

CENTER for JUDICIAL ACCOUNTABILITY, INC.

(914) 421-1200 • Fax (914) 684-6554

E-Mail: probono@delphi.com

Box 69, Gedney Station  
White Plains, New York 10605

By Fax: 202-225-3673

By Certified Mail: RRR: 801-449-637

November 8, 1995

Mitch Glazier, Assistant Counsel  
House Judiciary Committee  
Subcommittee on Courts and Intellectual Property  
B-351-A Rayburn Building  
Washington, D.C. 20515

Dear Mr. Glazier:

It is now more than three and a half months since your July 20, 1995 letter informed us that you had referred our July 10, 1995 letter to the Committee's General Counsel "for review". A copy of your letter is annexed hereto as Exhibit "A".

Although your letter stated:

"I will contact you when I receive information regarding the Judiciary Committee's policy for the examination of past complaints of judicial misconduct received by the committee",

we have heard nothing from you or anyone else at the House Judiciary Committee.

Frankly, we do not understand what the problem is. The right of public access to these complaints is clearly enunciated at page 35 of the Final Report of the National Commission on Judicial Discipline and Removal, a copy of which we annexed as Exhibit "A" to our July 10, 1995 letter. It states:

"Every Congress these complaints are archived and may be made available upon request."

As your General Counsel should know, the National Commission on Judicial Discipline and Removal was in a position to speak knowledgeably on the subject of the House Judiciary Committee's policy concerning public access to these complaints. In preparing its Report, the National Commission had the assistance of liaisons from the House Judiciary Committee, such as Allen Erenbaum, its counsel, and Ed O'Connell, assistant counsel to its subcommittee on Intellectual Property and Judicial

Ex "A-5"

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Administration. Moreover, the National Commission's Chairman, Robert Kastenmeier, and its Director, Michael Remington, had, respectively, themselves been Chairman of the House Judiciary Committee and subcommittee counsel. And, of course, Hamilton Fish, Jr. was--simultaneous with his service as a member of the National Commission--not only a member of the subcommittee, but the ranking Republican on the full House Judiciary Committee.

This hands-on involvement of the House Judiciary Committee in the Report of the National Commission is reflected by the transcript of its July 1, 1993 subcommittee hearing on what was then the Draft Report (Exhibit "B": pp. 1-5, 10, 26). It is also expressly acknowledged by National Commission Chairman Kastenmeier, who closed the formal portion of his July 1, 1995 testimony with these words:

"Most particularly, the Commission is grateful for the warm and productive relationship that has existed with the House Committee on the Judiciary, and most particularly this subcommittee, including its chairman, all members of the subcommittee, and both majority and minority staff." (Exhibit "B": p. 10).

The purpose of the July 1, 1993 subcommittee hearing was to permit the House Judiciary Committee to offer revisions and recommendations in the National Commission's Draft Report before it was finalized. Yet, there was no objection at the hearing by any of the Judiciary Committee members and staff present (Exhibit "B", p. 1) to page 36 of the Draft Report, which stated:

"Every Congress these complaints are archived and may be made available pursuant to request." (Exhibit "C").

The fact that the National Commission's Final Report made only a grammatical change to the above-quoted language shows that, substantively, there was no objection to the right of public access.

Consequently, we request that there be no further delay in arranging that the judicial misconduct complaints requested in our July 10, 1995 letter be made available for our examination.

As you know, our July 10, 1995 letter is the most recent of a series of letters we have sent to the House Judiciary Committee over the past two years--to which we are still awaiting response. Those letters raise profound questions as to the House Judiciary Committee's handling of judicial misconduct complaints in general and of our June 9, 1993 misconduct complaint in particular. They

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also highlight critical discrepancies between what the subcommittee actually does--or, more correctly, does not do--and what the National Commission's Report represents it as doing. Based on the House Judiciary Committee's complete failure in responding to those letters, your unreasonably long delay in responding to the access requested by our July 10, 1995 letter compels the inference that the House Judiciary Committee has no intention to respond to it either.

Finally, we wish to bring to your attention that we have been encountering the same pattern of obstructive non-response from the Administrative Office of the United States Courts as we have experienced from the House Judiciary Committee relative to our investigative inquiries about the National Commission on Judicial Discipline and Removal. Enclosed is a copy of our self-explanatory October 1, 1995 letter to Jeffrey Barr, now Assistant General Counsel for the Administrative Office, which annexes as Exhibit "C" a copy of our as yet unresponded-to July 20, 1995 letter to him. During the lifetime of the National Commission, Mr. Barr, then staff attorney for the U.S. Court of Appeals for the First Circuit, was a designated liaison to the Commission and responsible for the pivotal study, "Administration of the Federal Judicial Conduct and Disability Act of 1980" on which the National Commission heavily relied.

Mr. Barr's failure to respond to our October 1, 1995 letter--which identifies the House Judiciary Committee as an indicated recipient--seems to manifest his knowledge that the House Judiciary Committee has abdicated its responsibility of meaningful oversight of the federal judiciary and that, therefore, he and the Administrative Office can ignore, without consequence, the critical issues we are raising.

I would note that I spoke to Mr. Barr by telephone in July. At that time, I apprised him that contrary to the National Commission's Report which states (at p. 35) that the House Judiciary Committee acknowledges every judicial misconduct complaint it receives and directs the complainants to the 1980 Act, our June 6, 1993 misconduct complaint had not been so acknowledged or directed. In the context of that telephone conversation, Mr. Barr informed me that he had been asked by the House Judiciary Committee to draft a letter to be sent to complainants, advising them of the 1980 Act. My impression was that such request had been made of him during this Congress.

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Mitch Glazier, Esq.

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We would most appreciate a copy of Mr. Barr's aforesaid letter-- and a copy of whatever form letter the House Judiciary Committee is using--if any--to advise the public of the 1980 Act and of the justiciability of misconduct complaints thereunder.

Yours for a quality judiciary,

*Elena Ruth Sasser*

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

Enclosures

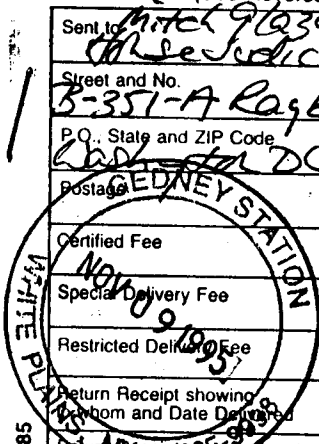
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Congresswoman Nita Lowey

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