

**THOMAS E. FAIRCHILD LECTURE**  
**CIVIC EDUCATION AND THE FEDERAL COURTS**

ROBERT A. KATZMANN\*

*Thomas E. Fairchild Lecture*  
*University of Wisconsin School of Law*  
*April 13, 2018*

Judge Raggi, thank you for your generous introduction. I feel so fortunate to have you as my colleague and friend. Our court, the Second Circuit, is deeply privileged that you are an esteemed member of it. I didn't know Judge Fairchild, but how proud he must have been of you, for all that you have done in the service of the public good, widely recognized for your extraordinary contributions, wearing many hats, for instance, as a U.S. Attorney in the Eastern District of New York, as a renowned district judge, as an influential judge on the Court of Appeals whose opinions have shaped our jurisprudence, as a leader in a variety of judicial branch activities, including your service as Chair of the Advisory Committee on the Criminal Rules by appointment of Chief Justice Roberts. Thank you. All of us who seek to further the fair and effective administration of justice are in your debt for your leadership.

I am deeply honored to have this opportunity to deliver the Fairchild Lecture. I know, of course, of Judge Thomas E. Fairchild's reputation as an extraordinary public servant: As Wisconsin Attorney General, U.S. Attorney for the Western District of Wisconsin, justice of the Wisconsin Supreme Court, federal circuit judge, then later chief judge and ultimately senior circuit judge on the U.S. Court of Appeals for the Seventh Circuit. For five decades, Judge Fairchild dedicated himself to the realization of the ideal of equal justice under the law. All of us should strive to follow his example.

I remember this evening a graduate of the law school, and a colleague of many years in the Governance Institute, the late Robert Kastenmeier<sup>1</sup> and make note of my esteemed colleague at NYU's Institute of Judicial Administration, Justice Shirley Abrahamson of the Wisconsin Supreme Court.

Now to my subject, "Civic Education and the Federal Courts."

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\* Chief Judge, U.S. Court of Appeals for the Second Circuit.

1. See generally Robert A. Katzmann, *Remembering Robert W. Kastenmeier*, 2015 WIS. L. REV. 575.

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In poll after poll, Americans express the sentiment that our national political institutions—the presidency, the Congress, and the judiciary—are not working as they should. In a recent Gallup poll, for example, only 28% indicated that the United States was on the right course.<sup>2</sup> Americans do not look favorably upon the performance of any of our national political institutions. Only 21% of those polled said that they had a great deal of confidence in the executive branch,<sup>3</sup> only 16% had a great deal of confidence in the federal judiciary,<sup>4</sup> and only 3% had a great deal of confidence in Congress.<sup>5</sup>

Certainly, Americans have always expected much from their government and its leaders. As James Q. Wilson observed, we seek many things from government, many of which are in conflict.<sup>6</sup> We want a government that treats each individual alike, but one that is compassionate and makes exceptions for those thought deserving of such exceptions. We want a government that is efficient and expeditious, but one that takes into account the diversity of viewpoints in ways that are hardly efficient.

If we as a country are to continue to tackle our problems, even as there are increasing doubts about the effectiveness of governmental institutions, then there must be a shared appreciation about the constitutional system underlying those institutions. There must be a shared understanding of the principles, values, and basic workings of that constitutional system. If that is lost, then I worry that all that will be left will be a corrosive cynicism about the perceived failings of that system, without the recognition of all the reasons our constitutional system is worth preserving. The consequences for us, as a nation, I daresay, of such lack of understanding can only be harmful to the fabric of our country.

Yet, if anything, there is a disturbing lack of knowledge of such matters. Senator Daniel Patrick Moynihan, a great mentor of mine, used to say that you are entitled to your own opinion, but not to your

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2. Justin McCarthy, *Satisfaction with Direction of U.S. Down in March*, GALLUP (Mar. 15, 2018), <http://news.gallup.com/poll/230174/satisfaction-direction-down-march.aspx> [https://perma.cc/XA3J-6ZYA].

3. JEFF JONES & LYDIA SAAD, GALLUP, GALLUP POLL SOCIAL SERIES: GOVERNANCE (2017), <http://news.gallup.com/file/poll/219797/170920TrustFederalBranches.pdf> [https://perma.cc/9Q3T-3EPP].

4. *Id.*

5. *Id.*

6. James Q. Wilson, *The Bureaucracy Problem*, PUB. INTEREST, Winter 1967, at 3–4.

own facts.<sup>7</sup> Unfortunately, the Constitution's ideals—and the way our system of government puts them in action—are lost on millions of Americans. Surveys show many have only a dim idea of how our government makes and applies laws. Most could not pass the test administered to prospective citizens. To cite a few troubling facts: according to a 2017 Annenberg survey, only a quarter (26%) of Americans can name all three branches of the federal government, down from 38% in 2011;<sup>8</sup> 33% could not name any branches;<sup>9</sup> 70% of Americans in a 2011 poll couldn't identify the Constitution as the supreme law of the land;<sup>10</sup> more than 60% couldn't identify the length of a senator's term,<sup>11</sup> and about the same proportion couldn't name the number of justices on the Supreme Court.<sup>12</sup> In a Newseum Institute survey, more than one-third of Americans could not name a single First Amendment right;<sup>13</sup> 46% could not even identify freedom of speech as one of those rights.<sup>14</sup> Some 10% of college graduates think that "Judge Judy" is a Supreme Court Justice.<sup>15</sup>

How can we effectively defend the Constitution if we know so little about it? When so few have read its fifty-two-word preamble, with its commitment to "justice," "tranquility," and the "blessings of liberty to ourselves and our posterity"? When so few are familiar with the Articles of the Constitution and its laying out of the organization of government? When only a small minority are knowledgeable about the Bill of Rights and its nearly thirty distinct promises to all Americans?

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7. See Timothy J. Penny, *Facts Are Facts*, NAT'L REV. (Sept. 3, 2003), <https://www.nationalreview.com/2003/09/facts-are-facts-timothy-j-penny/> [<https://perma.cc/K367-UHRZ>].

8. *Americans Are Poorly Informed About Basic Constitutional Provisions*, ANNENBERG PUB. POL'Y CTR. (Sept. 12, 2017), <https://www.annenbergpublicpolicycenter.org/americans-are-poorly-informed-about-basic-constitutional-provisions/> [<https://perma.cc/T358-8FZ5>].

9. *Id.*

10. Devin Dwyer, *United States of Ignorants? Americans Don't Know Constitution, Surveys Find*, ABC NEWS (Mar. 24, 2011), <http://abcnews.go.com/Politics/tea-party-enthusiasm-surveys-find-ignorance-us-constitution/story?id=13206667> [<https://perma.cc/39X6-JYU3>].

11. *Id.*

12. *Id.*

13. NEWSEUM INST., *THE 2016 STATE OF THE FIRST AMENDMENT 2* (2016), [http://www.newseuminstitute.org/wp-content/uploads/2016/06/FAC\\_SOFA16\\_report.pdf](http://www.newseuminstitute.org/wp-content/uploads/2016/06/FAC_SOFA16_report.pdf) [<https://perma.cc/6JAH-NC8M>].

14. *Id.*

15. Daniella Diaz, *Report: 10% of College Graduates Think Judge Judy is on the Supreme Court*, CNN (Jan. 19, 2016), <https://www.cnn.com/2016/01/19/politics/judge-judy-supreme-court-poll/index.html> [<https://perma.cc/PP42-DQH8>].

This nation's founders understood the importance of civic education and the link between knowledge and a vibrant democracy. George Washington called for a national university: "[T]he assimilation of the principles, opinions, and manners of our country-men by the common education of a portion of our youth from every quarter well deserves attention. The more homogeneous our citizens can be made in these particulars, the greater will be our prospect of permanent union."<sup>16</sup> He continued: "In a republic what species of knowledge can be equally important and what duty more pressing on its legislature than to patronize a plan for communicating it to those who are to be the future guardians of the liberties of the country?"<sup>17</sup>

For his part, John Adams observed that "liberty cannot be preserved without a general knowledge among the people."<sup>18</sup> Thomas Jefferson asserted that public education be among the "objects of public improvement as it may be thought proper to add to the constitutional enumeration of Federal powers."<sup>19</sup> James Madison, who had seconded Charles Pickney's failed proposal at the Constitutional Convention that the Constitution itself provide for a university, never lost sight of that vision.<sup>20</sup> As President, Madison continued to advocate for such an institution, arguing that "the advancement and diffusion . . . is the only guardian of true liberty."<sup>21</sup> In 1810, he called for:

a Seminary of Learning instituted by the national Legislature within the limits of their exclusive jurisdiction . . . .

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16. President George Washington, Eighth Annual Address to Congress (Dec. 7, 1796), *in* AM. PRESIDENCY PROJECT, <https://www.presidency.ucsb.edu/documents/eighth-annual-address-congress> [https://perma.cc/4C2R-J9T5].

17. *Id.*

18. John Adams, *A Dissertation on the Canon and Feudal Law No. 3*, BOS. GAZETTE (Sept. 30, 1765), <http://www.masshist.org/publications/adams-papers/index.php/view/ADMS-06-01-02-0052-0006#PJA01d068n1> [https://perma.cc/83PH-AMMK].

19. President Thomas Jefferson, Sixth Annual Message (Dec. 2, 1806), *in* AM. PRESIDENCY PROJECT, <https://www.presidency.ucsb.edu/documents/sixth-annual-message> [https://perma.cc/8ZHU-8HKW].

20. Hans Zeiger, *Educating Citizens: Have We Kept the Founders' Ideals for Higher Education?*, 1 PEPP. POL'Y REV. 11, 13-14 (2008).

21. Letter from President James Madison to George Thompson (June 30, 1825), *in* *Founders Online*, NAT'L ARCHIVES, <https://founders.archives.gov/documents/Madison/04-03-02-0562> [https://perma.cc/6GUS-CBQV].

By enlightening the opinions, by expanding the patriotism, and by assimilating the principles, the sentiments, and the manners of those who might resort to this Temple of Science, to be redistributed, in due time, through every part of the community; sources of jealousy and prejudice would be diminished, the features of national character would be multiplied, and greater extent given to Social harmony. But above all, a well-constituted Seminary, in the center of the nation, is recommended by the consideration, that the additional instruction emanating from it, would contribute not less to strengthen the foundations, than to adorn the structure, of our free and happy system of Government.<sup>22</sup>

Abraham Lincoln, in 1832, in his first political announcement, seeking a seat in the Illinois General Assembly, then only twenty-three years old, said the subject of education was “the most important subject which we as a people can be engaged in.”<sup>23</sup> He continued: “That every man may receive at least, a moderate education, and thereby be enabled to read the histories of his own and other countries, by which he may duly appreciate the value of our free institutions, appears to be an object of vital importance, even on this account alone.”<sup>24</sup>

This shared concern of our great leaders of the founding generation and thereafter about the importance of civic education encompassed as well a concern with the building of character, of manners, of civility. Although there could be intense disagreements about political disputes, the hope was that shared moral values, the moral sense, as James Q. Wilson termed it, would reduce the heat of discourse so that conflict could be constructively managed in the pursuit of a strong and healthy nation—a goal that all shared regardless of political difference. George Washington is a prime exemplar. We all know Parson Weems’ apparently apocryphal story of the young George Washington, who said, as a youngster, “I cannot tell a lie” when asked whether he had cut down the cherry tree.<sup>25</sup> And, as his biographer, Ron Chernow notes, Washington tried to stay true to the Rules of Civility and Decent Behavior, 110 maxims governing appropriate conduct that

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22. James Madison, Annual Message to Congress (Dec. 5, 1810), in *Founders Online*, NAT’L ARCHIVES, <https://founders.archives.gov/documents/Madison/03-03-02-0059> [https://perma.cc/WG2W-KS4S].

23. Abraham Lincoln, Communication to the People of Sangamo County (Mar. 9, 1832), in *THE COLLECTED WORKS OF ABRAHAM LINCOLN* 5, 8 (Roy P. Basler ed., 1953).

24. *Id.*

25. MASON LOCKE WEEMS, *THE LIFE AND MEMORABLE ACTIONS OF GEORGE WASHINGTON* 9 (5th ed. 1806).

he copied as a young teenager from a work originally compiled and published in 1595 by French Jesuits.<sup>26</sup> As Washington would later say, “[a] good moral character is the first essential . . . . It is . . . highly important not only to be learned but to be virtuous.”<sup>27</sup> We know, of course, that the politics of this country from the early days of the Republic could veer from the ideals of civility, and, as Senator Daniel Patrick Moynihan observed, there is an unsettling tendency to “define deviancy down.”<sup>28</sup> But I think we all would agree that the ideal of civil discourse is still worth not only maintaining but also living by.

Leaders of modern day have decried the critical gap in civic education knowledge. President Reagan said that “[s]ince the founding of this Nation, education and democracy have gone hand in hand.”<sup>29</sup> Barack Obama lamented that the “loss of quality civic education . . . has left too many young Americans without the most basic knowledge of who our forefathers are, or the significance of the founding documents . . . or of the risks and sacrifices made by previous generations.”<sup>30</sup>

What accounts for this crisis in civic education? A number of studies, by such venerable organizations as the Carnegie Corporation of New York, which spearheaded the Civic Mission of Schools reports and coalition, and the Annenberg School of Communication, which has been at the forefront of the Civics Renewal Network of institutions seeking to promote civic education, have analyzed the reasons for the lack of knowledge about our governmental institutions.<sup>31</sup> And scholars

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26. RON CHERNOW, WASHINGTON: A LIFE 13 (2010).

27. Letter from George Washington to George Steptoe Washington (Dec. 5, 1790), *in Founders Online*, NAT'L ARCHIVES, <https://founders.archives.gov/documents/Washington/05-07-02-0017> [https://perma.cc/AG4Y-PV4C].

28. Daniel Patrick Moynihan, *Defining Deviancy Down*, 62 AM. SCHOLAR 17, 19 (1993).

29. Ronald Reagan, Radio Address to the Nation on Education (Sept. 10, 1988), *in* AM. PRESIDENCY PROJECT, <https://www.presidency.ucsb.edu/node/253999> [https://perma.cc/KU63-9H75].

30. Barack Obama, Barack Obama's Speech in Independence, Mo. (June 30, 2008), *in* N.Y. TIMES (June 30, 2008), <https://www.nytimes.com/2008/06/30/us/politics/30text-obama.html> [https://perma.cc/5TQK-T2GU].

31. *See generally* CAMPAIGN FOR THE CIVIC MISSION OF SCH., GUARDIAN OF DEMOCRACY: THE CIVIC MISSION OF SCHOOLS (Jonathan Gould et al. eds., 2011), [https://www.carnegie.org/media/filer\\_public/ab/dd/abdda62e-6e84-47a4-a043-348d2f2085ae/ccny\\_grantee\\_2011\\_guardian.pdf](https://www.carnegie.org/media/filer_public/ab/dd/abdda62e-6e84-47a4-a043-348d2f2085ae/ccny_grantee_2011_guardian.pdf) [https://perma.cc/KVV4-9ZNF]; *Civics Renewal Network*, ANNENBERG PUB. POL'Y CTR., <https://www.annenbergpublicpolicycenter.org/project/civics-renewal-network/> [https://perma.cc/6828-FP56].

such as Kathleen Hall Jamieson<sup>32</sup> have sounded the alarm about the failure of our educational system to teach about civic education in our schools. A recent survey of civic education efforts noted that only 23% of 8th graders performed at or above the proficient level on the National Assessment of Education Progress (NAEP) civics test, and achievement levels have been virtually flat since 1998.<sup>33</sup> The focus in K-12 education, the report continued, on math and reading, while important, has had the effect of downgrading civics.<sup>34</sup>

Only nine states and the District of Columbia mandate one year of U.S. government or civics; thirty-one states require only a half-year of civics or U.S. government education, and ten states do not require civics at all.<sup>35</sup>

I. PUBLIC ENGAGEMENT & CIVIC EDUCATION. JUSTICE FOR ALL:  
COURTS AND THE COMMUNITY PROJECT—A CIVIC EDUCATION  
INITIATIVE OF THE FEDERAL COURTS OF THE SECOND CIRCUIT

I think all of us in this room are troubled about this state of affairs. What is to be done about it? Justice Sandra Day O'Connor urged greater attention to closing the gap in public knowledge of institutions through civic education. She championed the iCivics program, teaching students how government works through a variety of online digital exercises and games.<sup>36</sup> Justice Sonia Sotomayor has also become involved with iCivics.<sup>37</sup> Justice David Souter, as a member of an American Academy of Arts and Sciences panel, has spoken of the need for civic education.<sup>38</sup> Chief Justice John G. Roberts, Jr., Justices Stephen G. Breyer, Anthony M. Kennedy, Ruth Bader Ginsburg, and

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32. Kathleen Hall Jamieson, *The Challenges Facing Civic Education in the 21st Century*, 142 DAEDALUS 65, 66 (2013).

33. Sarah Shapiro & Catherine Brown, *The State of Civics Education*, CTR. FOR AM. PROGRESS, (Feb. 21, 2018), <https://www.americanprogress.org/issues/education-k-12/reports/2018/02/21/446857/state-civics-education/> [https://perma.cc/4UBH-33ZF].

34. *Id.*

35. *Id.*

36. *Our Founder*, iCIVICS, <https://www.icivics.org/our-founder> [https://perma.cc/3XJV-DPTB] (“[I]n 2009, Justice O’Connor founded iCivics with the goal of transforming civic education for every student in America . . .”).

37. *Associate Justice Sonia Sotomayor Joins iCivics Governing Board*, iCIVICS (Dec. 1, 2015), <https://www.icivics.org/news/associate-justice-sonia-sotomayor-joins-icivics-governing-board> [https://perma.cc/C5FZ-PYAV].

38. *U.S. Constitution, Politics and Civic Discourse*, C-SPAN (Oct. 2, 2011), <https://www.c-span.org/video/?301851-2/us-constitution-politics-civic-discourse> [https://perma.cc/V7VB-RFTG].

Neil Gorsuch have been involved in a wide variety of civic education projects.<sup>39</sup>

Some years ago, as chair of the Judicial Conference Committee on the Judicial Branch—a committee of federal judges, whose mission in part is to increase public understanding of the courts—I thought there might be a role for our courts in fostering civic education as it relates to the judiciary. To that end, with the support of the Federal Judicial Center, we undertook a comprehensive survey of all federal judges to determine what efforts were already underway. That survey, spearheaded by James Eaglin and Jessica Snowden of the Federal Judicial Center, and with the indispensable counsel of Rebecca Fanning of the Administrative Office of the U.S. Courts, showed that individual judges were doing a lot of civic education activities, mostly in the context of courthouse visits by high school students, but that there was little in the way of organized activities by the federal judiciary.<sup>40</sup> Reflecting that concern, upon becoming chief judge, I thought about how bench and bar could increase public understanding of the role and operations of the courts, and to bring courts closer to the community. Students who learn about and appreciate the Constitution and courts grow up to be adults who respect and support it. Understanding our system of constitutional liberty keeps our democracy strong and

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39. See, e.g., *A Conversation on the Constitution with Chief Justice John Roberts Jr.: The Origin, Nature and Importance of the Supreme Court*, ANNENBERG CLASSROOM (Sept. 17, 2018), <https://www.annenbergclassroom.org/resource/a-conversation-on-the-constitution-the-origin-nature-and-importance-of-the-supreme-court/>; *New Jersey Teachers Discuss History and Civics with Supreme Court Justice*, DEP'T EDUC. OFF. INNOVATION & IMPROVEMENT (Jan. 15, 2014), <https://innovation.ed.gov/2014/01/15/new-jersey-teachers-discuss-history-and-civics-with-supreme-court-justice/> [<https://perma.cc/367A-SU9Q>] (noting Justice Breyer's participation in a New Jersey Teaching American History (TAH) project); Mark Walsh, *High Court Justice Spotlights Civics Education at 9th Circuit Conference*, EDUC. WEEK: SCH. L. BLOG (July 18, 2017, 1:22 AM), [http://blogs.edweek.org/edweek/school\\_law/2017/07/high\\_court\\_justice\\_spotlights\\_.html](http://blogs.edweek.org/edweek/school_law/2017/07/high_court_justice_spotlights_.html) [<https://perma.cc/7YZ8-73XM>] (highlighting Justice Kennedy's "develop[ment] of a curriculum to promote democratic values"); *Justice Sandra Day O'Connor Honored for Her Work in Civic Education*, ICIVICS (Apr. 16, 2015), <https://www.icivics.org/news/justice-sandra-day-oconnor-honored-her-work-civic-education> [<https://perma.cc/3K8Q-HPG2>] (noting the attendance of "U.S. Supreme Court Justices Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan . . . with Justice Ginsburg delivering heartfelt . . . remarks" for Justice O'Connor's "advocacy work for civic education"); Dustin Stephens, *Civics Lessons: Justices Sonia Sotomayor, Neil Gorsuch on Promoting Education in Citizenship*, CBS NEWS (Nov. 4, 2018, 9:09 AM), <https://www.cbsnews.com/news/supreme-court-justices-sonia-sotomayor-and-neil-gorsuch-promote-civics-education/> [<https://perma.cc/FEB2-SQ8U>].

40. Marie Leary & Jessica Snowden, *The Federal Judiciary's Civics Education Efforts: Results of a 2014 Federal Judiciary Survey: A Report to the Civic Engagement Subcommittee of the Judicial Conference Committee on the Judicial Branch* (May 2015) (internal survey on file with author).

safeguards the rights of all Americans. As John Dewey observed, “[d]emocracy has to be born anew every generation, and education is its midwife.”<sup>41</sup>

Almost four years ago, I called for an initiative, then, to help increase points of contact between the courts and the communities we serve, to facilitate mutual understanding and help to ensure that the courts are accessible and effective communities in which courts function. My purpose was not to put the courts on a pedestal, but rather to foster awareness about the workings of the administration of justice, to provide ways to share ideas about that system for improving the administration of justice in our federal courts. My hope was to develop a program could be implemented in every district and courthouse in our Circuit. Thus was born the idea for our Second Circuit-wide initiative on civic education and public engagement.

#### A. *Justice for All: Courts and the Community*

In these intervening four years, I had the privilege of launching a circuit-wide civic education initiative, entitled *Justice for All: Courts and The Community*, to increase public understanding of the role and operations of the courts and to bring the courts closer to the communities in which they are located and which they serve. To my knowledge, this is the first such judiciary sponsored, circuit wide initiative in this country, involving the federal courts at all levels. To that end, our mission encompasses two principal approaches: to bring the communities to the courts, and to bring the courts to the communities. I appointed my esteemed colleague, Southern District Senior Judge Victor Marrero, as my co-chair, and together with the Circuit Executive, I formed a circuit-wide Committee on Civic Education and Public Engagement consisting of judges and court executives throughout the three states of our circuit. The Committee developed a mission statement to assist its members in defining the Committee’s goals for this circuit-wide program on civic education.

Working with us is an extraordinary group of lawyers and educators, who I identify in the attached Appendix. I make special note of the contributions of Rebecca Fanning of the Administrative Office of the U.S. Courts (“AO”), who, with the support of AO Director James Duff and Assistant Director David Sellers, has done more to promote civic education in the federal courts than anyone I know; Debra Lesser, executive director of the Judicial Resource Center, who has been the

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41. JOHN DEWEY, THE NEED OF AN INDUSTRIAL EDUCATION IN AN INDUSTRIAL DEMOCRACY (1916), reprinted in 10 THE MIDDLE WORKS OF JOHN DEWEY, 1899-1924 at 139 (Jo Ann Boydston et al. eds., 1980).

key conduit to the New York City Board of Education; Russell Wheeler, the president of the Governance Institute and visiting fellow of the Brookings Institution, who has played an invaluable role in project planning and implementation, reviewing curricula and providing materials for various aspects of the civic education project; our extraordinary library team, led by Circuit Librarian Luis Lopez and Research Librarian Adriana Mark, who have been the lynchpin of our efforts to mount exhibitions, a website, and newsletter; our Circuit Executive Karen Milton and her team, who have done so much in coordinating efforts with the communities the project is serving. In our work, we are buoyed by the work already ongoing by a variety of bar associations and groups. And I gratefully acknowledge the support of the Leon Levy Foundation which provided funding for Russell Wheeler's indispensable contributions.

The circuit-wide initiative, *Justice for All*, has been divided into ten subcommittees: Civic Education Programs; Advocacy Skills; Learning Centers; Reenactments; Student Contests; Civic Ceremonies; Speakers Bureau; Law Week; Adult Education; and Civic Education Media & Public Outreach. Each of these subcommittees consists of several judges along with members of the Advisory Group.

Let me share with you a few of the many activities, programs and events being planned and being held in the courthouses of our circuit.

#### *B. Civic Education Programs Subcommittee Activities*

In New York City, the civic education subcommittee has partnered with the Justice Resource Center ("JRC") of the New York City Department of Education to develop programs for courthouse visits for students and professional development seminars for teachers, and enhance the general social studies curriculum for New York City public school students. Federal courthouses, where citizens go to enforce their rights, belong to the people, and are locations that should welcome visitors for tours, lectures and other events. At the Thurgood Marshall Courthouse in lower Manhattan, for instance, we have hosted monthly visits for high school students to watch oral arguments in the Court of Appeals, view district court proceedings in the Southern District of New York and participate in legal research modules called Library Labs. Programs feature courthouse tours, presentations about the architecture and history of our courthouses, and presentations by judges and staff about the federal courts, including their probation and pre-trial services departments, and also partners, including the U.S. Marshals Service, U.S. Attorney's Office, and Federal Defenders.

These programs are now being undertaken in other courts of the circuit. With advance notice, our project welcomes court visits from

school groups, mentorship program participants and community groups throughout the Second Circuit (which covers Connecticut, New York, and Vermont), as well as dialogue on how we can assist educators in enhancing civic education. Civic education opportunities are potentially available every week day (other than national holidays).

In another successful collaboration with the JRC, the civics education subcommittee developed and presented, with the integral participation of federal judges, faculty from numerous law schools and practicing lawyers, an unprecedented week-long summer professional development program for New York City and Albany, NY, teachers in 2016. The program focused on the teaching of a comprehensive high school civics education curriculum (“We the People”). The teachers who participated in this special program were selected from among those working in schools in economically challenged areas. Our judicial colleagues, presided over a mock hearing at which teachers offered four-minute presentation speeches on topics related to the week’s lessons. We replicated that program in 2017 and will do so in summer 2018, and are also providing additional courthouse-based professional development programs during the school year. Our civics education subcommittee also collaborated on and hosted a New York City Teachers Professional Day at the Thurgood Marshall Courthouse in the spring of 2016, which featured discussions with judges, a legal research seminar and a screening of the film “Justice is a Black Woman.” We did so again in 2017 and 2018, focusing on such topics as criminal law and intellectual property.

We have collaborated with the JRC to develop civil and criminal law, constitutional law, mock trial, and legal research courses for high school students enrolled in special law-focused public school programs throughout New York City, and we provide venues and logistical support for moot appellate court and mock trial competitions. To that end, the subcommittee worked with the New York City Department of Education, to review the proposed new social studies curriculum for New York City public school students. Aided by Russell Wheeler of the Governance Institute at the Brookings Institution, subcommittee members reviewed the law focused curriculum with a view to enhancing its lessons about the courts, the role of the courts in our government and civic education. Now being implemented in public schools is that Introduction to Law school curriculum, in 9th–11th grades (12th grade still in development). The curriculum being introduced—reaching 60,000 students and the product of a collaboration of the New York City Department of Education, the Judicial Resources Center, and judges and educators we recruited for this purpose—consists of the following:

- 9th grade: Intro to Law 1; Intro to Law 2
- 10th grade: Criminal Justice; Criminology
- 11th grade: Constitutional Law; Moot Court and Mock Trials
- As noted above, 12th grade Legal Research and Writing course is still in development.

Further projects for the 2018–19 academic year include collaboration with the New York City Department of Education on the enhancement and implementation of judiciary and law-related aspects of the general social studies curriculum, through commentary on draft materials and the development of components that will enhance students' understanding of the role of the courts, particular legal issues, and significant historical events.

As part of our activities, we have also hosted participants in several internship programs for law students and high school students in our New York City courthouses. These have included the Sonia & Celina Sotomayor Judicial Internship Program, whose high school interns were placed in judges' chambers and attended weekly seminars on practical topics such as college applications, career exploration, and cyber-security, as well as legal research training in our law libraries, other law-related skills, and legal history. A highlight is the presence of Justice Sotomayor for a session with the students.

### C. *Advocacy Skills Programs and Competitions*

The Eastern District of New York has hosted a week-long advocacy program, under the leadership of Judge Joseph Bianco, for 9th graders at the D'Amato Courthouse in Central Islip, culminating in a mock trial competition for the students. Over eighty high school students, from over forty schools in Nassau and Suffolk counties participated in the program, whose speakers included seven federal judges, the U.S. Marshal for the Eastern District, two FBI agents, a U.S. Secret Service agent, and several prosecutors and defense attorneys. The speakers describe their roles, and teach basic advocacy skills for the mock trial competition. The students observe a naturalization ceremony. One summer, they heard from two law professors about issues implicated in *Miranda v. Arizona*,<sup>42</sup> this being the 50<sup>th</sup> anniversary of that landmark decision. At lunch one day, the keynote speaker was Mary Beth Tinker, the plaintiff in the Supreme Court decision, *Tinker v. Des Moines*.<sup>43</sup> The Advocacy Skills

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42. 384 U.S. 436 (1966).

43. 393 U.S. 503 (1969).

Subcommittee is also hard at work developing a template to replicate the JRC's mentor-based moot court and mock trial program outside New York City with assistance from the Nassau Bar Association and Hofstra Law School for Long Island-based high schools.

At the Thurgood Marshall Courthouse we have hosted the final round of the New York City-wide Moot Court competition and the last four rounds of the multiple-round New York City-wide mock trial competition. This summer, we hosted our (now) annual moot court argument for the New York Intellectual Property Association's summer associate program and the Legal Outreach summer mock trial competition in August.

The Advocacy Skills Subcommittee continues to encourage individual courts to host student moot court and mock trial competitions with judges presiding over these student competitions. It makes all the difference to the students to be able to argue in a real courtroom where their arguments are heard by actual real-life judges.

A subcommittee is reviewing how best to stimulate such competitions as student essay contests, to replicate efforts already underway in parts of the Circuit that would like to take on this activity.

In all this, I thank our judges and bar members who have volunteered to preside at these student advocacy skills competitions.

#### *D. Learning Centers*

With the energetic efforts of the Learning Centers Subcommittee, chaired by Eastern District of New York Judge Pamela Chen, we worked to create a model and exhibit materials for physical and virtual learning centers that can be used, or adapted for use, in each of our Circuit's courthouses. It is envisioned that these Learning Centers will cater to visitors of all ages, backgrounds and levels of knowledge regarding the federal judicial system, its judges, its courthouses, and its role in maintaining our republican form of government. The learning center will consist of interactive kiosks; a model judge's bench; lecture space; digital recording equipment for video and podcasts; lecture space; exhibits and multimedia displays on such topics as: the Constitution and its protections, what the federal courts do, how a case moves through the federal system, famous cases in the Second Circuit, judges of the Second Circuit, immigration and citizenship. We expect that the learning center at the Thurgood Marshall Courthouse will be open by the fall of 2018. My cochair, Victor Marrero, and I are working with the Circuit Librarian and the learning center

subcommittee to make that a reality.<sup>44</sup> In our work, we have benefitted from the experiences of other courthouses, especially the federal courthouse in St. Louis with the support of Rebecca Marshall.

### *E. Reenactments*

Under the leadership of Second Circuit Judge Denny Chin and Kathy Chin, our project is supporting the reenactments they have produced of historic cases, programs like the Amistad case, the trial of Susan B. Anthony, the Rosenberg case, the trial of Wyatt Earp, and the Heart Mountain draft resisters case. With the help of the Second Circuit library staff, the civic education website—about more in a moment—includes pages devoted to these reenactments and visitors to the website are able to learn about the reenactments and request scripts and slides so they can present the programs in their home communities or in our courthouses.

### *F. Civic Ceremonies*

Our project worked on programs for Law Day and Citizenship Day/Constitution Day celebrations, including naturalization programs throughout the Circuit. The subcommittee has provided a template for such events. Through the subcommittee's efforts, Justice Sotomayor videotaped remarks which were shown at all naturalization programs in the Circuit. There was substantial media coverage of an Ellis Island ceremony and the ceremonies of the Eastern District of New York, one of which featured a star of the Broadway show *Hamilton*.<sup>45</sup> Our

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44. In fact, subsequent to the Fairchild Lecture, the Learning Center at the Thurgood Marshall U.S. Courthouse in New York City, did open. See Jesse Wegman, *Opinion, New York City High Schoolers Get Their Day in Court*, N.Y. TIMES (Nov. 23, 2018), <https://www.nytimes.com/2018/11/23/opinion/education-high-school-courts-civics-law.html> [<https://perma.cc/L8K2-KYZV>]; RJ Vogt, *New Learning Center Lab Connects Young Minds with Rule of Law*, LAW 360 (Dec. 16, 2018), <https://www.law360.com/articles/1110481/new-learning-lab-connects-young-minds-with-rule-of-law>.

45. Ann Vutow, *Attend the Superbowl of Naturalization Ceremonies* (Sept. 23, 2016), <https://observer.com/2016/09/attend-the-superbowl-of-naturalization-ceremonies/> [<https://perma.cc/35SL-PFSD>] (noting the largest naturalization ceremony in Ellis Island's history on Citizenship Day/Constitution Day 2016); John Marzulli, *"Hamilton" Star and Son of Nigerian Immigrants Okieriete Onaodown Will Give Keynote Address at Naturalization Ceremony* (Sept. 7, 2016), <https://www.nydailynews.com/entertainment/theater-arts/hamilton-star-okieriete-onoadowan-address-new-citizens-article-1.2782415> [<https://perma.cc/3BWQ-SXMQ>]; *Sagamore Hill National Historic Site Hosts Special Naturalization Ceremony* (Sept. 23, 2016), <https://www.nps.gov/sahi/learn/news/2016-naturalization-ceremony.htm> [<https://perma.cc/JTX7-FRMB>] (noting naturalization ceremony at Theodore Roosevelt's Long Island Home on Citizenship Day/Constitution Day 2016).

subcommittee prepared a quick quiz which contains sixty questions about the Constitution and the Supreme Court. The subcommittee is also considering developing a list of recommended “minimum standards” for courthouse visits in each district, including necessary website information, the appointment of a visits coordinator, and a series of ready-made programs.

### *G. Speakers Bureaus*

We seek to coordinate speaking events for judges, professors, lawyers, and scholars about the legal profession and the work of the courts, participating in school and other communal events. In this regard, we are working with law school deans to involve their faculties and students; Dean Trevor Morrison of NYU Law School hosted a luncheon meeting of deans throughout the circuit, who generously gave their time and thoughts.

Judges and lawyers visit local schools and community organizations for presentations, panel discussions, or Q&A sessions. Examples of places visited by federal judges include:

- Middle schools and high schools;
- Community colleges;
- Senior centers;
- Child and family services non-profit organizations;
- Youth groups, including Local Boy Scout and Girl Scout troops; and
- Public radio stations

Examples of topics that judges and lawyers may address include:

- Our federal courts and how they function;
- Your constitutional rights and duties;
- Careers in the law and law enforcement;
- How does one become a lawyer, a judge, and law enforcement agent?
- Our jury system;
- Financial literacy and why it matters; and
- Significant and historic trials

### *H. Adult Education*

For adult audiences, our project is developing financial education programs on consumer bankruptcy and consumer credits, expanding the Credit Abuse Resistance Education (CARE) program, and forming

panels of lawyer educators to partner with judges for presentations on financial literacy in a variety of locations, reaching a wide population, including seniors, veterans, immigrants, and victims of domestic violence.

### *I. New Civic Education Website*

An initiative of this magnitude requires a permanent public presence where teachers, students and the public can access information about the many activities, programs and events happening at the courthouses of our Circuit.

With the support of our Circuit Librarian Luis Lopez and his staff, our circuit developed a new and exciting public face to its circuit-wide initiative on civic education. There are two components to our *Justice for All* website: A civic education website for the public and an internal website for judges and court executives. This easily accessible website—[www.justiceforall.ca2.uscourts.gov](http://www.justiceforall.ca2.uscourts.gov)—provides the public with a calendar of events, lectures, advocacy skills competitions and other civic education events and ceremonies in the courthouses of the circuit. It will house a wealth of downloadable resource and educational materials and other information about our Circuit-wide Civic Education Initiative: *Justice for All: Courts and the Community*.

### *J. Newsletter*

To further spread the word of our activities, we have also launched a newsletter describing the full range of civic education activities throughout our circuit.

### *K. Our Work in Numbers*

To give you a sense of our project's reach, since June 2017, a mere nine months, more than 10,000 students from over 250 schools have visited our courthouses. Some fifteen Library Labs have been held in which high school students learn about legal research. More than 600 students have participated in courthouse moot court competitions. We have had fourteen reenactments of historical court proceedings. And in May, 1100 students will be coming our courthouses for Law Day proceedings, and judges and lawyers will be visiting some dozen schools as well. Our courts since June have welcomed more than 115,000 new citizens at more than 500 naturalization ceremonies.

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In September 1787, as the Constitutional Convention was completing its work, a Philadelphia woman asked Benjamin Franklin what kind of government had been created. He answered, “A republic, madam, if you can keep it.” All of us—judges, lawyers, educators, academics, curators, architects, engineers, journalists and citizens—have a collective responsibility to promote civic education, so that our Constitution and government remain vital for generations to come. We need to work together to promote understanding of the judiciary, and to keep our judicial institutions vital for the communities we serve. What is at stake, harkening back to Franklin, is nothing more and nothing less than the preservation of a republic, if we can keep it.

I thank you for your consideration and for your kind courtesy.

## APPENDIX A

**JUSTICE FOR ALL: COURTS and the COMMUNITY—A Civic Education Project of the Federal Courts of the Second Circuit****Chair: Chief Judge, Robert A. Katzmann, U.S. Court of Appeals for the Second Circuit****Co-Chair: Judge Victor Marrero, Southern District of New York**

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