

To the Judicial Conference (Honorable Chief Justice John G. Roberts, Jr., presiding):

We, the undersigned law student advocacy organizations, write with regard to the efforts of the Judicial Conference to address misconduct in the federal judiciary. We write on behalf of law students who believe that the federal judiciary has responded inadequately to widespread misconduct and are concerned that the judiciary is not a safe working environment. As the February 13th testimony before the House Judiciary Committee made clear, current processes are not sufficient. We urge additional reforms that we believe are essential to improving the functioning and culture of the judiciary.

First, we support efforts underway to conduct “climate surveys” of the federal judiciary. We understand that some circuits have committed to such an effort but that the surveys vary, for example, in terms of whether they involve qualitative interviews or quantitative questions and with respect to the parties to whom questions are addressed.

Recognizing that every circuit controls its own procedures, we nevertheless believe it would be valuable to have a uniform national baseline of questions for all circuits, all current and former law clerks, and all other judiciary employees. The unique closeness of a chambers environment, the early career stage of most law clerks, the importance of clerking relationships to future employment, and the opaqueness of available remedies have made law clerks extremely reluctant to report misconduct. A survey that includes all circuits and contains a core of common questions would be responsive to these concerns. To enable the Conference to collect accurate and meaningful data, we support requests that any survey instrument be crafted by independent experts in accordance with best practices. Without a well-designed survey to gather data on how judicial employees experience their workplace, it is difficult to effectuate change and monitor the usefulness of new policies.

As you may know, some have suggested that law schools send out surveys to their alumni. However, because law schools can reach only their own alumni, a school-based approach would capture fewer responses and would be far less comprehensive than an internal, judiciary-run survey. Therefore, we ask the Conference to encourage each circuit to engage in a rigorous survey of its own.

While we recognize the challenges of publicly reporting the data from such surveys, we underscore the importance of broad access to survey results. We encourage all circuits to post opinions related to complaints filed against judges in ways that make them easier to find on the circuits’ websites. We understand that this year the Conference will break out complaints filed against judges by judicial employees as a separate category on its yearly reporting form. We urge the Conference to publish additional data, extending beyond formal complaints and reflecting specific categories of employees. Data is only useful insofar as it is actionable, and this increased transparency would ensure future judicial employees are making informed decisions about their workplaces.

In addition to introducing a more standardized, thorough survey and providing publicly accessible data, we ask the Conference to expand the role of the Office of Judicial Integrity. We recognize the efforts that the judiciary has made in creating the Office and instating the Judicial Integrity Officer. Now that the Office has been established, we believe that it could serve as a centralized body to aggregate and publish data about reports within the circuits and to offer an alternative, national reporting system to judicial employees.

While we understand that the Judicial Integrity Officer currently solicits anonymous reports, we believe that the Office of Judicial Integrity could utilize data about reports from each circuit to provide the Conference and the public with a more comprehensive understanding of workplace climate across the judiciary. Moreover, tracking formal and informal reports in the aggregate would help to ensure that the Office is able to identify repeated misconduct and respond appropriately.

Furthermore, the Office of Judicial Integrity could serve as a national reporting option that supplements the circuit-driven system established in the judiciary's Model Employment Dispute Resolution Plan. We believe that instituting an impartial, national system for reporting would encourage reporting from clerks and other employees who might fear retaliation in the circuit where they work, which is of special import given the judiciary's distinctive workplace environment.

We also ask the Office of Judicial Integrity and the circuits to communicate information about judicial misconduct to law schools. There is currently no mechanism by which law students are informed of credible reports made to the Office. While we know that important legal obligations are involved, we encourage the Judicial Conference to work with the deans of our law schools to address this urgent problem.

We are frustrated by the slow progress in combatting misconduct in the judiciary, and we urge immediate action on the aforementioned reforms. The brave testimony of Olivia Warren is a reminder that these issues must not be ignored. We remain committed to ensuring the federal judiciary is a safe workplace and hope to serve as a resource for future reforms.

Sincerely,

Harvard
Women's
Law
Association

People's
Parity
Project

Stanford Law
School for
Gender
Violence
Prevention

Women of
Stanford
Law

Yale Law
Women

Yale Law
School Title
IX Working
Group

cc:

Jill Langley
Judicial Integrity Officer
for the Federal Judiciary

Honorable Jeffrey R. Howard
Chief Judge of the U.S. Court of
Appeals for the First Circuit

Honorable Robert A. Katzmann
Chief Judge of the U.S. Court of
Appeals for the Second Circuit

Honorable D. Brooks Smith
Chief Judge of the U.S. Court of
Appeals for the Third Circuit

Honorable Roger L. Gregory
Chief Judge of the U.S. Court of
Appeals for the Fourth Circuit

Honorable Priscilla R. Owen
Chief Judge of the U.S. Court of
Appeals for the Fifth Circuit

Honorable R. Guy Cole, Jr.
Chief Judge of the U.S. Court of
Appeals for the Sixth Circuit

Honorable Diane P. Wood
Chief Judge of the U.S. Court of
Appeals for the Seventh Circuit

Honorable Lavenski R. Smith
Chief Judge of the U.S. Court of
Appeals for the Eighth Circuit

Honorable Sidney R. Thomas
Chief Judge of the U.S. Court of
Appeals for the Ninth Circuit

Honorable Timothy M. Tymkovich
Chief Judge of the U.S. Court of
Appeals for the Tenth Circuit

Honorable Ed Carnes
Chief Judge of the U.S. Court of
Appeals for the Eleventh Circuit

Honorable Srikanth Srinivasan
Chief Judge of the U.S. Court of
Appeals for the D.C. Circuit

Honorable Sharon Prost
Chief Judge of the U.S. Court of
Appeals for the Federal Circuit