

Testimony of

The Honorable John Coughenour

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Subcommittee on Administrative Oversight and the Courts
Testimony of Chief Judge John C. Coughenour
Western District of Washington

Mr. Chairman, and members of the Subcommittee. My name is John C. Coughenour and I am the Chief District Judge of the U.S. District Court for the Western District of Washington, one of the trial courts of the Ninth Circuit. I also am the current chair of the Ninth Circuit's Conference of Chief District Judges, which consists of the chief district judges of all of the district courts in the circuit. And, as the conference chair, I am a member of the Judicial Council of the Ninth Circuit, the circuit's chief governing body.

I come before you today to state my strong opposition to splitting the Ninth Circuit, whether through this particular bill or others previously proposed. I believe the Ninth Circuit is functioning exceedingly well and that splitting it will not improve and may actually deter from the efficient administration of our federal courts. Many of my fellow judges, particularly chief district judges who have administrative responsibilities, share this view. In fact, in my seven years as chief district judge, I have yet to have a conversation with a fellow chief district judge who spoke in favor of a split.

The Ninth Circuit is widely inclusive in its governance, resulting in a strong and cohesive organization. I know of no other circuit in which district judges, along with magistrate judges, bankruptcy judges, clerks of court, and the chiefs of the pretrial and probation offices, have so much input in the governance of their circuit. Our current chief judge, Mary M. Schroeder, further promotes this approach by attending the biannual meetings of our chief district judges, chief bankruptcy judges and magistrate judges. She actively participates in these meetings and listens to what we have to say. She often suggests that we bring new policy recommendations to the circuit's judicial council for consideration of adoption by the whole circuit.

Chief Judge Schroeder has continued the Ninth Circuit's proud tradition of innovation in judicial administration. She has formed committees to address the myriad of problems facing the judiciary today, such as improving jury trials, controlling the costs of death penalty cases, questions of space and security, judicial wellness, and alternate dispute resolution, to name but a few. I was privileged to have chaired the Ninth Circuit Gender Bias Task Force some years ago, which undertook a comprehensive study of gender bias in the courts. In virtually all of the areas just mentioned, I take enormous pride in the fact that the Ninth Circuit has led the way for the federal judiciary.

It is important for you to understand that the Ninth Circuit is not just a theoretical abstraction or a series of administrative laws and rules, but a real entity. Even though we have more judges, more cases, the largest geographic area, and the most people, we have a collegiality that I don't believe exists anywhere else in the federal judiciary.

The committees and our circuit executive provide our judges with a regular flow of information that assists us with adjudicating our cases and maintaining consistency in the application of law. This information, when combined with ever-advancing technology, permits us to use teleconferencing, videoconferencing, and email to have virtually instantaneous communication with our colleagues whether they are in Tacoma, Washington or Guam. Technology will be increasingly critical to the courts as our caseloads grow larger. Federal courts have limited jurisdiction, but it continues to expand with each year.

We keep pace with our growing caseload in part by shifting judicial resources. Judges in districts that have relatively light caseloads can assist in other districts, such as the border courts, which are experiencing a flood of illegal drug

and immigration cases. This practice has been critical over the past few years because of the lack of an omnibus judgeship bill.

I also believe that it is wrong to consider dividing a circuit because you do not like some of the decisions. Federal judges are required to make decisions based on the law, not the reigning attitudes of people who live in the northwest, southwest, or any other particular geographic area. Quite frankly, I have made a number of rulings that I did not like because the law required me to do so.

My last observation is that splitting the circuit appears to be very expensive at a time when the federal government and the federal courts can least afford it. All of the district courts of the Ninth Circuit are currently reducing staff and some are curtailing services as a result of budget cutbacks. To spend millions to create new and unnecessary administrative entities seems unwarranted and unwise. In the Western District of Washington, we are already severely impacted by the current budget situation and are struggling to avoid laying off existing staff.

Let me close by emphasizing what I previously said, from the perspective of this chief district judge, and I believe that of the vast majority of district, magistrate, and bankruptcy judges in the Ninth Circuit, this is a circuit that functions well. It isn't broken. It does not need to be fixed and it certainly should not be split. Our chief, our judicial council, and our committees are constantly seeking ways to improve the services we provide to the public. We are effective given our limited resources, and are constantly striving to improve.

Thank you.