

Ranking Member Issa's Opening Statement
The Need for New Lower Court Judgeships, 30 Years in the
Making
February 24, 2021

Our federal judiciary needs reform. Significant reform.

It is time for a serious conversation about federal judgeships, both in the district and circuit courts – and for different reasons.

An issue that has come up repeatedly – in this committee and the Congress as a whole – is the Ninth Circuit and a clear lack of consistency between the circuit courts.

At 29 judges, the Ninth Circuit has by far the most judges of all the circuits. The Fifth Circuit, which was itself split in 1981, is the next largest, but with only 17.

The Ninth Circuit also has the largest population and geographic size, consisting of Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, the Northern Mariana Islands, Oregon, and Washington. It decides more than 11,000 appeals a year and has a backlog that accounts for nearly a third of all pending appeals across all circuits.

Ultimately, the Ninth Circuit has two fundamental challenges: It has an immense backlog of cases and is by far the Circuit most often reversed by the Supreme Court. It's time to deal with these two facts.

It's been more than 17 years since the Congress last increased the number of federal district court judgeships – the longest gap since the original establishment of federal district courts in 1789.

More than 425,000 cases were filed in federal district courts and courts of appeals last year. These cases include civil rights claims, criminal prosecutions, environmental and consumer protection litigation, discrimination claims, challenges to government power, and holding corporations accountable for misconduct.

When there are insufficient judges to handle the workload, cases are delayed – and justice right along with it. A case that takes two years is unacceptable to any litigant. And that timeframe is occurring too regularly. These backlogs make the courts much more susceptible to litigation delays and lawsuit abuse.

While a discussion of new judgeships is overdue, it is very important they are created in a fair and non-partisan manner.

When Republicans were in the majority in the 115th Congress, I introduced the Judiciary ROOM Act, where we worked with our Democratic colleagues, many of whom are still here today. This bill sought to add 52 new permanent district court judgeships and convert eight temporary district court judgeships into permanent judgeships.

Even though Republicans had majorities in both chambers and the White House, we agreed to make judgeships a nonpartisan issue and changed the effective date of the bill to 2021, ensuring that neither party could expect to be the beneficiary of the new judgeships. On September 13, 2018, the Judiciary Committee voted the bill out by voice vote.

Here we are today, where my Democratic colleagues find themselves in a similar circumstance – having the majority in both chambers and the White House. We still have the chance to work in good faith and craft legislation that does not give a partisan advantage. This framework has the potential to allow for bipartisan cooperation on a critical issue for our courts and continue to guide future legislation on this issue.

We are a committee of partisan issues and known for that. Issues divide us regularly, but proper conduct and oversight of courts has long been a bipartisan issue.

Today's hearing only covers a specific issue, but this committee can legislate long-term reforms for the benefit of the American people.

I look forward to today's hearing, and to future hearings on federal judiciary reform.