

**Statement for delivery at the hearing
on proposed changes to
the Rules for processing complaints about judges and
the Code of Conduct for U.S. Judges**
http://Judicial-Discipline-Reform.org/retrieve/DrRCordero-CodeandConductRules_AO.pdf

By

Dr. Richard Cordero, Esq.

Ph.D., University of Cambridge, England

M.B.A., University of Michigan Business School

D.E.A., La Sorbonne, Paris

Judicial Discipline Reform

New York City

<http://www.Judicial-Discipline-Reform.org>

Dr.Richard.Cordero_Esq@verizon.net, DrRCordero@Judicial-Discipline-Reform.org,

Corderoric@yahoo.com

The Honorable Anthony J. Scirica, Chair

Committee on Judicial Conduct and Disability and

The Honorable Ralph R. Erickson, Chair

Committee on Codes of Conduct

Thurgood Marshal Federal Judiciary Building

One Columbus Circle, NE

Washington, D.C.

.
Dear Judge Erickson and Judge Scirica,

Kindly find below my comment on proposed changes to the Rules for processing complaints about judges, and the Code of Conduct for U.S. Judges.

Table of Contents

A. The Rules for processing complaints are not mandatory: they are at the sufferance of each of the processing officers and entities

1. Judge Kavanaugh and his peers' dismissed 100% of the 478 complaints about them, ensuring their unaccountability and riskless abuse of power

2. The Supreme Court justices' self-interested cover-up of complaint dismissal

B. The judges' cover-up by making everything possible to make it practically impossible for anybody to attend the only one hearing on the proposed changes

C. Complaint dismissal enables judges to be unaccountable and abuse their power risklessly

D. A judge or clerk with Canon 1 integrity can launch a *MeToo!*-like movement by shouting *NotMeAnymore!* to denounce judges' abuse of power

E. Rather than a sham hearing, an investigation of judges' 1st Amendment-violative interception of their critics' communications

F. An outraged *We the People* that transform the judicial and legal system and what an outraged witness requests

G. Links to official court statistics and their analysis

A. The Rules for processing complaints are not mandatory: they are at the sufferance of each of the processing officers and entities

1. Although Rule 2(a) provides that "These Rules are mandatory", the immediately following subsection negates that assertion thus:

(b) Exception. A Rule will not apply if, when performing duties authorized by the Act, a chief judge, a special committee, a judicial council, the Committee on Judicial Conduct and Disability, or the Judicial Conference expressly finds that exceptional circumstances render application of that Rule in a particular proceeding manifestly unjust or contrary to the purposes of the Act or these Rules.

2. The power of each of these officers and entities to suspend the Rules turn them into a mere pretense of a complaint procedure: There is not 'rule' identifying and limiting those "exceptional circumstances"; or what "manifestly unjust" is; or what "contrary to the purposes of the Act or these Rules" means.

3. Since the complaints are conveniently kept secret, no jurisprudence develops to allow complainants to check whether any non-application of a Rule is supported or contradicted by the actions taken by the officers and entities handling previous complaints.

4. The officer or entity not applying a Rule does not have to "expressly" identify the substance of the 'finding'; it suffices to "expressly" allege that it is there.

5. Worse yet, the non-application of the Rules is not related in any way whatsoever to the "Complaint Type" or "Nature of Allegations" listed in the statistical tables that the judges

through their Administrative Office of the U.S. Courts (AO) submit to Congress and the public as required under 28 U.S.C. §604(h)(2): Regardless of whether the complaint is about a judge taking bribes or being late in deciding, the Rules can be not applied.

6. A higher entity in the hierarchy cannot overrule a lower one and apply the Rule.
7. Worse yet, there is no provision for the complainant to appeal the non-application of a Rule. It is final.
8. Rule 2(b) and the secrecy involving the complaints make the processing of complaints inherently capricious and arbitrary. Any officer or entity can do whatever they want 'on their say so'.
9. The Rule and the secrecy defeat the fundamental principles on which the law rests, namely, that it must give clear notice of what it allows and prohibits; the consequence of obeying or disobeying it must be predictable; and its application must be consistent.
10. Rule 2(b) makes the Rules and the proposed changes illusory. The facts make this statement indisputable: the Rules are crafted not to be applied because the judges have every interest in not applying them:

1. Judge Kavanaugh and his peers' dismissed 100% of the 478 complaints about them, ensuring their unaccountability and riskless abuse of power

11. The official statistics(infra §G) show that Judge Brett Kavanaugh and his peers dismissed 100% of the 478 complaints about them lodged with their District of Columbia Circuit and reported in the annual official statistics for the 1oct06-30sep17 11-year period(OL2:748).

http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_table_exonerations_by_JJ_Kavanaugh-Garland.pdf

12. Judge Kavanaugh and his peers have abused the self-disciplining authority that Congress granted judges in the Judicial Conduct and Disability Act of 1980 (28 U.S.C. §§351-364; *>jur:24^{18a}) by exonerating themselves from 100% of the complaints about them regardless of the complained-about conduct's nature, extent, and gravity. Acting only in self-interest, they have left complainants and the rest of the public at the mercy of complained-about and covering-up judges.

a. This statistics-based approach to judicial service evaluation is the product and distinguishing feature of my study of judges and their judiciaries:

Exposing Judges' Unaccountability and
Consequent Riskless Wrongdoing:
Pioneering the news and publishing field of
judicial unaccountability reporting* †

* Volume 1:

http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf >all prefixes:page # up to OL:393

* Volume 2:

http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Honest_Jud_Advocates.pdf >from OL2:394

13. Held by politicians and themselves unaccountable, life-appointed federal judges, in practice unimpeachable and irremovable(jur:21§a), risklessly abuse(*>OL:154¶3) for their convenience and gain(†>OL2:729) their enormous power over people’s property, liberty, and all the rights and duties that frame their lives.

14. Their partiality toward themselves and unfairness to those entitled to “equal protection of the law” negates their commitment to applying the Rules, in particular, and the rule of law, in general. Their sole interest is in preserving the status that they have arrogated to themselves and to which nobody is entitled in “government, not of men and women, but by the rule of law”: Judges Above the Law.

15. By engaging in such partiality and unfairness, the judges disregard contemptuously their duty under Canon 3 of the Code: “A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently”.

2. The Supreme Court justices’ self-interested cover-up of complaint dismissal

16. Justice Kavanaugh now has the strongest personal motive to prevent any investigation into his and his peers’ abuse of power to secure their 100% exoneration from complaints about them. Such investigation can force the disclosure of the complaints, conveniently kept secret; make the detection of patterns and trends of abuse possible; and lead to the exposure of the organization and execution of, and benefits from, their cover-up.

a. What is even more threatening, the investigators, such as the media or the Harvard and Yale law students who protested against the confirmation of Judge Kavanaugh, can ask complainants to exercise their 1st Amendment “freedom of speech, of the press, and the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”(*>jur:111§3), by sending them copies of the complaints to make them public.

b. The complaint instituting a suit against anybody, including the President, every other government official, and every other VIP is filed as a public document. Equality under the law demands equality of publication.

17. Nor can such investigation be allowed by Justice Gorsuch, who comes from the 10th Circuit. There he, who so values camaraderie(OL2:546¶¶4-6), and his peers dismissed

99.83% of complaints about them(OL2:548). This explains why the 15 complaints about Judge Kavanaugh lodged in the last month that his peer, Judge Karen Henderson, referred to Chief Justice John Roberts, were in turn referred by him for processing to precisely the 10th Circuit.

a. Only the clear and present public embarrassment resulting from the complainants making those 15 complaints public caused Judge Henderson and her peers to refer them to the Chief Justice rather than dismiss them out of hand as they had 100% of the 478 complaints lodged against them in the previous 11 reported years.

18. The presumption of a whitewash would not be less justified if C.J. Roberts had referred those 15 complaints to the 2nd Circuit, the former circuit of Justice Sotomayor. While there, she and her peers denied using a “Denied” form 100%(jur:11) of petitions for review of dismissal of complaints about them(jur:65§§1-3).

19. The percentage of complaints dismissed in all the circuits is 99.82%(jur:10, 12-14).

B. The judges’ cover-up by making everything possible to make it practically impossible for anybody to attend the only one hearing on the proposed changes

20. The exposés of Harvey Weinstein’s sexual abuse and its cover-up by VIPs published by *The New York Times (NYT)* and *The New Yorker* pressured C.J. Roberts into referring for sexual misconduct investigation Former 9th Circuit Chief Judge Alex Kozinski, who then resigned.

a. Yet, it had been known for decades that J. Kozinski engaged in sexual misconduct. When the complaints against 9th Circuit judges are disclosed or the complainants make them public, it will be shown that his peers, colleagues, and friends covered for him by dismissing the complaints just as Judge Kavanaugh and his DCC peers dismissed 100% of the 478 complaints about them.

21. Only after receiving almost 700 letters of complaint about abuse in the Federal Judiciary did the Chief Justice admit to abuse therein and announce in his Annual Report of December 31, 2017, the setting up of a study committee(†>OL2:645).

22. The Committee took five months to turn in its report, dated June 1, 2018. It is what has led to proposing changes to the Code and the complaint processing Rules.

23. Only on October 2 did the judges, acting through AO (the Administrative Office), announce only on its site that the proposed changes will be the subject of only one hearing at the Thurgood Marshall Federal Judiciary Building in Washington, D.C., rather than at each of the 200+ federal courts.

24. How many people, including actual and potential complainants about judges, know of even the existence of AO, never mind what it does? Why would they ever visit its site?

25. How many people can afford to travel to D.C. at all, let alone do so the day before to be ready to testify at 9:00 a.m. on October 30, for only five minutes? That means two and a half minutes for each of the two instruments, that is, the Rules and the Code, which have a total of 89 pages!

26. A request to be heard had to be emailed by October 18 to CodeandConductRules@ao.uscourts.gov. AO admitted that for the first week, a ‘glitch’ prevented its receipt of request emails; <http://www.uscourts.gov/news/2018/10/02/judiciary-hold-public-hearing-proposed-changes-judges-code-and-judicial-conduct...>but it did not extend the time to request to be heard.

27. In the notice granting the request to be heard, AO wrote: “Additional details regarding the hearing will be provided by the 23rd”. Only then could one decide whether to attend.

28. AO emailed those details at 4:57 p.m. on the 23rd. That was a time intentionally calculated for the email to reach its addressees too late for them to even notice it, never mind to drop everything they were doing and start writing the statement of their testimony at the hearing. They are required to email that statement to AO in only two days, by the 25rd.

29. If one can accept AO’s “Additional details”, one has less than a week to scramble to make arrangements to attend. If one can book a flight and a hotel at all, one has to pay the highest spot price for last minute purchase...and one still has to find time to draw up one’s statement.

30. The judges have had nine months to write their report and proposed changes. Yet, they put *We the People* through an unjustifiable and unseemly rush to go from stumbling upon the announcement of the hearing, to reading the report, the Code, the Rules, and the Act, to writing ones’ statement, to scrambling to rearrange one’s commitments, to dealing with the logistics of the overnight trip to D.C., to appearing at the hearing, all in less than a month. All that, aggravated by the expense involved, for two and a half minutes of testimony per instrument.

31. Here applies the tort principle, “A person is deemed to intend the foreseeable consequences of his or her acts”. The judges’ acts through AO have the foreseeable consequence of limiting the number of witnesses at the hearing to a minimum. That is what the judges intend.

32. Canon 2 of the Code enjoins judges ‘to avoid impropriety and even the appearance of impropriety in all activities’. This pro forma announcement about compliance in bad faith with the hearing requirement is the reality of a sham hearing! *Res ipsa loquitur* (The thing speaks for itself).

C. Complaint dismissal enables judges to be unaccountable and abuse their power risklessly

33. No change to the Code or the Rules will stop judges from dismissing complaints about them, just as the changes adopted in 2008 and 2015 did not.

34. Such dismissal is the judges' institutionalized mechanism for enforcing the complicit agreement through which they reciprocally ensure their corruptive unaccountability for their past abuse of power and the risklessness of their future abuse.

35. Judges' abuse of power is so pervasive(OL2:457§D, 760) that it is the modus operandi of Untouchable Judges Who Can Do No Wrong.

D. A judge or clerk with Canon 1 integrity can launch a *MeToo!*-like movement by shouting *NotMeAnymore!* to denounce judges' abuse of power

36. The publication by *NYT* and *The New Yorker* of their exposés of Harvey Weinstein's sexual abuse and its cover-up by VIPs caused in a matter of days the emergence of the *MeToo!* movement here and abroad. The rest of the media jumped on the investigative bandwagon.

37. The movement and the investigation have led to a historic societal transformation: from sexual abusees who resigned themselves to suffering the abuse in silence and isolation to a national public that self-assertively shouts:

Enough is enough!

We won't take any abuse by anybody anymore.

39. That shout forced C.J. Roberts and the other judges to take action. That is precedent for the expectation that if a judge or a clerk denounces such action as a sham intended not to keep Justice Kavanaugh's peers from dismissing as usual complaints so as to ensure their unaccountability, that judge or clerk can likewise launch a generalized media investigation into judges' abuse of power akin to the one into sexual abuse.

40. Canon 1 provides that "A Judge Should Uphold the Integrity...of the Judiciary". He or she can do that by shouting *NotMeAnymore!*:

a. publicly, as French Writer Emile Zola did in his open *I accuse!* letter denouncing military officers involved in an anti-Semitic conspiracy against Lt. Alfred Dreyfus, thereby launching profound changes in public accountability and the administration of justice(*>jur:98§2); or

b. discreetly, as did Deep Throat, who turned out to be none other than the deputy director of the FBI, Mark Felt, the one that passed on information to *Washington Post*

Reporters Bob Woodward and Carl Bernstein as they investigated the Watergate scandal, which forced President Nixon to resign on August 8, 1974(*>jur:106§c).

41. With their *NotMeAnymore!* shout, the judge and the clerk can insert into the mid-term elections and the presidential campaign, and subject to national scrutiny what is far more important than judicial candidates' fitness to serve, namely, judges' actual service(†>OL2:717).

42. Proper service requires judges to abide by Canon 1, which provides “A Judge Should Uphold...the Independence of the Jud[ges]” from the gang mentality that Then-Judge and Now-Justice Gorsuch manifested when he said “An attack on one of our brothers and sisters of the robe is an attack on all of us”(†>OL2:569¶¶13-16).

43. J. Gorsuch's comment is an abhorrent repudiation of the duty of judges to apply the rule of law rather than to follow the gang members in committing any abuse of power necessary to protect each other and their turf, and preserve their unaccountability, such as by dismissing 100% of complaints about judges and denying 100% of petitions for review.

E. Rather than a sham hearing, an investigation of judges' 1st Amendment-violative interception of their critics' communications

44. The judge or clerk shouting *NotMeAnymore!* will be most effective in forming a *MeToo!*-like national movement of those outraged at judges' abuse if he or she denounces judges' interception of the communications of their critics, such as me.

45. The probable cause to believe that judges intercept them is furnished by a statistical study and verifiable by Information Technology experts examining computers and servers(OL2:775).

46. That outrage will be graver than that set off by Edward Snowden when he revealed only the collection, though illegal, by NSA of communication metadata, e.g., phone numbers, names of the callers and callees, and duration of the calls. By contrast, what is at stake here is judges' prevention of communications, such as mine.

47. The very judges whose duty it is to safeguard the 1st Amendment freedoms and rights deprive their critics of them.

48. Judges cannot pretend that they are acting “in the interest of national security”; theirs is only the crass self-interest of avoiding media attention and congressional oversight so as to preserve the benefits that they grab through their unrestrained and abusive exercise of power.

49. The *NotMeAnymore!* judge or clerk denouncing judges' interception of their critics' communications can thereby give rise to such national outrage as to launch a generalized

media investigation into judges' abuse. That can result in the holding of real hearings bound to bring about real change:

a. nationally televised hearings held by Congress, where those limited to five minutes are the members of Congress asking questions, not the victims of, or witnesses to, judges' abuse; and

b. unprecedented hearings organized by the media in its commercial interest and the interest of rehabilitating its battered reputation and establishing themselves as *The People's* Loudspeaker; and conducted by newscast anchors, national network journalists, and deans and professors of journalism schools.

F. An outraged *We the People* that transform the judicial and legal system and what an outraged witness requests

50. A *NotMeAnymore!* judge or clerk, a generalized media investigation, and real hearings can set in motion a historic transformation: For the first time ever, *We the Masters* may hold our judicial public servants accountable and liable to compensate the victims of their abuse.

51. That is how judges hold priests, lawyers, doctors, police officers, government officials, and everybody else. That is how "Equal Justice Under Law" demands that judges be held: accountable and liable.

52. *I am outraged!* I am outraged at judges' abuse of power(*>jur:XXXV-XXXVIII; †OL2:455§B); at this sham hearing and its illusory changes; and at judges' interception of their critics' communications, including mine.

53. Therefore, I respectfully request that you, Judge Scirica and your Committee, and you, Judge Erickson and your Committee:

a. share and post this statement to make it widely available to the public; and consider its related articles(OL2:755, 760; 719§C); this statement can be downloaded through its link, http://Judicial-Discipline-Reform.org/retrieve/DrRCordero-CodeandConductRules_AO.pdf

b. widely announce with business-like time in advance and internal deadlines the holding of real hearings at each of the 200+ federal courts;

c. refer this statement of Chief Justice John Robert and the bipartisan leadership of the U.S. Senate and the U.S. House with the request that an independent investigation of judges' abuse of power and interception of their critics' communications be held;

d. invite the national media to conduct a similarly independent and substantive investigation; and

e. cause the interception of critics' communications by email, letter, telephone, and their websites, including mine, to stop and identify those responsible for it. If judges ordered the government to stop segregation and provide busing to integrate the schools; and have ordered the Catholic Church to pay billions of dollars to the victims of its pedophilic priests and their protectors, you can order your peers, and colleagues, and friends to do likewise. That is what you swore you would do when you took your oath of office(jur:53¶106): to “do equal right to the poor [in connections with you] and to the rich [therein, such as “a brother and sister of the robe”(OL2:546) and] to uphold the Constitution and the laws thereunder”.

G. Links to official court statistics and their analysis

54. Article on official statistics on complaints about J. Kavanaugh, DCC Chief Judge Merrick Garland, & peers and their analysis using "the math of abuse": http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_JJ_Kavanaugh-Garland_exoneration_policy.pdf

55. Table of complaints against judges lodged in, and dismissed by, DCC in the 1oct06-30sep17 11-year period: http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_table_exonerations_by_JJ_Kavanaugh-Garland.pdf

56. Collected official statistics on complaints about federal judges in the 1oct96-30sep17 21-year period: http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_collected_statistics_complaints_v_judges.pdf

57. Template to be filled out with the complaint statistics on any of the 15 reporting courts: http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_template_table_complaints_v_judges.pdf

58. Article on statistics and math: neither judges nor clerks read the majority of briefs, disposing of them through 'dumping forms': unresearched, unreasoned, arbitrary, and fiat-like orders; http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Honest_Jud_Advocates.pdf>OL2:760, 457§D

Dare trigger history!(>jur:7§5)...and you may enter it.*

* http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf

Visit the website Judicial Discipline Reform at,
and join its subscribers -24,740 and counting- to its series of articles thus:
<http://www.Judicial-Discipline-Reform.org> > + New or Users >Add New

**Put your money
where your outrage at judges' abuse
and your passion for justice are.**

Donate here

-

at the **GoFundMe** campaign at
<https://www.gofundme.com/expose-unaccountable-judges-abuse>

Dare trigger history!(>jur:7§5)...and you may enter it.*
<https://www.linkedin.com/in/dr-richard-cordero-esq-0508ba4b>

Sincerely,
Dr. Richard Cordero, Esq.
Judicial Discipline Reform
New York City

<http://www.Judicial-Discipline-Reform.org>
Dr.Richard.Cordero_Esq@verizon.net, DrRCordero@Judicial-Discipline-Reform.org, CorderoRic@yahoo.com