

AGENDA ITEM

MAY 54-167 - Commission on Judicial Nominees Evaluation Activities and Statistical Report for 2008

To: Board of Governors of the State Bar of California
Members of the Board Stakeholder Committee

From: Leslie Harden, Past Chair, Commission on Judicial
Nominees Evaluation

Subject: Commission on Judicial Nominees Evaluation Activities and Statistical
Report for 2008

I respectfully submit the 2008 Activities and Statistical Report (Report) for the Commission on Judicial Nominees Evaluation (JNE or Commission). By statute, JNE must investigate and evaluate the qualifications of all candidates the Governor considers for appointment to trial and appellate courts in California. (Gov. Code, § 12011.5, subd. (a).) This Report provides a statistical glimpse into such activities during my term as Chair (2008), including data from the two prior years (2006 and 2007). It appears workload levels stayed relatively constant in 2008, compared to 2007, and were higher in both 2008 and 2007 than in 2006.

In 2008, JNE investigated and evaluated a total of 259 candidates — two fewer than in 2007, and 34 more than in 2006. Though the number of candidate evaluations stayed almost the same in 2008 and 2007, the total number of assignments to Commissioners as members of investigating teams was higher in 2008 (i.e., 589) than in either 2007 (i.e., 561) or 2006 (i.e., 476). No figures are evidently available to explain the increased number of assignments (as opposed to candidates) in 2008, but the phenomenon could conceivably reflect an increase either in the number of appellate court candidates (who require larger investigating teams than trial court candidates), or in the number of candidate referrals involving multiple counties and courts (which would trigger a rise in assignments).

In any event, the average number of assignments per *individual* commissioner was the same in 2008 as in 2007 — 16 per year. This figure is not surprising, though the total number of assignments increased in 2008 over 2007, given the fact that one more person served on the 2008 Commission (37 members) than on the 2007 Commission (36 members). By contrast, commissioners received fewer assignments in 2006 — 13 each — than in either 2007 or 2008.

It deserves mention that JNE meetings spanned fewer *days* in 2008 (10) than in either 2007 (15) or 2006 (14). These figures imply that the Commission considered more candidates on average at its meetings in 2008 than in both 2007 and 2006. Of course, the Governor effectively dictates when JNE meetings occur by sending a list of candidate names to the Commission, and thereby triggering a maximum 90-day period in which to investigate and report on each candidate. (Gov. Code, § 12011.5, subd. (c).) In no case may JNE exceed this statutory deadline, giving commissioners the same compressed period in which to investigate each candidate, regardless of the time period between meetings.

On another note, ongoing efforts should be made to ensure that JNE commissioners are not only highly competent, dedicated, and objective, but that they also represent a wide range of backgrounds and experience. The State Bar operates under a statutory mandate to seek adequate “ethnic, gender, and racial diversity” on the Commission. (Gov. Code, § 12011.5, subd. (b).)

No less important, however, is geographical representation across the nine districts that the State Bar represents, and the 58 counties that the Governor’s judicial appointees serve. For instance, of the 37 JNE members appointed in 2008, none were from District 1 in the northernmost part of the State, which represented six percent of the total candidate evaluations, and only one JNE member was from District 2 (including Sacramento, the state capital), which supplied seven percent of the evaluations. Fully 15 members (or 40 percent of the 2008 Commission) hailed from District 7 in Los Angeles, even though only 22 percent of the candidate evaluations involved that region of the State.

Finally, JNE service occurs on a voluntary basis, without compensation. Whether they are attorney or public members, or retired jurists, commissioners typically hold demanding full-time jobs outside of JNE, and make tremendous sacrifices in their personal and professional lives to serve on the Commission. I

am proud to have been Chair of this generous, hardworking group. In a related vein, the State Bar staff deserves high praise for assisting JNE volunteers. Beginning in 2008, the newest staff member, Heidi Schwab-Wilhelmi, brought a high degree of professionalism and a fresh perspective to the Commission's work.

I hope the State Bar Board of Governors benefits from this Report, and continues its support of the JNE Commission and the vital service it performs.

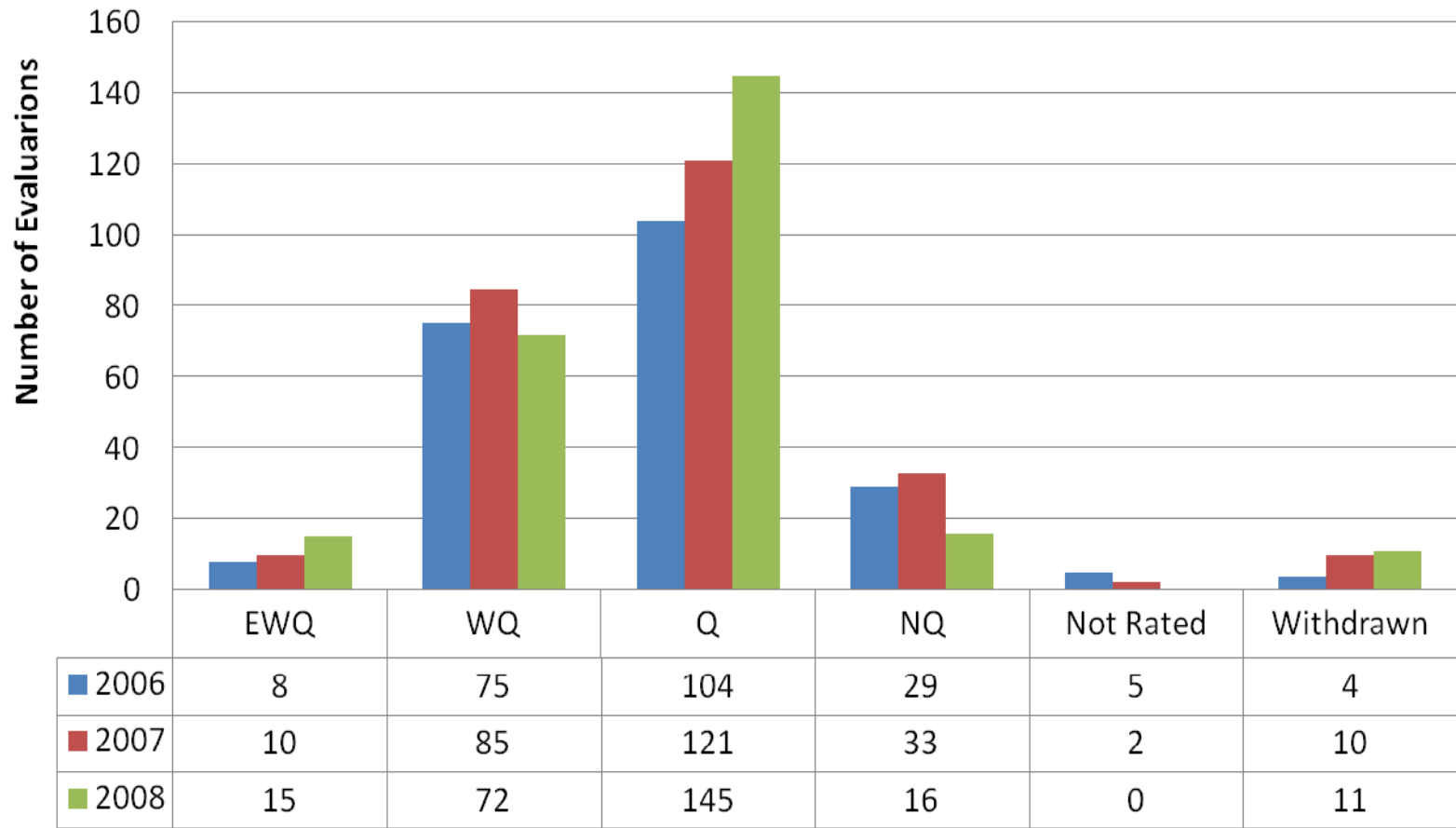
COMMISSION ON JUDICIAL NOMINEES EVALUATION
Statistical Report
2006-2008

Presented in this report are the ratings of the Commission on Judicial Nominees Evaluation (JNE Commission) and the appointments by the Governor in response to those ratings for the years 2006 through 2008. The data for the years 2006 and 2007 are included for the purpose of comparison and to demonstrate a greater overview of ratings and appointments. Please be advised that the data comparing the three years may provide an inaccurate picture of appointments due to candidates who are evaluated in one year and may be appointed to the bench in a later year. The numbers also reflect persons appointed to the bench after election without formal JNE evaluation, pursuant to Rule 11, Section 13 (Appointment by Governor Following Election to Judicial Office). The numbers should be analyzed with that caveat in mind.

The JNE Commission rates candidates for judicial appointment as Exceptionally Well Qualified (EWQ), Well Qualified (WQ), Qualified (Q), and Not Qualified (NQ).

Table 1:	Total Judicial Evaluations for 2006-2008
Table 2:	Judicial Appointments by Rating (All Courts) for 2006-2008
Table 3:	Evaluations by County, 2006-2008
Table 4:	Evaluations by District, 2006-2008
Table 5:	Commissioner Workload, 2006-2008
Table 6:	Budget Statistics, 2006-2008

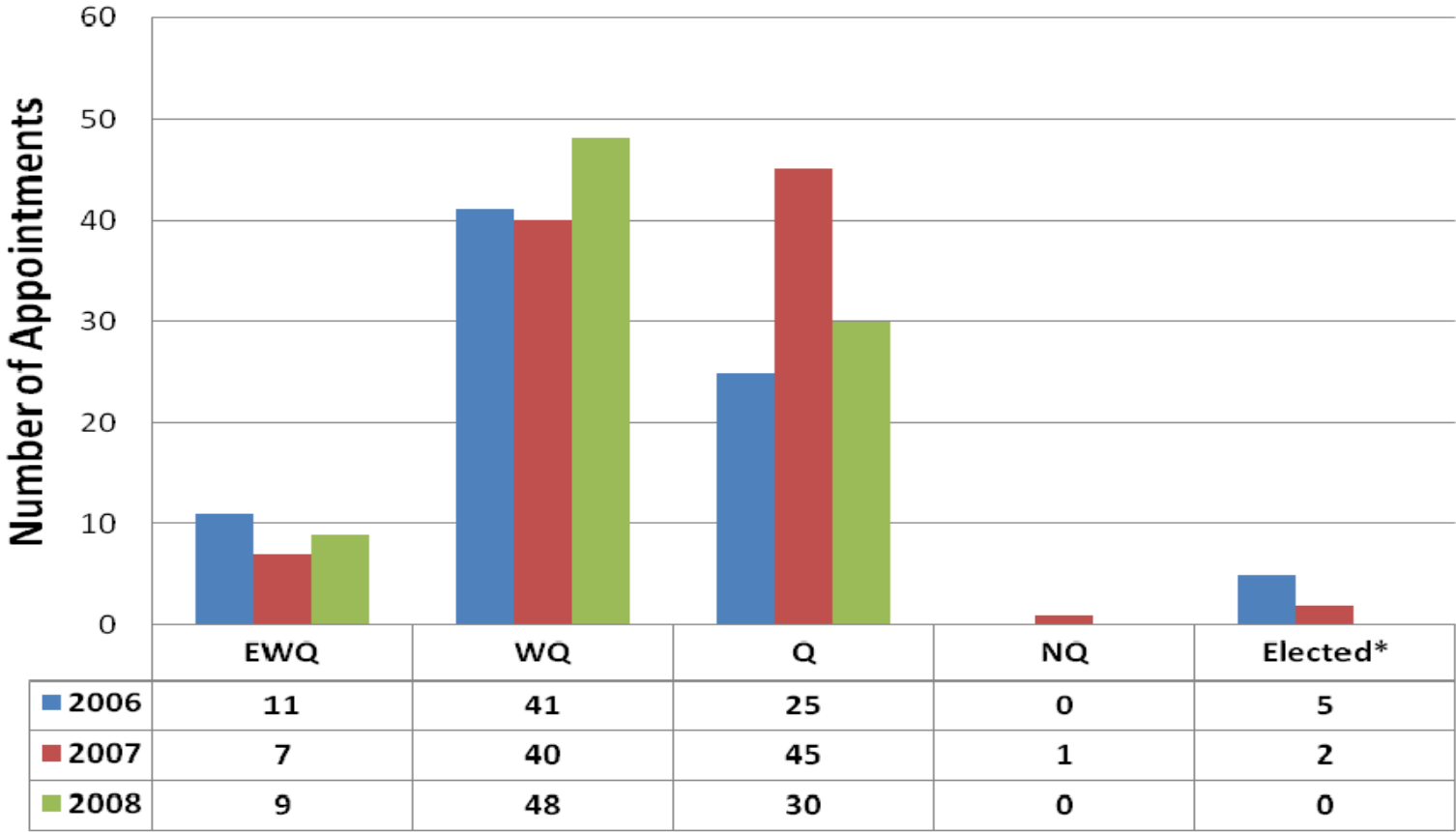
Total Judicial Evaluations - 2006-2008



Year	EWQ	%	WQ	%	Q	%	NQ	%	Not Rated	%	Withdrawn	%	Total
2006	8	4	75	33	104	46	29	13	5	2	4	2	225
2007	10	4	85	33	121	46	33	13	2	1	10	4	261
2008	15	6	72	28	145	56	16	6	0	0	11	47	259
Total	33	5%	232	31%	370	49%	78	11%	7	1%	25	4%	745

Table 1

Judicial Appointments by Rating (All Courts) 2006 - 2008



Year	EWQ	Percent	WQ	Percent	Q	Percent	NQ	Percent	Elected*	Percent	Total
2006	11	13	41	50	25	30	0	0	5	6	82
2007	7	7	40	42	45	47	1	1	2	2	95
2008	9	10	48	55	30	34	0	0	0	0	87
Total	27	10	129	49	100	37	1	0	7	3	264

*Appointed after election pursuant to Rule 11, Section 13, Rules and Procedures of the Commission on Judicial Nominees Evaluation

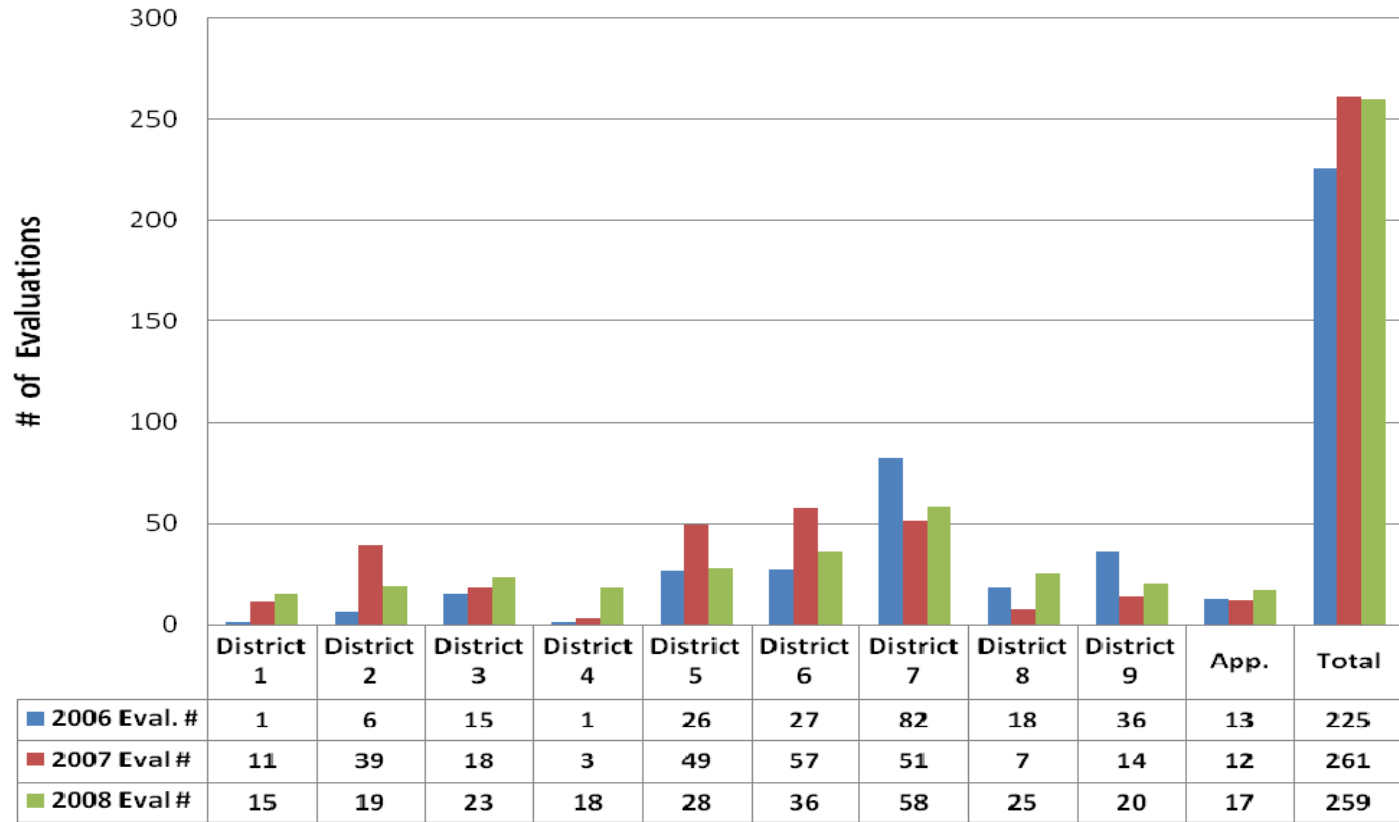
Evaluations by County 2006 – 2008

County	District	2006*	2007*	2008	Total		County	District	2006*	2007*	2008	Total
Alameda	9	8	7	10	25		Placer	1	0	1	4	5
Alpine	2	0	0	0	0		Plumas	1	0	0	0	0
Amador	2	0	0	0	0		Riverside	6	5	20	14	39
Butte	1	1	4	1	6		Sacramento	2	1	23	10	34
Calveras	2	0	0	0	0		San Benito	5	0	0	0	0
Colusa	1	0	0	1	1		San Bernardino	6	18	26	10	54
Contra Costa	3	3	2	7	12		San Diego	9	34	14	20	68
Del Norte	1	0	0	0	0		San Francisco	4	1	3	13	17
El Dorado	2	0	3	6	9		San Joaquin	5	1	4	3	8
Fresno	5	4	7	6	17		San Luis Obispo	6	1	0	3	4
Glenn	1	0	0	0	0		San Mateo	3	0	0	0	0
Humboldt	1	0	0	0	0		Santa Clara	3	4	9	6	19
Imperial	9	2	0	0	2		Santa Barbara	6	1	3	5	9
Inyo	5	0	0	0	0		Santa Cruz	5	10	3	2	15
Kern	5	4	11	11	26		Shasta	1	0	4	5	9
Kings	5	0	0	0	0		Sierra	1	0	0	0	0
Lake	1	0	0	0	0		Siskiyou	1	0	0	1	1
Lassen	1	0	0	0	0		Solano	2	0	4	1	5
Los Angeles	7	82	51	58	191		Sonoma	2	2	4	1	7
Madera	5	1	3	0	4		Stanislaus	5	3	6	2	11
Marin	4	0	0	5	5		Sutter	1	0	0	2	2
Mariposa	5	0	0	0	0		Tehama	1	0	0	0	0
Mendocino	1	0	0	0	0		Trinity	1	0	0	0	0
Merced	5	2	1	2	5		Tulare	5	0	9	0	9
Modoc	1	0	0	1	1		Tuolumne	2	0	0	0	0
Mono	5	0	0	0	0		Ventura	6	2	8	4	14
Monterey	5	1	5	2	8		Yolo	2	0	5	1	6
Napa	2	3	0	0	3		Yuba	1	0	0	0	0
Nevada	1	0	2	0	2		Supreme Ct.	0	0	0	0	0
Orange	8	18	7	25	50		Court of Appeals	0	13	12	17	42
							TOTALS		225	261	259	745

* In 2006 five candidates and in 2007 two candidates were appointed after election pursuant to Rule 22, Section 13, Rules and Procedures of the Commission on Judicial Nominees Evaluation

Table 3

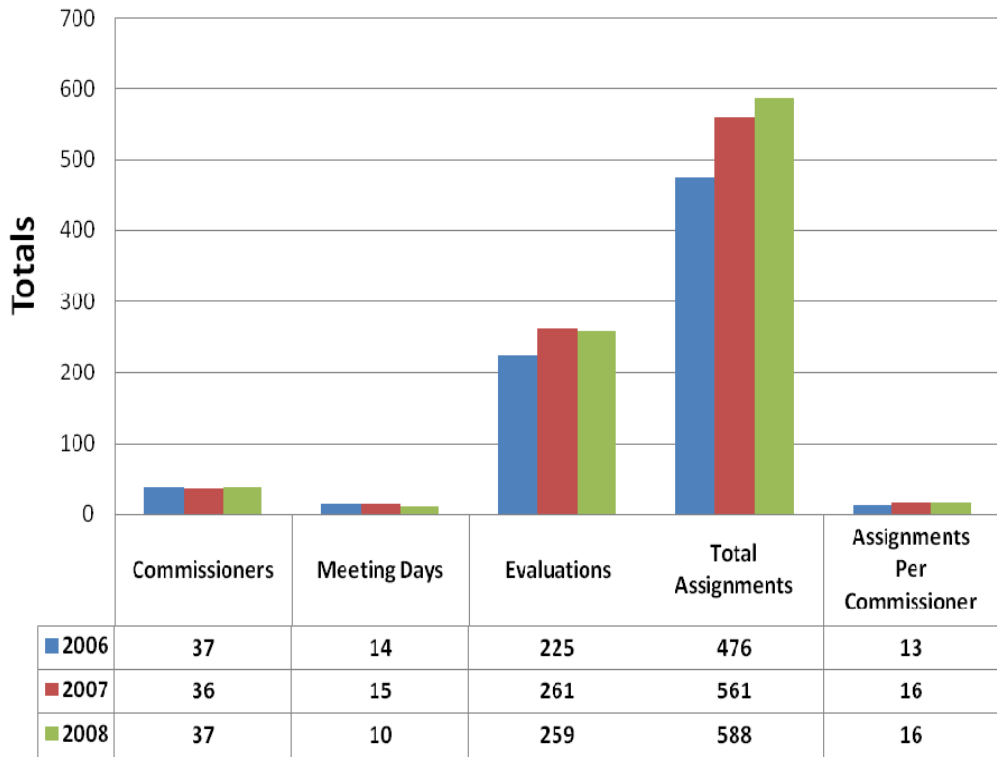
Evaluations by District 2006 - 2008



	2006	2006	2007	2007	2008	2008
	Evaluation #	%	Evaluation #	%	Evaluation #	%
<i>District 1</i>	1	0%	11	4%	15	6%
<i>District 2</i>	6	3%	39	15%	19	7%
<i>District 3</i>	15	7%	18	7%	23	9%
<i>District 4</i>	1	0%	3	1%	18	7%
<i>District 5</i>	26	12%	49	19%	28	11%
<i>District 6</i>	27	12%	57	22%	36	14%
<i>District 7</i>	82	36%	51	20%	58	22%
<i>District 8</i>	18	8%	7	3%	25	10%
<i>District 9</i>	36	16%	14	5%	20	8%
<i>Appellate</i>	13	6%	12	5%	17	7%
Total	225		261		259	

Table 4

Commissioner Workload 2006 - 2008



Meeting Days / Assignments

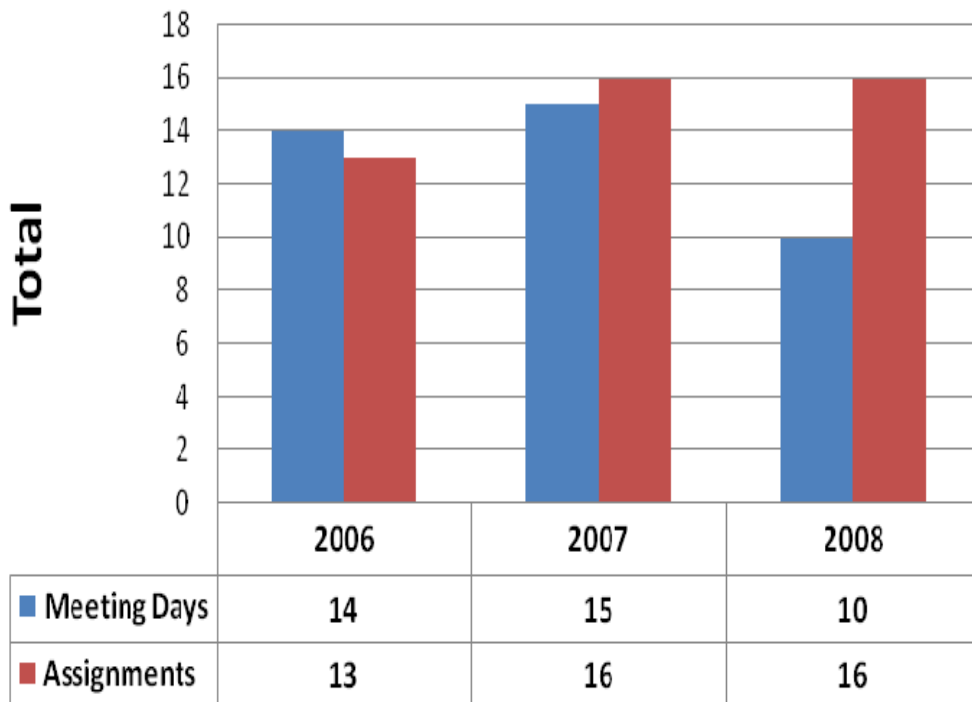
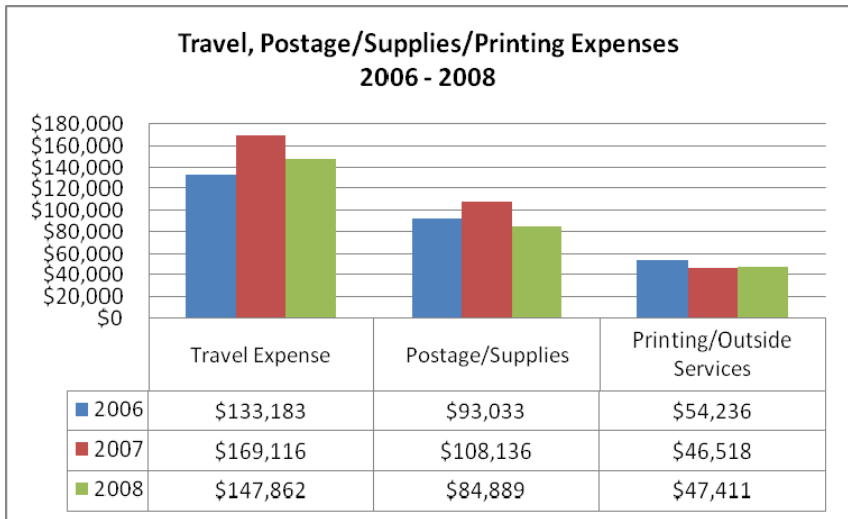
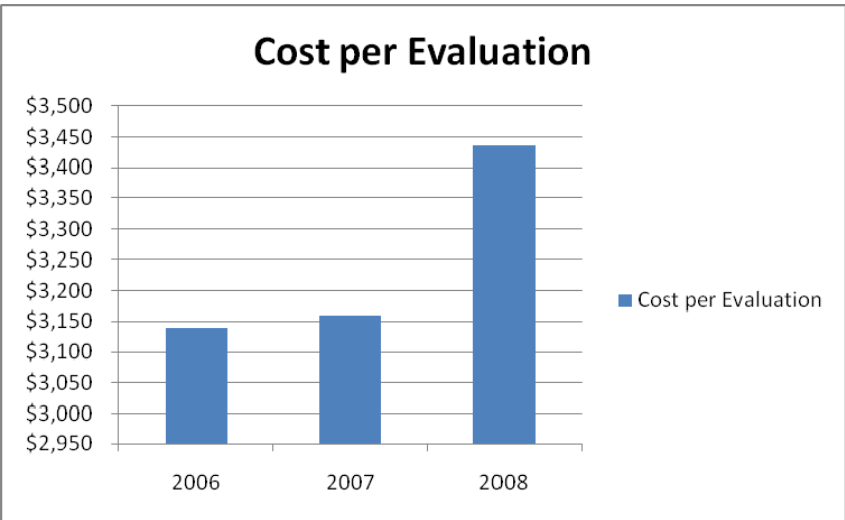
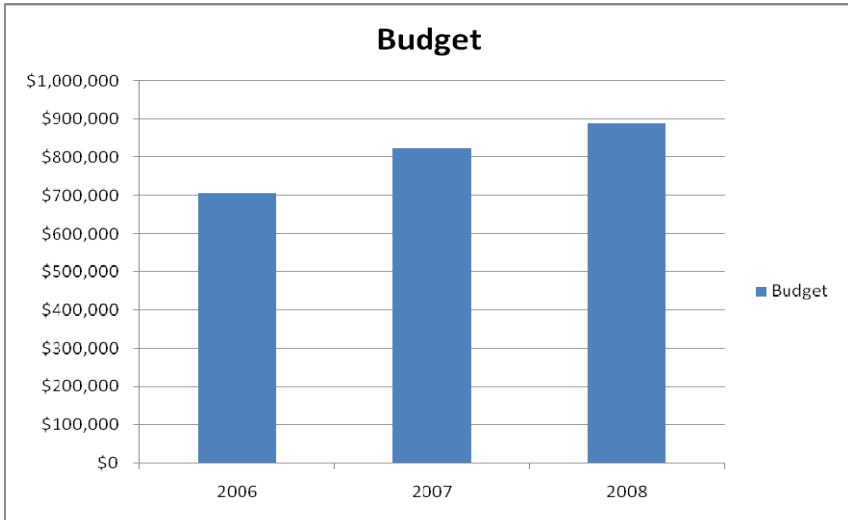


Table 5

Budget Statistics 2006 – 2008

Year	Budget	Commissioners	Meeting Days	Evaluations	Cost per Evaluation
2006	\$706,376	37	14	225	\$3,139
2007	\$824,875	36	15	261	\$3,160
2008	\$890,299	37	10	259	\$3,437



	Travel Expense	Postage/Supplies	Printing/Outside Services
2006	\$133,183	\$93,033	\$54,236
2007	\$169,116	\$108,136	\$46,518
2008	\$147,862	\$84,889	\$47,411