

Statement  
*United States Senate Committee on the Judiciary*  
**Judicial Security and Independence**  
February 14, 2007

**The Honorable Patrick Leahy**  
United States Senator , Vermont

---

Statement of Senator Patrick Leahy,  
Chairman, Senate Judiciary Committee  
Hearing on “Judicial Security and Independence”  
February 14, 2007

It is with great pleasure that we welcome to the Committee today the Honorable Anthony Kennedy, Associate Justice of the United States Supreme Court, to discuss issues of judicial security and independence.

In today’s society, our independent Judiciary faces many and varied types of threats. We have witnessed judges’ physical security being threatened and their institutional security and independence under rhetorical attack by some affiliated with the political branches. There are also more subtle threats. As the Chief Justice recently re-emphasized, there is pervasive uncertainty about the Judiciary’s financial security and ability to function as an efficient and effective arbiter of justice because of stagnant salaries year after year. It is my hope that working together we can make real progress on these important issues. We need to do our part to ensure that the dedicated women and men of our judiciary have the resources, security, and independence necessary to fulfill their crucial responsibilities. Our independent Judiciary is the envy of the world, and we must take care to protect it.

In this Congress, we have, again, taken up the matter of court security by reintroducing legislation that, I believe, should have been enacted last year. The Court Security Improvement Act of 2007 (S.378) is a bipartisan measure I introduced along with Senator Specter, the Majority Leader, Senator Durbin and other Members of this Committee. House Judiciary Chairman Conyers introduced an identical measure in the House with bipartisan support. Our bicameral, bipartisan introduction should have sent the signal that we intend finally to complete action on our work and increase legal protections for the Judiciary and their families. I have included the bill on the Committee’s markup agenda tomorrow.

Our efforts gained increased urgency after the tragedy that befell Judge Joan Lefkow of Chicago. She is the federal judge whose mother and husband were murdered in their home two years ago. Her courageous testimony in our hearing on judicial security in May 2005 is something none of us will forget. The shooting last summer of a State judge in Nevada provided another terrible reminder of the vulnerable position of our Nation’s state and federal judges. We cannot tolerate or excuse violence against judges, and no one should seek to minimize its corrosive damage to our system. Congress

should rise to the occasion without further delay or distraction and enact the Court Security Improvement Act.

These protections are crucial to the preservation of the independence of our federal Judiciary so that it can continue to serve as a bulwark protecting individual rights and liberty. Our Nation's founders knew that without an independent Judiciary to protect individual rights from the political branches of government, those rights and privileges would not be preserved. The courts are the ultimate check and balance in our system of government in times of heated political rhetoric.

In recent years, Justice Sandra Day O'Connor has spoken out against the attacks on the Judiciary and the need to reinforce its security and independence. She continues to lend her voice to this important topic even after stepping down from the bench.

It is most unfortunate that some in this country have chosen to use dangerous and irresponsible rhetoric when talking about judges. We have seen federal judges compared to the Ku Klux Klan, called "the focus of evil," and in one unbelievable instance referred to as a "more serious than a few bearded terrorists who fly into buildings." A prominent television evangelist even proclaimed the federal judiciary "the worst threat America has faced in 400 years – worse than Nazi Germany, Japan and the Civil War." Perhaps most regrettably, we have seen some in Congress threaten the mass impeachments of judges with whom they disagree and even suggest that violence against judges has been brought on by their own rulings.

This high-pitched rhetoric should stop, for the sake of our judges and the independence of the Judiciary. Judicial fairness and independence are essential if we are to maintain our freedoms. Our independent Judiciary is a model for the rest of the world and a great source of our national strength and resilience. During the last few years it has been the courts that have acted to protect our liberties and our Constitution. We ought to be protecting them, physically and institutionally.

We owe them our gratitude and, in my view, we owe them more. We can demonstrate our respect and appreciation for our Judiciary by making appropriate adjustments to their pay. One of the first bills that we passed in this Senate this year was a bill to authorize cost-of-living adjustments for the salaries of United States judges. The Ranking Member, Senators Feinstein and Cornyn joined me in cosponsoring this bill. This is a step I supported taking — and that we should have taken -- in the last Congress. I am glad that we were able to resolve the previous problems and move forward in a unanimous and bipartisan way this year. I hope that the House of Representatives will join us in making this cost-of-living adjustment a reality.

Of course, that legislation is but a modest step toward addressing the issues raised by Chief Justice Roberts in his recent "Year End Report on the Federal Judiciary." I have commended the Chief Justice for speaking out on behalf of the Judiciary and for seeking to strengthen the independence of the judicial branch. I commend Justice Kennedy for doing so today in the interests of preserving the judicial independence that is so critical for preserving our system of government.

I intend to do what I can to convince Congress to fairly evaluate this issue. Justice Kennedy's

testimony today, like the Chief Justice's year end report, provides important considerations. I urge Congress and the President to consider a broader judicial compensation measure this year.

#####