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FAX COVER SHEET

11:55 a.m.

DATE

TIME

U.S. JUSTICE DEPARTMENT
Voting Section: Civil Rights Division
ATT: Chris Herren, Esq.

TO:

202-307-3961 (tel: 202-514-1416)

FAX NUMBER:

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This fax consists of a total of _____ pages, including this cover-sheet. If you do not receive the indicated number of pages, or if there is a question as to the transmittal, please call (914) 997-8105.

Elena Ruth Sassower, Coordinator

FROM:

Dear Mr. Herren:

The deal-making behind judicial cross-endorsements is so repugnant that I felt you had to see this September 17, 1992 Daily News article today--rather than tomorrow.

You will note that the article describes Suffolk County as "a heavily Republican county"--reflecting that the Republican party can elect its own, without cross-endorsement. This presents precisely the situation you discussed with me some weeks ago (and reflected in the last paragraph of my May 10th letter), when you asked why parties which do not need to entertain cross-endorsement deals to win elections, nonetheless do so.

As reflected by the Daily News article, judicial cross-endorsement is a handy device by which the major parties can: (a) retaliate against an honest, "whistle-blowing" judge (i.e. Judge Stuart Namm); and (b) create a vacancy in some other government position, valuable to the party leaders so that they can insert "more compliant candidates".

May 23, 1994

Since Judge Namm's "whistle-blowing" related to corruption in the police department and D.A.'s office, I am enclosing a recent column in New York Newsday, dated April 26, 1994, because of its relevance--including its accurate comments as to the "repercussions" faced by individuals who challenge those at the top of "the food chain of the criminal justice system"--i.e., lawyers and judges.

Castracan v. Colavita must be seen as a direct challenge to those "at the top"--and my mother's suspension as a graphic example of precisely how vicious and criminal the "repercussions" to challengers are.

Elena

OPINIONS



ROBERT W. LAIRD

An honest jurist gets unjust reward

Of all the sleazy games being played with judgeships in New York this election season, the sleaziest is being played in Suffolk County

with a judge named Stuart Namm. Namm's 10-year term as an elected county judge expires this year. Normally, judges in that situation are routinely re-nominated and just as routinely reelected. But not Judge Namm. When the Republican and Democratic chairmen of Suffolk unveiled their 1992 list of cross-endorsements — judicial candidates supported by both parties and, therefore, guaranteed election — Namm's name was missing. His name will not appear on the ballot. Why is he being discarded? Not because he's a bad judge: Elizabeth Hubbard of the Committee for Modern Courts says Namm is "highly rated" by court monitors in Suffolk. And not because Namm is a Democrat in a heavily Republican county: the candidate who was cross-endorsed to replace him is also a Democrat. Namm is being dumped because he's an honest judge who blew the whistle on police corruption in Suffolk.

It was, in 1985, when he was one of the judges assigned to handle Suffolk homicide cases, that Namm realized both police and prosecutors in two controversial murder trials were behaving suspiciously. In one case, prosecutors presented a known perjurer as a key witness. Other witnesses complained of being intimidated. Detectives' notebooks were strangely incomplete. Namm wrote to Gov. Cuomo asking for an investigation. What followed was a three-year probe by the State Investigation Commission that sliced and diced Suffolk law enforcement. The SIC found that police officers were conducting illegal wiretaps, manufacturing evidence, beating "confessions" out of suspects and committing perjury. The SIC said the district attorney's office played along with the corruption, winning convictions with fraudulent evidence. The police chief resigned before the SIC report came out. The DA, Patrick Henry, didn't even bother to run for reelection. Needless to say, none of this endeared Judge Namm to the police, prosecutors or the Suffolk political establishment. Dominic J. Baranello is Democratic chairman of Suffolk, and he is Namm's former law partner. Early this year, Namm wrote to Baranello saying he wanted to be nominated for reelection. Baranello never answered the letter.



Judge Stuart Namm

Namm finally got Baranello on the phone, and the party chairman said, "I'll get back to you." But what he meant was, "I'll get you." He never called again, and Namm learned his fate only when the list of cross-endorsements was released with his name conspicuously absent. Judge Namm spoke to Baranello one more time to ask why he was being dumped. Came the reply: "It's not your

year, Stuart."

When someone suggested to Namm that that sounded like Rod Steiger's line to Marlon Brando in "On the Waterfront" ("It's not your night, kid"), Namm observed wryly: "I feel as if I've been living a movie script. I never expected the Republicans to support me. But my own party and my former law partner? Outrageous!"

There's an added twist to the story. The candidate who has been nominated to replace Judge Namm is Arthur G. Pitts, supervisor of the Town of Babylon. That serves the interests of both parties: Neither the Republicans nor the Democrats in Suffolk care for Pitts — the GOP because he's not one of theirs, his own party because he's stingy with patronage.

So by elevating Pitts to the bench, the politicians get rid of a *persona non grata*. And the job of Babylon supervisor becomes vacant, allowing both parties to run more compliant candidates.

This whole dirty business is possible because New York's system of electing most of its judges gives political bosses near-dictatorial power over the selection of judicial candidates. If judges were appointed on the basis of merit, a tough, courageous jurist like Stuart Namm would stay on the bench where he wants to be, and where he clearly belongs.

Robert Laird is deputy editorial page editor.

To: DLS/ERS
From: RPS

NEW YORK NEWSDAY, TUESDAY, APRIL 26, 1994

Cops Hang Easily

There's a chilling new word for cops who commit perjury. It's called "testily-ing."

A mayoral commission report due soon contends that police perjury is the "most widespread form of police wrongdoing facing today's criminal justice system."

But former Deputy Police Commissioner for Trials Hugh Mo says it isn't fair to single out just cops. What about the judges, what about the prosecutors and what about the defense attorneys, he asks?

It's a good question and one that hasn't been addressed since the days of Maurice Nadjari, the first-ever state special prosecutor, who was appointed by then Gov. Nelson Rockefeller in 1972 — he resigned in 1976 — and who promised to go after judges as well as cops.

Yesterday, from his office in Huntington, Long Island, Nadjari said that the corruption cases he bought against judges fell apart because of the "good old boy network."

"The reason prosecutors go after cops and not judges and district attorneys," he said, "is that you don't suffer repercussions when you go after cops."

Nadjari claims that the judges he prosecuted for wrongdoing, including perjury, were then tried by their former friends on the bench and he says that's why his cases were dismissed.

The cops are on the bottom of the food chain of the criminal justice system. It's easier to hang them than anyone else. They don't make much money, they can't afford good lawyers, and they hardly ever are seen at table with state Supreme Court judges.

They are also easily targeted. They wear the same uniform, for one. They're the ones who openly carry guns for another. Cops work just down the street from the rest of us. They are also the most visible line of defense between us and those who want to kill us or steal from us — the thin blue line we sometimes call it — but more often in recent days, the blue wall of silence.

Ask Marvin Schechter, head of the Brooklyn criminal division of the Legal Aid Society, why the other, more powerful players in the criminal justice system are getting a pass and here's what he says:

"There exists a culture in the district attorney offices and the judiciary which excuses, sometimes inadvertently, improper testimony observed in testimony before grand juries, in pretrial hearings and even trials.

"In part," says Schechter, a defense lawyer for a quarter of a century, "this stems from a steadfast belief that cops have an incredibly difficult job in which they put their lives on the line. The people they arrest are perceived as being guilty.

"Given these beliefs, there is a lack of aggressiveness in pursuing what is at times palpably obvious perjured testimony."

Mo puts it another way.

"When cops are impeached by a verifiable source, prosecutors don't follow it up." The former police judge, who

heads his own law firm in Manhattan specializing in Pacific Rim companies, says, "there ought to be a law compelling district attorneys and judges to refer it to the Internal Affairs Division for a charge of perjury."

That never happens. "It's swept under the rug," says Mo.

In December, Brooklyn District Attorney Charles

Hynes set up a new unit called the Corruption Investigation Division under Dennis Hawkins, one of his most trusted aides, who has been with Hynes since the late 1980s.

The Hawkins unit was quietly moved out of downtown Brooklyn and away from the "culture" of judges, elected officials and city agencies and into Red Hook in December.

I asked Hawkins yesterday if his unit, which includes eight assistant district attorneys, and six detective-investigators, would look inside the courtrooms as well as the police precincts for evidence of wrongdoing.

He said his unit, which he calls unique among the city's district attorney offices, would spare no one in the criminal justice system. "We are going to investigate public corruption," he stresses.

We have had reams of stories about bad cops but almost nothing about judges and prosecutors who let obviously perjured testimony slip by without reaction.

It's no secret by now that perjury is a big problem in the police department. In 1991, New York Newsday reporter Bill Murphy wrote about his time on a Queens grand jury with 23 other citizens. He wrote in this paper that "cops have a serious credibility problem with the people they protect.

"It became clearer with each passing case," Murphy wrote, "that cops on the street did whatever was necessary to arrest the bad guys, and figured out later how to make it legal."



Dennis Duggan