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By Fax: 212-556-3690
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.

Ex. B

November 27, 1996

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.

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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



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WEDNESDAY'S NEWS

Update



and attorneys face the First Department's failure to register their biennial registration with the Departmental Committee reported the committee said it will suspend Dec. 17 compliance. Details in Court Notes on page 1 of the alphabetical list of attorneys in registration or fee

in, a veteran prosecutor, has been appointed Deputy Attorney General by Governor Pataki. Mr. Dennis Vacco, Mr. Eriq S. Scahill, and Mr. Eriq S. Scahill have served for more than a year and has been assigned to assist with death penalty cases. Mr. Scahill, the former head of the Criminal Division, Second District, was disbarred in 1995 for failing to disclose his involvement in a bribery investigation. The disbarment is published

Governor Pataki announced his Temporary Judicial Screening Committee is seeking applicants for interim bench appointments throughout the metropolitan area and in upstate courts. The vacancies are in Supreme Court, Brooklyn and Staten Island, Nassau and Suffolk counties and the Eighth Judicial District, which includes Buffalo. Other vacancies for one-year terms are in Niagara and Suffolk County Family Courts; County Court for Nassau, Sullivan, Westchester and Madison; Steuben County Surrogate; and Court of Claims in Long Island City, a term running until August 2000. Resumes 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 vacancies 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 hotel room, a medical examiner said. Mr. Bissell fled house arrest Nov. 18, two days before sentencing on his federal conviction for corruption, tax fraud and other charges.

Guido Calabresi, the Second Circuit Court of Appeals judge, will deliver the Cardozo Lecture Monday at 7 p.m. at the City Bar. He will speak on "Liberty or Equality? Some Thoughts on Constitutional Theory."

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.

Ex "D"

Appeals Court

The State Court

■ **Held 6-1** that police activity logs are discoverable under FOIL.



\$1 million award to former U.S. Attorney General Nicholas Katzenbach and Lee H. Kimmell.

Legal Aid attorney Steven M. Scahill represented one of the defendants in obtaining these documents.

■ **Unanimously** reversed a restitution order that was a podiatrist convicted of Medicaid fraud.

Legal Aid attorney Steven M. Scahill represented one of the defendants in obtaining these documents. The discovery, including statements of witnesses, should be called at trial, and a mistrial earlier.

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 board to investigate police corruption was fought yesterday in the Appellate Division, First Department.

The importance attached by both

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 former Second Department Appellate Division Justice Milton Mollen, said "substantial drastic relief" is needed to restore confidence in the police.

Mr. C

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