



A Blueprint for Reform

It's no surprise that the Presidential Commission on the Supreme Court has not come up with recommendations for fixing the Supreme Court. Thankfully, Fix the Court has been working on this topic for years and today (Dec. 7) is releasing on a single page a blueprint for how to make the most powerful, least accountable part of our federal government more ethical, more trustworthy and more responsive to the needs of the people — all while retaining judicial independence and the public's faith.

Reform through legislation

- **Pass the Supreme Court Terms Limits and Regular Appointments [Act](#)** to end life tenure for future justices and cap SCOTUS service at 18 years.

Term limits are popular across the [ideological spectrum](#). The justices themselves [have stated](#) their interest in term limits. That this bill would pass and then be deemed unconstitutional is unlikely, since some or all of the justices might see SCOTUS precedent, such as *Booth v. U.S.* (291 U.S. 339), which says a judge's duties might change but their "office" stays the same, as requiring them to uphold the law; they might uphold the law out of deference to congressional authority or respect for good-government interests; or they might recuse. Fear of reversal should not chill action on a broadly supported policy that would end our juristocracy.

- **Pass the Courthouse Ethics and Transparency [Act](#)** to require lower court judges to post their financial disclosures within 90 days of the annual deadline and stock transaction reports within 45 days of a securities sale or purchase.

Weeks after the Ethics Reform Act of 1989, which expanded the gift and disclosure requirements for lower court judges, went into effect, Chief Justice Rehnquist [wrote](#) that although SCOTUS would "not express any opinion" on the constitutionality of its provisions, the justices would follow its strictures. Similarly, should CETA become law, it's our belief that the justices would abide by it.

- **Pass the Judicial Accountability [Act](#)** to protect third branch workers and whistleblowers, create workplace misconduct prevention programs and investigate complaints to hold powerful judges accountable.

Similar to the above point, though the justices aren't included in many of this bill's provisions, a comprehensive approach to ending harassment elsewhere in the judiciary would put pressure on SCOTUS to ensure that it, too, is an exemplary 21st century workplace.

- **Reintroduce and pass the Judicial Travel Accountability [Act](#)** to diminish the justices' broad personality hospitality exemptions and require a filing within 30 days of returning from a trip in which transportation, lodging and/or meals were paid for by a third party.

The justices [have been known](#) to leave free trips off their disclosures, and if they're going to use their offices to enjoy certain perks, the public should know about them contemporaneously.

- **Reintroduce and pass the 21st Century Courts Act** to require SCOTUS to write and adopt an ethics code, continue to livestream oral arguments and publicly explain their reasons for recusal.

Adopting a SCOTUS Code of Conduct (pp. 216ff) and maintaining livestreaming (pp. 225ff) were described in the draft [report](#), so we'll leave those there. [Missed recusals](#) remain a problem at SCOTUS, and it's our belief that requiring the justices to say they're disqualified "due to an investment" or "due to prior work" would help them be more conscientious about their ethical obligations.

- **Introduce and pass a SCOTUS Records Act** that, like the Presidential Records Act, would make justices' papers public property. Requiring that a portion of their papers are to be made public would increase transparency and might even increase collegiality.

- **Strip the Supreme Court of jurisdiction from pro-democracy legislation.**

Just because SCOTUS is anti-democratic doesn't mean it must also be anti-democracy. Recent decisions have made it harder for people of all stripes to vote, and easier for politicians to pick their voters, meaning lawmakers need to get more assertive.

Reform through public pressure

- **Continue to scrutinize the shadow docket.**

Without congressional hearings and other public ventures, more high-profile cases would be solely adjudicated in the shadows, further harming the public trust. Thanks to this pressure, SCOTUS heard oral argument in *U.S. v. Texas* and *Ramirez v. Collier* this fall.

- **Insist that the justices' public events are truly public.**

Justices are public figures like the president and members of Congress, and when the nine appear in public, their speeches and panel discussions should be recorded for live public consumption and for posterity. The press and public should continue to insist on this.