

COMMENT

Proposed Amendments to Rules of the Commission on Judicial Performance

Please copy this sheet. Use a separate sheet for each issue.

Rule: 111.4 (Legal Error)

Issue:

There is need for Rule 111.4 augmentation because California judicial crimes committed in legal proceedings are going unpunished and unprosecuted.

Comment:

See attached faxed-letter dated April 12, 2017 to Ms. Brickley, Ms. Henley and Commissioners of the CJP

Alternative proposal:

See attached faxed-letter dated April 12, 2017 to Ms. Brickley, Ms. Henley and Commissioners of the CJP

(Continue on back or on a separate sheet.)

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Your comment may become public during the review of the proposed amended rules regarding the Commission on Judicial Performance. Thank you for your assistance.

Please return on or before May 1, 2017.

Commission on Judicial Performance
Attn: Janice Brickley, Legal Advisor to Commissioners
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102
FAX: (415) 557-1266

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April 12, 2017

California Commission on Judicial Performance (CJP)
Janice M. Brickley, Legal Advisor to Commissioners
Victoria Henley, Director Chief Counsel
CJP Commissioners
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102-3660
By Fax to: (415) 557-1266

Re: Need to amend CJP Rule 111.4 (Legal Error) due to a pattern of unprosecuted judicial crime

Dear Ms. Brickley, Ms. Henley and Commissioners,

This letter suggesting rule modification and its supporting links may be read online at a blog which own, "*Veritox means Truth-Poison*". It is under the blog title of "*Proposed Augmentation of CJP Rule 111.4 to thwart California Judicial Crime*". Short link: <http://wp.me/p7Yx8Q-4w>

Thank you for the opportunity to offer suggestions of CJP rule modifications in accordance with CJP Policy 3.5.¹² California's judicial system ranks among the world's largest. The root of a serious problem within the system seems to stem from the fact that California and United States government agencies with prosecutorial authority seem to rely on the tiny CJP - which has no prosecutorial authority - to thwart criminal judicial conduct in California's courts; and the CJP rarely, if ever, reports complaints alleging judicial crime to those with prosecutorial authority.

Pursuant to article VI, sections 8, 18, 18.1 and 18.5 of the California Constitution, the CJP is the "independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges".³ The CJP is also governed by California Government Code (GC) Chapter 2.5⁴ While neither of these guiding documents empower the CJP with prosecuting capabilities; they do not preclude the CJP from reporting judicial crimes to those with prosecutorial authority or from recommending judicial criminal prosecutions.

In the interest of equal justice for all, there should be no room for CJP rule misinterpretation that the lack of prosecutorial authority releases the Commissioners and CJP staff from their charge to protect the public from judicial misconduct, including crimes. As such, CJP Rule 111.4 requires stipulation of CJP's duties when received-complaints of judicial misconduct are complaints alleging judicial crime (i.e. willful suborning of material perjury, concealing court record falsifications, acting maliciously without court subject matter jurisdiction, etc). Under the California Constitution Section 18(i)(1) "*The commission shall make rules for the investigation of judges.*" This needs to include rules for investigating and prosecuting judicial criminal acts.

¹ March 1, 2017 Invitation to Comment on Proposed Amendments to Rules of the CJP
[https://cjp.blogs.ca.gov/files/2016/08/Invitation to Comment Proposed Amended Rules 03-01-2017.pdf](https://cjp.blogs.ca.gov/files/2016/08/Invitation%20to%20Comment%20Proposed%20Amended%20Rules%2003-01-2017.pdf)

² POLICY DECLARATIONS OF THE COMMISSION ON JUDICIAL PERFORMANCE
[http://cjp.ca.gov/files/2016/08/CJP Policy Declarations.pdf](http://cjp.ca.gov/files/2016/08/CJP_Policy_Declarations.pdf)

³ Section VI of the California Constitution pertaining to the CJP http://cjp.ca.gov/files/2016/08/CA_Constitution.pdf

⁴ GC Chptr 2.5 COMMISSION ON JUDICIAL PERFORMANCE [http://cjp.ca.gov/files/2016/08/CA Govt Code 12.pdf](http://cjp.ca.gov/files/2016/08/CA_Govt_Code_12.pdf)

CJP Rule 111.4 (Legal Error) currently states,

“Discipline, including an advisory letter, shall not be imposed for mere legal error without more. However, a judge who commits legal error which, in addition, clearly and convincingly reflects bad faith, bias, abuse of authority, disregard for fundamental rights, intentional disregard of the law, or any purpose other than the faithful discharge of judicial duty is subject to investigation and discipline.”

Proposed augmentation to CJP Rule 111.4 to thwart judicial crime:

“If judicial misconduct is alleged by a Complainant to be a willful felony act(s), the commission shall file a notification and a copy of the complaint with the California Department of Justice (CADOJ) and United States Department of Justice (USDOJ) Divisions of Criminal Law, Public Crimes Units; and shall notify the Complainant of the commission’s reporting to prosecutors. The commission shall cooperate with resultant DOJ criminal investigations.”

Example of the current two-track justice system when jurists commit crimes:

According to the website of the USDOJ Central District of California, on March 29, 2017 an Orange County Superior Court clerk, Jose Lopez Jr., pled guilty to "fixing" multiple Traffic cases over a five year period. He now faces up to twenty years in prison.⁵

In a 2012 opinion, the Commissioners found that Orange County Superior Court Judge Richard Stanford Jr. was guilty of fixing multiple Traffic cases over a six year period.⁶ Unlike the guilty-clerk who is soon to be incarcerated by the USDOJ; the guilty judge’s punishment was merely forced-early-retirement by the CJP. The guilty judge was never criminally charged -- making it impossible that he would have ever been punished equally to the guilty clerk.

To quote from the CJP 2012 opinion by former CJP Chair Justice Judith McConnell giving the strong appearance of a two-track system when judges and justices commit crimes:

“This pattern of misconduct [by Judge Stanford] between 2005 and 2010 created both the appearance and reality of a two-track system of justice – one for his family and friends and another for all others.” The same could be said of jurists not being prosecuted like all others when caught committing crimes.

“The Commission on Judicial Performance ordered that the judge [Stanford] be removed from office for willful misconduct involving a pattern of handling traffic tickets for family and friends and providing unusually lenient dispositions. Although he was assigned to a criminal felony department that did not ordinarily handle traffic tickets, he arranged for the citations to be transferred to his department and then directed his clerk to waive all fines except a mandatory county traffic school fee...the judge had no reasonable basis for believing that his family and friends would have received the same outcome had they appeared in traffic court. The commission concluded that the judge committed willful misconduct (Cal. Const., art. VI, § 18, subd. (d)) and that he committed multiple ethical violations (Cal. Code Jud. Ethics, canons 1, 2A, 2B(1) 3B(7), 3E(1), 3E(2)).”

⁵ March 29, 2017 USDOJ Former O.C. Superior Court Clerk Pleads Guilty to RICO Charge in Bribery Scheme to ‘Fix’ Criminal Cases and Traffic Charges <https://www.justice.gov/usao-cdca/pr/former-oc-superior-court-clerk-pleads-guilty-rico-charge-bribery-scheme-fix-criminal>

⁶ CJP Judge Stanford’s removal from office http://cjp.ca.gov/files/2016/08/Stanford_53_Cal.4th_CJP_Supp._1.pdf

“The commission concluded that the judge’s exceptional contributions to his court and his community were eclipsed by a pattern of misconduct involving abuse of the power of judicial office by providing benefits to the favored few.” The same could be said of judiciary being the “favored few” who are not prosecuted like all others when found guilty of crime.

An Inherent Conflict of Interest Adverse to Equal Justice

In January 2017, a California journalist submitted a public records request to the CADOJ “Public Records Ombudsman”. In February 2017, the journalist received a reply from a Deputy Attorney General. The reply identified the responding Deputy as being the same Deputy who is currently deemed “*Counsel to Defendant Commission on Judicial Performance*” in a federal civil action alleging damages from CJP improperly-unpunished judicial misconduct/crime.⁷

The above is an example of the current inherent conflicted interests that is adverse to the public’s best interest. The government agency charged to prosecute criminal acts, instead defends the CJP in civil actions for failing to punish criminal acts. Public records become attorney-client privilege. The crime-prosecutor becomes the civil-defender of the CJP; and sometimes in the process becomes the defender of the prosecuting agency itself by proxy for its own failure to prosecute when citizen complaints to the DOJ provide direct evidence of judicial crime that the CJP is also not punishing.

Tax dollars are spent when the CADOJ defends against civil suits alleging CJP failure to protect the public from judicial crime. Costly and time-consuming civil actions brought by private citizens hold no possibility of resulting-prosecution for crime-committing judges and justices. Thus, there is currently no fear of incarceration for California jurists who are inclined to commit felonies in legal proceedings. For good cause, they believe themselves to be above the law.

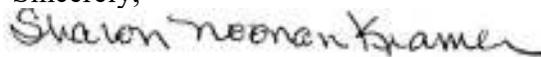
Benefits of the Proposed Rule 111.4 Augmentation

In the coming months, I am meeting with CADOJ Deputy Attorney Generals and Executive Policy-setters. The topic of discussion is practices that California Attorney General Becerra will implement to thwart “CJP unpunished judicial crime.” If CJP Rule 111.4 is augmented to stipulate that the CJP will report complaints of judicial felonies to prosecutors; then prosecuting agencies must in turn implement practices ensuring that the allegations are fully investigated and are prosecuted when deemed lawful to do so.

The proposed augmentation of CJP Rule 111.4 is a necessary step to help the CJP and prosecuting agencies re-instill public trust that all-possible is being done to protect against judicial crime. Rules which assure the public that the CJP aids and cooperates with state, federal and county agencies holding and using prosecutorial authority; should aid the state’s judicial watchdog to greatly reduce judicial misconduct, including judicial crime. Judicial “above the law” mentality should cease to be when jurists know that incarceration for felony acts committed in legal proceedings is a real possibility via the collaborative efforts of the CJP and prosecutors.

Thank you for your earnest consideration of this matter.

Sincerely,



Mrs. Sharon Noonan Kramer

⁷ Documentation available upon request.

TRANSMISSION VERIFICATION REPORT

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