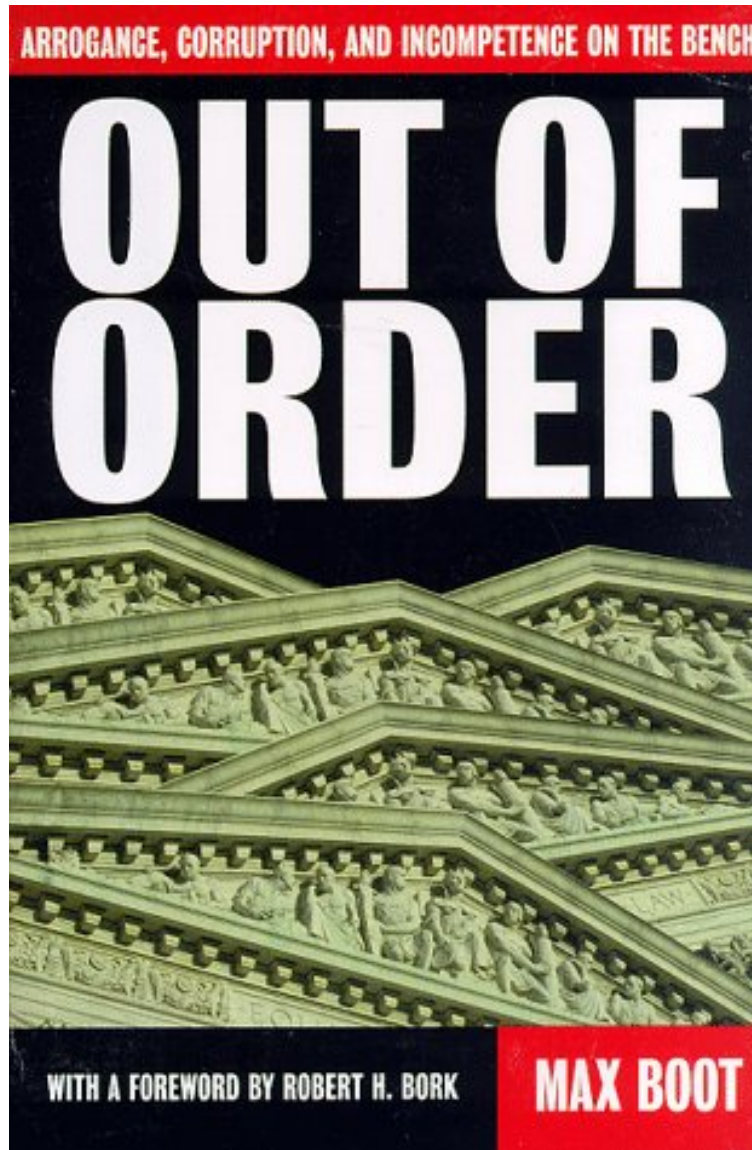


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# Out Of Order: Arrogance, Corruption, And Incompetence On The Bench

Max Boot

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**Max Boot : Out Of Order: Arrogance, Corruption, And Incompetence On The Bench** before purchasing it in order to gauge whether or not it would be worth my time, and all praised Out Of Order: Arrogance, Corruption, And Incompetence On The Bench:

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By A Customer  
Max Boot has shown himself to be a thoughtful writer and deputy features editor for the Wall Street Journal. I have enjoyed his work in that paper for several years. His book is a thoughtful, entertaining and at times enraging look at the judiciary in this country. It falls prey to what I consider to be a congenital shortcoming which is the fact that the author is a journalist and not a lawyer or even a law school graduate. Hence, this is essentially someone who is intelligent and well informed but is still "on the outside looking in." Like all top-notch journalists, he is adept at "getting up to speed" and doing the research necessary to speak effectively on the subjects he writes about. I've had several dealings with Wall Street and NY Times journalists and editors and I have to say that Max Boot is perhaps the least insufferable, smug and self-impressed of the bunch. (Take this for the compliment it is. If you knew these folks you'd realize just how self-impressed they are when it comes to hawking their own books and to "playing up" their purported expertise on various substantive subjects like the American legal system.) Max Boot is an intelligent, workmanlike writer who has done his homework on an important subject.

Hear about the judge who got busted for selling crack? What about the judge who released from jail a felon who then promptly killed a rookie cop? Or the one who ordered a prison to supply its inmates with hot pots?  
In *Out of Order: Arrogance, Corruption, and Incompetence on the Bench*, investigative reporter Max Boot documents dozens of stories like these as he blows the whistle on the least publicized, the most destructive, branch of the government—the compelling statistics to support his belief that judges have greatly damaged both the criminal and civil justice systems. Boot criticizes well-known judges like Lance Ito, who presided over the O.J. Simpson follies, and Harold Baer, the New York judge who initially decided to exclude from evidence eighty pounds of drugs because he found nothing unusual about a courier fleeing from the cops. He reveals judges who have taken advantage of their office not only for personal gain, but also to gain greater political power. The juristocracy, as Boot calls it, has taken over the running of schools, prisons, and other institutions, with disastrous results: forced busing, which has led to white flight from inner-city schools; higher taxes, as judges have ordered more government spending, regardless of results; and greater social divisions, because judges have taken controversial issues like abortion out of the political arena. Rundowns of case after case reveal judges who have routinely overturned popular initiatives without legal right to do so, implemented controversial policies with no basis in law, and put millions of dollars into the pockets of undeserving plaintiffs. Following in the footsteps of the bestselling *Death of Common Sense* and *Slouching Towards Gomorrah*, *Out of Order* is a tightly reported, highly opinionated expose that should set off a national debate about the woeful state of our legal system. It also offers hope, by providing ways to improve the performance of the judiciary and reclaim its original role as servant of the people.

.com Max Boot, who wrote the excellent "Rule of Law" editorial column in the Wall Street Journal for several years, has written what he admits to be a polemic. Polemic; need not be a derogatory word when the book is informative and entertaining. *Out of Order* is aimed at the evils of judges. Some of those evils—corruption and drug dealing—are obvious. Others—such as broad constitutional interpretations, desegregation of Virginia Military Institute, and application of the Miranda doctrine—are debatable, though Boot mostly sidesteps those debates. Having foresworn objective analysis, Boot also admits to a lack of solutions to the problems he identifies. While he proposes a handful of reforms that do little to address what he criticizes, he rejects a wide variety of radical proposals with a few sentences each. Boot suggests more scrutiny of judges through lawyers' reports and public debate. Left unspoken is the fact that the most prominent public debate of judicial decision-making in the last 12 years involved the author of his introduction, Judge Robert Bork, and came to a result Boot disliked. And Boot's endorsement of rating judges by lawyers ignores that such ratings have as often resulted in unfair criticism of judges (including one Boot singles out as a good egg) for holding lawyers to strict standards as it has to expose incompetence that remains unaddressed. So what's left is a long list of anecdotes, loosely organized by them, tied together only by their common desire to criticize. Thus, Judge Ito should not have let the Simpson trial be overrun by publicity, but a Chicago judge is hit for earthily barring attorneys from talking to the press. In one chapter, judges have too much power and abuse it; in another, incompetents fill the judiciary because smart lawyers can have more influence by refusing appointments. The reader is to assume that the mere fact Boot has held these judges up to criticism should be enough. For a more reasoned analysis of the judicial system, see Richard Posner's *The Federal Courts* (1996). Those wishing for the polemic can read either Robert Bork's *The Tempting Of America* (1991) or Ralph Nader's *No Contest* (1996), depending on your preconceived political bent. --Ted Frank  
From Publishers Weekly  
Judges have assumed unprecedented authority over our lives, usurping powers once delegated to elected lawmakers, based on no solid grounding in the text of either a statute or the Constitution itself," contends Wall Street Journal deputy features editor Boot. Though his somewhat right-leaning biases are occasionally visible beneath his research-based approach, Boot's strong writing and even-handed journalism make for a powerful case. (Former Supreme Court nominee Robert Bork's turgid introduction, full of references to "radical egalitarianism," is one example of the less-than-transparent politics that inform the book.) With humor and

wit, Boot describes a society caught up in a lottery mentality, whereby juries routinely make outrageous punitive damage awards on the flimsiest of cases, and judges—often politically savvy lawyers rather than judicious legal experts—fail to throw out frivolous cases and awards. Only a revision of the system by which we select and promote judges, Boot contends, is likely to change the situation. Boot's impressive grasp of the law and his wry, crystal-clear argumentation makes this book one that will be indispensable to anyone curious to know how we managed to turn our society into a gridlock of litigiousness. Copyright 1998 Reed Business Information, Inc. From Library Journal

Boot, editorial features editor for the Wall Street Journal, finds judges to be incompetent and corrupt; abusive of the particular trust that comes with their office, they advocate unacceptable social experimentation. Still, Boot can find some worthy judges. Federal district judge Richard Matsch of Denver is one even though he is mildly rebuked in Chapter 5 for his intervention in the Denver public school district. And that may be the true weakness of this book. Boot writes with such broad strokes as to become incredible. The compilers of one standard judicial directory, *The American Bench* (Foster-Long, 1997, 9th ed.), gathered more than 18,000 federal and state judicial biographies. Surely more than a mere handful are competent, ethical, and deserving of our trust. Yet it would be wrong to dismiss this book as unworthy. The concluding chapter advances a number of policy items that merit consideration: judicial term limits, e.g., limits on the jurisdiction of judges to hear constitutional challenges. This book will find favor with more conservative readers. Recommended generally for public libraries. —Jerry E. Stephens, U.S. Court of Appeals Lib., Oklahoma City

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