

“Sound Judgment: A Discussion of Judicial Selection and Ethics for the 21st Century” was the title of a luncheon seminar sponsored by Common Cause/Indiana, League of Women Voters of Indiana, and AARP Indiana December 16, 2011. Held in the House of Representative Chambers at the Indiana State House, the seminar was designed for attorneys and advocates interested in how we choose judges and the state of judicial ethics in Indiana and elsewhere.

The way judges are selected, the decisions they make and how they behave while on the bench are hot topics across the country. From the U.S. Supreme Court to the county courthouse, judges and their decisions are under great scrutiny and have become targets of politicians and special interests.

Should judges be chosen through competitive elections or by appointments? Is it proper for judicial candidates to raise campaign contributions from attorneys? How do we insulate judicial selection from politics without sacrificing accountability?

The distinguished seminar panelists were: The Honorable Theodore Boehm, Professor Charles Geyh and Bert Brandenburg. Boehm was appointed to the Indiana Supreme Court in 1996 and retired in 2010. Geyh is Associate Dean for Research and Professor of Law at IU Law School Bloomington, and his teaching and scholarship focus on the operation of state and federal courts in relation to the political branches of government and the legal profession. Brandenburg is Executive Director of the Justice at Stake Campaign, a nonpartisan partnership to keep courts fair, impartial and independent.

The seminar began with a video “Question of Integrity: Judicial Code of Conduct.” Concern was raised over contributions made by special interests even to some United States Supreme Court justices and members of their families as well as influences on state and local judges.

Justice Boehm discussed the election of judges in Indiana. The Indiana judiciary consists of three constitutional courts—the Supreme Court, the Court of Appeals, and the Circuit Court. There are five judges on the Supreme Court selected statewide and 15 Court of Appeals judges in five districts. (Learn more - <http://www.in.gov/judiciary/>)

Since 1972, Indiana has employed a “Merit Selection” of Supreme Court and Appellate court judges who are appointed by the governor from a list of candidates submitted by a seven member judicial nominating commission and retain their seats in retention elections. Both Lake and St. Joseph County Superior Courts use similar selection methods, while all other counties elect their local judges.

In recent years, there has been discussion and legislation introduced that endangers Indiana’s merit selection system. In states where Supreme Court judges are elected on partisan ballots, such as Illinois, Ohio and Michigan, millions of dollars are spent by special interest groups and individuals to influence the elections. Panelists noted trends of the rise of a class of “super spenders” and the influence of costly TV ads in retention elections as well.

There is a great difference in the nomination of local judges between counties with smaller populations, like Montgomery County where voters know local attorneys, and the larger populated counties where voters have no idea of who their judges might be. In Marion County, political parties charge “slating fees” (currently \$25,000 in one party) which forces judges to raise money, often from attorneys, and spend time and energy courting party favor.

The courts play a critical and unique role in our democracy. They resolve criminal and civil cases, and they protect our constitutional rights. It is imperative that our justice system remain fair and neutral; and we must ensure that they are accountable only to the law and not to special interests. With trust in government at new lows, it is vital that the public not lose faith in the concept of an independent judiciary.

View the complete program on video at http://indianapolis.granicus.com/ViewPublisher.php?view_id=3 and scroll down to the special events section for December 16, 2011.

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