



## Judicial Profile

by Thomas W. Kirchofer

# Hon. Patti B. Saris Chief U.S. District Judge, District of Massachusetts

It was never Chief Judge Patti B. Saris' plan to go to law school, let alone to become a judge. After growing up in Boston's West Roxbury neighborhood, she attended Radcliffe College, sister school of Harvard University, and started writing for the school's newspaper, the *Harvard Crimson*. She planned to become a journalist.

Saris arrived on campus in 1969 and began covering the women's movement for the *Crimson*. "I was very much a child of Boston; I was very much a local kid," she says. "Suddenly, I went off to Harvard, and even though it's just a few miles away, it was a whole different world, and I was opened up to some of the major battles in society." She adds, "During that period of time, it was so dynamic on campus."

Saris became the associate managing editor of the *Crimson*, and as Woodward and Bernstein became household names, she became more convinced that she should pursue a career in journalism. Her father, however, may have been the first to spot her legal talent. "He said 'you're so argumentative, and you always have such a logical thought process, why don't you take the law boards?'" After scoring well on the test, Saris decided she would combine her journalistic ambitions with her legal aptitude, and she enrolled at Harvard Law School after graduating from college in 1973. "I figured, I'll go to law school and then write about the law."

Now, the would-be journalist is the chief judge for the U.S. District Court for the District of Massachusetts. She became chief judge on Jan. 1, 2013, after 20 years as a U.S. district judge, three years as a U.S. magistrate judge, and four years as a Massachusetts Superior Court judge.

Shortly after getting immersed in law school, Saris' ambitions changed. "I went to law school, and I absolutely



loved the way that lawyers thought; I loved the issues of the Constitution and I loved the edginess of it," she notes.

As a third-year law student, she interned at the local district attorney's office and tried a number of cases. "I pretty soon knew I wanted to be a trial lawyer. I liked to write; I liked the logic of the law; and I liked the pursuit of the truth."

After graduating from law school in 1976, Saris's legal career began with a distinguished clerkship with Justice Robert Braucher on the Massachusetts Supreme Judicial Court. "He had a practice of challenging his clerks to an athletic event," recalls Saris. "He was an outstanding

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athlete. I was not.” After Saris and Braucher mulled their options, a pool was located, and they held a swimming race. “I didn’t win,” says Saris, who added that Justice Braucher became a good friend and mentor. The clerkship “sort of launched me.”

### Three Branches of Government

In addition to serving as a judge, Saris has worked as an assistant U.S. attorney and a staffer in the U.S. Senate. “I feel I’ve lived the experience of three branches of government,” Saris notes. She began her government service when, after a stint as an associate at a large Boston firm, she heard that the Senate Judiciary Committee was hiring staff counsel. She submitted her resume, and soon had an interview with Sen. Edward M. Kennedy (D-Mass.). Notwithstanding her Harvard credentials, she and Kennedy spent a good deal of time talking about Saris’ high school—the Girls’ Latin School. It turned out Kennedy’s father went to Boston Latin, a brother school.

Saris moved to Washington in 1979 hoping to have an impact on some of the hot-button issues of the day, such as women’s rights and civil rights. “I went down to the Senate Judiciary Committee as a very novice person, and I remember I had stars in my eyes. I thought I would be dealing with civil rights legislation and all the exciting things happening in the country, but in fact what I was assigned to was regulatory reform,” she remembers. “I must have just looked crestfallen.” Her boss was well-known lawyer David Boies. “He said, ‘I’ll promise you one thing, if you do a good job on regulatory reform, you’ll get to know all the key dynamics to Washington, D.C.’” Saris quickly warmed to the job, and she worked on a variety of legislative efforts to improve the function of government. “I just became so excited about Congress and the legislative process,” says Saris, who later co-authored a book with Judge Abner J. Mikva entitled, *Congress: The First Branch of Government*.

After getting started at the Senate, Saris had a disappointment that turned out to have a silver lining: Sen. Kennedy decided to run for president in the 1980 election, and while some of her fellow staffers were invited to hit the campaign trail, she was left in Washington. But with so many of colleagues gone, Saris got much more responsibility. “I became much more familiar with how Congress works,” notes Saris, who raised her profile in Washington negotiating and drafting a wide variety of legislation.

Saris returned to Massachusetts in 1981 to be closer to home and family. After another stint in private practice, she joined the U.S. attorney’s office in 1982, working on “bread and butter” civil litigation for the federal government, including employment disputes and tort claims, such as “when the Post Office truck hits someone.” But, she adds, “some of the cases were far larger.” “The one I remember most vividly was the federal government was having budget problems and they wanted to sell off all their excess property. For some reason it was brought here in Boston. It turns out it included the Big Sur lighthouse in California.”

“I really liked getting back to civil litigation after Congress,” Saris says. In 1984, she was named chief of the civil division at the U.S. attorney’s office.

It was during this time that Saris had two major milestones on the same day: Her first oral argument before the First Circuit was scheduled for the due date of her first child. “I figured your first baby never goes on time, so I’m going to do the oral argument,” she recalls. “I was prepared the day before. I was terrific! I was set to go!” Then, on the morning of the argument, the first signs of labor came. She didn’t deliver her argument until late in the morning, and the contractions “were coming quite regularly by the time I finished my oral argument.” Still, Saris made no motion to continue the case: “I delivered the argument and I delivered the baby within 24 hours.”

(Saris, who now has four grown children with her husband, Harvard Business School Professor Arthur I. Segel, said the argument went well, but led to a decision in which “I neither won nor lost; the Supreme Court had taken another case out of another circuit and resolved the question so the whole thing mooted out.”).

### The Women’s Movement

Saris began her career at a time when women lawyers were far from the norm. Her Harvard Law School class of 1976, for example, was only about 15 percent female, and she was Justice Braucher’s first female clerk. “We weren’t the pioneers. ... We were sort of the second wave, but we were definitely pushing the limits and really increasing the numbers of women in the legal profession,” says Saris.

There were not many women judges in the mid-1980s either, when Saris first went on the bench as a U.S. magistrate judge. She had decided relatively early that she might like to serve as a judge, but in the mid-1980s thought she was not quite ready. “When I was a very young person, the magistrate position came open. I didn’t think that I had enough experience. I was very young,” she says. Nevertheless, “the Court was looking for opportunities to promote young women with potential.”

Still, Saris said she probably would not have applied to be a magistrate judge if she had not been approached by a delegation from the Women’s Bar Association. “They came to me and said ‘not enough women apply to these jobs. We really want you to apply.’”

“The women’s movement made a huge difference in my life,” says Saris. Last year, she served as co-editor of a book entitled *Breaking Barriers: The Unfinished Story of Women Lawyers and Judges in Massachusetts*, which profiles some of the state’s first women lawyers and also features accounts by current women lawyers.

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## On the Bench

Saris became a U.S. magistrate judge in 1986 when she was still in her mid-30s. She said she faced a steep learning curve. “That was challenging. I knew my stuff civilly, but I didn’t know as much about the criminal side.”

As a magistrate judge, Saris also began to develop her reputation as a leading judge in intellectual property cases. She never dealt with patent law until she became a magistrate judge, when she was confronted with a case that included the issue of whether or not patent protection could extend to a cloned gene. “This one went all the way through trial, and I wrote it up. It was very exciting,” Saris adds. Her decision in the case *Amgen, Inc. v. Chugai Pharmaceutical Co.*<sup>1</sup> (generally finding such technology patentable) helped to establish her reputation in the intellectual property field.

From 1989 to 1993 Saris was an associate justice in the Massachusetts Superior Court. She returned in 1994 when President Bill Clinton appointed her to fill a seat vacated by Judge Walter Skinner on the U.S. District Court.

Saris’s years as a state and federal judge have given her the opportunity to see top-level trial lawyers in action. Not that she has any regrets, but she thinks she might have turned out to be a top trial lawyer herself if she had not become a judge. “Sometimes I see really outstanding trial lawyers. They know how to handle a witness, they know how to be persuasive, and I sometimes say, ‘you know, I went on the bench really early. If I had stayed longer, after watching all these people, I could have been a really great trial lawyer.’ Sometimes I still look at them a little wistfully.”

As a judge, though, Saris thinks differently about the facts and the law. “As a lawyer, you marshal the facts and the law for a position,” she said. “The best judges are the people who try the hardest to be fair and just. It’s not so much advocating a position; it’s trying to figure out what’s the just and fair decision.”

## Outside the Courtroom

Judge Saris leads an active life outside the courtroom and has tried hard not to isolate herself in her chambers.

Saris was confirmed as chair of the U.S. Sentencing

Commission, which promulgates federal sentencing guidelines, in December 2010. Since taking over, she has overseen the production of three substantial reports, the first two of which dealt with the legacy of *United States v. Booker*,<sup>2</sup> in which the Supreme Court rendered the previously existing sentencing guidelines advisory. One of these reports examined the role of mandatory minimum sentences in light of *Booker*, concluding that they are frequently too broadly applied and too severe. The other provided a statistical analysis of post-*Booker* sentences, noting some troubling trends, including regional and demographic differences in sentencing. The third report recommended a revision to child pornography sentencing schemes to reflect the impact of internet technology on child pornography since the last revision. (Average child pornography sentences have almost doubled over the past decade, in part due to penalty enhancement in the older guidelines for the use of a computer in child pornography offenses.)

## Elevation to Chief Judge

On Jan. 1, 2013, Saris took over from Judge Mark L. Wolf as chief U.S. district judge for the District of Massachusetts. She now finds herself dealing with budget and management issues for the court, which have grown more difficult in light of the tight budgets imposed by budgetary sequestration. Saris is also active in the Federal Judges Association and was chair of the Judicial Conference Committee on Defender Services from 2002–2005. Outside the courthouse, Saris has long been active in alumni affairs at Harvard, including six years on Harvard’s Board of Overseers.

“I like working with people. I sometimes feel working on the federal court that we’re too isolated from the bar,” she said. “Judges shouldn’t be afraid to be part of the community.” ☺

## Endnotes

<sup>1</sup>*Amgen, Inc. v. Chugai Pharmaceutical Co.*, No. 87-2617-Y, 1989 U.S. Dist. Lexis 16110 (D.Mass. Dec. 11, 1989).

<sup>2</sup>*United States v. Booker*, 543 U.S. 220 (2005).