

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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December 1, 1995

Jeffrey N. Barr, Assistant General Counsel
Administrative Office of the United States Courts
One Columbus Circle
Washington, D.C. 20005

Dear Mr. Barr:

Following up our telephone conversations this week and last, I enclose a copy of the testimony presented by the Center for Judicial Accountability, Inc. at the November 28, 1995 hearing of the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts. I would be most pleased to discuss with you any aspect of our testimony--or the Task Force's important follow-up questions.

From one of the questions posed to me by the Task Force, it is clear that the members would be interested in what is happening in other circuits with such "committees" as have been set up to alleviate the fear of retaliation connected with the filing of §372(c) complaints. Can you get some further information about the committee that you said you believed had been set up in the Northern District of Texas? Obviously, it would be most useful if the Task Force had that information--as well as information about "other structures or approaches" (3/15/94 Judicial Conference Recommendation)--as soon as possible.

I greatly appreciate your time and helpful assistance in our telephone recent conversations. To recap, I request the following documents:

1. Judge Patricia Wald's September 25, 1987 memo to Judge Elmo Hunter (described at length in my October 1, 1995 letter to you)
2. Your June 26, 1992 memo on confidentiality, referred to at fn. 158 of Professor Marcus' consultant's report (Vol. I, p. 443)
3. the coding forms prepared by you and Mr. Willging for use by Professor Marcus detailing "(in an anonymous manner) the specifics of each complaint and other information about its disposition" (Vol. I, p. 368)

It would be expected that some or all of the above-mentioned materials would be preserved among the National Commission's records. Of course, the as-yet unanswered question is where those records are. I, therefore, reiterate my July 20, 1995 letter request to you that the records be tracked down. Obviously, as time passes, it becomes less likely--not more--that the records will be found--intact.

I also request that you clarify--if possible--which circuits Professor Marcus was referring to as using "tracking practices to relate complaints to other filings such as petitions for writ of mandate or notices of appeal." (Vol. I, p. 433).

Also, in regard to Professor Marcus' statement "The Illustrative Rules provide that the complaint should be confidential but the order should be public, but in some circuits the reverse is true." (Vol. I, p. 446)--since the plural "circuits" is used--are there more circuits than the Fifth Circuit, which you indicated in our conversation. Can you identify when and why the Fifth Circuit has since changed its practice?

Finally, in our conversation in July you indicated that you had been asked to draft a letter for the House Judiciary Committee for use in advising complainants about the 1980 Act. Is a copy of that letter publicly available--or do you have a copy of the "form" letter now being used by the House Judiciary Committee that we might have?

Again, I thank you very much.

Yours for a quality judiciary,



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

Enclosures

cc: House Judiciary Committee
Subcommittee on Courts and Intellectual Property