National Judicial Outreach Week
March 1-10, 2019

SPEAKER’S NOTES
Preserving the Rule of Law
Speaker’s Notes

The following pages contain suggestions about effective use of the PowerPoint titled “Preserving the Rule of Law.”

**A template, not a script.** The PowerPoint slides and these notes provide a template that speakers can use and adapt to their own “voice” and style. The notes contain suggestions, but should not be used as a script.

**Length.** The presentation can be delivered in as little as 25 minutes and as much as an hour, depending on the extent that speakers enrich the materials with personal anecdotes and the extent of audience interaction.

**Variations Between Versions for Judicial Branch Judges and Administrative Law Judges (ALJs).** There are two versions of the PowerPoint available in the Program Toolkit to include a version adapted to explain the role of ALJs in the administration of justice. There are some other slight language variances and differences in hypotheticals, but in substance the presentations are the same. Differences in the ALJ version are noted throughout these Speaker’s Notes.

**Design.** This PowerPoint has been carefully designed based on extensive research, knowledge, and experience in the fields of education, public speaking, rhetoric, psychology, and the law. Significant design objectives include the following:

- Know what information, concepts, and values you want the audience to take away from the presentation.
- Include not more than three concepts.
• Frame the presentation in terms of the most widely held American values.

• Keep it simple.

• Foster interaction between the speaker and the audience.

• Stimulate the audience to think.

• Avoid “legal-speak.”

• Use PowerPoint slides as visual aids to increase attention and comprehension.
  
  o Use graphics and pictures where possible.
  o Use key words.
  o When possible, use verbs rather than nouns.
  o Avoid lengthy sentences and paragraphs.

**Guidance and Suggested Commentary.** The following pages provide guidance and suggested commentary for each slide.

The guidance appears in plain text.

*Suggested commentary appears in text boxes in italic type.*
Guidance. The first slide is an introduction to the event. When you show this slide, begin by introducing yourself. Consider including the following:

- Your name
- Your current position
- How long you have served in that position
- A brief description of your duties
- Why you became a judge
- What you find most rewarding about being a judge
- Why you are committed to preserving the rule of law
Today, we’re going to talk about the Rule of Law and how our courts apply it and ensure that it is honored. I say “we” because I’m not going to give a speech. Instead, I hope we’ll discuss the Rule of Law and what our courts do to make sure we preserve it for our country.

You can see the image that is on this slide, which serves as the background of all the slides I will use today. It is a drawing of Lady Justice.

- Note that, in her left arm, Lady Justice is holding a book. The book represents the laws that rule our government and our society—the laws that our courts apply in thousands of courtrooms around the country every day.

- She has a blindfold on.
  - This represents the ideal that, our courts must apply our laws equally to everyone, without regard to their appearance—without regard to their sex, age, race, nationality, or anything else that might undermine their equal treatment under the law.
  - It also represents that our courts must apply our laws equally to everyone, without regard to their identity—without regard to whether they hold positions of power, are famous, are wealthy, or are popular.

- In her left hand, Lady Justice holds a scale, which represents fairness and objectivity. Our courts must not only apply the laws equally to everyone, but they must be fair and apply the law in accordance with the facts of each case.
**Why Do We Care About the Law?**

**Guidance.** Slide 3 is “animated.” When it first comes up, it contains the text that you see on the left. When you “click” to advance the slide, the text on the left disappears and the text on the right appears.

In your own “voice” and style, say something like the following:

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*So, what is the Rule of Law?*

*It has been defined in many ways – many of them are complicated – many of them include long lists of things.*

*Today, we’re going to discuss its basic and essential features.*

*The best place to start is right at the beginning our independence from Great Britain.*

- *When we were a colony, King George III was King and the laws that applied to the colonies did not apply to him – he was “above the law.”*
- *This was the Rule of a King – the Rule of a Man.*
Slide 4

“[Our government] is a government of laws, not of men.”

Guidance. As the slide indicates, these are the words of John Adams. They first appeared in 1774 in an essay in the Boston Gazette. In 1780, they were included in the Massachusetts Constitution.

This slide and the several following slides explain the fundamental concept of the “rule of law” and frame of the rest of the presentation.

When we talk about the Rule of Law, we often think of it as have and enforcing rules that have the power of law. In this context, we would be talking about “Rules of Law.”

This approach is not wrong, but it makes it more difficult to understand the Rule of Law.

If we say that the Rule of Law is about having and enforcing “rules,” we fail to recognize that dictatorships have laws and that tyrants often enforce those laws to oppress disfavored groups and perceived enemies.

For example, Nazi Germany had and enforced laws, but it used those laws to oppress and deny freedom.

Nazi Germany did not have the Rule of Law, it had tyranny.
Guidance. This presentation defines the Rule of Law as meaning that we are governed by laws, not individuals or groups that are above the law and have the ability to oppress others. The official we elect do not “rule” – they are not “rulers.” In America, “the laws rule” and the official we elect are subject to the laws and must conduct themselves in accordance with the laws.

When we say “no one is above the law,” we are saying that, the courts must apply the laws fairly and impartially in every case and for every person who come before the courts.

However, the courts don’t pick the cases or the people who come before them. It is up to prosecutors to decide whom to prosecute, and it is up to individuals and corporations to decide whether, when, and whom to sue.

When they do that, in the courts of America, no one is above the law – everyone is equal before the law.
Slide 6

Everyone is subject to the law.

FYI: President Richard Nixon, Illinois Governor Rodney Blagojevich, General David Petraeus, Martha Stewart, Former Speaker Dennis Hastert, and O.J. Simpson. NOTE: The photos may be in slightly different order if using the Judicial or Administrative Law Judge (ALJ) version.

All the people whose pictures are on this page had either high office, fame, or wealth.

Government authorities that had authority to do so, brought legal actions against them and accused them of violating laws.

And in each case, the laws were applied to them.

In each case, our Constitution and laws entitled them to fair and impartial application of those laws.
Our laws come from several sources.

The first and most important law is the United States Constitution. It establishes the structure of our federal government with three separate branches of government:

- Legislative
- Executive
- Judicial

It gives different powers to each branch and gives each branch the ability to ensure that the other branches do not exceed their powers.

And, of course, we all learned that this is the Separation of Powers and the system of Checks & Balances.

In addition, there are the first ten Amendments to the Constitution, which we call the Bill of Rights. The Bill of Rights guarantee individual rights and limit the government’s power to interfere with those rights.

Each state also has its own constitution that sets up the state government structure with three branches of government at the state level and sets forth individual rights.
Note for ALJ Version: These images are broken into three slides – ALJ Slides 8-10.

Guidance: Remind them from their early education civics classes that there are two main layers of government: federal & state.

And then remind them that even in the states, there are layers of government – state, county, city, town – and all have their own rules and regulations that apply within their borders.

Define the following [or ask the audience to define]:

- Statutes are laws that are written by the legislative branch and signed into law by the leader of the executive branch (the President signs laws from Congress and the Governor signs laws from the state assembly).

- Regulations are laws that are created by agencies in the federal and state governments. They are called “administrative” rules or regulations.

- Decisions, sometimes called opinions, come from judges who serve on federal and state courts.
Guidance. These slides introduce the concept that courts ensure that the “rule of law” is part of our society. For the first slide, you can ask the audience to offer ideas. After that discussion, you can move to the next slide on the court system. Suggested commentary is set forth below:

There can be no “rule of law” in society if laws are not enforced. Laws are enforced in court proceedings in either federal, state or local courts.

All court proceedings must be conducted in accordance with requirements of the U.S. Constitution and the Constitution of the state.

Courts must apply statutes passed by the Legislative Branch and regulations established by the Executive Branch. Courts must also follow their own rules of procedures to ensure the process is fair.

Judges who preside over cases must also follow “precedents,” or decisions of higher courts that have addressed the same legal issue.
NOTE: These are additional slides in the ALJ Version to explain the difference between Judicial Branch Courts and Administrative Courts.

Guidance for ALJs. These slides are added for the purpose of showing your role in the administrative system as an administrative judge who is not part of the judicial branch as the third branch of government. Use this opportunity to explain briefly the types of cases administrative judges hear and why they act just like judges in the judicial branch and have to follow the same rules of equal justice and fairness.
Guidance. Your comments could include asking the audience about what they know of:

- The 14th Amendment Equal Protection Clause
- The 5th and 14th Amendment Due Process Clause

Our courts must apply the laws fairly and equally to everyone – NO EXCEPTIONS.

When people enter our courts, they expect the courts to listen to them and take their concerns seriously. They also expect that they will be treated the same as any other person who enters the courthouse, regardless of race, nationality, gender, religion and so on.

This fairness and impartiality is required in every court proceeding to make sure that everyone is treated equally and to make sure that no one is above the law. This is the cornerstone of any society that respects the Rule of Law.
The Law

Would it be equal justice if . . .

a judge decides a case in favor of someone just because that person is a powerful politician?

The Law

Would it be equal justice if . . .
a judge who handles job discrimination lawsuits always rules in favor of employers regardless of the evidence?

The Law

Would it be equal justice if . . .
a judge disparages people of a certain ethnic or religious heritage?

The Law

Would it be equal justice if . . .
a judge decides a case in favor of someone just because that person donated money to the judge’s favorite charity?

Slides 13-16 (ALJ Slides 17-20)

The Law

Would it be equal justice if . . .?
a judge always rules in favor of patients who sue doctors?

ALJ Slide 17
Would it be equal justice if . . . ?

Guidance. Use the hypotheticals on these slides to stimulate discussion with the audience to talk about equality before the law. Asking the following questions is likely to foster discussion and audience understanding.

So let’s talk about this some more.

Would it be equal justice if . . . ?

What do you think? Would that be OK?

Why not?

Would that undermine the Rule of Law?

Anybody else have any ideas about this?
Guidance. These slides introduce the concept of “due process” by focusing on fairness in the proceedings. The second slide entitled “A Fair Process” is animated. To show each item on the list, you must “click” and the next item will appear. This gives you time to talk about each one.

It is not necessary to spend a long time on these slides or to give the audience the ability to recall these items. Just give brief examples of each item.
NOTE: There is an additional hypo above that is included only in the ALJ slides.
**Guidance.** Use these slides to stimulate discussion with the audience to talk about due process and fairness. Asking the following questions is likely to foster discussion and audience understanding.

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So let’s talk about this some more.

Would it be fair if . . . ?

What do you think? Would that be OK?

Why not?

Would that undermine the Rule of Law?

Anybody else have any ideas about this?
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Slide 24 (ALJ Slide 28)

**Guidance.** Present this slide and the following slides as a summary. This slide pertains to “Equal Justice Under Law.” It is animated. Each item appears when you “click” the mouse or clicker.

Use this slide to encourage the audience to imagine what could happen if we were “ruled by powerful individuals & groups” and not by the Constitution and other laws. You could say:

> Imagine you were a party in a lawsuit. Now imagine if these things were true:

**First click:** What would it be like if powerful individuals & groups were “above the law”?

**Second click:** those individuals & groups created laws that required courts based on a party’s . . . [then go through the different categories (e.g., race, ethnicity, etc.).]

As the slide progresses, and the “classes” or criteria appear, you can at the end distinguish between the list on the left and the list on the right. The criteria on the left are ones that we often consider. The criteria on the right are things that a tyrannical ruler could impose. It will hit the audience members closer to home.
So what is the Rule of Law?

No one is “above” the law.

The Law is King

How do we ensure that our government is ...

a government of laws, not of men?

Fair & Impartial Courts ensure that the laws are applied to everyone equally and fairly and that no one is above the law.

In our courts ...

1. Everyone is subject to the law.
2. Everyone has the right to equal justice under the law.
3. Everyone has the right to fair & impartial procedures.

Preserving Fair & Impartial Courts preserves The Rule of Law

Guidance. These are the final slides. Use them to summarize the presentation and the audience discussion.