

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Director

BY FAX & E-MAIL

February 26, 2013

Robert L. Megna, Director of the Budget
State of New York/Executive Department
Division of the Budget
State Capitol
Albany, New York 12224

RE: Furnishing the Legislature with Essential Information:

- (1) What review did the Division of the Budget do of the Judiciary's budget for fiscal year 2013-2014?
- (2) What is the Division of the Budget's response to CJA's testimony at the Legislature's February 6, 2013 budget hearing on "public protection", opposing the Judiciary's budget and funding for the judicial salary increase?

Dear Budget Director Megna,

This follows my phone conversation on Friday, February 22, 2013, with Chief Budget Examiner Susan Knapp, who, initially was not available when I telephoned to speak with her (518-474-4313), but who then hurriedly returned my call upon my communicating to her secretary, Karen Mattison, what I was intending to inform the Legislature in the event I did not hear back from her promptly, *to wit*, that the Division of the Budget does NO critical review of the Judiciary's budget.

In the event you did not see my February 5, 2013 e-mail to Ms. Mattison entitled "Waiting to Hear from You: What Review Does the Division of the Budget Do of the Judiciary Budget, etc.?" – to which you were an indicated recipient and to which Ms. Mattison had not responded – a copy is enclosed.

As Ms. Knapp told me that nothing she said could be quoted, and because what she told me was so palpably disingenuous, I stated to Ms. Knapp that you should be the one to respond to the straightforward question as to "what critical review does the Division of Budget do of the Judiciary budget?" For that reason, I asked Ms. Knapp to relay my request that you call me. As she expressed reluctance to do so, I stated I would write you a letter.

I also told Ms. Knapp that the Legislature would clearly benefit from having your response to my testimony at its February 6, 2013 budget hearing on “public protection”, opposing not only the judicial salary increase, but the whole of the Judiciary’s budget as lacking necessary itemization for meaningful review. Ms. Knapp stated to me that she had watched my testimony – and I understood from her that she had watched it live, as had you. If, in fact, you did not see it, the video is posted on CJA’s website, www.judgewatch.org, on the webpage devoted to “Securing Legislative Oversight & Override of the 2nd & 3rd phases of the judicial pay raises...”, whose hyperlink is accessible from the top panel “Latest News”.

To further ensure that the Legislature will have your answers so that it can more intelligently exercise its duties with respect to the Judiciary’s budget, I will furnish a copy of this letter to the chairs and ranking members of the Senate Finance Committee and Assembly Ways and Means Committee, as well as to the chairs and ranking members of the Senate and Assembly Judiciary Committees, with a request that should you fail to respond, in writing, to the two questions in the “RE: clause” of this letter, that it be deemed a concession that you did not critically review the Judiciary’s budget and that you do not deny or dispute any aspect of my February 6, 2013 testimony.

Alternatively, I will request that these Committees require that you appear before them to be questioned on the subject, pursuant to Article VII, §3 of the New York State Constitution and Legislative Law §31 and §60. This will, additionally, give them an opportunity to question you as to what you did upon receiving CJA’s November 1, 2011 letter to you, furnishing our October 27, 2011 Opposition Report and calling upon you, based thereon, to take steps to secure the Governor’s override of the judicial salary increases recommended by the Commission on Judicial Compensation’s August 29, 2011 “Final” Report, including by presenting the Governor with:

“a report supplementing our own, amplifying the critical difference between salary and ‘compensation and non-salary benefits’, wholly disregarded by the Commission. This, in addition to addressing such other ‘appropriate factors’ as the Commission wilfully failed to consider, in violation of the Commission statute and New York’s Constitution. Among these, ‘rates of inflation’; ‘changes in public-sector spending’; ‘the state’s ability to fund increases in compensation and non-salary benefits’ – as well as the ‘skewing’ and ‘distorting’ of the salary structure for ‘constitutional officers’ and executive branch commissioners, to which you alluded when you testified [before the Commission on July 20, 2011].”

A copy of that November 1, 2011 letter, as annexed to our February 1, 2013 letter to the Governor, to which you were an indicated recipient – and to which we received no response – is enclosed for your convenience.

Needless to say, your appearance before the Committees would be salutary for yet another reason: it will enable them to question you as to the Division of the Budget’s own \$53,878,000 budget request for fiscal year 2013-2014.

Thank you.

Yours for a quality judiciary –
& government integrity,



ELENA RUTH SASSOWER, Director
Center for Judicial Accountability, Inc. (CJA)

Enclosures

- cc: Susan Knapp, Chief Budget Examiner/Division of Budget
Senate Finance Committee
Senator John A. DeFrancisco, Chair
Senator Liz Krueger, Ranking Member
Robert f. Mujica, Finance Committee Secretary
Assembly Ways and Means Committee
Assemblyman Herman D. Farrell, Jr., Chair
Assemblyman Robert Oaks, Ranking Member
Matthew A. Howard, Ways and Means Committee Secretary
Senate Judiciary Committee
Senator John J. Bonacic, Chair
Senator John Sampson, Ranking Member
Assembly Judiciary Committee
Assemblywoman Helene E. Weinstein, Chair
Assemblyman Tom McKeivitt, Ranking Member

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, February 05, 2013 4:00 PM
To: karen.mattison@budget.ny.gov
Cc: 'budgetdirector@budget.ny.gov'
Subject: Waiting to Hear from You: What Review Does the Division of Budget Do of the Judiciary Budget, etc.?

TO: Susan Knapp, Chief Budget Examiner

This memorializes my several phone calls, beginning last Friday, February 1st and continuing Monday, February 4th and today, February 5th, requesting to speak with you about the Judiciary's budget. I understand that you head the unit whose responsibilities include the Judiciary's budget.

Each time I have called I have been told by your secretary, Karen Mattison, that you are at a meeting. Ms. Mattison has confirmed, however, that she did forward to you the e-mail I had sent for you on Friday, February 1st: these being CJA's letters of that date to the Governor and to the Comptroller and Attorney General, to which Budget Director Megna was an indicated recipient.

Although I have requested to speak with your deputy or such other staff as you might designate about the Judiciary budget, if you are unavailable, Ms. Mattison told me, when I called again this morning, that "due to the sensitivity of the matter", I could only speak to you.

It is now nearly 4 pm – and I have received no call from you. As I am testifying tomorrow at the Senate and Assembly joint hearing on "public protection", please call me without further delay; or delegate such call to an associate; or respond, by e-mail. My questions, which I identified to Ms. Mattison, include the following:

- (1) What critical review does the Division of Budget actually do of the Judiciary budget?
- (2) The dollar amount of this year's second phase of the judicial salary increase. Where, if at all, is it identified in this year's Judiciary budget? Last year's budget identified the dollar amount for the first phase of the judicial salary increase as \$27.7 million. Such appeared in the Executive Summary, but where, additionally in that budget?
- (3) The dollar amount for "compensation and non-salary benefits" for state-paid judges and justices of the unified court system, excluding salary. Where does this figure appear in the Judiciary's budgets for this year and last?
- (4) The "single budget bill" that the Judiciary submitted for the budgets this year and last – these being identified in the November 30, 2012 and November 30, 2011 letters transmitting the budget of "General State Charges".

Thank you.

Elena Sassower, Director
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