

Lawmakers Want Audit of Judicial Discipline Commission



State Sen. Hannah-Beth Jackson D-Santa Barbara

SACRAMENTO — Four state lawmakers have called for an audit of the Commission on Judicial Performance, the judge-disciplining agency that has become a lightning rod for bench officers who complain it's overzealous and litigants who say it protects bad jurists.

In a letter sent to the Joint Legislative Audit Committee on Wednesday, the legislators cite the [case](#) of Ventura County Superior Court Judge Nancy Ayers, who was privately chastised by the CJP for bringing her guide-dog-in-training to her courtroom. Ayers challenged the discipline and, after the state Supreme Court got involved this summer, the CJP withdrew its advisory letter to the judge.

"The case against Judge Ayers raises a number of issues regarding the process and procedures at the Commission on Judicial Performance," the [lawmakers wrote](#). "Additionally, the Commission—a public agency—does not appear to have ever been audited by the state auditor. Therefore, there has been no investigation or analysis done by the state auditor as to the staffing or usage of funds by the agency."

The letter suggests more than 26 issues for possible audit review, from whether the commission affords accused judges due process to how investigators consider complaints of legal error.

"This is about more than one case, one judge, one issue, or one side," signatory state Sen. Hannah-Beth Jackson, D-Santa Barbara, said in a prepared statement. "This commission has never before been audited in its 56-year history, and the public and the legal community have questions that deserve answers."

Jackson is married to retired Santa Barbara County Superior Court Judge George Eskin. She was joined in signing the audit request by Assembly members Mark Stone, D-Scotts Valley; Catharine Baker, R-San Ramon; and Cristina Garcia, D-Bell Gardens.

Messages left Thursday with CJP chairman Anthony Capozzi and executive director Victoria Henley were not

returned.

For years, judges have complained—with varying levels of intensity—that the CJP over-disciplines them for minor missteps, wrongly punishes them for errors of law and doesn't give them adequate information about accusations made against them or who's making them. Judges' groups lobbied for changes to the disciplinary process in 2012, but legislation never materialized.

The California Judges Association announced its support for the audit Thursday.

"We recognize the public protection function that the commission performs," said Mike Belote, a lobbyist for the CJA. "We believe that there are issues of due process that should be evaluated. We have been talking to the commission for years about how the process works and due process issues have been part of that. We look forward to the audit examining that and other issues."

The audit also has the backing of family law litigants and advocates who say the CJP lacks transparency. Critics assailed Henley at a legislative budget hearing earlier this year, accusing her agency of failing to discipline what they see as biased judges.

"We've been working on this for months," said Kathleen Russell, executive director of the Center for Judicial Excellence. "The fact that the CJP has never been audited for 56 years, it's definitely overdue."

Criticism of the CJP was further fueled this summer by intense public—and legislative—scrutiny of Santa Clara County Superior Court Judge Aaron Persky, [who sentenced](#) former Stanford University student Brock Turner to six months in jail for three felony sexual assault charges that involved an incapacitated woman. Those [seeking Persky's ouster](#) have submitted thousands of signatures to the CJP. But, as with every case involving an accused judge, the CJP will not say how many complaints have been leveled against Persky and whether it is investigating any of them.

Over the last decade, the CJP has fielded between 900 and 1,200 [complaints](#) about judges in any given year. Approximately 90 percent of those cases were closed after an initial review; still more complaints were closed without discipline after an investigation. Just a small percentage of cases result in punishment that ranges from a private advisory letter to removal from office.



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The Joint Legislative Audit Committee is scheduled to consider the lawmakers' request on Aug. 10.

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