

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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*Elena Ruth Sassower, Coordinator*

CERTIFIED MAIL/RRR 7001-0360-0002-6819-6320

December 6, 2002

Mark Ustin, Records Access Officer for the Governor  
Executive Chamber  
Room 214  
Albany, New York 12224

RE: CJA's March 30, 1999 F.O.I.L. request and March 30, 2001 supplement for, *inter alia*, (1) the "written reports" of the qualifications of Governor Pataki's judicial appointees, prepared by his judicial screening committees; and (2) documents pertaining to the operations and procedures of the Governor's judicial screening committees

Dear Mr. Ustin:

Over a year and a half ago, by letter dated March 30, 2001 (Exhibit "A"), I brought to the attention of your predecessor, Rosario Vizzie, that our citizens' organization, Center for Judicial Accountability, Inc. (CJA), had received no substantive response to its March 30, 1999 F.O.I.L. request (Exhibit "B-1"). I, therefore, asked "when [a] substantive response [would] be forthcoming". I also supplemented that March 30 1999 F.O.I.L. request with a request for additional related documents, itemized as 1-3.

Mr. Vizzie responded by letter dated April 5, 2001 (Exhibit "C-1"), acknowledging the three itemized requests, but saying nothing about the March 30, 1999 F.O.I.L. request, then two years old. Thereafter, by letter dated May 4, 2001 (Exhibit "C-2"), Mr. Vizzie stated that he was "still in the process of locating and gathering documents in response to [the] request". Again, no specific mention of CJA's March 30, 1999 F.O.I.L. request.

By letter dated May 17, 2001 (Exhibit "C-3"), Mr. Vizzie informed me that he had located "seventy-six (76) pages of documents that are responsive to parts one and two of [the] request" – and would forward me copies upon receipt of \$19. He also stated:

"I would be glad to continue the process of searching for additional documents in response to your request, if you indicate to me in writing or by telephone that you would like me to do so."

Both by telephone and in writing, I advised that this was precisely what CJA wished. Reflecting this is my June 4, 2001 letter to Mr. Vizzie (Exhibit "D"), whose opening paragraph began:

"Following up my May 23<sup>rd</sup> phone call to your office, immediately upon receipt of your May 17, 2001 letter...this is to confirm that CJA wishes you to continue to search for any and all documents responsive to our March 30, 2001 letter relative to new and outstanding F.O.I.L. requests." (emphasis added).

By letter dated June 11, 2001 (Exhibit "E-1"), Mr. Vizzie sent the 76 pages for which my June 4, 2001 letter had enclosed a \$19.00 check. Again he made no mention of the March 30, 1999 F.O.I.L. request in advising that he would "continue to locate and gather documents that may be responsive to part three". As to this, he stated "a further response" would be forthcoming "no later than June 29, 2001."

In the nearly year and a half since June 29, 2001, I received no "further response" to "part three" or to any other aspect of my March 30, 2001 letter. It is for this reason I now write.

The 76 pages Mr. Vizzie sent me, *uninventoried*, consisted of 53 "written reports" of the Governor's judicial screening committees for 53 of his judicial appointees, in separate clumps for 1999, 2000, and 2001, as well as the judicial screening committee "Uniform Rules", without any of the appendix documents to which those Rules refer, consisting of blank questionnaire forms which candidates are required to complete.

As to item 1 of my March 30, 2001 letter (Exhibit "A"), please advise whether the 53 "written reports", the earliest from April 5, 1999, represents a complete response to its request for "all 'written reports' of the qualifications of the Governor's judicial appointees" from the date of CJA's March 30, 1999 F.O.I.L. request to the date of the March 30, 2001 letter.

As to item 2, please explain why Mr. Vizzie's response did not include the appendix documents of blank questionnaire forms, expressly requested by my March 30, 2001 letter, and, prior thereto, by CJA's March 30, 1999 F.O.I.L. request.

As to item 3, please advise when the promised "further response" thereto will be forthcoming for

"all records showing the cost to the taxpayers of the Governor's judicial screening committees – including for 'reimbursement of any necessary expenses', and 'paid staff' for their operations and investigative activity, as provided for by Executive Order #10.1, 7".

As to CJA's March 30, 1999 F.O.I.L. request (Exhibit "B-1"), wholly ignored by Mr. Vizzie in responding to my March 30, 2001 letter, please advise why there has been no substantive response – and when same will be forthcoming.

Finally, please deem this letter a supplement to CJA's March 30, 1999 F.O.I.L. request so as to extend the span of dates pertinent to the documents therein sought to run to the date of your substantive response – hopefully soon forthcoming. Thus, for instance, the request therein "to inspect the 'written reports' of ALL the Governor's judicial appointees to the lower state courts, from the inception of his administration in 1995 to the present" should be deemed to run to the date of your substantive response.

Needless to say, it would be most helpful for purposes of checking the completeness of your response if the Governor has compiled a list of his judicial appointees through the course of his administration – and I expressly request to inspect such document if it exists.

As stated at the conclusion of CJA's March 30, 1999 F.O.I.L. request (Exhibit "B-1"):

"If there are any fees for copying the records requested, please inform us before filling the request. As you know, F.O.I.L. requires your response within five business days of receipt of a request. If for any reasons any portion of CJA's request is denied, please inform us of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed."

Thank you.

Yours for a quality judiciary,

*Elena Ruth Sassower*

ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc. (CJA)

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*Mark Ustin,  
Records Access  
Officer for the Gov.  
Executive Chamber  
Room 214  
Albany, NY 12224*

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PS Form 3811, August 2001

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Officer for the Gov.  
Executive Chamber  
Room 214  
Albany NY 12224*

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PS Form 3800, January 2001 See Reverse for Instructions