

Testimony of Rep. Zoe Lofgren  
House Committee on the Judiciary  
Subcommittee on Courts, Intellectual Property, and the Internet  
Hearing on H.R. 917, the Sunshine in the Courtroom Act of 2013  
Wednesday, December 3, 2014

I want to thank the Chair and the Ranking Member for holding a hearing on this important legislation. I am an original cosponsor of the Sunshine in the Courtroom Act, and have been pleased to cosponsor previous versions of this bill in past Congresses.

Over 100 years ago, Louis Brandeis wrote that “[s]unlight is said to be the best of disinfectants.” These now-famous words reflect the belief that openness and transparency are key components of a functioning democracy. This is a nation founded on the concept of government accountability, and passage of this bill would ensure that our judicial system is aiming to uphold these ideals.

The Sunshine in the Courtroom Act would allow judges to open their courtrooms to cameras, granting the public greater insight into the judicial process and building confidence in our legal system. As the Supreme Court found in 1948 (*In re Oliver*), “The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power.”

As I’m sure many are aware, in addition to the Ninth Circuit’s use of video streaming, there are currently fourteen federal trial courts participating in a pilot program to evaluate the effect of cameras on courtrooms. The Northern District of California, which includes my Congressional district, is one of the participating courts as selected by the Judicial Conference. The pilot, initially slated to end this summer, has been extended for an additional year. When it concludes next July, the federal judiciary will be facing questions about whether or not the use of cameras in courtrooms should be expanded. Trials have always been considered public, and I see no reason why, with modern technology, the walls of the courtroom should be the limits of this privilege.

This bill largely leaves the establishment of rules governing the use of cameras to the Judicial Conference, but I did want to raise a couple of points that I think are worth considering after hearing from some of the local judges involved in the pilot program. First, with regard to the pilot program rules, not only do individual judges need to approve the recording of proceedings, but all parties must consent. As a result, very few trials have been recorded in Northern California. Whether or not to require or allow all parties to consent may be worth examining further as we consider expanding the usage of cameras on a national level. I would also note that both the pilot program and the bill prohibit the media coverage of jurors. This is important, and some of our local judges have emphasized that this continue to be stressed. Judges that I’ve spoken with do support the use of cameras in the courtroom both as an educational tool and as a means for increasing transparency. I hope that the experiences and lessons learned from this pilot program will be used to enact meaningful reforms, including expanded access to our judicial system.

Again, I want to thank the Chair and the Ranking Member for organizing this hearing today and for allowing me to testify in support of this legislation. I look forward to hearing from my colleagues as well as the other witnesses, and I hope that we can find a path forward to bring our judiciary into the 21<sup>st</sup> century, using modern technology to increase access, accountability, and understanding.