

# American Judicature Society Supports Protections for Hawaii's Judges

by Steven K. Uejio

Late last year, the American Judicature Society's (AJS) board of directors approved a report encouraging the Hawai'i State Legislature to enact legislation protecting the personal information of Hawaii's judges. Both the federal government and a growing number of state governments already have enacted similar protections for their judges.

The AJS report includes draft legislation that would allow federal and state judges in Hawai'i to request that government agencies, persons, or other organizations not publicly post or display their personal information. Lawrence S. Okinaga, the chair of the AJS board, stated that, "as the federal government and other states have already recognized, our system of government depends upon our judges being able to administer justice fairly without fear of harm and reprisal. To preserve a fair and independent judicial system, Hawai'i should join the growing list of states that protect personal information of their judges."

## Threats to Judges

In his latest year-end report on the federal judiciary, Chief Justice John Roberts noted that a "judicial system cannot and should not live in fear." In recent years, however, federal and state court judges across the country have faced a growing number of inappropriate communications and threats.

The U.S. Marshals Service has reported that the number of threats and other inappropriate communications directed toward federal judges and other protected persons (including federal prosecutors and court officials) rose from 592 in 2003, to 4,511 in 2021.

In Hawai'i, the number of threats and inappropriate communications reported by state court judges more than quadrupled between 2017 and 2022. Since 2012, the number of such communications has increased tenfold.

One episode involving U.S. District Judge Susan Oki Mollway illustrates threats that Hawai'i's judges face. More than ten years after Judge Mollway sentenced a man to twenty-seven months' imprisonment, the man called Judge Mollway and left a message saying that he was returning to Hawai'i from the mainland United States. The next month, the man left another message for Judge Mollway. This time, the man threatened to assault Judge Mollway and to "blow [her] God [damn] brains out."

According to U.S. Circuit Judge Richard Sullivan, chair of the Judicial Conference Committee on Judicial Security, "threats against judges fulfilling their constitutional responsibilities strike at the very core of our democracy."

## Targeted Attacks on Judges

In addition to such reported threats, federal and state court judges face additional dangers because of their work. Recently, these potential threats have materialized as targeted attacks against judges. The attacks have resulted in the deaths of both judges and their family members.

In July 2020, a man opened fire at the home of U.S. District Judge Esther Salas. During the attack, Judge Salas' husband was critically wounded and her son, Daniel Anderl, was fatally shot. The suspected shooter, a self-described "anti-feminist" lawyer, had appeared before Judge Salas months earlier in a lawsuit challenging the male-only Selective Service System. He acquired Judge Salas' address, photos of her home, and her vehicle information from the Internet.

In June 2022, a retired state court judge in Wisconsin, John Roemer, was zip-tied to a chair and shot dead in his home. Authorities identified the shooter as a man that Judge Roemer had sentenced to six years' imprisonment more than fifteen years earlier. The Wisconsin Department of Justice described the incident as a "targeted attack" against Judge Roemer.

Also in June 2022, authorities arrested an armed gunman outside the home of Justice Brett Kavanaugh. The man had traveled from California to Maryland intending to kill the justice and then himself. The man was upset that the Supreme Court could undo the constitutional right to abortion and roll back gun control laws. The man decided to kill the justice after finding his address online.

Finally, on October 19, 2023, a state court judge in Maryland, Andrew Wilkinson, was fatally shot outside his home in what authorities have described as a "targeted attack." Hours before the shooting, Judge Wilkinson had awarded custody of the suspected shooter's four children to his estranged wife. Judge Wilkinson had also ordered the suspected shooter to not contact his children.

## Congress Acts to Protect Federal Judges

In December 2022, President Biden signed the Daniel Anderl Judicial Security and Privacy Act of 2022. The new law, named after Judge Salas' son, prohibits federal government agencies from publicly posting the personal information of federal judges and their families, and it requires agencies to remove any such information upon receiving a written request

from a judge. The law also prohibits data brokers from selling, transferring, or purchasing personal information of judges or their families.

In response to the law's passage, Judge Salas stated that, "Judges, and their families, should not live in fear for doing the job they are sworn to do. As a

nation and as a people, we cannot accept this. This legislation will make it harder for violent individuals to find judges' addresses and other personal information online. By better protecting judges, the bill also helps safeguard the judicial independence guaranteed by the Constitution."

## States Move to Protect Their Judges

While the new federal law seeks to protect the personal information of federal judges, a growing number of states have enacted laws protecting the personal information of their judges. These states include Delaware, Illinois, New Jersey, and West Virginia, to name a few.

In Illinois, for example, the personal information of both federal and state judges has been protected since the passage of the Michael Lefkow and Donna Humphrey Judicial Privacy Improvement Act of 2012. That act was named after the husband and mother of U.S. District Judge Joan Lefkow, who were murdered in 2005, apparently in retaliation for Judge Lefkow's handling of a man's medical malpractice lawsuit. The act allows judges to request that government agencies, persons, businesses, and associations refrain from publicly posting or displaying their personal information.

## Protections for Hawaii's Judges

Hawai'i law does not yet provide any specific protections for the personal information of judges.

In 2022, however, Governor David Ige signed into law Act 46 creating, for a limited time, a judicial security task force. In Act 46, the Legislature recognized that, "given the availability of personal information of judges . . . on the Internet, additional measures are needed to ensure the safety of judges and judiciary personnel." Act 46 charged the task force with identifying appropriate measures to enhance the security of judges and judiciary personnel.

The task force issued a written report stating that during the 2023 legislative session the Hawai'i State Judiciary intended to introduce legislation aimed at protecting judges. Thus, earlier this year, a bill was simultaneously intro-

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duced in the House of Representatives and the Senate that would have prevented certain disclosures of judges' personal information. Although the House passed the bill with minor amendments and referred it to the Senate, the bill did not make it out of committee in that chamber.

### Proposed Legislation

The AJS report encourages the Legislature to regain the momentum of the last legislative session to enact legislation protecting the personal information of Hawaii's judges. The draft bill attached to the AJS report would allow judges to request that government agencies, persons, and organizations refrain from publicly posting or displaying their personal information. To enforce these protections, the judge could bring an action seeking injunctive or declaratory relief. The judge could also seek costs and fees from a person or organization who violates the law. Much like the new federal law, the draft bill would not apply to personal information included in a news story or other speech on a matter of public concern.

According to Okinaga, "Rather than waiting for a tragic incident to occur in our islands, similar to the incidents seen, for example, just last October in Maryland, and fairly recently in New Jersey, Wisconsin, and elsewhere across the country, we should embrace this opportunity to protect our judges, our judicial system, and our democracy."

The AJS report is available at <https://americanjudicaturesociety.org/>.

*Steven K. Uejio is a staff attorney with the federal district court.*



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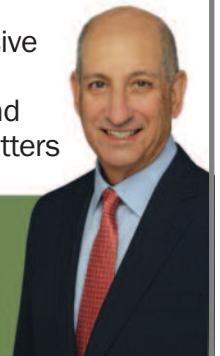
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