

OPEN SESSION AGENDA ITEM

54-132 JULY 2018 PROGRAMS ITEM 11.A.

DATE: July 20, 2018

TO: **Members, Programs Committee**
Members, Board of Trustees

FROM: Dag MacLeod, Chief
Mission Advancement and Accountability

SUBJECT: Commission on Judicial Nominees Evaluation (JNE)
Annual Report

EXECUTIVE SUMMARY

This is an informational report on the activities of the Commission on Judicial Nominees Evaluation (JNE). Attached are: (1) a letter from David Fu, the 2017-2018 Chair of the JNE Commission, reporting on his year as Chair; and (2) the JNE Commission 2015-2017 Activities and Statistical Report (Report). The Report includes statistical data concerning judicial evaluations and appointments, and JNE Commissioner workload and budget expenditures, for calendar year 2017. Also included is the same statistical data for years 2015 and 2016 for purposes of comparison.

BACKGROUND

The JNE Commission is an agency of the State Bar created by Government Code section 12011.5 for the purposes of evaluating judicial candidates under consideration for appointment by the Governor. Pursuant to statute, prior to exercising judicial appointment authority, the governor is required to submit the names of the candidates to the JNE Commission for an investigation and evaluation of the candidates' judicial qualifications. The JNE Commission must report back to the governor within 90 days of the date of submission. The JNE Commission is made up of both public (non-lawyer) members and lawyer members, up to a maximum of 38 members. They meet approximately six times each year. Each meeting is two days long. Twice per year, an anti-bias training is given. In 2017, the JNE Commission completed and delivered to the governor 189 judicial candidate evaluations.

DISCUSSION

The JNE Commission leadership and staff present this Report to the Board of Trustees on an annual basis. The first report was conceived of in 1987 by then JNE Commission Chair Jim Ward, to provide accountability to the Board and the public by informing them about the work performed by the JNE Commission. Because the evaluation process is confidential, the only type of reporting that can be done is on a statistical basis. The Report continues to serve the purposes first envisioned in 1987.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATION

The Programs Committee recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees receives the Commission on Judicial Nominees Evaluation (JNE) 2015-2017 Activities and Statistical Report, attached to this agenda item as Attachment B, and orders it filed.

ATTACHMENT(S) LIST

- A.** June 11, 2018, Letter from David Fu, JNE Commission Chair, 2017-2018
- B.** Commission on Judicial Nominees Evaluation (JNE) 2015-2017 Activities and Statistical Report



COMMISSION ON JUDICIAL NOMINEES EVALUATION

THE STATE BAR OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1617 • (415) 538-2366
ATTACHMENT A

DAVID D. FU
Chair
Arcadia
DAVID W. FERMINO
Vice Chair
San Francisco

June 11, 2018

BY EMAIL

Board of Trustees
Programs Committee
State Bar of California
180 Howard Street
San Francisco, CA 94105-1617

Re: Activities and Statistical Report 2015-2017, Commission on Judicial Nominees Evaluation

Dear Board of Trustees and Programs Committee:

I respectfully submit the enclosed 2015-2017 Activities and Statistical Report for the Commission on Judicial Nominees Evaluation (JNE).

JNE is responsible for the confidential investigation and evaluation of all potential superior and appellate court appointments by the Governor. The mission of the JNE is to assist the Governor in the judicial selection process, promote a California judiciary of quality and integrity, and provide independent, comprehensive, accurate and fair evaluations of candidates for judicial nomination and appointment.

The 2017 term commenced with 38 commissioners, our statutory maximum, representing the counties of San Francisco, Los Angeles, San Bernardino, San Diego, Marin, Riverside, Sacramento, Santa Clara, and Alameda. 33 commissioners were lawyers, and five were public members, one of whom was disabled. Four commissioners were retired judges, one of whom was a retired appellate justice. Four commissioners resigned during the year, and we suffered the loss of James Hennenhoefer, a highly regarded San Diego family law attorney, due to his sudden and untimely death. Our attorney members represented varied practice areas, both public and private, and varied law firm sizes.

The commission convened for 12 days, comprised of six two-day meetings, scheduled every two months, in our customary configuration. The statistical report accompanying this letter provides a thorough summary of the numbers. Offering a "between the lines" account of our year, the commission soldiered on through a complex year, made challenging by the personnel changes at the

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San Ramon

DIANE P. BLACKMON
JNE Administration

commission, alteration of our historical bar support composition, and the pressures of the Governor's last year in office, resulting in some substantial variation in work load and candidate composition to the commission. Through it all, the commission did outstanding work, with each commissioner rising to the challenges resulting from the Governor's increased workload. In particular, our public members turned in an heroic performance. Because appellate candidates must have at least three commissioners assigned to the investigation, one of whom must be a public member, and due to the number of appellate candidates on occasion, often our public members had three candidates to investigate during the sixty day "cycle" of the investigation. I cannot thank them enough for their unselfish devotion to our mission.

Additionally, I owe thanks to past chairs Jason Lee and Jody Nuñez, who literally taught me everything I needed to know to perform my function as chair. I am also grateful to the Governor's special assistant, Joshua Groban, whose insight, support and camaraderie made our task not just worthwhile, but interesting and relevant.

I am also grateful for the hard work of the incoming chair, David Fermino, and vice chair, Diane Bellas. Both are extraordinarily prepared, and I am pleased beyond words to leave the commission in such able hands.

Lastly, I thank the Board of Trustees and bar personnel Diane Blackmon, Anne Baxter, and Sarah Cohen for their support. The JNE chair is characterized as one of the more burdensome voluntary positions at the bar, but with the Board's support, and that of our superb crew, my year was both an honor and a pleasure. With their help, I redesigned the JNE orientation exercise to be more consistent with real world challenges faced. Additionally, I created JNE Leadership Training, to reinforce unwritten guiding principles to execute JNE's duties, assure compliance with our rules, and advance our mission with integrity and transparency, all of which I hope enhanced and assured JNE's stated object of assuring a judiciary of quality and integrity.

Thank you for this unique honor.

Very truly yours,


David Fu, 2017-2018 Chair

Enclosure

**COMMISSION ON JUDICIAL NOMINEES EVALUATION (JNE)
2015-2017 ACTIVITIES AND STATISTICAL REPORT**

Presented in this Report is data relating to the ratings of the Commission on Judicial Nominees Evaluation (JNE Commission) and judicial appointments by Governor Edmund G. Brown Jr. for the years 2015-2017. The years 2015 and 2016 are included for the purpose of comparison and to provide a greater overview of the statistical information.

Enclosed please find the following tables:

Table 1:	Judicial Evaluations by Rating Level
Table 2:	Judicial Appointments by Rating Level
Table 3:	Superior Court Candidate Evaluations by County
Table 4:	Superior Court Candidate Evaluations by Appellate District
Table 5:	Supreme Court and Courts of Appeal Candidate Evaluations
Table 6:	Commissioner Workload and Budgetary Statistics

TABLE 1
Judicial Evaluations by Rating Level

	2015		2016		2017	
	Number	Percent	Number	Percent	Number	Percent
Exceptionally Well Qualified	20	13.2%	27	13.6%	36	19.0%
Well Qualified	63	41.7%	94	47.2%	68	36.0%
Qualified	56	37.1%	67	33.7%	70	37.0%
Not Qualified	12	7.9%	11	5.5%	15	7.9%
TOTAL	151	100%	199	100%	189	100%

TABLE 2
Judicial Appointments by Rating Level

	2015		2016		2017	
	Number	Percent	Number	Percent	Number	Percent
Exceptionally Well Qualified	15	20.3%	11	24.4%	22	23.2%
Well Qualified	33	44.6%	29	64.4%	55	57.9%
Qualified	26	35.1%	5	11.1%	18	18.9%
Not Qualified	0	0.0%	0	0.0%	0	0.0%
TOTAL	74	100%	45	100%	95	100.0%

TABLE 3
Superior Court Candidate Evaluations by County

County	2015	2016	2017	Total
Alameda	8	12	5	25
Alpine	0	0	0	0
Amador	3	0	0	3
Butte	3	1	1	5
Calaveras	0	0	0	0
Colusa	0	1	0	1
Contra Costa	4	3	3	10
Del Norte	0	0	0	0
El Dorado	1	3	4	8
Fresno	1	2	4	7
Glenn	1	0	1	2
Humboldt	0	2	3	5
Imperial	0	2	0	2
Inyo	0	0	0	0
Kern	1	3	5	9
Kings	0	0	1	1
Lake	0	1	1	2
Lassen	0	0	3	3
Los Angeles	51	43	44	138
Madera	0	1	0	1
Marin	2	0	2	4
Mariposa	0	0	0	0
Mendocino	0	0	1	1
Merced	1	0	4	5
Modoc	0	0	0	0
Mono	0	0	0	0
Monterey	0	1	2	3
Napa	0	0	5	5
Nevada	0	2	1	3
Orange	8	17	14	39

TABLE 3
Superior Court Candidate Evaluations by County (*cont'd*)

County	2015	2016	2017	Total
Placer	1	1	0	2
Plumas	0	0	2	2
Riverside	3	4	14	21
Sacramento	4	6	6	16
San Benito	0	0	0	0
San Bernardino	7	8	6	21
San Diego	6	9	5	20
San Francisco	7	9	3	19
San Joaquin	4	3	2	9
San Luis Obispo	3	3	4	10
San Mateo	1	4	1	6
Santa Barbara	4	1	2	7
Santa Clara	2	8	3	13
Santa Cruz	1	2	4	7
Shasta	0	6	0	6
Sierra	0	2	0	2
Siskiyou	1	1	0	2
Solano	5	6	5	16
Sonoma	0	0	3	3
Stanislaus	1	4	3	8
Sutter	1	2	1	4
Tehama	0	2	0	2
Trinity	0	1	0	1
Tulare	3	4	2	9
Tuolumne	2	0	0	2
Ventura	0	7	5	12
Yolo	2	2	2	6
Yuba	0	1	1	2
TOTAL	142	190	178	510

TABLE 4
Superior Court Candidate Evaluations by Appellate District

Appellate District No.	2015	2016	2017	Total
1	27	37	32	96
2	58	54	55	167
3	21	34	24	79
4	24	40	39	103
5	9	14	19	42
6	3	11	9	23
TOTAL	142	190	178	510

Appellate District No. 1:	Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solano and Sonoma
Appellate District No. 2:	Los Angeles, San Luis Obispo, Santa Barbara and Ventura
Appellate District No. 3:	Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo and Yuba
Appellate District No. 4:	Imperial, Inyo, Orange, Riverside, San Bernardino and San Diego
Appellate District No. 5:	Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare and Tuolumne
Appellate District No. 6:	Monterey, San Benito, Santa Clara and Santa Cruz

TABLE 5
Supreme Court and Courts of Appeal Candidate Evaluations

	2015	2016	2017	Total
Supreme Court	0	0	0	0
Courts of Appeal	9	9	11	29
TOTAL	9	9	11	29

TABLE 6
Commissioner Workload and Budgetary Statistics

Meeting Days/Assignments

Year	Commissioners *	Meeting Days	Evaluations	Total Assignments	Assignments Per Commissioner
2015	36	12	151	339	9
2016	34	12	199	421	12
2017	34	12	189	405	12

* Does not include *pro tem* commissioners – in 2015 there were two *pro tem* commissioners (three evaluations in total); in 2016 there were six *pro tem* commissioners (eleven evaluations in total); and in 2017 there were four *pro tem* commissioners (sixteen evaluations in total).

Expenses for Travel, Postage, and Printing/Outside Services

Year	Travel Expense	Postage	Printing/ Outside Services
2015	\$166,931	\$9,228	\$3,763
2016	\$180,248	\$7,632	\$3,461
2017	\$184,272	\$7,112	\$3,843

Budget Used 2015-2017

Year	Budget Used
2015	\$856,744
2016	\$923,581
2017	\$676,955