

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

*Post Office Box 8101
White Plains, New York 10602*

Tel. (914)455-4373

*E-Mail: cja@judgewatch.org
Website: www.judgewatch.org*

BY E-MAIL: skerby@courts.state.ny.us (4 pages)

July 3, 2013

Shawn Kerby, Records Access Officer & Assistant Deputy Counsel
Office of Court Administration
25 Beaver Street, 11th Floor
New York, New York 10004

RE: Records of Former Chief Judge Kaye's Commission to Promote
Public Confidence in Judicial Elections:
Pursuant FOIL and §124 of the Rules of the Chief Administrator

Dear Ms. Kerby:

Pursuant to FOIL and §124 of the Rules of the Chief Administrator, this is to request inspection of all records pertaining to former Chief Judge Kaye's Commission to Promote Public Confidence in Judicial Elections, chaired by John D. Feerick. Specifically, I request to view the three cartons of primary-source documents that I hand-delivered to the Commission's counsel, Michael Sweeney, at Fordham Law School, when I met with him on October 27, 2003.

These primary-source documents, furnished so that the Commission to Promote Public Trust and Confidence in Judicial Elections could confirm "the corruption of ALL safeguards for ensuring the integrity of judicial elections", are relevant to the work of Governor Andrew Cuomo's newly-formed Commission to Investigate Public Corruption – and I will be requesting that they be transmitted to it, following my inspection.

Additionally, this is to request inspection of all records pertaining to the financing of the Commission to Promote Public Confidence in Judicial Elections – identified by the Preface to its undated Report as:

* **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

“the Carnegie Corporation, the Hearst Foundation; the J.M. Kaplan Fund, the Joyce Foundation, the New York Bar Foundation, the New York Community Trust, the Office of Court Administration, the Open Society Institute and the law firm of Skadden, Arps, Slate, Meagher & Flom.” (at viii, page annexed).

Finally, please advise whether the Office of Court Administration has a webpage for the work of the Commission to Promote Public Confidence in Judicial Elections – especially as the website maintained at <http://law.fordham.edu/commission/judicalelections> “in order to make its work publicly available and contribute to the statewide and nationwide dialog on judicial selection”, and so identified in the Introduction of the Commission’s undated Report (at 3, page annexed), seems to have been taken down.

Pursuant to §124.6 of the Chief Administrator’s Rules and Public Officers Law §89.3, your response is required “within five business days” of your receipt of this request.

To expedite our receipt of same, kindly e-mail me at elena@judgewatch.org.

Thank you.

Yours for a quality judiciary,



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

Enclosures (2)

cc: New York State Commission to Investigate Public Corruption

Report of Chief Judge Kaye's
Commission to Promote Public Trust +
Confidence in Judicial Elections
Preface at p. viii

Daniel McLaughlin, Deepru Mukerjee, Barbara Reed and Jordan Stern.

I wish to single out for special recognition at this time the members of the Commission who chaired our three subcommittees: Helaine Barnett, Nicole Gordon and Professor Patricia Salkin. These subcommittees, which have met often, are responsible for the progress made by the Commission in a relatively short period of time. I thank the members of these subcommittees, all busy professionals, for their dedication to the task given to us by the Chief Judge.

I am very grateful to the institutions that provided the technical assistance and in-kind support that allowed the Commission to function. Each time we turned to them for help, they offered more than we requested. They are Fordham University School of Law, Albany Law School, the American Arbitration Association, the Fund for Modern Courts, Justice at Stake, the New York County Lawyers' Association, and the Office of Court Administration. The Commission owes special gratitude to the Government Law Center at Albany Law School and to Peggy Healy and Margie Carney for conducting focus groups on behalf of the Commission.

I am especially grateful to Dr. Lee M. Miringoff and Dr. Barbara L. Carvalho of the Marist Institute for Public Opinion and Bill Slate and Ken Eggers of the American Arbitration Association for undertaking surveys on behalf of the Commission to determine the views of New York's registered voters and judges on judicial elections. The surveys played an important part in enlightening the Commission's work.

The work of this Commission would not have been possible without the extraordinarily generous support we have received from a number of organizations. We deeply appreciate their confidence and hope that the results of this work will prove worthy of their confidence. They are the Carnegie Corporation, the Hearst Foundations; the J.M. Kaplan Fund, the Joyce Foundation, the New York Bar Foundation, the New York Community Trust, the Office of Court Administration, the Open Society Institute and the law firm of Skadden, Arps, Slate, Meagher & Flom. 

The Commission also owes great gratitude to the many individuals and organizations that took the time to testify before the Commission, submit written commentary, meet with Commissioners, and comment on our Interim Recommendations. Their input was an important part of our deliberations.

As a final note, I would simply add that I have been a participant for a long time in efforts to achieve government ethics reform in New York State. I have never served with a finer or more diligent group than the members of this Commission (including its staff). We can't make reform happen by ourselves. It requires a much larger commitment. We call on our government leaders to make that commitment because protecting and enhancing the Judiciary of New York State is worth it.

John D. Feerick, Chair
Fordham University School of Law

Report of Chief Judge Kaye's
Commission to Promote Public Trust &
Confidence in Judicial Elections

Introduction
at p. 3

input on the issue of voter participation in judicial elections and the Commission's interim recommendation for state sponsored screening commissions for judicial candidates. In all, 90 citizens participated in the focus groups and provided a wealth of information. The results were submitted to the Commission in the Report to the Commission to Promote Public Confidence in Judicial Elections: Focus Group Results and Recommendations (June 2004) attached as Appendix D.

The American Arbitration Association and the Marist Institute collaborated to conduct a survey of New York State judges in April 2004 (the "Judicial Survey"). The goal of the survey was to measure the perceptions of New York State Judges about judicial elections in the state, and it incorporated some of the same questions asked of registered voters in the public opinion poll. The survey was mailed to 3,200 sitting judges in New York State and 1,129 judges responded for a response rate of over 33%. The survey results are attached as New York State Judges: Mail Survey Results (May 2004), Appendix E.

The Commission maintains a website in order to make its work publicly available and contribute to the statewide and nationwide dialog on judicial selection. The Commission's website, located at <http://law.fordham.edu/commission/judiciaelections>, contains information about the Commission, reference material, public testimony, and Commission work product, including this Report. *

The Commission presented an Interim Report to the Chief Judge of the State of New York on December 3, 2003. It contained recommendations that we believed could be promoted in the short term, including recommendations for the establishment of independent judicial election qualifications commissions to evaluate the qualifications of candidates for judicial office throughout the state; amendments to the Chief Administrator's Rules Governing Judicial Conduct governing campaign speech restrictions, disqualification and campaign expenditures; the creation of a campaign ethics and conduct center; the expansion of judicial campaign finance disclosure; and the establishment of a state-sponsored judicial election voter guide. The interim recommendations are attached as Appendix A.

This Report includes our recommendations for the mid and long term horizons. It expands on some of the interim recommendations and addresses other areas that we had not previously commented upon. In particular, we provide more detail on our interim recommendations for state-sponsored independent judicial election qualifications commissions, for a state sponsored voter guide and an update on our campaign finance disclosure recommendation. The Report also addresses issues of public financing, voter education, retention elections, and the enforcement of the judicial conduct rules.

We had originally contemplated that this would be our final report but we have been unable to conclude our work on the judicial district convention process for Supreme Court justices. Accordingly, we request that the Chief Judge continue the Commission to allow us to address the issue.