

# The False Pretense of Financial Disclosure by a Judiciary

*If financial disclosure does not provide transparency, then what is the purpose?*

## Introduction

The conduct of judges in the State of Illinois is governed by the Illinois Supreme Court Code of Judicial Conduct, for which there is established case history at the circuit, appellate, and supreme court levels within the state judiciary. Both Judges and Lawyers are licensed through the IL State Bar Association. The governing bodies that manage their discipline are the Judicial Inquiry Board and the Attorney Registration and Disciplinary Commission, respectively. Lawyers and Judges are given unique identifiers in the form of Lawyer ID numbers and Judge ID numbers. Judges must disclose financial records periodically, and the information they have to disclose changes as a matter of law periodically. Records have been requested and paid for as a charitable donation to CIRIS, and the Clerk of the Supreme Court of the State of Illinois has indicated shipment of the records via email with a confirmation number, and those records have been received and analyzed. The judges' service periods and professional backgrounds are available and verifiable via the internet, including photographs.

As it relates to the public records, rulings, and eDockets, as well as the associated forms and filings, all of which are maintained by municipal, county, district, and state records, as well as within third-party filing systems (TylerHost) all of these systems have been designed to function in an operational environment constrained by the challenges of various logistical challenges, most especially a biological agent. Commercial data providers (TrellisLaw, Ballotpedia, LexisNexis) have monetized public records, and the Clerks/Law libraries at the associated jurisdictional levels are resources for study as well.

## Research Design

A mixed-methods approach would serve the data most effectively: assuming there is salary and net-worth data that can be plotted against each other over time, thus turning data points into a spectrum that can be analyzed for normal distribution as it relates to statistical analysis. Qualitatively, tying outcomes to case history to create another spectrum of data points, so that spectrum can also be analyzed for normal statistical distribution would yield an outcome spectrum that may lack data in one or more possible outcome areas. This abnormal statistical outcome would not necessarily indicate systemic bias, it may be process-driven due to gaps created by operationalizing intentionally faulty policy.

## Salary vs. Net Worth (public service and fixed income)

What do the financials actually disclose and is it useable? How have the statutory requirements changed over time for financial disclosure and for what purpose? Is there a judge/lawyer interplay? What does the public record actually show? What are the different methods for accessing public records? How is the legislature involved in creating the rules that govern judiciary behavior, including discipline? What data is available and how can the data be used?

## Ethical Considerations

Since the data was collected in the past, participant knowledge of our survey of court records, outcomes, and judge/lawyer relationships is of no concern; however, a statistical anomaly could present as the judges are aware of the request for their records, but this is confidential: meaning, they cannot disclose it without our permission, but we can disclose it at will. There is a very high likelihood that they have already privately discussed the request for

their records amongst themselves. Understanding the legal nuances of the public service component of the legal definitions of terms like ‘bias’ and ‘prejudice’ from a legal versus ethical standpoint requires the differentiation and comprehension of how bias and prejudice present and are operationalized by a judiciary: bias is passive, prejudice is active, for example. Also, there is a certain degree of legislative collaboration as the judiciary is part of the constituency, and within the creation of Illinois State Law, The People of the State of Illinois have just as much of a right to documented involvement as the judiciary, if not more. This policy analysis component of the peer-reviewed research should be included in a section addressing the definitions necessary for our educated peers to be able to form their own opinions about our conclusions and recommendations.

## **Political Considerations**

The specific political affiliations of the Judges as they are elected public servants are not necessarily the issue. Political orientations are regionally contextualized within various communities, so the point is not of *what* orientation they are, but rather *how* do they use their political orientation, whatever that may be? If it is determined that through their political affiliations, they are somehow betraying the public trust, then that becomes one of the points of the discussion within this research framework. The whole point of the research is to design a good, portable research methodology as an analytical tool to examine and classify public service outcomes. The law as it relates to the legal definition is lacking, is this on purpose? If it would be political/career suicide for a judge/lawyer to oppose an agenda-driven political status quo within state court operational outcome possibilities, and there is statistical existence of a blacklist for lawyers that use such tactics, then it can be reasonably inferred that rulings, then, are not necessarily based on the facts of those respective cases nor the objective and judicially prudent consideration of those facts: the outcomes could be statistically proven to be based on some other type of incentive than an objective search for the truth, the whole truth, and nothing but the truth on the part of the judiciary.

What other incentives could there be for public servants sworn to uphold the truth who live on fixed-income salaries and benefits to include retirement and health insurance? What are

the changes in financial disclosure requirements over time? How does the timing of those changes affect individual financial records over time contemporaneous to the changes in the political climate? What political incentives could there be for judges as elected public servants as they progress in their political careers to other political appointments? Is there a statistical presence of political theater, pretext, or pretense, like when the TSA selects an old lady for ‘random additional screening’ because they know they will not find anything of interest, which minimizes their individual workload?

## Obstacles

There are many possible associated costs to this research methodology as portable and proprietary intellectual property of CIRIS. The monetary cost, lack of data, corruption of data, risk of extra-judicial punishment in the form of political reprisal, or other consequences that cannot even be conceived by minds operating on a good-faith basis when they expect the highest levels of integrity from elected public servants.

## Recommendations for Future Research

To reiterate: this research design process is proprietary in and of itself. This should be the longest section of the dissertation. The process is being designed to be portable to any jurisdiction; by asking a particular series of questions, the aim is to be able to statistically analyze the quality of public service as it relates to domestic relations court proceedings. The intent is to be able to individually track judges’ and lawyers’ unique identifiers to answer questions like, *How many children suffered found neglect and abuse during certain individuals’ involvement in their domestic relations cases? How many children went into child protective services and then went missing? What correlation exists in the public record between elected public servants and practicing attorneys before and during their public service? How do we build a toolkit to statistically analyze case outcomes using data available in the corresponding information technology systems?*

## Defining ‘randomization’ within a limited-outcome system

The concept of ‘random’ is a good starting point: a truly random outcome draws from an infinite set of possible outcomes. A finite set of outcomes, numerically encoded into actual outcomes, is NOT ‘random’ in the statistical sense of the term – it is not random if the outcome ALWAYS favors a particular participant. As it relates to a normal distribution of data: a sample set that appears to be bell-shaped is an effective and safe test to quickly assess a data set for viability for further analysis. Continuously learning how to analyze new data, new data sets, and new data presentation methods requires that data managers understand how limited possible outcomes actually affect the outcomes collected, for how these two data sets compare to each other tells researchers where to look to obtain the additional data necessary to call the research objective and honest. This is the whole point of peer review: *“Here is my data set, here is how I collected and validated it, here are my conclusions. What do you think?”*

## Operationalizing the Research Plan

Illinois Supreme Court Rule No. 68 governs the financial reporting process to which Illinois Judges must conform as a function of their paid public service obligation to the People of the State of Illinois. I began by going to the Supreme Court Clerk’s Office located in downtown Chicago. There, I picked up the request forms, which were carbon copies each individual judge would receive as notification that their records had been requested. These requests are confidential. Then, I turned in copies of the request forms over to the Supreme Court Clerk’s Office located in Springfield, the Illinois State Capitol. I received confirmation letters from the Supreme Court Clerk’s Office and the cost of what it would take to prepare the records and mail them to an address of my designation. The records arrived in one box within a reasonable amount of time, and I began my analysis of the same. The Supreme Court of Illinois provides instructions and a fillable form so that judges shall comply. There is certain numerical data already encoded in certain steps of the process, but most of the information provided is not usable numerical data

in any respect. Furthermore, the Illinois Supreme Court does not clearly state the purpose of having judges submit this information as a function of their public service if it is ever stated at all. Upon review of the information provided, there is a spectrum of responses, not just as the judges' records are compared to each other judge by judge, but even as the records of each individual judge are compared to the same judge's preceding years' declarations, there is variance in how the responses to the questionnaires' prompts evolve over time for each particular judge.

## Implications

So, a statistical analysis of how judges' net worths change over time in comparison to their fixed-income state salaries and benefits would require more data to complete before any trends could be analyzed to determine a statistical correlation between case outcomes and net worth growth before anyone could make the assumption that certain judges could be accepting bribes. Whatever the purpose of having judges comply with this financial reporting process may be, given the information received from the Illinois Supreme Court Clerk's Office, judges and their spouses, and sometimes, even their children, are smart enough and professionally accomplished enough to know that whatever materials they submit are not going to be able to prove or disprove whether they may be receiving some type of compensation from litigants by and through their counsel in exchange for favorable rulings. Additionally, as judges' careers progress, a measurement of how forthcoming they are can be seen as they disclose fewer and fewer details, still legally in accordance with Rule No. 68, mind you, but almost as if they are being coached by their peers as to what is too much information to be disclosed because the process is not really standardized to the extent that it could be used in a real national credit and financial background check similar to what members of the US Military go through as they are vetted for security clearances.

From a position of personal, professional integrity: that being of high professional, ethical standards, being capable of demonstrating a public service mindset to the highest ethical standards, understanding the importance of transparency and oversight in public service - especially as it relates to a judiciary that presides over domestic relations and criminal matters and the control those courts have over individual finances and freedom - there appears to be a carefully codified castle around lawyers and judges (who used to be lawyers). Who - or what - are they protecting

themselves from? Each other? No: they rarely hold each other accountable, and when they do, it is only in the most superficial ways. Pro Se litigants? No: until January 1, 2023, there is no expectation that public servants even follow the Judicial Code of Conduct.

## Discussion

The bigger question is: *If these public servants only so rarely hold each other accountable, and they only so rarely update the rules that govern their conduct - to include the rules of how transparent they need to be financially as a function of how the reporting process is codified - how does the very public that pays their salaries, to include their retirement and healthcare for them and their dependents, has any real insight into their character of service to be able to call those elected public servants 'honorable' or not? What recourse does the public actually have when judges commit malpractice, especially considering the local political affiliations that lead to them becoming and staying judges?*

Only recently, the Supreme Court of Illinois entered an order dated July 1st of 2022, effective January 1st of 2023, whereby they amended IL Supreme Court Rule No.71 regarding violations. When one looks at the changes that were made (found in part 1 of the amendment), consideration of those changes really provokes some interesting thoughts. For instance: if it were that easy to amend, why was it not amended sooner, so that judges would actually be able to be held accountable for their judicial malfeasance, when and if it occurred? If the appearance of propriety is so important, why would it not be effective immediately? Why does it take six months for judges to be able to comply with the Code of Judicial Conduct if they are already so 'honorable'? Why would judges, who take an oath to uphold the public trust as a function of their social contract with the very public that pays their state salaries and benefits for them and their dependents, who at the same time demand fealty to their presumed honor and regularly lecture the public about the rules of evidence and civil procedure, with all their professional experience and accomplishment as demonstrated by what financial holdings they and their spouses have (even if the public cannot see how much those holdings amount to), how can they with all of those resources and experience not see that such a change to Rule No. 71 is such an

elegantly nuanced example of impropriety so as to protect them from the very public that provides such a professional lifestyle - work environment, armed security, guaranteed re-election with 60% of the vote in a one-party jurisdiction/voting district, et cetera, yet still be so contemptuous towards that very public to not be able to choose to hold themselves to a higher personal ethical standard?

Now, look at the affidavit that litigants have to complete as a function of domestic relations court in Illinois, even as Pro Se litigants: look at the detail they have to provide to lawyers and judges (who used to be lawyers) so that the court can appropriately determine what portion of the parties' net worth they are going to assign to their industry partners as legal fees, and look at the standard that litigants have to maintain under threat of penalty of law. Look at how lawyers and litigants can use certain filings, like substitution(s) of judge for cause versus a matter of right, how leveling the playing field laws and financial attrition laws are used in Illinois, or how lawyers and litigants can use state resources as a bludgeon to administratively reappropriate resources away from struggling families instead of using state resources to actually help those families. Why have judges generated paperwork that provides no financial transparency to the public, especially if the clerks will accept it, even if the information is unreadable? Some of the documentation provided by judges and accepted by state clerks is unreadable garbage: if a pro se litigant were to submit that quality of documentation as an exhibit, it would be either rejected or useless as such.

## **Recommendations for Future Research**

Researchers have to get access to the appropriate data in order to be able to conduct relevant studies of public servants' behavior as a means to qualify the character of that service; otherwise, how does the public know they are getting the quality of public service being sworn to by people who should be able to demonstrate the best effort and highest levels of integrity from a lifetime of sensitive work as lawyers? Judges' campaign finance records can be requested through FOIA processes, perhaps their tax returns can be obtained somehow, and there are supposed to be documents maintained by the Illinois Secretary of State that can supplement the



‘financial’ records that were already supplied in response to our requests. State records, owned by the People of the State of Illinois, can be obtained and demonstrate how certain lawyers spend their entire careers working with certain judges to effectuate particular outcomes, and the character of those interactions can also be studied. As it relates to domestic relations, where the spectrum of outcomes can be amazing stories of families succeeding to the worst possible outcomes for families imaginable. Even as it relates to the court reporter process, where court reporters create shorthand notes, and upon request, those notes are transcribed into long-form dialogue, for a fee, there is no mechanism to ensure that everyone is doing their job right. The public is told that those shorthand notes are property of the State, like the People of Illinois don’t own the State of Illinois!

The People have a responsibility to educate themselves to the point that they can hold their own elected public servants accountable; otherwise, things are only going to get worse for the People living and paying taxes in these judges’ jurisdictions/districts, most obviously, in Cook County, Illinois. If all public servants were always doing their jobs with their best effort and integrity, then why are programs like Court Appointed Special Advocacy of Cook County necessary? How does participation in such programs compared to the local population as that population changes? If public servants are doing their jobs in good faith and to protect the trust the public has placed in them, then why are the participation statistics related to foster care indicative of disproportionate participation by certain segments of the population? How do policy agendas affect the quality of life for participants? How does the rate at which children are placed in foster care relate to the rate at which they age out of the system? Why is that? Can anyone really say with any statistical certainty that the resources allocated to the public servants that administer these services are being protected with any type of good faith stewardship if no one ever spot-checks the work being done?

Cook County, Illinois is the perfect place to start looking for data to analyze using mixed methods approaches to help answer some of these questions while looking for new answers to questions we have not even thought to ask yet.\*

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## References

*\*In the attached file you can find the following documents: rules, rule change, instructions, judges' files, litigants' requirements. Notice the double standard, and why CASA exists. This calls for more research on this topic.*