

**TESTIMONY OF
SENATOR CHUCK GRASSLEY
BEFORE THE HOUSE JUDICIARY COMMITTEE
ON THE
JUDICIAL TRANSPARENCY AND ETHICS ENHANCEMENT ACT OF 2006,
JUNE 29, 2006**

Chairman Coble, it's a pleasure for me to be here today to discuss HR 5219, the Judicial Transparency and Ethics Enhancement Act of 2006. I introduced the companion bill in the Senate. I'm hopeful we can move forward with this legislation, because it'll go a long way in helping restore the American people's trust in our judicial system.

The federal judiciary is supposed to engage in self regulation on ethics issues. But ever since I chaired the Senate Judiciary Subcommittee on Administrative Oversight and the Courts in the early 1990s, concerns have been raised about compliance with the judicial ethics rules and whether the judiciary can adequately police itself on these matters.

Concerns about alleged ethics violations, conflicts of interests, and appearances of impropriety by judges continue to be reported by the press.

Now, I don't know whether or not these lapses were intentional. I don't know whether these instances were violations of the judicial ethics rules, the ethics statute, or the judicial code of conduct. But it doesn't look like the judiciary is acting fast enough to show us that judges are crossing all their "T"s and dotting all their "I"s, or that the rules work as well as they should. I'm sorry to say that these allegations don't instill much confidence in me, and I'm sure that they don't instill much confidence in the American people. I know that mistakes happen, but there are enough questions out there for me to

conclude that some sort of action is necessary. In my mind, the judiciary hasn't done enough to reassure the public that it is doing all that it can to address what are perceived to be cracks in the system.

The bottom line is that no one is above the law. The President isn't above the law. Congressmen and Senators aren't above the law. And our judges aren't above the law either.

The facts do show us that the institution of the Inspector General has been crucial in detecting, exposing and deterring problems within our government. The job of the Inspector General is to be the first line of defense against fraud, waste and abuse. In collaboration with whistleblowers, Inspectors General have been extremely effective in their efforts to expose and help correct wrongs.

That's why, during my 30 years on Capitol Hill, I've worked hard to strengthen the oversight role of Inspectors General throughout the federal government. I've come to rely on IGs and whistleblowers to ensure that our tax dollars are spent according to the letter and spirit of the law. And when that doesn't happen, we in Congress need to know about it and take corrective action.

I truly believe that an Inspector General is just the right kind of medicine that the federal judiciary needs to ensure that it is complying with the ethics rules. An independent IG, one with integrity and courage, will help root out waste, fraud and abuse. And the reality

is that if we establish internal controls, those controls can help make sure that these problems don't happen in the first place.

Now, I know that some people think that there is no need for a judiciary IG. They believe that the current system of self policing is adequate. In addition, some believe that we can just legislate certain rules for the judiciary, and that will fix the problems that we are seeing. But, legislation is one thing; ensuring accountability is another.

The judiciary's current self policing system is just not up to snuff. There are too many questions about how conflicts and financial interests are reported and how recusal lists are compiled and kept up to date. There are too many questions as to whether the judiciary's current policy – which I understand is not uniform throughout the courts – is as effective as it can be. Transparency can only make the system better and make our judges more accountable to the people. But there isn't a lot of transparency with the current system. I agree with some of my colleagues that one way to ensure that the ethics rules are being followed is to allow more transparency with respect to a judge's financial holdings and conflicts. Improved access to judges' financial information, as well as judges' recusal lists, would promote transparency and place a check on the judiciary.

But beyond that, an independent office of Inspector General within the judicial branch can do a lot to keep the federal judiciary on its toes and up to par with the standards that are expected of it.

And the proof is in the pudding. The institution of the IG in various agencies has significantly increased accountability to the public. Based on their oversight role, as well as oversight activity by the Congress and the GAO, many agencies have improved internally and have prevented more waste, fraud and abuse from happening. An internal Inspector General is a simple, commonsense internal control and check on internal impropriety. An internal watchdog also acts as a deterrent for improper activity.

Further, an Inspector General's Office can do a better job when it has the cooperation of employees who aren't afraid to raise concerns about internal misconduct.

Whistleblowers help strengthen and keep the public trust. Whistleblowers who step forward and put their careers and reputations on the line in defense of the truth deserve to be protected, not retaliated against. Providing whistleblower protections to judicial branch employees will only help our judiciary function better.

The Judicial Transparency and Ethics Enhancement Act is a straightforward bill. It would establish an Office of Inspector General for the judicial branch. The IG would be appointed by the Chief Justice of the Supreme Court, in consultation with the House of Representatives and the Senate. The IG's responsibilities would include conducting investigations of possible judicial misconduct, investigating waste fraud and abuse, and recommending changes in laws and regulations governing the federal judiciary. The bill would require the IG to provide the Chief Justice and Congress with an annual report on its activities, as well as refer matters that may constitute a criminal violation to the

Department of Justice. In addition, the bill establishes whistleblower protections for judicial branch employees.

Ensuring a fair and independent judiciary is critical to our Constitutional system of checks and balances. Judges are supposed to maintain an appearance of impartiality. They're supposed to be free from conflicts of interest. An independent watchdog for the federal judiciary will help judges comply with the ethics rules and promote credibility within the judicial branch of government. Whistleblower protections for judiciary branch employees will help keep the judiciary accountable. The Judicial Transparency and Ethics Enhancement Act will not only ensure continued public confidence in our federal courts and keep them beyond reproach, it will strengthen our judicial branch.

Again, I want to thank Chairman Coble and his colleagues for allowing me to testify on this important bill.