National Judicial Conduct and Disability Law Project, Inc.
and
Whistleblowers for an Honest, Efficient, and Accountable Government

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Forging Alliances for America:

- government whistleblowers
- legal reform activists
- human rights activists

Supplemental Statement of
Whistleblowers for an **H**onest, **E**fficient, and **A**ccountable **G**overnment (**WHEAG**)
in support of its request for a congressional hearing and certain legislative relief

A Need for Protection is the Overriding Theme:

On May 19, 2005, the *Chicago Sun-Times* featured the headline "JUDGE LEFKOW TELLS SENATORS: STOP BASHING JUDGES – Harsh comments 'can only encourage those who are on the edge'". The referenced Judge Lefkow is, of course, the honorable Joan Lefkow, Judge of the U.S. District Court for the Northern District of Illinois. On February 28, 2005, Judge Lefkow's husband and mother were killed, apparently by a litigant whose case the judge dismissed. According to Lynn Sweet, reporting for the *Chicago Sun-Times*, Judge Lefkow urged the Senate Judiciary Committee to 'publicly and persistently repudiate gratuitous attacks on the judiciary'. She reportedly testified that ". . . the fostering of disrespect for judges can only encourage those who are on the edge or on the fringe to exact revenge on a judge who displeases them'."

The "revenge" Judge Lefkow references undoubtedly amounts to blatant unlawfulness. She accordingly went to Congress:

. . .

> with a plea that (they) who have the power, continue to make judicial protection a priority as is reflected in the recent passage of the HR 1268, which includes $12 million to the Marshals Service for increased security for federal judges, specifically for home intrusion detection systems. And that (they) be vigilant in monitoring judicial security so that sympathetic feelings translate into something real for us.

. . .

The situation highlights a "need for intervention" according to Mark Brown of the *Chicago Sun-Times*. [See, *"Ross' pursuit of 'justice' highlights need for intervention"*, 3/12/05, *Chicago Sun-Times* by Mark Brown] Writing for the *Chicago Sun-Times*, Brown expressed a willingness to read every account of "failed court cases" if doing so would "keep (an unsuccessful litigant) from reaching for a gun".

While any injustice may trigger the kind of "dangerously obsessive behavior" Mark Brown referenced, the order of a civilized society requires all people to develop adequate coping skills and resolve conflict within the bounds of law. Certainly some form of justice can be had sooner or later, without vigilante killing. Yet look to the legal reform community and one may confirm that people much less desperate than the Lefkows' assailant have had their patience and emotional stability wrenched by seemingly unaccountable government agents and agencies. Where are the "sympathetic feelings" for these people and when will those feelings "translate into something real"?

The Plight of Government Whistleblowers

"A Los Alamos lab whistleblower scheduled to testify before Congress about alleged financial irregularities was badly beaten outside a bar – an attack his wife and lawyers believe was designed to silence him." [See, *"Los Alamos Lab Whistleblower Beaten"*, 6/6/05, *washingtonpost.com* by Deborah Baker]. "Revenge" does not always visit whistleblowers through such blatant unlawfulness. However:

> (b)ecoming a whistle-blower is one of the loneliest and most difficult choices one can make in life. Those who come clean on the wrongdoing they witness in the corporate suite or in government risk immediate ostracism. They open themselves up to counterattacks, loss of livelihood, and sometimes long, costly litigation, just for the act of speaking out against a

perceived injustice or crime. And even when their disclosures are revealed to be true, they often have a difficult time finding work again, as potential employers fear they can't be trusted.

"Deep Throat's Lessons for Whistle-Blowers", 6/6/05, *Business Week* by Patricia O'Connell.

Just as Judge Lefkow ". . . came at the invitation of Senate Judiciary Chairman Arlen Specter (R-Pa.) with a lot of suggestions on how to improve security for judges", **WHEAG** [**W**histleblowers for an **H**onest, **E**fficient, and **A**ccountable **G**overnment] is prepared to suggest how Congress might better secure the life, liberty and happiness of government whistleblowers.[1] It has accordingly requested " . . . a congressional hearing to expose the inbred, systematic agency practices used to intentionally deceive Congress and the American public regarding our country's scientific, government (including judicial) accountability, and contracting related initiatives." [*See* respective letter from **WHEAG** Chairman, Dr. Charles Heckman, to each member of Congress, **WHEAG** 2005]. A brief profile of **WHEAG** spokespersons and their area(s) of relevant expertise is attached hereto and incorporated herein by reference.

Linking the Cause of Government Whistleblowers to Legal Reform in General

WHEAG is sponsored by National Judicial Conduct and Disability Law Project, Inc. (NJCDLP) which combats abuses of the American legal system, particularly those facilitated by judicial misconduct. On January 31, 2005, NJCDLP wrote each member of the Senate and House Judiciary Committees, noting that ". . . the U. S. Congress need not become a virtual appellate court to remain a sentry for American liberty". (*NJCDLP letter of 1/31/05, p. 2*) In fact, this appeal of **WHEAG** stems in part from a matter of broad concern – the

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[1]**WHEAG** has already proposed the following:

> Current "No Fear Act" legislation should be amended to incorporate severe penalties for managers who retaliate against employees over honest differences of opinion and even stronger penalties (getting fired, jail time, etc) for revolving door bureaucrats who commit government resources for their own personal gain. New legislative initiatives are needed to contend with the obvious lack of protection from such practices afforded by the MSPB and the Federal Circuit Court of Appeals. "The Weinstock Act" as proposed by National Judicial Conduct and Disability Law Project, Inc. (NJCDLP) or similar legislation should be enacted to protect lawyers and judges "blowing the whistle" on judicial misconduct and/or the ineffectiveness of agencies such as the MSPB which courts repeatedly fail to counteract.
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> . . .
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> If we are to restore faith in our government, perform our jobs, and fulfill our professional as well as moral obligations, we need your help in instituting government-wide management reforms that include a minimal 4-year college degree requirement commensurate with each professional area of responsibility, starting at the GS-7 level. This requirement should apply to all accountant and computer science positions. Budget position requirements should be upgraded to the minimum education level for accountants to promote better communication between the budgeting and accounting communities and provide the American people with an integrated accounting and budgeting process and financial systems that work. All government positions should include stringent cross training requirements to eliminate cronyism and better ensure a competent and professional workforce. [*See* respective letter from **WHEAG** Chairman, Dr. Charles Heckman, to each member of Congress, **WHEAG** 2005].

apparent tendency of American government to essentially deem "on the edge or on the fringe", almost every persistent critic of any American judge.

> Mark Brown wrote:
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> Sometimes it starts with a child custody fight or a business disagreement or a dispute over a will. Sometimes it's a complaint against a doctor. Whatever the provocation, nothing gets resolved in the mind of the aggrieved party. And then the downward spiral starts. When he gets no satisfaction from the doctor, he goes to the hospital for relief. When that doesn't work, he files a malpractice case and maybe goes to the medical disciplinary board. When he loses the court case, he blames his lawyer, then the lawyer for the other side and finally the judge, although not necessarily in that order. So he hires a new lawyer to file an appeal and to sue the first lawyer, and when that approach fails, he goes to the Attorney Registration and Disciplinary Commission to seek sanctions against all his lawyers, and then to the Judicial Inquiry Board to have the judges disciplined. He may call the FBI and write his legislators. All the while, he's reading up on the law and trying to get his case heard in the courts again, this time filing 'pro se' and serving as his own lawyer. After all else fails, he may come to us in the news media.
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> . . .
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> Their story comes accompanied by a blizzard of paper that documents not only the details of their case but also the depth of their obsession.
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> *"Ross' pursuit of 'justice' highlights need for intervention"*, 3/12/05, *Chicago Sun-Times* by Mark Brown.

However, even mainstream commentators seem prepared to conclude that duplicated often enough, such stories reflect the ineffectiveness of related grievance procedures.

The saga of the lone, disgruntled litigant has evolved into law review articles such as *"Self-Regulation of Judicial Misconduct Could Be Mis-Regulation"*, 89 Michigan Law Review 609 (1990) by Northwestern University School of Law Professor Anthony D'Amato; and, more recently, internet commentaries such as *" Thoughts on the Law Addressing Bad Federal Judges: Self-Policing Isn't Working, But Is There a Good Alternative?"*, Find Law's Legal Commentary, August 13, 2004 by former White House advisor John Dean; as well as newspaper articles such as *"When Judges Investigate Judges"*, June 3, 2004, *Chicago Tribune* by Northwestern University School of Law Professor Steven Lubet. Also, referencing Justice Department data, Transactional Records Access Clearinghouse (TRAC) reports ". . . that the declination rates for official abuse matters have been extremely high under every administration going back to President Carter with only marginal differences relating to which party controlled the White House". [http://trac.syr.edu/tracreports/civright/107/] When private attorneys and even judges take up such cases alleging judicial misconduct to some extent [not to mention a plethora of nonprofit advocacy groups[2]], only to be disciplined[3], Congress should intervene to insure

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[2]For example:

Alliance for Justice at www.afj.org
A Matter of Justice at www.amatterofjustice.org
Americans for Legal Reform at www.americans4legalreform.com
Center for Judicial Accountability at www.judgewatch.org
Citizens for Judicial Accountability at www.judicialaccountability.org
Coalition for Family Justice at www.ncfj.org

(continued...)

that being ferreted out are "gratuitous attacks on the judiciary", not merely government whistleblowers.

In considering the possible ". . . cause-and-effect relationship between rhetorical attacks on judges in general and violent acts of vengeance by a particular litigant . . ." as Judge Lefkow reportedly proposed, Congress remains charged much like an attorney ". . . to, when necessary, challenge the rectitude of official action while upholding legal process . . .". [*See* Preamble , *"The Weinstock Act"*, proposed federal legislation]. The "official action" concerning members of **WHEAG** may or may not directly involve "legal process", but its members hasten to Congress as courts seemingly disregard their concerns.[4] Hence all members of **WHEAG** decry a judiciary that is ". . . essentially final arbiter of whether it has been corrupted and exclusive regulator of any attorney or judge who would object." (*See, NJCDLP letter of 1/31/05, p. 2*).

"(D)isciplinary rules governing the legal profession cannot punish activities protected by the First Amendment". *See, Gentile v. State Bar of Nevada,* 501 U.S. 1030 at 1054 (1991). **WHEAG** is prepared to establish that such dictates are too often honored in the breach. It advances the case of Israel Weinstock to further prove that disbarred and suspended lawyers face a government imposed, conclusive presumption of disbelief that even substantial evidence cannot (or is not allowed to) dispel. Attorneys blowing the whistle on judicial corruption are accordingly neutralized by the expedient of having their licenses revoked. Clearly the impartiality of underlying processes is better assured if vested in the majority of a regularly constituted, grand jury. For these reasons and in furtherance of due process, justice, and equity, both **WHEAG** and NJCDLP tender "The Weinstock Act" for consideration and passage by Congress.

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[2](...continued)
Council to Restore the Rule of Law at www.crrol.org
Judicial Accountability Initiative Law at www.jail4judges.org
Judicial Reform Investigations at www.judicialjustice.us
Judging the Judges at www.informed.org
Redress, Inc. at www.redressinc.org
Victims of Law at www.victimsoflaw.org

[3]"Writing for the Roger Williams University Law Review, professor Carl T. Bogus recently described 'a culture of quiescence' in which criticism of courts by lawyers is considered '. . . professional treason . . . punished by both courts and colleagues'. Roger Williams Univ. Law Review, "Culture of Quiescence" by Carl T. Bogus, Volume 9 No. 2 pp 351-97." (*NJCDLP letter of 1/31/05, ftnt 1*).

[4]Dr. Charles Heckman, **WHEAG** chairman, recently explained:

> Whistleblowers need more effective laws, but even these will not solve the problem. There are now excellent laws on the books, which have been ignored by the agencies that are supposed to protect whistleblowers and essentially repealed through precedent-setting decisions by the judges on the Federal Circuit, an appeals
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> court created in 1981. Its judges have done more than anyone to institutionalize the standards of organized criminals within our civil service.
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> . . .

In 1963, Dr. Charles Heckman graduated from Manhattan College in New York and was designated a distinguished graduate of the AFROTC as well as offered a regular commission in the United States Air Force. He completed pilot training in 1964 and proceeded to serve eighteen (18) months as a troop carrier pilot, based on Okinawa, flying mainly in Vietnam and elsewhere in Southeast Asia. From 1966 to 1968, Heckman served as forward air controller, flying over both North and South Vietnam and eastern Laos. He flew more than 1800 hours of combat flying time out of about 3200 military flying hours. During that time, he received orders for the "Distinguished Flying Cross Air Medal" with 29 Oak Leaf Clusters, "Vietnamese Cross of Gallantry with Silver Star", and other decorations with all but one Air Medal never awarded. In 1968, Heckman was honorably discharged upon return to the United States.

Despite his distinguished war service and Graduate Record Examinations placing him in the upper one percent (1%) in biology, the upper one to two percent (1 to 2%) in verbal ability, and the upper four percent (4%) in quantitative ability, Dr. Heckman has been denied employment in the United States for the past 37 years except the following:

1. A twelve (12) hour per week graduate assistantship at St. John's University where he earned his Master of Science in 1974 with a grade point average of 3.92 out of 4 prior to grade inflation; and

2. One year minus one day with the United States Forest Service in 1998 and 1999, obtained through a settlement agreement after the U. S. Office of Special Counsel verified his report that he had been offered $20,000 to withdraw from a federal civil service selection by the United States Forest Service in Alaska.

In 1974, Heckman was admitted to the doctoral program at the University of Hamburg in Germany. After performing ecological research in Thailand for a year, he completed his doctoral dissertation which was submitted in German and published as a book in English.

After receiving his doctoral degree in 1979, Dr. Heckman began leading research projects sponsored by various German government agencies and took part in international research programs. In 1990, he was sent by Max-Planck-Institut von Limnologie to lead an internationally sponsored program of limnological research in the Pantanal, a vast wetland, mainly in western Brazil. The effort had to be organized from scratch under frontier conditions with the management duties far exceeding anything necessary to lead such a program in the United States. Nevertheless, it was very successful and before it was completed at the end of 1994, several Brazilian scientists had earned masters' or doctoral degrees through the research.

To date, Dr. Heckman has authored five (5) books in the biological sciences, 64 shorter papers published in refereed journals and books, and several popular articles and major reports. He is presently writing a book series called Encyclopedia of American Aquatic Insects, which will encompass more than ten (10) volumes, three (3) of which have already been published. Starting in 1978, Heckman began applying for employment with American colleges and universities and government agencies engaged in biological research. No interest in his applications was shown by any university. He also encountered difficulties in seeking employment with federal agencies. The Office of Personnel Management would not mail him application forms. The Department of Agriculture mailed him vacancy announcements by surface mail, causing them to arrive in Germany after related closing dates passed. The Atmospheric and Oceanic Administrations informed him that one (1) of his job applications was late, though it was stamped as received before the corresponding closing date. A committee convened to review the matter was provided the wrong application to consider and accordingly determined he would not have been hired in any event.

After Dr. Heckman began filing discrimination complaints with the Equal Employment Opportunity Commission (EEOC), he began accumulating documents that showed his qualifications were significantly better than those of his peers hired by universities and federal agencies engaged in research. His quest for relief continued and included several failed lawsuits which uncovered for him a malice against veterans. Dr. Heckman went on to learn that the Merit System Protection Board (MSPB) has never ruled in favor of a veteran in any appeal; it has posted tracts denouncing veterans' preference on its website; it has rarely reinstated whistleblowers and in about half of those cases prompting reinstatement of a whistleblower, he or she was subsequently fired for a second time; moreover the Federal Circuit Court of Appeals has never ruled in favor of a whistleblower and has so altered the definition, that hardly anything qualifies as whistleblowing.

Dr. Heckman sent a Freedom of Information Act inquiry to the U. S. Department of Justice to determine how much it cost to defend against his legal claims. He sent a similar inquiry to the Washington State Attorney General's office. The U. S. Justice Department replied by refusing to provide the requested information. By the end of the first phase of Dr. Heckman's state lawsuit, the state of Washington reportedly spent $38, 700.29, more than the annual salary for one job at issue. The litigation was appealed up to a petition for review by the Washington State Supreme Court, a process costing the state $82, 806.95 in another veteran's lawsuit. At least $250,000 must have been spent by Washington to fight the lawsuits of four (4) veterans. While spending that money, the state was receiving about 3.8 million dollars annually in grants from the U. S. Department of Labor to provide special employment benefits for veterans. It was also receiving a share of a billion dollars in federal funding, earmarked to help homeless veterans, some of whom undoubtedly became homeless due to the abolishment of veterans' preferences by judicial fiat. Congress therefore appropriates nearly 200 million dollars for veterans' employment and training service, mainly for states giving preference to veterans seeking jobs, only for those states and many federal agencies to spend millions of dollars fighting lawsuits by veterans pursuing their right to fairly compete for available jobs.

Robert Davis received his Associate Degree in Business Administration from Rutledge College in 1970. During the period 1981-1983, he also attended North Carolina Central University and Virginia Tech where he completed additional undergraduate work in Economics, Accounting, Psychology, and Labor Relations. He has dedicated the majority of his 34 year career at the Environmental Protection Agency (EPA) as a union official defending himself and others against EPA's Gestapo-like tactics of forcing its will on anyone who did not blindly follow its dictates. He assisted in the establishment of the EPA American Federation of Government Employees (AFGE) Local Union 3347 (AFL-CIO) and the National (EPA agency-wide) AFGE Council 238. He was a Union Steward from 1972 -1978 and elected/reelected numerous times as President of AFGE Local 3347 from 1979 through 1999. Concurrently, Davis held offices in the AFGE EPA National Council as 1st VP from 1980 to1986 and Exec.VP from 1986 to 1998. During the period 1981 through 1998, he was also the Chief Negotiator for the AFGE Council 238.

Over the years, he has observed a consistent pattern of EPA management abuse of its employees and former managers. Quite simply, individuals are rewarded for their blind obedience and punished for not going along with the agency's illegal or questionable decisions and activities. EPA managers are, in effect, the enforcers of the ideology of the political party in power at the time. Because the government lacks stringent educational requirements for management positions, EPA typically replaces its problematic college-degree managers with individuals possessing minimal educations. In this way, EPA is able to create a docile, unquestioning workforce that is conditioned to do whatever it is told.

As a taxpayer, union representative, and federal employee, Davis is even more concerned at the government's overall efforts to eliminate unions, outsource government jobs, and replace current GS pay schedules with its latest paybanding scheme. If there was ever a time where he feared for the well-being of our country, this is it. Consider, first, a government workforce with managers and employees who are rewarded for lying and deceiving the American public, deficient whistleblower protection legislation, no penalties for corrupt bureaucrats, and only a slight possibility for whistleblowers to make their concerns known to Congress and the American public (while still employed and maintaining their current pay). This system is definitely not the ideal but at least the truth is made known every once in a while. Now, consider the possibility of no unions, more and more government jobs outsourced to corporations, and those loyal, gestapo-like managers who will now determine the salaries of all those individuals who do not blindly follow their orders. Given these additional hurdles, the government whistleblower cannot survive, the truth will cease to exist, this corrupt government process will feed upon itself until it collapses, and the American way of life as we know it will end.

William Newby received an undergraduate degree in Social Science from Appalachian State University in June 1967 and a Masters Degree in Public Administration in August 1976. He has held state and local government positions in city planning, housing and urban development, and low cost housing until 1974. In 1976 -1980, he was a part time associate professor at Davidson Community College where he taught political science.

He began his federal career with Housing and Urban Development (HUD) in Greensboro, North Carolina in 1978 as a housing specialist where he worked on an audit team. In 1982, he filled a cost analyst position for the Chief Architectural and Engineering Section where he reviewed each applicant's request for an insured/direct government loan. In many cases, the Director of Housing overrode his decisions for disallowing these loans even though the applicant clearly did not qualify. When Newby questioned him, he was told that the decisions on many of these loans had already been made and that's just the way HUD operated. When he did not relent, he was relocated to a Financial Management position and terminated a short time later, September 1984. A subsequent Inspector General (IG) investigation revealed that the HUD loan program was nothing more than a political patronage system where loans were routinely granted to the contractors who had made significant political contributions.

In March 1985, he was hired by the Environmental Protection Agency in the Contract Management Division (CMD) as a contract specialist. In March, 1992, Newby disclosed his concerns to the Office of General Counsel (OGC) regarding contract irregularities and the selection process of specific contractors, poor management, and abuse of authority by CMD's senior managers. He was not alone in his allegations but was joined by fellow staffers and three section chiefs in questioning CMD's violation of procurement regulations, the Trade Secrets Act, and Anti-Deficiency Act.

A subsequent investigation by the Office of Special Counsel (OSC) revealed that CMD's managers had been directed to clean house and did so by systematically retaliating against employees who were believed to be disloyal to CMD and EPA. As a result of this authorized purge, three experienced, well-respected section chiefs were removed from their positions along with five other staff personnel who were forced to work in other areas of the agency. The idea, obviously, was to get a younger, less experienced, more docile staff in place to allow EPA's political appointees more latitude in violating any and all laws that they wanted.

The EPA still clings stubbornly to its public position that its managers have done no wrong and yet, in Newby's case, has been successful in getting the Department of Justice (DOJ) to engage in a defamation of his professional character. It is tragic and ironic that the DOJ criminal division would decline to prosecute those identified by the EPA IG's procurement fraud division as responsible for waste, fraud, and abuse of tens of millions of U.S. taxpayers' dollars; yet the DOJ civil division considers him, a single dedicated civil servant, such a formidable threat to this powerful federal agency, that the resources of the American taxpayer must be used to protect the EPA from someone like himself.

Larry Fisher attended Michigan Technological University in Houghton, Michigan and obtained an accounting degree in June 1968. He has been a federal accountant since July 1970 and has held various accounting, systems, and policy staff and management positions with the Navy Department, Veterans Administration (VA), Treasury Department, and Environmental Protection Agency (EPA). He has extensive experience in critiquing the Central Agencies' accounting policies [General Accountability Office (GAO), Office of Management and Budget (OMB), and Treasury Department] that all agencies are required, by law, to follow.

His career as a whistle blower began in March 1980 as a Branch Chief with the VA where he oversaw the consolidation of its financial statements. At that time, he became aware of the VA's and other agencies' inability to understand and apply the Central Agencies' accounting policies. During the period April 1981 - June 1984, on his own time, he completed a generic government accounting model using existing private sector Generally Accepted Accounting Principles (GAAP) that he adapted for government's unique accounting and budgeting needs. Subsequent events prevented him from explaining this model because of the VA's effort to hide a 40 million dollar budget over-run and his subsequent resignation in October 1986.

Fisher then took a one-year unpaid sabbatical to lobby Congress and the Central Agencies to adopt a single government-wide, GAAP-based accounting standard. He also suggested that the central agencies replace their three independent (OMB, GAO, and Treasury), incoherent, and conflicting sets of accounting policies with a single manual or textbook.

In October 1987, he rejoined the federal government and obtained a systems accountant position with the Treasury Department. As an insider, he hoped to better explain his generic accounting formulas and provide a more logical basis for testing and procuring government financial software. Instead, they (an OMB and GAO representative and himself) were required to produce a meaningless vendor systems questionnaire where each contractor certified that it complied with all government system requirements. When Fisher protested, he was told that the decision had already been made and that it was not his place to disagree. He resigned from the panel in protest.

Subsequent positions have only reaffirmed his feeling that the government's accountability initiative was designed to fail, year after year, and thereby provide a lucrative revenue source for accounting and financial software contractors and their revolving door bureaucrat partners. The process is really quite simple. The Central Agencies force their deficient standards on all agencies. These agencies then retaliate against anyone who questions these standards and then consistently hire technically unqualified managers to repeat this failure. These government and private sector managers are then rewarded with glamorous positions, big salaries, and perks.

In order to bypass this self-imposed government morass, he created a website http://www.tgar.org that includes a copyrighted, scaled-down version of his accounting model. A nonpartisan group of accountants can critique this model and make any necessary changes. Upon agreement, a single text can be written outlining the government's budgeting accounting processes as he had originally suggested to both Congress and the Central Agencies back in 1986.

Zena D. Crenshaw is a founding director and acting executive director of **National Judicial Conduct and Disability Law Project, Inc. (NJCDLP)**. She entered the University of Notre Dame at Notre Dame, Indiana in 1977, distinguished as a National Merit, Notre Dame, and Indiana State Scholar. She graduated from the university in 1981 with a dual major in English and Philosophy. Zena thereafter entered and graduated in 1984 from Northwestern University School of Law in Chicago, Illinois, distinguished as an Earl Warren Scholar. She completed a summer session of her legal education at the Notre Dame Law Centre in London, England. More than two decades later, Ms. Crenshaw finds herself suspended from the roll of Indiana attorneys and that of the U. S. District Courts for the Northern District of Indiana after charging a state judge and a federal judge for the northern district of Indiana with related misconduct, an outcome she contends is clearly contrary to federal law. She remains a member of the bar for the U. S. District Courts for the Southern District of Indiana and the U. S. Court of Appeals for the Seventh Circuit.

Writing for NJCDLP early this year, Zena alerted the House and Senate Judiciary Committees to ". . . the effectiveness of professional discipline in neutralizing attorneys as witnesses to corruption of our American legal system." She is prepared to catalogue many of the tactics used in disciplinary proceedings, including her own, that thwart even properly stated standards for regulating First Amendment activity among lawyers and judges when criticism of the judiciary is involved. The procedural protections afforded by "The Weinstock Act", federal legislation proposed by NJCDLP, would neutralize many if not all of those tactics.

NJCDLP recently assisted the American Family Association Center for Law and Policy of Mississippi (AFA) with collecting complaints of alleged misconduct by federal judges, reportedly for consideration by Congressman Trent Franks (R - Az). A copy of complaints accordingly submitted to NJCDLP are attached, though not all of them qualified for submission to the AFA. Attorney Crenshaw commented as follows in forwarding some of the attached complaints to the AFA:

> NJCDLP commends your organization and Congressman Franks for their joint efforts to address the apparent ineffectiveness of self-policing on the part of our federal judiciary. The Judicial Conduct and Disability Act, both before and after it was amended by the Judicial Improvements Act, is easily reduced to mere subterfuge. It charges a complainant with the nearly impossible task of describing an improper judicial act that cannot be characterized as "directly related to the merits of a decision or procedural ruling". *See, 28 USC §352.* In so doing, it allows the federal judiciary a *de facto* immunity for **intentional** violations of civil and constitutional rights as long as they are perpetrated through judicial rulings.
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> A chief judge may conclude proceedings under the Judicial Conduct and Disability Act if he or she " . . . finds that appropriate corrective action has been taken . . .". *See, 28 USC §352(b)(2).* A disqualified judge may accordingly wreck havoc on record, but avoid related disciplinary action by voluntarily removing him or herself from the underlying case. An affected litigant is left with the unenviable task of trying to void all corresponding action and prejudice of this disqualified judge.
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> At a minimum, subsections (a)(2); (b)(1)(A)(ii); and (b)(2) of Title 28 U. S. C. §352 should be eliminated. Congress should also provide certain procedural protections for lawyers and judges who blow the whistle on judicial misconduct as contemplated by "The Weinstock Act", federal legislation proposed by NJCDLP, a copy of which is enclosed. Finally, regulation of America's federal judiciary should be entrusted to its citizenry as contemplated by proponents of the **J**udicial **A**ccountability **I**nitiative **L**aw, accessible at www.jail4judges.org Please share this information with Congressman Franks and encourage him to sponsor the legislation it features.

Zena is prepared to expound on the referenced information, some of which is corroborated by one or more of the attached complaints. It confirms " . . . the unpleasant if not unpopular premise . . ." on which NJCDLP was formed: " . . . that the American legal system is occasionally abused and that abuse is sometimes facilitated by or attributable to judicial misconduct." Clearly the intervention of Congress is needed so that licensed attorneys can ". . . competently represent constituents of the NJCDLP without mortal fear of retribution."

Attached are 28 complaints, alleging misconduct on the part of one or more federal judge(s), submitted to NJCDLP by 18 different individuals as previously indicated.

Attachments Excluded from Online Copy