

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY FAX: 212-344-3318 (2 pages)

May 15, 2002

New York Civil Liberties Union
Arthur Eisenberg, Legal Director
125 Broad Street
New York, New York 10004

RE: ON-GOING REQUEST for *amicus* and other assistance in securing review by the New York Court of Appeals of the public interest lawsuit, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, against Commission on Judicial Conduct of the State of New York* (S.Ct/NY Co. #108551/99; AD/1st Dept. #5638/01)

Dear Mr. Eisenberg:

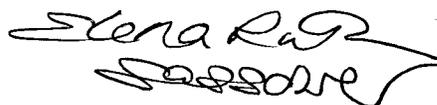
Monday's Daily News featured a column by your Assistant Legal Director, Christopher Dunn, and New York Civil Liberties Union's Executive Director, Donna Lieberman, "*Give Civilian-Police Watchdog Teeth*" (enclosed).

Please advise, in writing, why I have been unable to obtain the New York Civil Liberties Union's support for a State Commission on Judicial Conduct with "teeth" – even to the limited extent of its supporting my *own* right to sue the Commission for the violative conduct reflected by my Verified Petition's six meritorious Claims for Relief [A-37-45].

In our Tuesday, April 16th phone conversation, you told me that on Friday, April 19th, a law student would be coming in to review Justice Wetzel's *due process-less* filing injunction against me and the *non-party* Center for Judicial Accountability, Inc., affirmed by the Appellate Division, First Department – so that, at least on that narrow issue, I might have the New York Civil Liberties Union's *amicus* support.

On Wednesday, April 17th, I delivered to your office a draft of my Jurisdictional Statement pursuant to 22 NYCRR §500.2 for my appeal of right to the Court of Appeals. On Friday, May 3rd, I delivered the finalized version of that Jurisdictional Statement, as filed with the Court on "Law Day" – two days earlier. I also left phone messages for you on Thursday, April 25th and Thursday, May 9th – each unreturned.

I am most interested in the law student's evaluation of the due process issues.



IDEAS & OPINION

Give civilian-police watchdog teeth

By **CHRISTOPHER DUNN**
and **DONNA LIEBERMAN**

Police Commissioner Raymond Kelly promised last week to look into reports that some officers tried to cover up for Joseph Gray, the convicted hit-and-run cop.

This step to crack down on police abuse is commendable, if not overdue. Now it's time to go further and reinvigorate a police oversight institution that has been ineffective for too long — the Civilian Complaint Review Board.

To understand the source of this ineffectiveness, turn back to Sept. 16, 1992, when thousands of off-duty officers stormed City Hall to protest a City Council bill that would move the CCRB out of the Police Department and require that all board members be civilians. Rudy Giuliani, then running to unseat Mayor David Dinkins, delivered a fiery speech at the demonstration and accused Dinkins, who supported the proposal, of being "anti-police."

Notwithstanding this remarkable event — perhaps the only time Giuliani has supported a protest at City Hall — the City Council passed the bill, and the independent CCRB was created.

After Giuliani won the election, however, one of the hallmarks of his administration was hostility to civilian oversight of allegations of police misconduct. Through his public declarations, his control over CCRB appointments and budgets and his role in the Police Department's refusal to cooperate with the CCRB, Giuliani ensured that during his eight years in office the board was a toothless watchdog.

Giuliani's departure, combined with the reappointment of Kelly (who, ironically, was commissioner when the City Hall siege took place) and last month's appointment of Hector Gonzales as CCRB chairman, has created the opportunity to reap the promises of the 1992 legislation.

To make the CCRB an effective monitor of policing, several actions must be taken now:



MARCOS OKSENHENDLER DAILY NEWS

■ The first step is for Mayor Bloomberg to support the board — publicly and forcefully. Civilian oversight can work only if the CCRB, the police commissioner, police officers and the public all understand that the mayor demands that it work.

■ During the Giuliani administration, CCRB investigations were substantially hampered by the NYPD's refusal to provide timely and ready access to the department records and information necessary to investigate complaints. Bloomberg must demand full cooperation with the CCRB, and Kelly and Gonzales must take all necessary steps to ensure that the CCRB and the NYPD work for effective civilian oversight.

■ A key obstacle to effective civilian oversight lies in the fact that complaints substantiated by the CCRB are simply referred to the Police Department, where the prosecution of officers has been ineffective at best. Last year,

city officials agreed to transfer prosecution responsibility to the CCRB, but that move has been blocked by a police union lawsuit. This deadlock can be broken through a bill pending in the City Council. The Bloomberg administration needs to make resolution of this situation a priority.

■ Beyond investigating individual reports of misconduct, the CCRB can help reduce police misconduct by reporting on systemic practices that contribute to abuses. It has issued a few such reports — for instance, on the use of pepper spray — but only in the face of substantial interference from City Hall and opposition by the department. The board should focus more of its efforts on studies and reforms that would reduce police misconduct and improve police-community relations.

Civilian oversight is central to police accountability and can yield tremendous benefits to both the public and the NYPD. Now is the time for the Bloomberg administration to undo the damage of Giuliani and support the CCRB.

Dunn is assistant legal director and Lieberman is executive director of the New York Civil Liberties Union.