



Federal Bar Association

Office of the President

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October 25, 2006

The Honorable Dennis Hastert
Speaker
U.S. House of Representatives
CHOB 235
Washington, D.C. 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
RHOB 2371
Washington, D.C. 20515

Re: H.R. 5219, Judicial Transparency and Ethics Enhancement Act of 2006

Dear Speaker Hastert and Minority Leader Pelosi:

I write on behalf of the Federal Bar Association to express our serious concern over H.R. 5219, the Judicial Transparency and Ethics Enhancement Act of 2006, legislation that would establish an office of inspector general for the federal judiciary. Because of the concerns set forth below, we urge the House of Representatives to refrain from bringing this legislation to the floor for approval in the remainder in the 109th Congress.

While federal judges certainly should be held accountable for their ethical lapses, we do not consider the establishment of an office of inspector general as either consistent with judicial accountability or helpful in respecting the independence of the judicial branch. In delegating to the judiciary the same authority to administer its own affairs as the other two branches possess, Congress historically has held the judiciary responsible for the self-enforcement of its own ethics and disciplinary process. Legislation to establish an inspector general for the federal judiciary would undermine the long-standing comity that exists between the co-equal legislative and judicial branches.

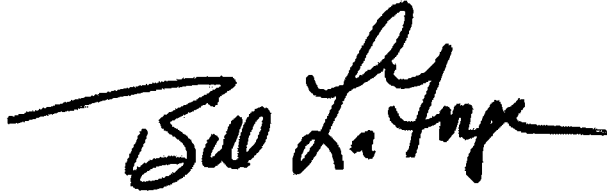
Although the inspector general legislation (H.R. 5219) reported out of the Committee on the Judiciary on September 27 has been modified in several respects, we still remain concerned that the inspector general's investigatory powers are far too intrusive and vulnerable to abuse. Its authority to subpoena documents and testimony in

conducting probes could become highly problematic if undertaken against judges who have issued politically unpopular opinions. Moreover, the inspector general's authority to investigate misconduct charges against lower-court judges would be duplicative of authority that chief judges and disciplinary councils already possess.

We recognize that the federal judiciary from time to time will suffer instances of misconduct, just as any governmental institution regrettably will. However, the recent report of the Judicial Conference Judicial Conduct and Disability Act Study Committee found that the total number of misconduct complaints filed against judges is low and that the current system for handling the vast bulk of misconduct complaints is working remarkably well. To ensure an even higher degree of ethical compliance, the Judicial Conference has installed a series of new administrative measures and rules, including the use of computer software to cross-check a judge's financial holdings to flag conflicts of interest and new disclosure rules on judicial attendance at privately funded educational seminars. We believe that it makes sense for Congress to render sufficient time to adequately monitor and assess the federal judiciary's implementation of these new ethical safeguards before taking the potentially premature and misguided step of entangling itself in the affairs of the judicial branch through the establishment of an office of inspector general.

Thank you for your leadership and your respectful consideration of these comments.

Sincerely yours,

A handwritten signature in black ink that reads "Bill LaForge". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the left.

William N. LaForge
President