

SNG-Nowlan-Illinois courts in better shape today-11-25-13

Illinois courts in better shape today

By Jim Nowlan

When I was a boy, unschooled local justices of the peace were infamous for working with small-town cops to set up speed traps to fleece unsuspecting motorists. Not a very reassuring introduction to our state's justice system. Things have improved much since then, yet vigilance and some changes are still warranted.

In 1969, two Illinois supreme court justices were forced to resign for accepting stock in a new bank at bargain-basement prices from a fellow who at the same time was receiving a favorable court ruling from these same justices.

Much worse, in the late 1980s and early '90s, 15 state judges and more than 100 court personnel in Cook County were convicted by federal prosecutors for facilitating and accepting bribes, even bribes to dismiss murder cases.

Justice was for sale back then, at least in some courtrooms.

Recently I sat down with the circuit judge who sits in my county, among others. Judge Scott Shore has a wealth of varied experience from 23 years on the bench, including death penalty cases. Shore is an editor of one of several specialized books for Illinois judges that provide guidance on the bench for issues that come before the judges.

Shore reports that today the justice system in Illinois is in good shape. He credits much to extensive education programs for judges.

Active on the state judiciary's education committee, Judge Shore notes that judges are required to complete continuing judicial education programs and regularly attend judicial education conferences and seminars.

New judges are provided mentors, and all judges go through performance evaluations by their peers.

For the most part, justice is not delayed in downstate Illinois, though the massive Cook County court system is still working on this issue.

Many jurisdictions have created specialized courts for drug, mental health, veterans, and DUI cases. Judges meet with social service providers, counsel, and defendants to try to shape solutions outside incarceration.

"We have to look outside the jailhouse for remedies," says Shore. He makes a plea for allowing a judge to use expert discretion in seeking alternatives to long sentences.

"From the bench, I see many people who should have been spared the court process, but who haven't received medical, psychological, legal and other support they needed."

In the real world, few cases go to trial anymore. Most are mediated or negotiated by parties or their counsel, either outside privately or inside the judicial process, as in plea bargaining.

Shore feels the plea bargaining process generally nets a fair and equitable result.

"Ninety-five percent of cases are resolved by agreement," says the judge, "equally satisfactory or equally unsatisfactory to both sides."

"If not for civil settlements and plea bargaining," says Shore, "we would need 20 times the number of courts and jurors. We would overwhelm the system without the bargaining process."

There is potential, I think, for abuse of this process, which is conducted privately. I worry about cases where a prosecutor “punishes” a defendant by filing harsh charges if the defendant does not plead guilty.

Shore disputes this, pointing out a judge has the discretion to accept or reject a plea.

Judicial selection is another key process in the system, one that I think could use some fixing. In one recent state supreme court contest in southern Illinois, \$10 million was spent by interest groups on behalf of the candidates. Justice should not be for sale, or for purchase.

In Illinois we elect circuit, appellate and supreme court judges. (Associate circuit judges, who have the same authority as circuit judges and represent about half of all judges, are appointed through election by the circuit judges in the respective districts.)

Let’s be honest, most of us don’t know what we are doing when we vote for judges. No system for selecting judges is perfect. However, appointment of all federal judges by the President, with the advice and consent of the U.S. Senate, seems to work well.

I think we would have a stronger system, not a perfect one, if all state judges were appointed, as in Missouri and a number of states, rather than subject to the electoral process.

The sense I received from Scott Shore is that the third branch of government is today functioning much better than I recall from the past.

Nevertheless, constant vigilance of this little-understood branch is needed from journalists, federal investigators, court watchers and the judges themselves to ensure that justice is blind—and fair and balanced.