

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY FAX: 518-474-8099 (6 pages)

BY CERTIFIED MAIL/RRR: 7001-0360-0002-6819-6283

April 16, 2003

Mark R. Ustin, Records Access Officer to the Governor
Executive Chamber
Albany, New York 12224

- RE: (1) F.O.I.L. Requests of December 6, 2002 & January 9, 2003
(2) F.O.I.L. Requests of January 14, 2003 & January 16, 2003
(3) Newly-Initiated F.O.I.L. Request Pertaining to the
Governor's "Federal Appointments Screening Committee"/
"Federal Judicial Screening Committee"

Dear Mr. Ustin:

We have received no substantive response to our December 2, 2002 F.O.I.L. request, supplemented on January 9, 2003 letter, which you acknowledged by letter dated January 13, 2003. Nor have we received any substantive response to our January 14, 2003 and January 16, 2003 F.O.I.L. requests, which you acknowledged by letter dated January 27, 2003. For your convenience copies of these acknowledgment letters, respectively indicating that "further response" would be forthcoming by February 10, 2003 and February 27, 2003, are annexed. Please advise as to the status of these requests.

Additionally, we now initiate a new F.O.I.L. request for publicly-available records pertaining to Governor Pataki's "Federal Appointments Screening Committee", announced by a March 16, 2001 press release, but whose membership was not announced until a February 28, 2002 press release – and then as a "Federal Judicial Screening Committee". Copies of each of these press releases are also enclosed for your convenience.

Specifically, we request copies of:

- (1) any Executive Orders pertaining to such Committee¹;
- (2) any documents reflecting the Governor's appointments of the Committee's Chairman and its members, including the dates thereof;
- (3) any documents setting forth the Committee's rules and procedures;
- (4) any documents reflecting the Committee's solicitation of candidates;
- (5) copies, in blank, of any and all questionnaire forms which the Committee has required candidates for federal judgeships and for positions of U.S. Attorney and U.S. Marshal to complete;
- (6) any documents containing statistical information as to the number of candidates who have applied for consideration by the Committee – and the specific federal offices for which they have applied;
- (7) any documents containing statistical information as to the number of candidates who have been recommended by the Committee – and the specific federal offices for which they have been recommended;
- (8) any documents reflecting the names of candidates recommended by the Committee, the federal offices for which they were recommended, and the dates of such recommendations – particularly if such recommendations were thereafter affirmatively acted upon by Governor Pataki and/or President George W. Bush; and
- (9) copies of the Committee's screening reports for candidates subsequently nominated by President Bush for federal office.

Pursuant to F.O.I.L. [Public Officers Law, Article VI, §89.3], your response is due within five business days of receipt.

Thank you.

Yours for a quality judiciary,



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

Enclosures

cc: Nan Weiner, Executive Director, "Federal Judicial Screening Committee"

¹ In the event the Governor's "Federal Appointments Screening Committee" and "Federal Judicial Screening Committee" are not one and the same, please consider this FOIL request as pertaining to both.



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

January 13, 2003

Elena Ruth Sassower
Coordinator
Center for Judicial Accountability, Inc.
P.O. Box 69, Gedney Station
White Plains, NY 10605-0069

Dear Ms. Sassower:

This letter is to acknowledge receipt of your fax of January 9, 2003, concerning your previous letter, dated December 6, 2002, and received by this office on December 9, 2002, regarding a FOIL request from March 30, 2001, which in turn renewed a FOIL request from March 30, 1999. In the December 6 letter, you renew and supplement your prior FOIL requests; your several requests are further supplemented in your January 9 fax. Thank you for the comprehensive history of these several requests, which will better enable me to evaluate their status, and determine what additional documents in the possession of the Executive Chamber, if any, will be responsive to them.

Please be advised that as with any FOIL request, this office is only obligated to grant access to those documents or records which are kept by the Executive Chamber, subject to certain exemptions. Further, this office is not obligated to grant access to those documents or records that are not kept within the Executive Chamber or those documents or records that do not exist. In addition, FOIL does not require a state agency to create a document in response to a FOIL Request.

I will review our records to determine what materials we have, if any, that would be responsive to your request. In light of the breadth of your several requests, this may be a lengthy process. We should be able to provide you with a further response no later than February 10, 2003.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark R. Ustin".

Mark R. Ustin
Assistant Counsel to the Governor
Records Access Officer

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rec'd 1/31/03



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

January 27, 2003

Elena Ruth Sassower, Coordinator
Center for Judicial Accountability, Inc.
P.O. Box 69, Gedney Station
White Plains, NY 10605-0069

Dear Ms. Sassower:

This letter is to acknowledge that, on or about January 17, 2003, this office received your two most recent Freedom of Information Law (FOIL) requests. The first is your letter dated January 14, 2003, requesting "any publicly-available materials pertaining to Governor Pataki's appointment of Court of Claims Presiding Judge Susan P. Read to the Court of Appeals", and "the financial statement that Judge Read was required to submit as part of her application for the Court of Appeals". The second is your letter dated January 16, 2003, requesting documents "constituting a 'job description' for Deputy Counsel, containing precise dates for Ms. Read's tenure, and representing her work product" and confirmation that "there was but a single position of Deputy Counsel" during 1995-1997.

Please be advised that as with any FOIL request, this office is only obligated to grant access to those documents or records which are kept by the Executive Chamber, subject to certain exemptions. Further, this office is not obligated to grant access to documents or records that are not kept within the Executive Chamber or that do not exist. In addition, FOIL does not require this office to create documents in response to a FOIL Request.

I will review our records to determine what materials we have that would be responsive to your request. Pursuant to the provision of Public Officers Law § 89 (3), we should be able to provide you with a further response by approximately February 27, 2003.

Sincerely,

A handwritten signature in black ink that reads "Mark R. Ustin".

Mark R. Ustin
Assistant Counsel to the Governor
Records Access Officer

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FOR IMMEDIATE RELEASE:

March 16, 2001

GOVERNOR ANNOUNCES FEDERAL APPOINTMENTS SCREENING COMMITTEE

Committee Will Review Candidates for Federal Judiciary and U.S. Attorney

Governor George E. Pataki today announced the creation of a new Federal Appointments Screening Committee, which will screen and review candidates for nomination by President George W. Bush to serve as U.S. Attorney and for federal judgeships. The Screening Committee will assist the Governor in recommending to the President candidates of the highest caliber for these important federal offices.

The Governor also announced that John F. O'Mara, former Court of Claims Judge and former Chairman of the New York State Public Service Commission (PSC), will serve as Chairman of the Screening Committee.

"The people of New York expect and deserve to have the highest quality candidates serve in these important positions, and that's exactly what our new Screening Committee will help to ensure," Governor Pataki said. "As I make my recommendations, I look forward to working with our Senate and Congressional delegation, as well as bar association and other leaders around the State, to get their input on potential candidates.

"The decisions made in our federal courts have a profound impact on all New Yorkers, and we need to be confident that candidates of the highest caliber are nominated for these important posts, the Governor said. "I know Judge O'Mara has the experience, intellect and integrity to do an excellent job in guiding the work of this important committee and I look forward to receiving the panel's recommendations."

Judge O'Mara served as the Chairman of the PSC from 1995 to 1998. Prior to his appointment to the PSC, Judge O'Mara was appointed by Governor Pataki to serve as Special Counsel to the Governor. In 1974, he was appointed by Governor Nelson Rockefeller to serve as a Court of Claims Judge and he has also previously served as Chemung County District Attorney and Chemung County Attorney. Judge O'Mara is a graduate of LeMoyne College and Cornell Law School.

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FOR IMMEDIATE RELEASE:

February 28, 2002

GOVERNOR ANNOUNCES FEDERAL JUDICIAL SCREENING COMMITTEE

Committee Will Review Candidates for Federal Judiciary

Governor George E. Pataki today announced the membership of the Federal Judicial Screening Committee, which will carefully review the qualifications of individuals interested in serving on the federal judiciary. At the request of President George W. Bush, Governor Pataki will recommend for the President's consideration highly qualified candidates for federal judicial vacancies in New York State.

"I am pleased that this distinguished and diverse group of New Yorkers will help ensure that the individuals I recommend to President Bush for these important federal judicial offices are exceptionally well-qualified," Governor Pataki said.

The Committee will review candidates interested in filling vacancies on the U.S. District Court for the Southern, Eastern, Western and Northern Districts of New York and the U.S. Court of Appeals for the Second Circuit. At present, there is one vacancy in the U.S. District Court for the Southern District and one in the U.S. District Court for the Eastern District.

The Federal Judicial Screening Committee members are:

- John O'Mara, Chair; Davidson & O'Mara, PC
- Neil Connolly; Frontier Insurance Company
- Thomas Engel; Engel & McCarney
- Kevin Gilligan; Costello, Cooney & Fearon, LLP
- Hector Gonzalez; Mayer, Brown, Rowe & Maw
- Stanley E. Grayson; Attorney; Commissioner, Moreland Act Commission on New York City Schools; former Managing Director, Public Finance Department of Prudential Securities Inc.; former Deputy Mayor for Finance and Economic Development, City of New York
- William P. Harrington; Bleakley, Platt & Schmidt
- Marilyn Palumbo - Perla; Law Office of Marilyn Palumbo - Perla
- Bradford J. Race; Of Counsel, Dewey Ballantine LLP; former Secretary and Chief of Staff to the Governor
- Carol Robles - Roman; Deputy Mayor for Legal Affairs, City of New York
- Max R. Shulman; Cravath, Swaine & Moore
- Arlene Zalayet; Law Office of Arlene Zalayet

Individuals interested in being considered by the Governor's Committee should send a letter of interest and a resume to Nan Weiner, the Committee's Executive Director, at Room 242, State Capitol, Albany 12224.

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