

# House Panel Blasts Lack of Transparency in Federal Judiciary

**Fix the Court reports:** At a Feb. 14 hearing in the HJC's Courts, IP and the Internet Subcommittee, Republicans and Democrats alike criticized the third branch's lack of openness and suggested reforms to improve oversight in the courts. (Timestamps from [this link](#).)

*On the challenges of an aging corps of federal judges and the shortcomings of current judicial disability rules*

Rep. Darrell Issa (22:56): **When it comes to transparency** [...], when it comes to the ethics of the judiciary, **we have an obligation**. We cannot alone simply say we'll wait to impeach a judge from time to time. [...] We recognize that judges grow old and overseeing whether or not the (judicial disability) system is properly maintained **ensures every judge is capable of doing their job when they take the bench**. (25:18): Judges grow old. Alzheimer's is real, aphasia is real, and there is no system that guarantees a judge in his or her everyday life is, in fact, being properly checked to make sure they're able to do their job.

Rep. Bob Goodlatte (33:42): It is crucial that judges have the resources and confidential programs needed to assist them **if they have any questions about their fitness to serve**. [...] (1:12:10) I'm wondering if the (judicial misconduct) process as it's laid out today puts the judiciary in an awkward situation where people who work with each other on a regular basis are called upon to pass judgment upon those same members of the circuit. Legal ethicist Charles Geyh: Yes, and the way we address that problem best is **by keeping feet to the fire** [...], by having hearings like this in which we bring the judges forward and say, 'What is the process, and **are we getting adequate transparency** in the process?'

*On improving broadcast access*

Rep. Jerry Nadler (31:04): **There is no reason to shield appellate courts from public view**. Public scrutiny of governmental proceedings is essential to democracy, but most courts are closed to cameras, effectively putting them off limits to the public at large. **Transcripts** [...] **are poor substitutes for the immediate visual experience**. [...] (31:53): The nation was riveted by the audio stream of the Ninth Circuit last week. Clearly, there's great interest in wider access to court proceedings, and I see no reason the public should be prevented from witnessing the other important cases considered in federal appellate courts.

Rep. John Conyers (38:35): Efforts such as [the Ninth Circuit's audio livestream], which make their processes more readily available to the public, **promote even greater respect and understanding of the federal courts system and the rule of law**.

Rep. Ted Deutch (1:39:45): Policies prohibiting cameras in the courtrooms impose severe limitations on the public's ability to observe court proceedings interpreting laws that impact the daily activities of every American. These restrictive broadcasting policies **shroud the Supreme Court and federal courts in secrecy** and raise questions in the minds of the public about the administration of justice.

Rep. Ted Poe (1:45:11): We have the greatest judicial system in the world, [...so] **why would we not want the world to see it?** [...] Let the public see for themselves without having to rely on the media's 90-second sound bite as to what took place in that courtroom.

Rep. Issa (2:28:52): You've gotten agreement today that there's been **no** [...] **reason not to video-capture appellate activities**, which would potentially include the Supreme Court, but clearly would include all of the circuits. (2:31:35): We need to work with the courts and/or work within our constitutional powers so that no one can second guess the courts in those areas [of ethics and transparency].

*On implementing a code of conduct for the Supreme Court*

Rep. Nadler (30:30): My deep respect for the judiciary does not mean that there are no improvements we can make to the courts system, particularly when it comes to transparency. **This includes stronger ethics and disclosure requirements**, particularly with respect to the Supreme Court, which is not bound by the code of ethics that applies to other federal judges.

Rep. Hank Johnson (1:31:28): Is there any constitutional reason that would prevent Congress from imposing upon the Supreme Court justices a rule that they abide by the Code of Conduct for United States Judges or that they write a code of conduct for themselves and abide by it? Prof. Geyh: [Legal ethicist] Steve Gillers and I are both of the opinion that the 'necessary and proper' clause coupled with the power to regulate the appellate jurisdiction of the Supreme Court **gives [Congress] the power to insist on a code of conduct**.

Rep. Johnson (1:33:20): Whenever you have a justice that is solely responsible for judging an issue of recusal, then **it diminishes the respect that people have for the courts** [...] **being unbiased and impartial**.

*On Congress' role in affecting change in the judiciary*

Rep. Andy Biggs (2:01:04): What do you see are the real checks for the legislative branch on the judicial branch? Prof. Geyh: The checks include impeachment. You control the judiciary's budget. You control the lower courts' jurisdiction. [...] You have the discretion to establish courts; **that implies a lot of regulatory authority over things like a disciplinary process**.