conclusion of a preliminary investigation, one after withdrawal of formal charges and one in lieu of formal hearing. While a judge has the right to appeal an admonishment, none of those imposed in 1981 was appealed.

III.

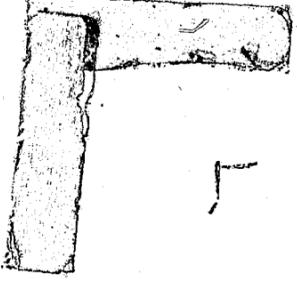
In hopes to clarify its function and place in the judicial system for complainants and interested members of the public, the Commission has produced an informational pamphlet which is available at its office. The pamphlet was written because of a long felt need to make the Commission's work and limitations clearer to the public. (See the Commission's 1980 Report.)

CASES COMING BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

Five-Year Summary 1977-1981

<u>Year</u>	<u>Complaints Filed</u>	<u>Inquiries (some kind of investigation)</u>	<u>Judge Contacted</u>	<u>Preliminary Investigation</u>	<u>Admonishments</u>	<u>Resignations or Retirements</u>	<u>Public Discipline</u>
1977	217	53	52	11	8	1	1 retirement (involuntary)
1978	274	72	59	20	7	3	1 censure 1 retirement (involuntary)
1979	291	76	62	18	3	2	
1980	260	65	54	12	8	1	
1981	267	52	48	18	7	3	1 censure 1 removal

January 1982



END