

DAILY NEWS

450 W. 33rd St., New York, N.Y. 10001

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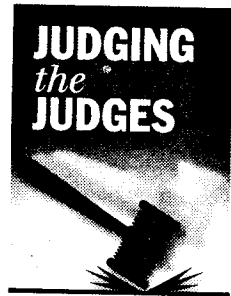
Disorder in the courts

As every child learns in civics class, the judiciary is one-third of the government — but it's the quiet branch, cloaked in black robes and forbidding courthouses, confusing to outsiders and opaque to the public. Yet, in many ways, it is more powerful than its executive and legislative counterparts.

Judicial rulings govern the quality of our environment, our children's education, how police discharge their duties, the way business is conducted, what elected officials can and cannot do, how the

guilty are punished, who is liable when people are injured. They can even decide who becomes President, as we saw last year. The judiciary is an overarching force in our lives. But in New York, it is in pitiful condition.

For starters, our court system is the most convoluted in the nation — with nine separate court categories or 11, depending on whom you ask. And in New York City, the elected judges serving on state Supreme Court are in many instances unqualified, with as many as half ranging from marginal to wholly unfit for the bench. This is a serious charge, but it is the independent conclusion reached by the



Daily News after an extensive analysis of the system.

The focus of this review is state Supreme Court, which is the basic district-level trial court, where everything from murders to election disputes to divorces are handled. In evaluating their qualifications, training, productivity, scholarship, understanding of the law, the quality of their rulings, their very behavior, it is evident that too many judges of this court do not make the grade. And that imperils fair and speedy justice for us all.

Although technically elected to 14-year terms, they often get their robes because of their political connections. Judicial elections are a sham. Most races are uncontested. Voters are instructed to "select three of the following" and are presented with only three candidates. Shades of hammer-and-sickle Kremlin elections.

In reality, these judges are selected by the Democratic Party county bosses in each of the boroughs. The rest of us are bystanders. What we end up with are some judges who are not even approved by the bar associations, who violate integrity rules, who distribute millions of dollars in legal work to politically connected law firms and who persist in inappropriate courtroom behavior. In this judiciary, competence and efficiency are too often absent.

It's gotten so bad state Chief Judge Judith Kaye ordered an inspector general probe into how judges award lucrative fiduciary appointments to handle estates, guardianships and trusteeships. The report is due out next week, and it most likely will not be pretty.

Regarding productivity, many judges are lagging. The time frame for disposing of criminal and civil cases has lengthened considerably and now falls well below the standard set by the state Office of Court Administration. It is not uncommon for elected judges to be absent from their chambers two, three or more months each year. In response, the courts have created in Manhattan the Commercial Division of state Supreme Court to placate the powerful corporate community and handle its major disputes. Only the most capable jurists are assigned to this bench. When it comes to justice, Big Business goes first-class; the rest of us are in steerage.

As for disciplining incompetent or unethical judges, it rarely happens. And when it does, there are no penalties — no loss of pay, no demotions, no suspensions — other than outright dismissal. Which is even rarer than disciplinary proceedings. In fact, no elected state Supreme Court justice has been removed from the bench in the city in recent memory.

The solutions to the abysmal state of the judiciary are many, including, but not limited to:

- Reorganizing courts into a simpler two- or three-tiered system.
Opening up the secretive, ineffective, disciplinary proceedings.
Ending fake elections and replacing politicians' handpicked candidates with highly qualified legal professionals, appointed by the governor, subject to legislative approval. (With that reform, the quality of justice would improve almost overnight.)

In coming weeks, this page will continue to explore the judiciary in detail, focusing on its overall poor performance, its lack of accountability and the shady mechanics of the political system's power over the courts.

Our spotlight will show how one-third of your government fails in so many ways to uphold its solemn public trust.

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Friday, November 30, 2001

DAILY NEWS

Improving the system

Manhattan: The vast majority of New York judges, in and out of the five boroughs, are honest, hardworking and highly capable men and women ("Disorder in the courts," editorial, Nov. 27).

That said, the New York State Bar Association supports some of the changes advocated by the Daily News. For more than two decades, we have advocated merit selection of judges, we support Chief Judge Judith Kaye's court restructuring plan, which has yet to see real movement in the Legislature, and we are studying issues involved in opening the attorney and judicial discipline systems to the public. All would improve the justice system and, perhaps more importantly, buoy public confidence in it.

Yet your use of sweeping generalizations gives an inaccurate assessment of the city's justices. As a group they are well qualified and highly trained. The quality of their rulings and scholarship has earned them the respect of their colleagues nationwide.

Steven C. Krane

President, New York State Bar Association

Ex "A-2"