

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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July 20, 1995

Jeffrey N. Barr, Assistant General Counsel  
Administrative Office of the United States Courts  
One Columbus Circle  
Washington, D.C. 20005

Dear Mr. Barr:

After spending so much time these past two years grappling with your consultant's report to the National Commission on Judicial Discipline and Removal on 28 U.S.C. §372(c), it was a real thrill to finally have had an opportunity to meet with you--albeit by phone. I do thank you for taking the time to speak with me last Thursday.

As discussed at length, I enclose my letter to the Second Circuit regarding its non-compliance with its obligations under Rule 17 to file public documents relative to its handling of §372(c) complaints. Since you function as secretariat to the Judicial Conference's Committee to Review Circuit Counsel Conduct and Disability Orders, portions of whose March 1994 report are annexed thereto as Exhibit "F", I request that such letter be brought to the Committee's attention.

As further discussed, I believe it would help matters immeasurably if the Circuits, rather than just sending their public orders to the Federal Judicial Center, often in batches, unaccompanied by any inventory, would inventory their transmittals and provide a certification that same is complete as to all public orders for §372(c) complaints disposed of during a given period. I cannot imagine that this would be terribly difficult since, as your consultant's report states (Research Papers: Vol. I, pp. 484, 622-3), the Administrative Office already receives from the Circuits statistical information of activity under the 1980 Act. Moreover, such certification would have the added advantage of reducing the likelihood of "missing data"--which, given that courts are well-versed in record-keeping and docketing practices, was astonishing to read about in your consultant's report (Research Papers: Vol. I, pp. 484, 487\*).

Clearly, procedures such as these, designed to ensure the accuracy and completeness of data and public documents under the 1980 Act, would implement the Judicial Conference's endorsement of the National Commission's pertinent recommendations (Final Report, p. 110).

Inasmuch as you indicated that you were unaware of my December 9, 1994 testimony before the Judicial Conference's Long-Range Planning Committee, I am enclosing a copy (Exhibit "A"). Notwithstanding the shocking testimony therein reflected--and the voluminous documentation we supplied establishing fundamental flaws in the Long-Range Planning Committee's draft report, the Committee did precisely what was done by the National Commission in the summer of 1993. Thus, the Long-Range Planning Committee, like the National Commission before it, rendered its final report in complete disregard of the empirical evidence we presented showing that basic premises upon which it was proceeding were flawed. Indeed, to our knowledge, the Long-Range Planning Committee made no attempt to verify and assess the significance of the information we presented--much as its members did not ask me a single question at the conclusion of my prepared statement, despite my express invitation to them.

I thank you for agreeing to ascertain what became of the extensive documentary materials we provided to the Long-Range Planning Committee. I was originally informed that such materials were going to be "scanned" and made part of a permanent record. However, I was thereafter told that this was not done. Obviously, it is our hope that the extraordinary materials we presented would be maintained and accessible to scholars.

Plainly, our concern as to the whereabouts of such materials has been heightened by the fact that the materials we provided to the National Commission on Judicial Discipline and Removal in July 1993 have, apparently, not been preserved as part of the Commission's records. Certainly, they were not among the contents of the three cartons of the National Commission, which--when I was at the Federal Judicial Center on July 3, 1995--were being stored in your office. Those cartons essentially contained loose-leaf folders of earlier drafts of the Commission's reports. Virtually none of the substantial correspondence and paper-work which can be assumed to have been generated and received by the Commission was there, including written materials from the "contributors" to the National Commission--at least some of whose names appear at the end of its final Report, among them, myself and my mother.

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This was particularly disappointing since, two years ago, William Weller, Deputy Director of the National Commission informed us that the Ninth Judicial Committee's<sup>1</sup> critique which we provided to the Commission relative to the failure of the federal judicial screening process would be "included in the Commission's records". But where are the Commission's records? Since you were good enough to also agree to assist us in locating them, I enclose (as Exhibit "B") a copy of our July 14, 1993 letter to the National Commission transmitting our critique to it, as well as Mr. Weller's July 20, 1993 responding letter that the critique would be "included in the Commission's records" (Exhibit "C").

We do look forward to meeting with you--and working together on the important issues of judicial selection and discipline upon which the integrity of our third branch of government depends. We have no doubt but that when you review the evidentiary materials we provided to the National Commission and the Long-Range Planning Committee, you will agree that we have much to contribute.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc.

Enclosures

cc: Federal Judicial Center

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<sup>1</sup> The Ninth Judicial Committee was the predecessor citizens' group to the Center for Judicial Accountability, Inc. For a more detailed description of the genesis of our organization, I enclose a brochure about the Center.