

REGIONAL NEWS

FJD Mulls What Injustice Looks Like — And How to Fix It

Panel on Legacy of Luzerne Scandal Says Inequities Flow From Profession's Economics

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Of the Legal Staff

The biggest inequities in the Philadelphia court system are not caused by corrupt judges, but by a collision involving the lawyers' monopoly in providing legal services, harsh economic realities facing young lawyers and litigants who can't afford attorney fees, a panel at the Philadelphia Bar Association's annual bench-bar conference said.

Philadelphia Common Pleas Court President Judge Pamela Pryor Dembe said that "in this do-it-yourself world, there are going to be more and more people pushing for ways to access justice without lawyers."

Peter J. Hoffman, a member of Eckert Seamans Cherin & Mellott and chair of the firm's professional liability group, said that one of the problems "getting to justice is cost." If there's not insurance coverage, even lawyers can't afford to litigate a case of any magnitude. Cases cost \$75,000 or \$100,000 to litigate, he said.

"Just as we're going to see rationing of medical care — believe me, we're going to see it — we're going to see a rationing of legal services," Hoffman said, for both civil and criminal cases.

The panel, "I'm Not Saying That to Any

Judge! The Lasting Implications of Luzerne County," was held at the Philadelphia Bar Association's bench-bar conference last week to discuss the state of justice in Pennsylvania's largest judicial system in the wake of the Luzerne County judicial scandal.

Former Luzerne County President Judge Michael T. Conahan entered a guilty plea, and a federal jury found former Luzerne County President Judge Mark A. Ciavarella guilty of accepting more than \$2.8 million in kickbacks from the builder and former co-owner of a private juvenile detention facility. Conahan recently was sentenced to 17.5 years in federal prison, while Ciavarella was sentenced to 28 years in federal prison.

The Philadelphia event focused less on any worries that there is the same level of corruption in the First Judicial District and more on the big-picture issues of whether there are too many lawyers and too many cases in the urban court system.

When asked by moderator Charles J. Ogletree, a Harvard Law School professor, if nonlawyers should be allowed to handle smaller cases on behalf of clients, criminal defense attorney Mark E. Cedrone said it couldn't be done in the area of criminal law because of the constitutional protections provided to defendants.

Shira Goodman, of Pennsylvanians for



GOODMAN



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Modern Courts, questioned how nonlawyers would be regulated to make sure they were providing justice to their clients. Goodman said she could just see the bus ads now: "Don't pay for a lawyer. I'll come help you in court."

Hoffman said setting up ombudsman programs for certain types of civil and family law disputes would make sense. However, arbitration is not cheaper or less time-consuming, and there is no record, he said.

Dembe said the FJD has seen a lot of young lawyers who are not able to find jobs and with an "enormous amount of debt attached to their ankles."

The market for lawyers might be saturated, she said.

But Cedrone said that there are not too many lawyers in the area of criminal defense work protecting the rights of the presumptively innocent.

"All you need to do is look at the number of files some public defender is bringing into

court every day," Cedrone said.

But there may be too many criminal cases, he said.

The biggest challenge for justice in the Philadelphia court system, Cedrone said, is "balancing the tension between the volume of cases that the judges and the court system has to deal with, and at the same time doing so in a manner that at least is true to the objective appearance of a justice process."

Ogletree said there is a tension between charging fewer crimes and a public that wants to make sure that crime victims have their rights vindicated by the government.

"Everything doesn't fit within the court system," Ogletree said. "There should be other venues to solve these problems but the only venue seems to be the courts."

Course planners Superior Court Judge Anne E. Lazarus and Eric H. Weitz, a plaintiffs attorney with Messa & Associates, posed hypotheticals of how finite resources in the

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court system and the volume of court cases can collide and perhaps produce injustice.

Lazarus noted that in the court's civil division, judges have to resolve 121 cases a day just to keep pace with the number of cases filed a year. "But we as a society are not willing to discontinue a program to house the

homeless so we can hire 20 more judges in Philadelphia," Lazarus said.

Weitz suggested that in custody matters that the more "resource-rich" parent wins, often by wearing down the other parent, and judges are reluctant to upset the apple cart by overturning already-existing custody arrangements.

The biggest problem with access to justice is not about getting in the courthouse door, Goodman said, but the "tremendous education gap between what people expect what is

going to happen and what actually happens."

People, when they feel they have been injured, think the courts will fix it, but they don't know what is required under the law, Goodman said.

The problems with achieving justice in Philadelphia might be different than the problems were in Luzerne County, but Ogletree and Goodman both said that the Philadelphia bench and bar can't just say that kind of judicial corruption won't happen in Pennsylvania's largest city.

"Even if it's an aberration ... we all need to take responsibility in setting up a system where the president judge doesn't have that much power, where the D.A. is not reporting unrepresented defendants and the Public Defender's Office is not saying, 'No one came to us for representation,' and attorneys felt they couldn't speak out," Goodman said. "We can't say it'll never happen here."

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