

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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and By Hand

November 27, 1996

Gene Roberts, Managing Editor
The New York Times
229 West 43rd Street
New York, New York 10036

Dear Mr. Roberts:

This letter follows my telephone call to your office at approximately 1:30 this afternoon, immediately after my phone conversation with Bill Borders, a Times news editor under your supervision. Mr. Borders treatment of me was so abusive and unprofessional that I was--and am--literally shaking.

Mr. Borders' comments to me, in what was our first and only conversation, included the following:

"Why don't you get a job and do something?"

"Why don't you stop calling people here and leave us alone?"

"We would like you to stop calling us and stop sending us these things"

"We want you to terminate your relationship with The Times"

"You are bothering alot of people".

These extraordinary and unprovoked comments were delivered by Mr. Borders in the course of a phone conversation that lasted no more than ten minutes--if that--and were by way of his disposing of a formal complaint we had filed against The Times five weeks ago.

The sole reason for my telephoning Mr. Borders today was because we had heard nothing from him in the five weeks since we hand-delivered our complaint and learned that it had been directed to him. In all this time, Mr. Borders neither sent us a letter acknowledging our complaint nor informing us of its disposition. Indeed, Mr. Borders did not deny that had I not telephoned him, he was not intending to respond to our complaint at all.

Our complaint, transmitted to The Times under an October 21st coverletter, consisted of our 23-page submission to Project Censored. Mr. Borders told me that he doesn't know what Project Censored is and that he is "not especially interested".

FYI, Project Censored is a journalism project run out of the University of California at Sonoma, which examines media censorship of major news stories and each year accepts nominations of top censored stories. Our 23-page submission to Project Censored chronicled The Times' suppression of objectively significant news stories relating to the dysfunction and politicization of judicial selection and discipline and its black-balling behavior toward us. Seven documentary Compendia supported our submission, containing copies of our correspondence with The Times over a period of six years, as well as pertinent Times' articles and editorials.

Our October 21st coverletter expressly requested that our complaint against The Times and specific Times reporters be brought to your attention--and that of Mr. Sulzberger, Mr. Lelyveld, and Mr. Oreskes. Indeed, the complaint itself contained that express request (page 23, fn. 14).

Mr. Borders refused to state whether you, the other Times editors, or Mr. Sulzberger had seen the complaint and he would not identify whether the specific reporters identified in our coverletter had been contacted for their comment in connection therewith.

Instead, Mr. Borders all but told me that our complaint was garbage. Peremptorily and without elaboration, he stated that he doesn't "share [our] viewpoint on things", that he has "no further interest in [our] case against The Times", and called "bizarre" our complaint that The Times had "engaged in a cover-up".

It was as I attempted to discuss our complaint and its documentary substantiation with Mr. Borders that he assaulted me with the blizzard of ad hominem insulting responses that are recited above and posed the shockingly peculiar question:

"What do you really want?"

Anyone reading our complaint knows precisely what we want, and I repeated it to Mr. Borders: we want to ensure that objectively significant stories about the dysfunction and corruption of essential governmental processes are reported by The Times, rather than deliberately suppressed by it, which is what we have documented.

November 27, 1996

Although I asked Mr. Borders to transmit our complaint and supporting documentation to you, he explicitly refused to answer whether he would. For that matter, he explicitly refused to transfer my call to your office--necessitating my phoning direct.

I respectfully request that you, as Mr. Borders' superior, obtain our complaint and supporting documentation from him so as to ascertain for yourself its profound seriousness and how utterly disserved The Times is in reposing any responsibility in Mr. Borders' dishonest hands.

Time is of the essence. Mr. Borders explicitly stated he did not want any additional information from me bearing upon the kind of news stories we have been unsuccessfully trying to get The Times to report on. I would hope that you will be more "responsive". Indeed, nearly two years ago, Ralph Nader assured me you would be. Perhaps you recall my January 17, 1995 letter addressed to you--a copy of which we also sent to Mr. Oreskes because Mr. Nader believed that he too would be "responsive".

So as not to lose any more precious time, I enclose a copy of our three letters to Mr. Oreskes last week (Exhibits "A", "B", "C"), following publication in the November 16th Times of our Letter to the Editor, "On Choosing Judges, Pataki Creates Problems"--as the lead Letter. We have received no response from Mr. Oreskes to that correspondence. Meantime, today's New York Law Journal features a front-page notice about additional applications for judicial vacancies to be processed by the Governor's so-called "temporary judicial screening committee"--a copy is enclosed (Exhibit "D").

Happy Thanksgiving.

Yours for a quality judiciary,



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

Enclosures

cc: Michael Oreskes, NYT Metro Editor
NYT Corporate Communications/Corporate Relations:
Att: Nancy Chan
Nancy Nielson
Ralph Nader
Project Censored

New York Law

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ME 216—NO. 104

NEW YORK, WEDNESDAY, NOVEMBER 27, 1996

WEDNESDAY'S NEWS

Update

... thousand attorneys face
... in the First Department
... of their failure to register
... the Office of Court Adminis-
... or pay their biennial regis-
... n fees, the Departmental
... linary Committee reported
... day. The committee said it
... ply to the Appellate Division
... the first group of attorneys in
... on of the registration or fee
... ements.

... **Quinlan**, a veteran prose-
... from Buffalo, has been ap-
... ed the Deputy Attorney
... in charge of the State Or-
... Crime Task Force by Attor-
... neral Dennis Vacco. Mr.
... 1, who served for more than
... s as an Erie County prose-
... joined the Attorney Gener-
... ce last year and has been
... of the special unit to assist
... prosecutors with death penal-
... s. Christopher Quinn, the
... in charge of the Criminal
... who has been acting head
... ask force since August, will
... in charge of the Criminal

... **Appellate Division**, Second
... ent, has disbarred John J.
... y, a Goshen attorney, for
... ng client matters, failing to
... te with an investigation of
... ct by the Grievance Com-
... the fraudulent use of his
... 's escrow account. At the
... e, his father and law part-
... am J. Connolly, was sus-
... or one year for his role in
... ow-account fraud. The dis-

Governor Pataki announced his
Temporary Judicial Screening
Committee is seeking applicants
for interim bench appointments
throughout the metropolitan area
and in upstate courts. The vacan-
cies are in Supreme Court, Brook-
lyn and Staten Island, Nassau and
Suffolk counties and the Eighth Ju-
dicial District, which includes Buf-
falo. Other vacancies for one-year
terms are in Niagara and Suffolk
County Family Courts; County
Court for Nassau, Sullivan, West-
chester and Madison; Steuben
County Surrogate; and Court of
Claims in Long Island City, a term
running until August 2000. Re-
sumes should be faxed by Dec. 6 to
Thomas Doherty, the Governor's
appointments secretary, at (518)
473-8114. The committee earlier
announced it was screening for va-
cancies on the Appellate Division
for the First, Second and Fourth
Departments.

Nicholas Bissell, the former New
Jersey prosecutor who became a
fugitive last week from a possible
10-year prison term, fatally shot
himself yesterday in a casino-hotel
room in Laughlin, Nev., as U.S.
marshals tried to persuade him to
surrender. The 49-year-old ex-
prosecutor shot himself in the
mouth as a marshal entered his ho-
tel room, a medical examiner said.
Mr. Bissell fled house arrest Nov.
18, two days before sentencing on
his federal conviction for corrup-
tion, tax fraud and other charges.

Guido Calabresi, the Second Cir-
cuit Court of Appeals judge, will
deliver the Cardozo Lecture Mon-
day at 7 p.m. at the City Bar. He will
speak on "The

Discovery of Police Files

Witness Accounts, Investigative Materials Available Under FOIL

BY GARY SPENCER

ALBANY — Opening a new avenue for criminal discovery, the Court of Appeals ruled yesterday that defendants can use the Freedom of Information Law to obtain witness statements and other investigative information from police files.

The Court reversed the Appellate Division, First Department, in a 6-1 opinion by Judge Carmen Beauchamp Ciparick, holding that complaint follow-up reports and police activity logs are not categorically exempt from disclosure under the FOIL statute.

"We recognize that petitioners seek documents relating to their own criminal proceedings and that disclosure of such documents is governed generally by CPL article 240 as well as the *Rosario* and *Brady* rules," the Court said. "However, insofar as the Criminal Procedure Law does not specifically preclude defendants from seeking these documents under FOIL, we cannot read such a categorical limitation into the statute."

In other decisions, the Court upheld a \$1 million award to former U.S. Attorney General Nicholas Katzenbach and Lee H. Kimmell, a former member of Salomon Brothers, for their losses in a California investment. And it reversed a \$500,000 restitution order in a criminal case because the defendant was not given an opportunity to contest the amount.

The FOIL issue arose in a trio of cases in which the New York City Police Department had denied defendants access to complaint follow-up reports, which contain detailed investigative data and statements of witnesses, and police activity logs, in which individual officers record their assignments and duties.

Council's Creation of Board On Police Corruption Debated

BY DANIEL WISE

THE BATTLE between Mayor Giuliani and the City Council over the Council's creation of an independent

minute arguments made it plain that vital principles were at stake. Mr. Koppell, referring to the findings of police corruption resulting from a two-year probe headed by

Appeals

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