

# IMBALANCED JUSTICE: CALIFORNIA

Professional Diversity  
in California State Courts



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The mythology of judges as objective and neutral arbiters of justice, who leave their personal and political attachments aside to simply “call balls and strikes” from the bench, no longer holds much sway. In June, [polling](#) from The Associated Press-NORC Center for Public Affairs Research found that 70 percent of Americans believe the U.S. Supreme Court justices are guided by ideology, rather than neutral principles of law, in their decision-making. In August, additional [polling](#) from Pew Research showed that over half of respondents felt that the Supreme Court justices were doing a “poor” or “only fair” job of keeping their political views out of their decision-making, despite the fact that only 11 percent of respondents thought that political ideology should enter into judicial decision-making.

These findings are not surprising when considered against the backdrop of recent years, in which Supreme Court justices have [aligned themselves](#) with efforts to overthrow the 2020 election results; the Court has disregarded [decades of precedent](#) in its rush to rollback constitutional rights; and even [so-called moderates](#) on the bench have demonstrated that their loyalty lies not to basic principles of law, but to the Republican Party and its leader, Donald Trump.

Justice Clarence Thomas has accepted millions of dollars worth of gifts from [billionaires](#), without reporting them or recusing himself from any cases. At the state level, justices in recent years have ruled on cases involving [companies that they partially own](#) and a [bank that they represented](#) in a related case. In two states, justices have ruled on [lawsuits against their fathers](#), who are powerful Republican politicians.

As these judges and justices abandon even the appearance of neutrality, they have forced a growing recognition that judges, like all human beings, cannot and do not transcend their politics or their personal and professional backgrounds when they don their robes and shape the law from the bench.

## The overrepresentation of judges with certain professional backgrounds results in structural disadvantages for those most lacking resources and meaningfully impedes their ability to access justice.

This now-unavoidable fact is not new. It was reflected upon by Supreme Court justice Lewis Powell, who sat alongside Justice Thurgood Marshall and [recognized](#) that “a member of a previously excluded group can bring insights to the Court that the rest of its members lack.” Justice Marshall’s personal experience as a Black man and his professional experience as a civil rights attorney [meant he](#) “spoke from first-hand knowledge of the law’s failure to fulfill its promised protections for so many Americans.” His perspective led the other justices to confront their own blindspots, which were the inevitable result of their own limited personal and professional experiences.

The justice’s recognition of the importance of personal and professional diversity on the bench is supported by recent empirical research on judicial decision-making. A [study](#) of federal criminal sentencing from 2010 to 2019 showed that judges without any criminal defense experience handed down significantly harsher sentences than those with public defense experience. Another [study](#) analyzing decision-making in employment cases found that judges who spent their careers in practice as criminal

prosecutors or representing corporations were significantly more likely to rule in favor of corporations than to side with workers when compared to judges who had experience representing individuals. And a recent [study](#) by People’s Parity Project examining eviction cases in Connecticut found that renters appearing before former corporate attorneys and prosecutors were significantly more likely to be evicted from their homes than those who appeared before judges with experience in general practice, legal aid, plaintiff’s litigation, non-prosecutorial government, and public defense work.

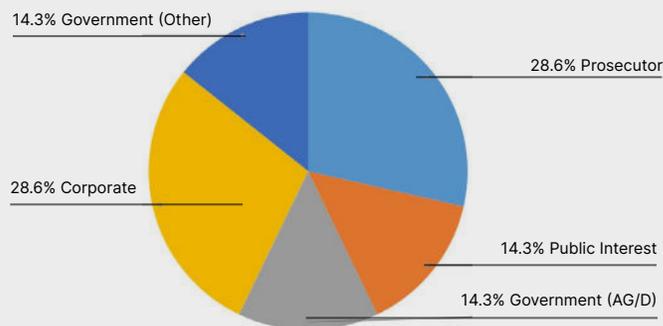
These findings reveal that the overrepresentation of judges with certain professional backgrounds results in structural disadvantages for those most lacking resources and meaningfully impedes their ability to access justice. They also reveal that a lack of professional diversity among judges is an overwhelming reality at the federal level. But thanks to sustained attention and advocacy around this issue, the Biden administration has engaged in a [pathbreaking effort](#) to increase the representation of judges with public interest backgrounds—including public defenders, civil rights attorneys, labor lawyers, and plaintiff-side litigators—on the federal bench.

While increasing professional diversity on the federal bench is critical, it is not enough. It is state courts, not federal, that rule on the vast majority of cases involving ordinary Americans, ruling on issues ranging from worker and consumer rights, corporate accountability, housing, and education, in addition to driving the criminalization of poverty and mass incarceration. While the shift in federal judicial appointments is positive and long overdue, its effect is inherently limited, given that [over 95 percent](#) of legal cases are filed in state courts. This is why People’s Parity Project is committed to bringing attention to the overrepresentation of former corporate lawyers and prosecutors in state judiciaries in states across the country, from [Massachusetts](#) to [Georgia](#) and [Arizona](#) to [Connecticut](#).

This report seeks to highlight the lack of professional diversity on the California bench. Recently, [progress](#)

[has been made](#) in addressing the severe lack of demographic diversity among California judges. However, there has been less transparency and attention paid to professional diversity. In fact, the professional backgrounds of California judges are not tracked in any meaningful manner, with judges self-reporting their area of legal experience using vague categorizations that provide no insight into who these judges spent their legal careers representing. Knowing whether a judge has spent their career representing corporations or pro-carceral state interests versus individuals, workers, and marginalized communities, is key to anticipating how they will rule from the bench. This report attempts to shed light on who is making decisions for the people of California, and to offer a path forward for a more pro-people judiciary in the state.

The Supreme Court



## METHODS

Because of the lack of information about the most relevant aspects of the professional backgrounds of California judges, People’s Parity Project at UCLA Law, with the support of student volunteers, undertook to categorize the backgrounds of over 1900 California judges. Names of all judges in the California Supreme Court, Appellate Court, and Superior Courts as of February 2024 were collected from the [California Judicial Branch website](#). For Supreme and Appellate Court judges, their biographies published on the state judiciary’s website were used to categorize their professional experience.

Because biographies are not always published for Superior Court judges, their professional backgrounds were collected from other reliable sources such as Governors' office press releases, media reports, and judicial profiles collected by websites like Trellis and Ballotpedia.

Judges' backgrounds were grouped into the following categories: corporate, prosecutor, law enforcement, Government (Attorney General's Office or Department of Justice), Government (Other), Public Defender, Public Interest, Labor, Legal Aid, Plaintiff-side, and other. Judges with significant experience across multiple categories were included in counts for each of the categories into which their experience fit. Judges without reliable career information publicly available on the internet remained uncategorized and were excluded from the count.

## WHY STATE COURTS MATTER

Critical issues affecting the lives and liberty of people are decided on a daily basis in state courtrooms across the country. A quick look at just a handful of decisions from California courts in 2024 begins to illustrate what's at stake when we call for pro-people courts:

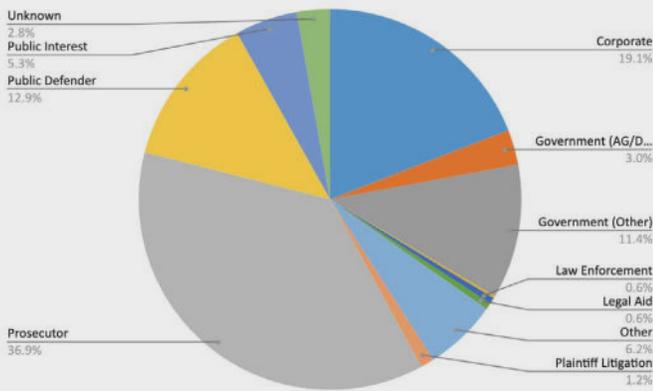
- Thousands of public employees at Alameda Health System were told by the California Supreme Court in August that the state laws requiring daily meal and rest breaks didn't apply to them, because they were not public employees. Further, they were told that they were not covered by the state's Private Attorneys General Act, which allows workers to "join together and sue employers for violating labor laws," and thus not permitted to utilize this tool created by the legislature for the betterment of working people as a means of holding their employer accountable.

# California courts are largely filled with former prosecutors and corporate lawyers, which skews the legal system toward corporate and carceral state interests.

- Circumventing the exclusive jurisdiction of the California Public Employment Relations Board over labor disputes in the public sector, a state trial court judge in conservative Orange County halted a strike by University of California academic workers at six campuses throughout the state. The strike arose from the University's violent attacks on the Palestine Solidarity Encampments at UCLA, UC San Diego, and UC Irvine, and had been scheduled to last through the end of June, until it was crushed by the judge's temporary restraining order.
- Despite rulings that the cash bail practices in San Francisco, Los Angeles, and Sacramento are unconstitutional, judges in 55 of California's 58 counties have continued to utilize these unconstitutional practices in direct defiance of binding precedent, thereby keeping legally innocent people in jail simply because they do not have the financial means to pay cash bail.

## FINDINGS

### All California State Court Judges and Justices



Across the California Supreme Court, Court of Appeals, and Superior Courts, 56 percent of judges have spent most of their career in either prosecution or corporate defense law. By contrast, a mere 20 percent of sitting judges have spent considerable portions of their careers in public defense, legal aid, plaintiffs' litigation, or public interest work. Of the 1,818 judges whose backgrounds could be categorized, only three—0.00165 percent—had spent significant time representing labor unions. This lack of professional diversity on the state bench has real consequences for the people of California, who deserve to have champions of justice, not corporate and carceral interests, at all levels of the judiciary. In order to make this a reality, we offer the following recommendations.

## RECOMMENDATIONS

### 1. California should track professional diversity like it does demographic diversity.

In order to solve a problem, it's critical that we understand the problem. At present, comprehensive information on the professional backgrounds of California's judges is not reported by the state or otherwise readily available. The Judicial Nominating Committee does provide a [report](#) on the "legal practice and employment" of those it nominates. However, the professional backgrounds of nominees

are categorized abstractly, such as "civil law," "litigation," and "criminal." And these backgrounds are based solely on self-reporting of the nominees. Leaving the people of the state to rely on self-reported backgrounds, vague categorizations of past legal work, and a hodgepodge of publicly available information obfuscates the true professional composition of the bench.

## Across California, 56 percent of judges have spent most of their career in either prosecution or corporate defense law.

Given the available information on how judges' past practice affects judicial decision-making, the lack of meaningful data makes it unnecessarily difficult for Californians to assess the composition and direction of the state judiciary. For example, if the public cannot evaluate how many nominees who self-reported the background "criminal" represented the state as opposed to criminal defendants, the public cannot properly evaluate how the overrepresentation of former prosecutors contributes to the criminalization of poverty, harsher bail and sentencing, and violations of criminal defendants' due process rights.

It is unacceptable for the public to not be afforded full transparency about who holds these positions of public responsibility. The lack of accessible information prevents Californians from actively engaging with the judicial selection process. The state should track and publish information showing the professional backgrounds of individuals who have been elevated to the bench. Critically, this information

should be reported in ways that are understandable by the public, and must indicate not just vague titles or areas of law, but be specific about who the now-judges represented when they were in practice. Californians deserve to know how many of their judges have experience representing people, not just powerful interests like the government or corporations; government-collected, publicly accessible information—both in the aggregate and with regard to individual judges—is an essential first step to build a pro-people bench in the state.

**2. The nominating committee and the Judicial Council must prioritize professional diversity.**

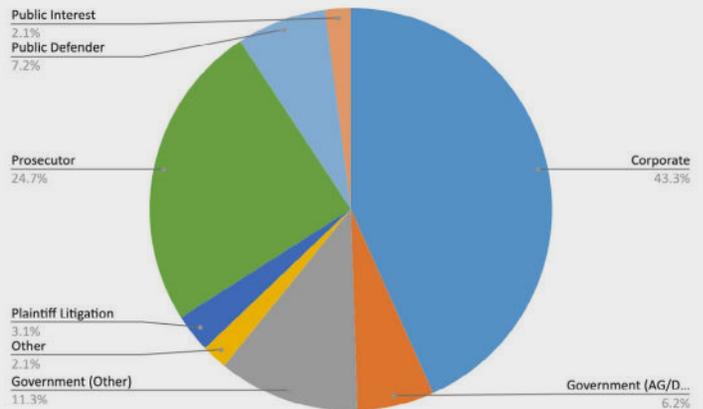
Justices and judges on the state Supreme Court and Court of Appeals are appointed by the governor and confirmed by the Commission on Judicial Appointments (a body consisting of the state’s Chief Justice, the Attorney General, and senior presiding justice of the California Courts of Appeal). During the next general election, each newly seated judge sits in an uncontested retention election, in which voters only decide whether to keep them on the bench. Superior Court judges are elected directly on a non-partisan basis by voters.

Two additional bodies play an important, although not constitutionally prescribed, role in the selection of Supreme Court and appellate court nominees. The first is the eight Regional Judicial Selection Advisory Committees, bodies of attorneys and judges who are tasked with providing “feedback on candidates’ legal acumen, work ethic, temperament and demonstrated commitment to public service [and reviewing] all candidates before forwarding their names to the Governor for review.” The second is the Commission on Judicial Nominees Evaluation (JNE), which evaluates all candidates for a judicial appointment by the Governor and provides an assessment of their qualifications.

It is essential that each body with a role in the selection of judges in California, including the regional

advisory committees and the statewide commission responsible for candidate evaluations, reflect the professional diversity that is needed on the bench. However, given the current state of professional diversity on the JNE (relative to the judiciary), it is clear that additional, intentional effort will be needed for professional diversity in these bodies to translate to comparable levels of diversity on the bench. As a starting point, we recommend that the state undertake an evaluation of the process for categorizing candidates as qualified or not, to ensure that individuals with pro-people legal backgrounds have not been systematically devalued.

The Court of Appeals



In addition to diversifying these bodies, the Regional Judicial Selection Advisory Committees should make it a priority to solicit recommendations from advocacy groups and public interest organizations. Lack of information about the process for becoming a judge is a significant impediment to increasing professional diversity on the bench, and all individuals and bodies with a role in the judicial selection process in California should commit to public education and outreach efforts to remedy long-standing issues with the pro-people pipeline to the bench.

In the last few years, Governor Gavin Newsom has stated that he intends to increase diversity on the bench. Concerning professional diversity, he seems to have shown something of a commitment to selecting public defenders but continues to appoint

disproportionately high numbers of prosecutors and corporate attorneys. Further, he has failed to adequately broaden his pro-people judicial selections beyond public defenders. Given the egregious lack of labor lawyers, plaintiffs' attorneys, and legal aid lawyers on the bench, it is imperative that the governor prioritize the selection of nominees who represent the true breadth of pro-people legal careers.

While this report focused on professional diversity, it is important to recognize that Newsom has shown a sincere commitment to increase demographic diversity on the state bench. His Supreme Court nominations include the first Latina to serve as the court's Chief Justice and the third Black man and first openly gay justice to serve on the court. This is commendable. But professional diversity must be prioritized in the same way. Only one of his Supreme Court nominees, Kelli Evans, comes from a public defense and civil rights background (Notably, Evans was rated "well qualified" by the JNE, failing to achieve the commission's highest rank of "exceptionally well qualified." She is the first justice with public defender experience since the mid-1980s.) In future Supreme Court nominations, we urge Governor Newsom to prioritize nominees with experience as labor lawyers, plaintiffs' lawyers, and other professional experiences championing civil rights and economic justice for working people.

### **3. Activists and organizers must prioritize building a pro-people judiciary in California.**

As Alexis de Tocqueville observed, "there is hardly any political question in the United States that sooner or later does not turn into a judicial question." It is therefore essential that activists, organizers, and anybody fighting for progress in California think strategically about how to build a state bench that serves the people, not corporate, carceral, or far-right interests. Among other things, community-based organizations can engage in conversations about judicial nominations; incorporate judicial organizing into their broader advocacy strategies;

## **The governor must prioritize the selection of nominees who represent the true breadth of pro-people legal careers.**

encourage their members to vote in judicial elections; and create accessible materials about the connections between their core issue areas and the state courts. Organizations that engage in direct electoral advocacy can create voter guides for use by their communities and provide recommendations about which judicial candidates are most likely to serve the public interest if elected to the bench.

### **4. Law schools should support public interest law students and expose students to the importance of state courts**

Law schools throughout California also have an important role to play in building a pro-people pipeline to the state bench. In order to eventually have more public interest attorneys on the bench, law schools must prioritize supporting law students who pursue public interest work, including by working to reduce the debt burden for graduating students and ensuring that students have adequate support as they navigate the public interest job search. Law schools should consider providing programming for students who are considering service on the bench, helping to democratize access to information about the process for and value of pursuing a state court judgeship. Finally, law schools can and should take steps to avoid explicitly or implicitly elevating federal courts above state courts. This includes offering courses on state law, hiring faculty with experience litigating in state courts, and emphasizing and providing support for state court clerkships.

## CONCLUSION

California courts are largely filled with former prosecutors and corporate lawyers, which skews the legal system toward corporate and carceral state interests. This could create a bias against poor and working-class people, who are most impacted by the state legal system, yet face judges disconnected from their lived experiences. While California has focused on demographic diversity in its judiciary, attention to professional backgrounds is lacking.

To address this, the state must provide data on the professional makeup of its bench. The California state institutions involved in the judicial selection process and other gatekeepers should remove barriers for lawyers with pro-people experience to dismantle internal biases within these institutions.

Californians who care about improving access to justice in our state have an important role to play. This includes pressuring elected officials like Governor Newsom to prioritize nominating judges with pro-people experience, raising awareness about the overrepresentation of prosecutors and corporate lawyers on the bench, educating voters about the opaque judicial selection process, highlighting judicial candidates' professional backgrounds, and nurturing grass-roots campaigns to elect pro-people lawyers—public defenders, plaintiffs lawyers, labor lawyers, and legal aid lawyers—to the bench.

## MEET THE AUTHOR



# Isabella Lee

Isabella Lee is a Leadership Fellow for the People's Parity Project and the founder of its UCLA chapter. As a law student, she served as Co-Chair of the Labor and Economic Justice Clinic, a clerk for the Human Rights Litigation Clinic, a Senior Editor for UCLA Law Review, Volume 70, and as a Legal Observer with the National Lawyers Guild. Isabella has extensive experience working as a law clerk in plaintiff-side civil litigation, representing victims of workplace harassment, discrimination, and exploitation at firms including the Legal Offices of James Lee, the Clancy Law Firm, and Allred, Maroko & Goldberg, as well as the Equal Employment Opportunity Commission. She also served as a law clerk for the labor union UNITE HERE Local 11.

Before law school, Isabella worked as a grant writer to help found Hudson Catskill Housing Coalition (HCHC), a Black-led grassroots housing justice organization in upstate New York. She also launched

the organization's Tenant Rights Hotline in collaboration with Albany Law School to serve tenants facing eviction during the height of the COVID-19 pandemic. Isabella was a member of the Hic Rosa Collective, where she helped facilitate international conferences on materialist and decolonial scholarship and contributed to the publication of *Falsework*, *Smalltalk: Political Education*, *Aesthetic Archives*, *Recitations of a Future in Common*.

Isabella is committed to pursuing a career as a movement lawyer working at the intersection of civil rights, international human rights, workers' rights, and gender justice. She graduated with her J.D. from UCLA School of Law in the Order of the Coif, with specializations in Public Interest Law & Policy and Critical Race Studies. She holds a B.A. in Politics and Ethics from Bard College Berlin. In February 2024, she will begin a clerkship with Judge Richard Boulware in the District of Nevada.

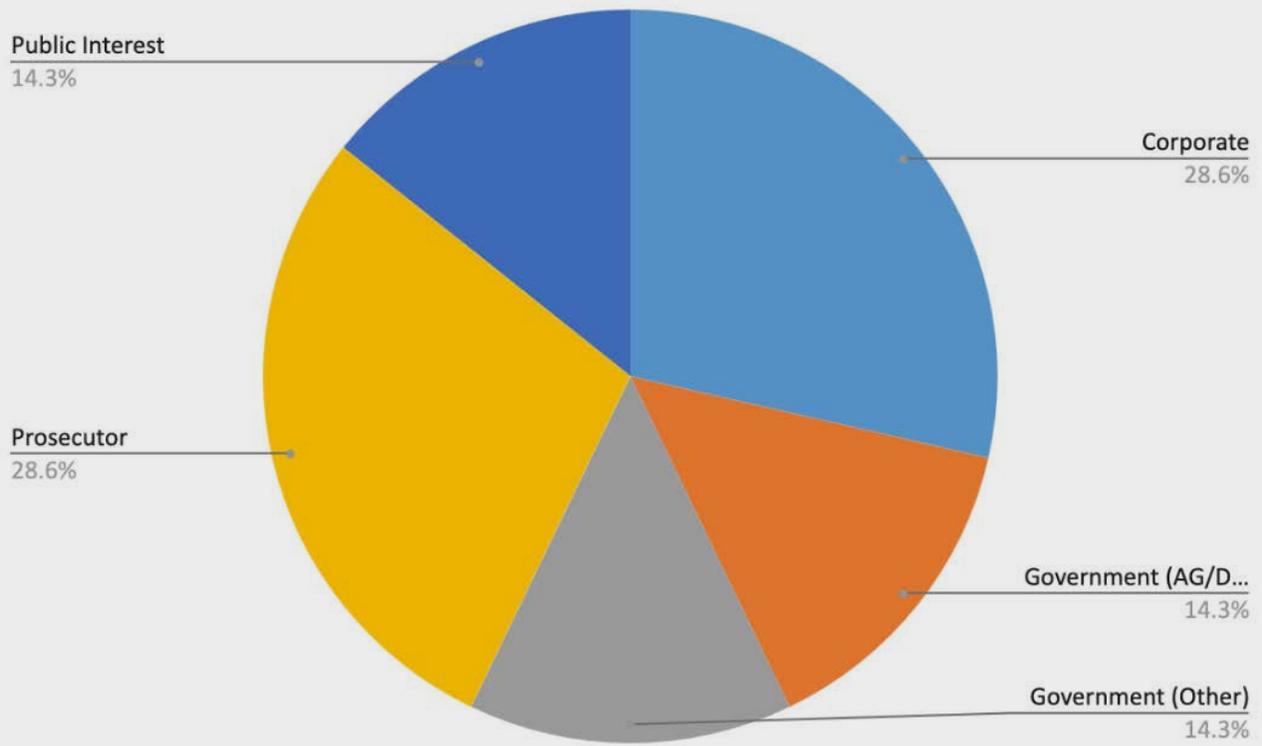
## ABOUT PEOPLE'S PARITY PROJECT

The People's Parity Project is a movement of law students and attorneys organizing for a democratized legal system which empowers working people and opposes subordination in any form. Together, we are dismantling a profession that upholds corporate power and building in its place a system that reflects our values of justice, equity, and solidarity. [Join us!](#)

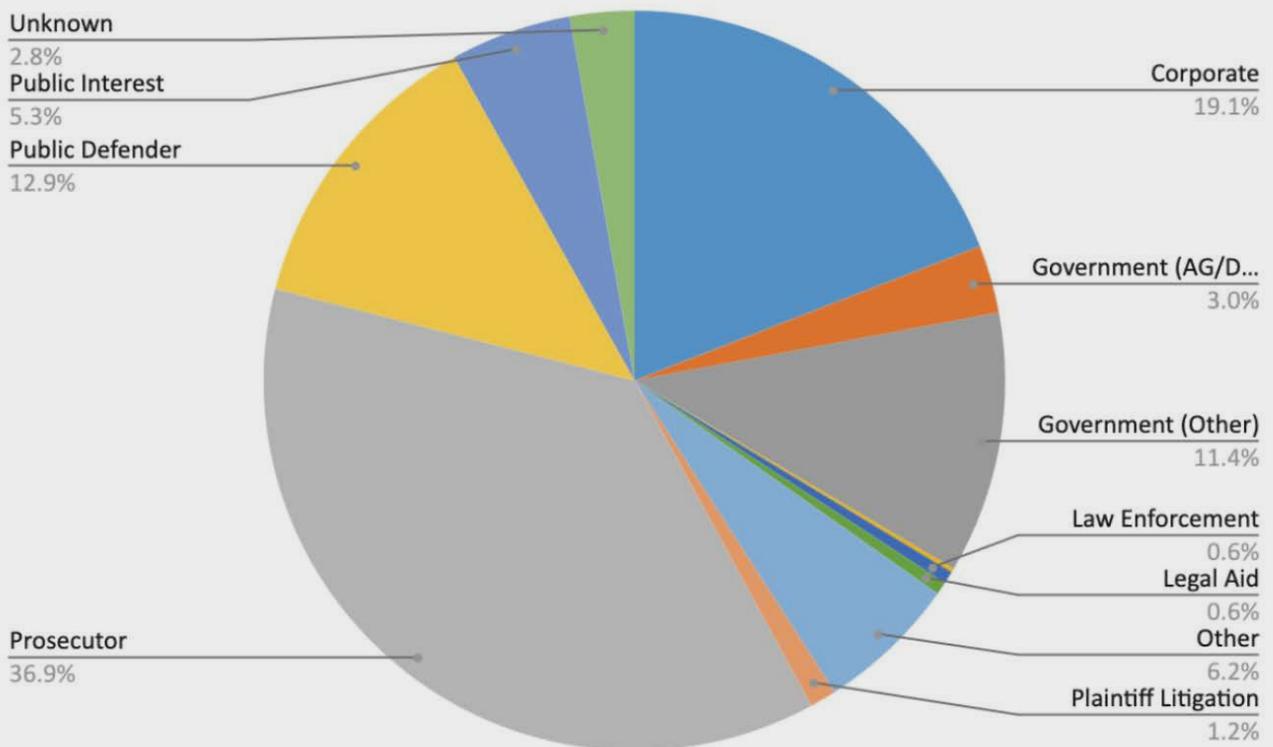
## ABOUT THE REPORT

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### The Supreme Court



### All California State Court Judges and Justices



### The Court of Appeals

