

**Actions in the Courts, the Judges' Turf Where They Can Protect Each Other,
Cannot Bring About Judicial Reform**

But

**A Watergate-like *Follow the money!* Investigation Conducted and Published
Outside the Courts by Judicial Reform Advocates, Bloggers, and the Media
Searching for Evidence of the Financial Criminal Activity
of Judges Engaged in Coordinated Wrongdoing Can
Outrage the Public and Pressure the Executive and Legislative Branches
Into Investigating and Reforming the Judiciary**

Advocates of reform of the judicial system have at their disposal two types of approaches to pursuing their objective: from within the system or from outside it. The former includes appearing in court to argue before judges either in the customary way provided for by the Federal Rules of Procedure and their state equivalents, or after first having achieved the feat of restoring old forms of action, such as those allowing 'people directly prosecuting quo-warranto/state-ex-rel criminal complaints' against persons or entities acting illegally under color of law and for obtaining the civil remedy of ousting them from office. Either variant of from-within reform is confronted with a grave logical and practical problem.

Indeed, advocates complain that judges disregard the law and the facts and abuse their power. If so, then they cannot bring another action in court but this time against judges and expect them to handle it fairly and according to law...precisely when doing so will incriminate them, their peers, and other officers in wrongdoing! That amounts to doing the same thing but expecting to obtain, not just a different, but rather the opposite result. That is the classical definition of irrational behavior. Yet, it stands to reason that not even the most gifted lawyer will ever convince a judge that he or she should be fair and just and respect the law even at the risk of being imprisoned for up to 20 years and held liable for fines of up to \$500,000, as well as losing their office, pension, and prestige for engaging in corruption, such as in a bankruptcy fraud scheme.

The from-the-outside approach avoids such dooming contradiction by not going inside the courts to try to defeat the judges in their own turf. Instead, it rests outside the courts to search for evidence of the external prolongation of the judges' wrongdoing inside the courts. This approach is based on the reasonable assumption that officers who in their official capacity show contempt for law and fairness will do the same in their non-official capacity as private citizens. This unity of conduct assumption is complemented by that of judges as rational and economic people, who behave in a consistent manner in order to maximize their benefit and in so doing are susceptible to the two most insidious motivators of conduct, to wit, the pursuit of power and money.

Power they wield as judges and its effectiveness they maximize by coordinating their wrongful conduct. Money they must manipulate and enjoy outside the court. Hence, it is on the outside that evidence of their coordinated financial wrongdoing is to be found in the form of hidden assets not included in their statutorily mandated financial disclosure reports under [5 U.S.C. App. 4 §101 et seq.](#) Evidence of their involvement in financial crime, including evasion of taxes on hidden assets, need not be brought inside the court, where the judges could arbitrarily exclude it or render it useless by applying the self-serving and -made judicial immunity doctrine.

Instead, incriminating evidence can remain outside to be brought to the public's attention

first on the Internet and then through the traditional media. Once published, evidence of financial criminal activity by individual judges would take on a life of its own. Protected from them by the First Amendment's Freedom of the Press Clause, judicial reform advocates, bloggers, and journalists would only grow in number and bring to bear greater investigative resources as they showed that the judges' financial wrongdoing was an externality of their coordinated wrongdoing inside the court. This would trigger another type of search, namely, of public filings with the courts, supplemented by interviews with judicial staff, litigants, and lawyers, for evidence of the judges and their staff's consistent acts of disregard for the law and the facts of cases, bias, and abuse of power that revealed a pattern of coordinated wrongdoing within the courts. The higher in the judicial hierarchy the wrongdoing judges were, such as at the top of a prestigious federal court of appeals, let alone the Supreme Court, the more the evidence would attract the public's attention.

Actually, it would suffice to publish evidence of wrongdoing by one highly placed judge or justice for the reasonable question to arise whether his or her peers in that court or in the circuit council or in the Judicial Conference or just in any other court knew about such wrongdoing. This would beg the question whether those peers tolerated or participated in it because the wrongdoing of some judges, not to mention a chief judge, emboldened them to do wrong too and gave rise to the 'don't rock the boat' mentality that forced them to protect each other because if one blew the whistle on the other the latter could do likewise in reverse or worse, trade up in a plea bargain so that all would end up sequentially in a sea infested with indictments and tort actions. These self-reinforcing dynamics of emulation would have spread a "Culture of Corruption" also within the judiciary. There judges could transmit it to their staff by ordering them to look the other way when they disregarded the law and the facts or to disregard themselves procedural rules in performing their clerical duties when doing so was expedient or profitable.

What is more, evidence incriminating a judge would have an immediate and severely disruptive practical consequence: Every civil litigant and all inmates that lost or were rightly or wrongly convicted before an incriminated judge would move for a new trial or the vacation of their sentence. They would stretch judicial resources to the breaking point, causing substantial delay and inconvenience for all current litigants, who would join the critics of the courts. The clamor of all of them would only incite more bloggers and traditional media to search for more evidence in a positive, self-reinforcing process. The latter would generate mounting pressure on the justice departments and legislative bodies to investigate the judiciary and do what judges cannot and will not do: reform the judiciary through the removal from the bench of wrongdoing judges; legislation rendering judges accountable for their conduct; and the establishment of a judicial discipline and auditing commission of members unrelated and unresponsive to any judge.

A private prosecution on quo warranto does not have the in-built potential for generating public outrage across the nation, not to mention that eventually it would have to proceed in court, where judges would smother it. Considerable manpower and money would be consumed in the uncertain and protracted effort to resurrect such archaic form of action in just one jurisdiction at a time. Such resources can be better spent in searching for and producing to the public outside the courts evidence of coordinated judicial wrongdoing. That is the objective of the proposed Watergate-like *Follow the money!* investigation. To find out what it involves and how to participate in it go to http://Judicial-Discipline-Reform.org/Investigation_Proposal/proposal.pdf or contact Dr. Cordero at investigation-proposal@Judicial-Discipline-Reform.org .