

SFDCCC CANDIDATE QUESTIONNAIRE RESPONSES (JUDGE ANDREW Y.S. CHENG)

SUPERIOR COURT JUDGE – JUNE 2018

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What office and which seat are you running for?

Judge of the Superior Court, Seat 4.

Are you running for re-election: Yes.

What other elected positions have you held previously: None.

PART I: GENERAL QUESTIONS

1. Are you a registered member of the Democratic Party?

Yes.

2. Please describe your contributions to the Democratic Party and/or increasing civic engagement in the democratic process at the local, state and or/national level in recent years.

I donated to the campaigns of Bill Clinton, John Kerry, Barack Obama, and Hillary Clinton.

As an Assistant U.S. Attorney and Superior Court Judge, I did not engage in political activity.

3. Are there any other civic causes or organizations that you are involved with currently or were involved in prior to taking the bench?

Here is a list of organizations in which I have been active:

President, California Asian Pacific American Judges Association (2014-2015)

Faculty, National Institute of Trial Advocacy (2008-Present)

Sustaining Member, Asian American Bar Association (20 plus years).

Elder, Old First Presbyterian Church, San Francisco (20 plus years).

Yale Law School, Class of 1992, Co-Secretary (2001-Present).

Master, Edward J. McFetridge American Inn of Court (2010-2014).

Co-Chair, Northern District of California Lawyer Representative to the Ninth Circuit Judicial Conference (2009).

Member, Mechanics Institute Library and Chess Club.

Chair, Foreign Jurists Committee (gave over 30 presentations to visiting foreign judges).

Member, Rules Committee, ADR Committee, Personnel Committee.

4. Are there any organizations or elected officials who have endorsed you.

Governor Jerry Brown, Congresswoman Jackie Speier, Senator Scott Wiener, Former Senator Mark Leno, Assemblymembers David Chiu and Phil Ting, Mayor Mark Farrell, City Attorney Dennis Herrera, Assessor Carmen Chu, Board of Supervisors President London Breed, Supervisors Sandra Lee Fewer, Jane Kim, Aaron Peskin, Katy Tang, and Norman Yee, Sheriff Vicki Hennessy, Former City Attorney Louise Renne, Board of Equalization Member Fiona Ma, all 50 San Francisco Superior Court judges, all 19 First District Court of Appeal justices, the California Asian American Judges, California Latino Judges, San Francisco Firefighters Local 798, The Potrero Hill Democratic Club, the Community Alliance for Jobs and Housing, among many others.

PART II: SHORT-ANSWER QUESTIONS

1. What do you perceive as the strengths of the Superior Court? What are the current weaknesses and how would you like to see the judicial system improved?

The strength of the San Francisco Superior Court is the diversity of its judges. We have 21 judges who are people of color. We have 12 judges whose backgrounds include working as a public defender. We are the most diverse court in the state of California. We draw from the wealth of experience that diversity brings to reach good decisions on behalf of the parties who appear before us.

I would like to see our court continue to innovate and figure out ways to reduce the costs of litigating cases. I would like to see us expand our capacity to settle cases through settlement conferences and mediations. I have a great deal of experience in alternative dispute resolution (ADR), and I see it as an excellent alternative to expensive civil trials.

2. Please summarize your qualifications and experience for the office you are seeking. Have you ever had any experience with management? If you are seeking re-election, what is your experience prior to serving on the bench?

Since my graduation from Yale Law School in 1992, I have devoted 24 of my 26 years as an attorney and judge to public service. I was a federal district court law clerk for two years, a Deputy City Attorney for San Francisco for six years, an Assistant United States Attorney and Deputy Chief for six years, and now a judge for almost nine years.

In my nine years, I have presided over civil, criminal, and probate cases. I am one of three judges on our court who can handle probate cases, which involve wills, trusts, guardianships, conservatorships, and mental health cases at San Francisco General Hospital. I have a solid record of progressive rulings such as:

My management experience includes: (1) Serving as Deputy Chief of the Civil Division in the U.S. Attorney's Office for the Northern District of California. In that capacity, I supervised a team of over twenty attorneys and was responsible for the oversight of several hundred civil cases. My central role was dispute resolution, settling cases, and preparing cases for trial. (2) I served as a supervising judge in criminal courts when I supervised the four preliminary hearing courts in 2013. (3) In the probate division, I supervised a team of over 20 staff members as we handled a diverse case load, including wills, trusts, estates, conservatorships, mental health conservatorships, guardianships.

3. Have you ever had to support a legal position that was contrary to your personal moral beliefs? Please describe.

I once had to impose a very long sentence in a rape case. The mandatory minimum was doubled because the defendant had a prior strike. I personally do not believe that prison solves any problems of our society. However, I had to follow the law in this case and balance the rights of the victim (a 16-year-old girl) with the rights of the accused.

4. What do you perceive are the primary causes to the high rates of incarceration among communities of color? Do you believe the Court has a role to play in criminal justice reform?

The roots of incarceration are complex and not easily distilled to one paragraph or one page. Poverty, discrimination, disintegration of family structures, poor educational or job opportunities all contribute. The Court has an active role to play to emphasize humane treatment of those who enter the criminal justice system. The Court should do its best to distinguish first-time offenders, those who have the potential to benefit from probation and other services from those who have a proven record of being a public safety risk. There are many sophisticated tools that can be employed; but the conscientious effort of a judge who gathers as much information as possible about the individual who faces sentencing is often the best safeguard to ensure that the cycles of recidivism can be broken.

5. Do you believe that the current bail schedule has disproportionate impacts on low-income communities of color? How could this system be reformed and how?

Yes. We are in the midst of a lively debate on bail reform. Our court is following the Court of Appeals decision and doing its best to provide maximum procedural safeguards even as we struggle with adequate staffing to address the longer bail hearings.

Ultimately, we need to expand our staffing to accommodate the deserved procedural protections afforded to the indigent.

6. San Francisco is facing a car break-in epidemic that is organized by crime networks. What do you perceive are the factors leading to this problem? What is the court's role in preventing offenders returning to crime?

Part of the problem is that car break-ins are not a high priority for law enforcement. I have personally experienced a car break-in when I celebrated my 50th birthday last year in Japantown. I did not bother to report it because I knew the crime would not be prioritized.

The Court must balance proportionality in sentencing those convicted of these crimes with addressing the root cause of the issue. If organized crime is involved, the Court may choose to exercise its discretion in sentencing. If individuals are involved with special circumstances, the Court must respond accordingly. There is no cookie-cutter fix to the problem.

7. Do you believe there is enough diversity in the court system? If not, how are you working to improve representation.

While the San Francisco Superior Court is the most diverse bench in California, we can always do better to improve the diversity in the court system. I have personally mentored minority attorneys through the appointment process – whether they are at the beginning, middle, or end of the process. I meet with these pipeline candidates even before they consider applying. Once appointed or elected, I have served as a mentor judge to new judges of color. Judges can be proactive in recruiting, encouraging, and mentoring promising candidates and guiding them through the process.

8. How does your background and experience prepare you for legal cases pertaining to the rights of women, people of color, people with disabilities, and LGBTQ?

I am the son of immigrants. Both of my parents were born in China. I grew up in the Midwest in the 1970s and 1980s. At that time, there were very few Asian Americans where I lived. I have personally experienced discrimination. I know how it feels to be on the outside.

When I am in court and throughout my career, I see everyone who is before me. I see the contexts and backgrounds in which their problems arise. I am

particularly attuned to language issues for prospective jurors. I see when people are not treated with respect because of their appearance. All of this informs my judging because one's life experience allows one to exercise discretion in ways that are compassionate, fair, and reasonable to all sides.

9. Do you believe there should be implicit bias training for judges?

Yes. We all have to guard against implicit bias and be vigilant about it.

10. What is the court's role in decriminalizing those with mental illness or the homeless who are caught up in our criminal justice system?

Our court has been in the vanguard of establishing alternative remedies to criminal courts in addressing the needs of the homeless and the mentally ill. In probate court, we have tried our best to establish assistant outpatient treatment, instead of merely confining the mentally ill to one-year conservatorships, which are often in overtaxed institutions, such as San Francisco General Hospital. Our ability to continue to innovate and improve depends on funding, for which we should continue to pursue aggressively.

11. How should the court ensure a fair hearing in the case of pro per or unrepresented litigants in family court or housing court?

Pro se litigants in every court deserve the respect accorded to represented litigants. The Court must be patient and courteous. The Court must help pro se litigants navigate through legal and procedural complexities without becoming an advocate or becoming embroiled. It is a difficult balance. The bottom line is that the pro se litigant must have a chance to tell his or her story. Often that leads to closure no matter what the outcome.

12. What do you perceive are the biggest obstacles the court faces in civil litigation? How can this be improved to best serve the general public?

The biggest obstacle in civil litigation is the expense. The Court can actively foster early ADR (alternative dispute resolution) to decrease expense and increase the possibility of win-win solutions, rather than zero-sum game outcomes. I have had a solid record in achieving these results. This stems from my deep

experience in dispute resolution developed as an attorney and cultivated on the bench. It is one of my passions as a judge.