

A Reasonable Strategy for Bringing About Judicial Reform

I. Winning over the media by highlighting what's in it for them

Many lawyers are reluctant to take on any case of corruption in the legal system, for they fear the consequences for their livelihood, and even their license to practice law, of retaliation by judges and their supporting lawyers. Moreover, they are aware that trying to reform the judiciary by playing initially in the judge's turf, their courtrooms, is a losing battle. These are practical considerations and a winning strategy must be grounded in them. Such a strategy begins with convincing the media, i.e. journalists, editors, and bloggers, of the potential rewards of investigating coordinated judicial wrongdoing, which includes corruption. The pragmatic basis for this is that the media, unlike lawyers, thrive the most the deeper the corruption they expose.

The strategy starts off by the media investigating a current case of coordinated judicial wrongdoing, for the media deal in publishing news, not in analyzing history. Then they expose it in their publications. The public is outraged, or only titillated but likewise asking for more revelations, until it clamors for an official investigation by law enforcement and legislative authorities. Some among the latter will find it in their interest to investigate the case, hold public hearings, and take remedial action on their findings by eventually enacting judicial discipline reform legislation and implementing it effectively. That constitutes the ultimate objective of the strategy.

The reason for a politician to pay heed to public clamor for investigating the judiciary is that in so doing this general elections year he -or she and whether in the presidential or a lower federal or state race- can find an electoral advantage by becoming known as the Champion for Justice. This politician would include in his definition of this campaign's buzz word "Change" not only 'to clean Washington' -or the state equivalent-, meaning the Congress described by HR Speaker Pelosi as "dominated by the culture of corruption", but also to investigate judges who the more flagrantly abuse their power over property, liberty, and even life the poorer people are.

What journalists, editors, and bloggers can gain from taking on the judiciary is either their 15 minutes of fame, a promotion or higher advertising revenue for having attracted a greater and more committed outraged audience, or a Pulitzer prize...or what is the highest aspiration of any journalist and news media entity with a sense of long-lasting meritorious public service, namely, to be known as the Carl Bernstein or Bob Woodward, or their editor, Benjamin Bradlee, of our generation. They were the ones who by dint of their superior, *Follow the Money!* investigative journalism unmasked the apparent burglary at the 1972 Democratic election headquarters in the Watergate compound as a pervasive conspiracy in the Executive Branch that finally brought down the presidency of Richard Nixon. Thereby they gave rise to a significant change in our government's system of check and balances as well as transparency requirements.

The starting point of the investigation can be the rules for processing complaints against federal judges, adopted on March 11 by the Judicial Conference, the Judiciary's highest policy-making body. http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_CJRoberts_27mar8.pdf. These rules will allow judges to continue both systematically dismissing such complaints and engaging in wrongdoing safe in the knowledge that their peers will not discipline them. You can induce the media to investigate this story of judges abusing their self-discipline system; to facilitate phone interviews, provide them the list of Conference members with phone numbers at http://Judicial-Discipline-Reform.org/judicial_complaints/Jud_Confer_contact_info.pdf.

II. Deep Throat whistleblowing anonymously or a Champion riding on written words

Journalists have the skills and resources to do what victims of judicial wrongdoing can hardly do, namely, find Deep Throat in the court parking lot. This is a well-informed court insider, who even if he –or she- has a grudge against judges, is a fundamentally honest person disillusioned by an organization that he expected to dispense justice but whose top personnel, the judges, he realizes are instead more concerned with advancing their own interests even if that entails disregarding the law. That person may confide in a journalist not only for the moral benefit of unburdening his conscience, but also for his expected rewards as a whispering whistleblower, including becoming eventually a character in a serialized exposé or even a movie.

Were Deep Throat a judge, the stakes can be higher. She –or he- is likely to be a newly confirmed judge who is not yet compromised by failing to denounce the pattern of wrongdoing that she has witnessed her peers to engage in. For her, becoming Deep Throat can be the equivalent of Civil Rights Lawyer Thurgood Marshall arguing *Brown v Board of Education*, that is, turning in a principled performance on a societal issue at the heart of our aspirational image as a nation based on the notions of equal opportunity and “Equal Justice Under Law”...a performance that eventually earned him his elevation to the Supreme Court as an associate justice. In her considerations for Deep Throating would figure the fact that at any time there may be the need to appoint another justice given that J. Stevens is 87, J. Ginsburg 74, and J. Scalia and Kennedy 71.

She may also realize that thanks to her confidential revelations to a journalist, coordinated wrongdoing can be traced all the way to each of the justices, for they too were first judges and as such either tolerated wrongdoing through complicit silence or even engaged in it. (http://Judicial-Discipline-Reform.org/docs/SCT_knows_of_dismissals.pdf) This could force the whole Supreme Court to resign, which no doubt sounds at present as outlandish as voicing right after the ‘burglary’ break-in at Watergate that it could lead to President Nixon’s resignation.

Deep Throat could also be an old bankruptcy or district judge who has engaged in wrongdoing just as much as any of her peers, but who resents that despite having turned in a better performance than the average, she never made it to the next rung in the judicial hierarchy. She could see the opportunity to become Deep Throat as her last chance to come out of anonymity even at the risk of going down together with the other judicial wrongdoers.

In either of those scenarios, Deep Throat can become nationally known as the courageous judge who abandoned the judges’ conspiratorial live and let live attitude toward each other’s wrongdoing and instead recommitted herself to her oath of office ‘to do equal right to the little litigant and to the fellow judge’. From then on, she would do everything in her power as a judge to expose coordinated judicial wrongdoing. If she did so ‘openly and notoriously’, whether in a published opinion or a newspaper article, it could become known as Judge X’s *I Accuse*, the equivalent of [Emile Zola’s](http://Judicial-Discipline-Reform.org/Follow_money/Emile_Zola_I_accuse.pdf) denunciation of abuse of power by government officials in the Dreyfus Affair. http://Judicial-Discipline-Reform.org/Follow_money/Emile_Zola_I_accuse.pdf.

III. You can whine or roll up the sleeves and get to work

Victims of judicial wrongdoing can swap among themselves emails with their stories of abuse at the hands of judges. If instead they want to become judicial reform advocates implementing a reasonable strategy, they must go out of their Internet groups to find journalists and bloggers and convince them that investigating coordinated judicial wrongdoing is their ticket to notoriety or professional prominence. Only with their help can advocates cause the public to be outraged by such stories and to clamor for official investigations that may lead to judicial reform legislation. http://Judicial-Discipline-Reform.org/judicial_complaints/media_contact_info.pdf.