

CENTER for
JUDICIAL
ACCOUNTABILITY



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By Priority Mail

August 22, 1994

Mr. Ari Goldman
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School of Journalism
Columbia University
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Dear Ari:

I again thank you for giving our citizens' group the opportunity to present story ideas to your journalism students.

As part of the curriculum, you told me you try to give your students a sense of the "structure of government", and that you were planning a class trip to the courts and possibly, as you had last year, to the D.A.'s office as well.

However, lest your students mistakenly equate the "structure of government" with its proper functioning, the experiences of our group--which we propose to share with your students--will be an eye-opening counterpoint. Indeed, our citizens' group exists precisely because our government does not function as it is structured to do, where vested political interests are at stake.

The Center for Judicial Accountability grew out of the work of a citizens group called the "Ninth Judicial Committee"¹. Formed in 1989, that group was a grass-roots response to the manipulation of judicial elections by party leaders in the Ninth Judicial District of New York, an area comprising the counties of Westchester, Putnam, Dutchess, Orange, and Rockland Counties.

When we organized the Ninth Judicial Committee--whose purpose was to improve the quality of the judiciary--we believed--naively--that the "structure of government" and the concept of "checks and balances" really worked. We believed that state agencies charged with the duty of enforcement of the law and ethical standards would investigate documented complaints of corrupt practices by party leaders, judges, and would-be judges. We were wrong.

¹ A biographic profile appears at the end of our enclosed critique.

Our serious complaint that a 1989 cross-endorsements deal, as well as fraud and illegality at the judicial nominating conventions which implemented that deal, had tainted the nomination of judges in the Ninth Judicial District, was dismissed without investigation.

Thereafter, believing that the courts would enforce the law that public agencies had failed to, we sought judicial intervention on behalf of the voters in the Ninth Judicial District. Instead, the courts, like those public agencies, betrayed the public trust by knowingly disregarding elementary rules of law and falsifying the factual record in order to "dump" our meritorious legal challenges.

Finally, believing that the "checks and balances" of our executive and legislative branches were functional, we turned to the Governor and the leaders of the State Senate and Assembly to investigate the subversion of our state judiciary and government agencies, which we had painstakingly documented. Our unremitting efforts--all leading nowhere--established not only the total dysfunction of those two branches, but their cover-up, complicity, and collusion so as to keep the judiciary a fertile ground for political deal-making and patronage.

Our group has also shown that the nominating process underlying appointment to the federal judiciary is similarly infected by political deal-making and patronage considerations. Two years ago we undertook a six-month critique of that process. Taking the nomination of Westchester County Executive Andrew O'Rourke to a district court judgeship as a "case study", we conclusively demonstrated Mr. O'Rourke's unfitness and that:

"a serious and dangerous situation exists at every level of the judicial nomination and confirmation process--from the inception of the senatorial recommendation up to and including nomination by the President and confirmation by the Senate--resulting from the dereliction of all involved, including the professional organizations of the bar."
(at p. 2 of our critique)

Yet, despite our vigorous efforts to get the U.S. Senate to launch an official investigation into the scandalous non-screening that we documented, we were met with the same pattern of cover-up and pretense as had been our experience in Albany then--and thereafter.

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Indeed, returning to the state level, we went on to document, last year, that our State Legislature, in addition to covering up palpable corruption of judicial elections, covers-up the perversion of the appointment process as it relates to the Governor's nominations of judges to our State's highest court, touted as "merit selection", but which is anything but.

Therein lies the second prong of our intended presentation--the important role the media must play if government is to function properly and "the cover-up" uncovered. All the enormous efforts and sacrifice of whistle-blowing individuals and groups such as ours cannot succeed without media attention. Our experience makes plain that government officials will not confront documentary evidence that is contrary to their interests unless they are compelled to do so. Clearly, no reason is more compelling to politicians than the glare of publicity and the indignation of an informed public.

Not only can we offer your students a vast amount of material for powerful and inspirational stories of citizen efforts to make our democracy work, but we have a treasure trove of information for dynamite stories affecting the candidacies of Governor Cuomo, Attorney General Koppell, U.S. Senator Moynihan, among others.

We believe that if these stories were to be released before Election Day, they could change the ultimate outcome. As your students will readily recognize from our presentation, these are fully-documented stories of political and judicial corruption of the rankest sort--about which the citizens of this state need to be informed before they cast their votes.

So as to demonstrate to you the kind of full documentation that supports all our work, I enclose a copy of our critique of Andrew O'Rourke's judicial nomination and the screening process, as well as our May 18, 1992 and June 2, 1992 letters to Senate Majority Leader George Mitchell on the subject of a moratorium on Senate confirmation of all judicial confirmations pending official investigation². As discussed, despite exhaustive efforts by us, the media would not report our extraordinary accomplishment. To the extent it made use of our research and findings, it did so to a most limited extent--and without attribution to us. By way of example, I enclose the lead item that appeared on the "Intelligencer" page of the June 22, 1992 issue of New York Magazine, which was based on our critique, as well as an August 8, 1992 piece by William Glaberson in The New York Times.

² Our June 2, 1994 letter also constitutes an important update and supplementation to the critique, further establishing the failure of the screening process.

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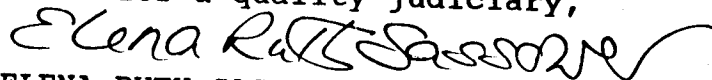
Indeed, the only coverage of our work by The New York Times was written by myself as a Letter to the Editor and published on July 17, 1992, in expurgated form. A copy is enclosed.

We would be pleased to provide your students with background articles to educate and sensitize them to issues relating to the politicization of the judiciary and judicial accountability. As illustrative--and so as to enable your students to understand that although the media invariably accepts judicial decisions as true and correct, they can and should be subject to scrutiny--I enclose Professor Anthony D'Amato's law review article on the subject, which I briefly discussed with you, "The Ultimate Injustice: When the Court Misstates the Facts".

We would also be interested in offering your students internships with the Center. These internships would provide your students with a unique opportunity to be fully educated and sensitized on the important issues relating to judicial accountability. With such invaluable grounding, they will have a clear advantage in competing for prizes such as the American Bar Association's "Silver Gavel Awards". In the event you are unaware of that annual competition, I enclose information about it.

Again, our thanks to you for this wonderful opportunity. We welcome your guidance and advice in structuring our presentation and internship proposal.

Yours for a quality judiciary,



ELENA RUTH SASSOWER

Enclosures:

- (a) Critique and Compendium of Exhibits
- (b) 5/18/92 and 6/2/92 ltrs to Senate Majority Leader Mitchell
- (c) 6/22/92 New York Magazine, "Credentials Gap: The Case of the Missing Cases"
- (d) 8/8/92, NYT, "County Chief O'Rourke Waits for Judge O'Rourke"
- (e) 7/17/92, NYT, "Untrustworthy Ratings?"
- (f) Cardozo Law Review, Vol. 11:1313, "The Ultimate Injustice: When the Court Misstates the Facts"
- (g) Silver Gavel Awards Competition

P.S. I am also enclosing my recent Letter to the Editor to the Times, which I mentioned when we last spoke. The scandalous case to which I refer in the last paragraph represents a prize-winning story, one which, hopefully, would put an end to Mr. Koppell's election prospects and topple a number of prominent sitting judges from the bench.