

**STATEMENT OF CHIEF JUDGE RODNEY W. SIPPEL
U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI**

**BEFORE THE SUBCOMMITTEE ON
COURTS, INTELLECTUAL PROPERTY, AND THE INTERNET
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES**

“THE JUDICIAL BRANCH AND THE EFFICIENT ADMINISTRATION OF JUSTICE”

June 23, 2016

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Chairman Issa, Ranking Member Nadler, and members of the subcommittee, thank you for inviting me to testify on the Judicial Branch and the Efficient Administration of Justice. On behalf of the Judicial Conference of the United States and as Chair of the Committee on the Judicial Branch, I am here today to talk about the judiciary's relationship with the other branches of government, and some of its efforts to enhance public understanding, trust and confidence in the federal judiciary, issues of great importance to the judiciary and the public we serve.

Let me start by explaining, to those who may not know, the structure of the Judicial Conference and my role within that structure.

The Judicial Conference of the United States (Conference), which was originally named the Conference of Senior Circuit Judges, was established in 1922 and was created, in part, to improve the efficient administration of justice in our federal courts. The body, which was renamed the Judicial Conference of the United States in 1948, makes policy for the administration of the United States courts (except for the Supreme Court of the United States). The Chief Justice of the United States is the presiding officer of the Conference. The Judicial Conference's members include the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each regional judicial circuit. My fellow witness, Jim Duff, is not only the Director of the Administrative Office, by statute he also serves as the Secretary to the Conference.

Similar to the Congress, the Conference operates through a network of committees created to address and advise the Conference on a wide variety of subjects. The committees review issues within their jurisdiction and develop policy recommendations for consideration by the Conference. Sometimes recommendations are made to take positions or provide comments on legislative proposals; other times the recommendations are solely related to the administration of the federal courts.

I chair the Committee on the Judicial Branch (Branch Committee) which, as part of its mandate, addresses problems affecting the judiciary's efficient administration of justice. My committee is also responsible for the enhancement and maintenance of the relationships between the judiciary and the Congress, the Executive Branch, the media, the bar and the general public. It is that part of the Branch Committee's purview that I would like to address today.

The Judiciary's Relationships with Other Branches of Government

The judiciary has a longstanding interest in developing and maintaining relations with the executive and legislative branches of government. The Constitution established three coequal branches of government as integral to keeping our democracy healthy and vital to preserving the rule of law. The judiciary has numerous ways in which it develops and attempts to strengthen its relationship with the Congress and the Executive Branch.

The Conference itself has a long-standing tradition of inviting the Attorney General (or his or her representative) to its biannual meetings to address the Conference on matters of mutual interest to the judiciary and the Department of Justice. Similarly, the Chair and Ranking Members of the House and Senate Judiciary and Appropriations Committees, of the Financial

Services and General Government appropriations subcommittees, and of this subcommittee have also been invited to speak to the Conference on matters of interest to the judiciary that are pending in Congress. In recent years, the Conference has invited Chairman Goodlatte, Ranking Member Conyers, and you, Mr. Chairman, as well as Mr. Nadler and your Senate counterparts.

In a less formal setting, the Branch Committee often invites current and former Members of Congress to visit with us when we meet twice each year in Washington. Members are encouraged to give us their perspectives on current issues before them and their suggestions on how we can better communicate with each other. Our Committee members enjoy and value the low-key, off-the-record conversations that we have with Members during our meetings and would welcome any of you who would like to meet with us.

The Branch Committee, along with the Judicial Conference's Committee on the Budget, promotes and encourages interactions between judges and their Congressional delegations in their home districts. The Committees, as well as the Conference, recognize the importance of courts and judges getting to know their Congressional delegations and having an ongoing dialogue on issues of importance to each branch. Individual courts are encouraged to host events that involve their Congressional delegations. These activities include naturalization ceremonies, courthouse tours, civic education programs, lunches, and bench and bar meetings. Moreover, after an election, some courts have hosted "swearing in" re-enactment ceremonies (which do not replace the ones in Washington) for their local Congressional delegations, allowing newly elected Members of Congress to invite their constituents, families, and friends to celebrate their taking office.

It is our hope that these types of events will allow Members and judges alike to develop new or enhance existing relationships, allowing for frequent and frank conversations about issues of interest and ways to improve the efficient administration of justice.

The Judicial-Congressional Dialogue

In 2014, the Branch Committee, under the then-chairmanship of Judge Robert Katzmann, began a new program, that we call the Judicial-Congressional Dialogue. Our hope was to regularize interaction with the House and Senate Judiciary Committees, with the goal of increasing understanding between the legislative and judicial branches and appreciation for their respective roles. This program provides the opportunity for interaction between judges and Members of Congress in an informal, off-the-record, and non-agenda driven environment. Each event typically has a moderated discussion as well as a social component. We have thus far alternated between the House and the Senate Judiciary Committees for suggestions on topics and speakers of interest.

For example, on May 11, 2016, the Branch Committee – along with many of you – participated in the most recent Judicial-Congressional Dialogue. David Levi, Dean of Duke University School of Law, moderated a discussion entitled, “Reflections on Statutory Interpretation and Branch Relations,” with Associate Justices Stephen Breyer and Samuel Alito. Chairman Goodlatte, as host of the event, made opening remarks.

At the December 2015 Dialogue, Chairman Grassley introduced noted historian and author, Professor Richard Norton Smith, who spoke with the group about “Why History Matters,” highlighting the historical separation and balance of power between the legislative,

judicial, and executive branches. We look forward to continuing these events and expanding the scope of the programs and speakers to other issues of interest to both judges and Members.

We are fortunate to have the interest and support of the House and Senate Judiciary Committee leadership for these events. We are also fortunate for support from the Pew Charitable Trusts (Pew), our host for this program. Pew also hosts a similar program, which they call “Safe Spaces,” within the Congress, so they have great experience upon which to draw to make these events interesting and successful.

Let me now address some of our efforts to enhance the public understanding, trust, and confidence in the judiciary.

Enhancing Public Understanding, Trust, and Confidence in the Judiciary

In recent years, the Branch Committee has rededicated itself to promoting efforts to strengthen the public’s understanding of the judiciary. Former Justice Sandra O’Connor, a long-time proponent of civic education, said “Lack of knowledge leads to misunderstanding and mistrust. Knowing the processes and reasoning behind government actions can help people relate to those actions, even if they disagree with them.” To this end, I would like to talk about several programs that we believe will improve current public understanding of the judiciary, as well as provide a basic understanding for future generations. We believe that these ways of interacting with the public serve both the judiciary and the public good and improve the efficient administration of justice now and into the future.

Civic Education

The need for civic education is routinely highlighted by numerous surveys that reflect the dearth of public knowledge about the government and, in particular, the judicial branch. In September 2015, the Annenberg Public Policy Center released a survey reporting that only 31 percent of Americans could name all three branches of government. The same survey found that 12 percent of those surveyed said the Bill of Rights includes the right to own a pet. Other studies have shown decreasing levels of public trust in each branch of the government.

One way to address the lack of knowledge about and trust in our government is through improved civic education. While civics may be taught in the schools, there is clearly still much basic information that the public does not understand about our government. The public's trust, that, for example, disputes can be fairly resolved in our courts, accused persons will be fairly treated, and victims' interests will be heard, is strengthened when it better understands how the judicial process works.

The judiciary feels so strongly that greater civic education will help improve the public's understanding of and trust in the courts that enhancing civic education is one of its primary strategic goals. Specifically, the judiciary seeks to improve the sharing and delivery of information about the judiciary, in part through facilitating the voluntary participation by judges and court staff in public outreach and education programs.

The Branch Committee encourages participation by judges (to the extent their schedules allow) in civic education activities and educational outreach programs. Many courts also regularly offer public tours of courthouses and provide classes and student groups the opportunity to observe courtroom proceedings.

The judiciary also uses annual observations, such as every September 17th, when Constitution Day and Citizenship Day commemorate both the signing of the U.S. Constitution and all those who are citizens by birth and naturalization, as opportunities for civic education. As part of a national initiative undertaken by the courts in partnership with civic education organizations, a growing number of courts – more than 50 in 2015 – hold naturalization ceremonies on that day. Many courts take the opportunity to involve students by, for example, having them lead the Pledge of Allegiance, read the Preamble to the Constitution, sing the national anthem, and welcome new citizens. Congressional delegations and other community leaders are also often invited to participate in these naturalization ceremonies. The ceremonies have been held at courthouses and at other iconic sites, including: the USS North Carolina in Wilmington, North Carolina; the Herbert Hoover National Historic Site in West Branch, Iowa; the Brown v. Board of Education National Historic Site in Topeka, Kansas; the Alamo in San Antonio, Texas; the USS Missouri Memorial in Honolulu, Hawaii; Thomas Jefferson’s Poplar Forest home in Forest, Virginia; and the National Archives in Washington, D.C.

The judiciary also houses learning centers and educational exhibits in many courthouses, such as the Justice Anthony M. Kennedy Library and Learning Center in the Robert Matsui Federal Courthouse in Sacramento, California, and the Judicial Learning Center in my courthouse, the Thomas F. Eagleton Courthouse in St. Louis, Missouri. Learning centers, which may be established in cooperation with and continued support from the bar, are dedicated to promoting public understanding of the judiciary and the rule of law. The Judicial Learning Center in St. Louis, for example, hosts programs for the public including seminars on current topics in law, teacher institutes for social studies and civics teachers, and programs for Boy Scouts and Girl Scouts on citizenship and government, which I personally participate in on a

regular basis. Numerous courthouses also have exhibits about, for example, landmark cases that were heard in the courthouse and oral histories of judges who played historic roles.

In addition, the Administrative Office has developed educational activities that can be used by judges hosting students in their courtrooms. For example, one program, “You Be the Judge,” is a simulated sentencing activity for district court judges to use with high school students. It lets students play the roles of federal judges, counsel, and jury members in courtrooms to experience what it is like to make sentencing decisions involving their own peers. Another program is a scenario on mediation and negotiation that lets participants learn to differentiate between positions and interests when working through a conflict and experience the use of alternative dispute resolution skills. We also have a program based on the fiftieth anniversary of *Miranda v. Arizona*, as well as similar programs based on other landmark Supreme Court decisions.

These and other programs and resources can be found on the federal judiciary’s public website, www.uscourts.gov. The site serves as a resource for teachers, students, judges, lawyers, and civic education organizations to access teaching materials and other model programs. In addition to basic information about federal court operations and processes, jury service, bankruptcy, and naturalizations, uscourts.gov occupies a unique niche in civics education by updating landmark Supreme Court cases with contemporary hypotheticals for in-court simulations on First, Fourth, Fifth, and Sixth Amendment rights. Court simulation programs offer real-life experiences with judges and attorneys at federal courthouses, with students acting as plaintiffs, defendants, and jurors. In addition to Constitution Day and Citizenship Day, the website provides the public with information on other annual observations, such as Law Day (May 1) and Bill of Rights Day (December 15). The website provides additional specific

education activities and resources that provide classroom activities for teachers as well as links to constitutional resources.

The website also contains the *Pathways to the Bench* video series, which features individual judges speaking about challenges in their lives that prepared them to serve on the federal bench. Members of the public can submit their email addresses to be notified when new educational resources are added to the site. We have received positive feedback from teachers and students about the resources on this site and the courthouse programs. Every year a growing number of judges participate in local civic education programs in both the courthouse and in their communities.

A goal of many of the courtroom simulations is to simplify complex concepts, humanize the court, and motivate the participants, who are often high school students, to willingly serve, if they are called for jury service. A juror knowledgeable about our system of government and trusting in our institutions will help provide fair verdicts that are the hallmark of our independent judiciary. This is the very essence of the efficient administration of justice.

Jury Service

I believe that enhanced civic education is key to ensuring the public more fully understands the critical role of the federal courts in our democracy. Since many people never set foot inside a federal courthouse, they may not ever have the opportunity to develop an understanding of the process on their own. Often, their only interaction with the federal court system will be as jurors.

That is why my court and many other federal trial courts participate in civic education programs that are specifically aimed at young people --- future jurors. If they are called for jury service in their future, we hope that they will respond favorably to fulfilling their civic duty.

Not only is it important for jurors to have some understanding of the judicial process, it is also important that they have the best experience that they can so that we continue to have a jury pool that is representative of the community and that appreciates the importance of its duty. My court and many other courts periodically survey their jurors about their jury service in an effort to improve the use of jurors' time and maximize their satisfaction with their interaction with the judicial branch. The judiciary continues to develop tools that streamline and simplify the process for potential jurors to respond to qualification questionnaires and summons. We recognize the importance of making every effort to let jurors know that their time and service are valued.

Judges and Journalists

The judiciary has also worked for many years with the First Amendment Center¹ on “Judges and Journalists” programs to bring together judges and members of the media to improve news coverage of the judicial process and mutual understanding between the Third Branch and the media. The ultimate goal of these programs is to enhance public understanding of the judiciary.

Several Judges and Journalists programs have had a regional focus, involving local journalists, judges, and court administrators from a particular circuit or grouping of circuits to discuss issues of access and expectations as well as how to better inform news coverage of the

¹The First Amendment Center is a non-profit media organization that works to preserve and protect First Amendment freedoms through information and education. It has offices in the John Seigenthaler Center at Vanderbilt University in Nashville, Tennessee, and at the Newseum in Washington, D.C.

courts. Other programs have focused on a specific topic (for example, one program was structured as a “New Media boot camp” to discuss non-traditional media coverage of the courts and other ways new technologies have changed court coverage).

In December 2015, a program was held at the Newseum with a focus on media coverage of state courts as well as the federal judiciary and involved two government public information officers and local and national reporters for a wide-ranging discussion on media coverage of the courts. I have had the privilege of attending several of these sessions and each time I leave with an improved understanding of the operations and pressures facing the news media. I believe that a regular dialogue between the Third Branch and the media ultimately benefits the public we both serve.

I have participated in these important programs and am aware how each has improved my understanding of and appreciation for the other branches of government, as well as the media. While we all share many characteristics, perhaps none is more important than our commitment to public service. It very well may be the public that is best served by our ongoing dialogues and educational efforts. I believe this is a worthy pursuit and I am pleased to be able to share with you today the federal judiciary’s efforts in this area.

I would be happy to answer any questions that you may have. And again, thank you for inviting me to appear before you today.