

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Thursday, June 20, 2019 10:50 AM
To: 'records.access@exec.ny.gov'; 'Senate Foil'; 'Robin Marilla'
Cc: 'Compensation Committee'
Subject: FOIL/Records Access: Records of the Compensation Committee Established Pursuant to Part HHH of Chapter 59 of the Laws of 2018

TO: FOIL/Records Access Officers of the Governor, Senate & Assembly
Executive Chamber Record Access Officer Valerie Lubanko
Secretary of the Senate Alejandra Paulino
Assembly Records Access Officer Robin Marilla

On December 28, 2018, by the below e-mail to the Compensation Committee, established by Part HHH of Chapter 59 of the Laws of 2018, I inquired where its records would be maintained and/or in whose custody they would be. I received no response.

As the Governor, Senate, and Assembly each bear responsibility for the Committee – through which they have secured fraudulent, statutorily-violative, and unconstitutional salary increases – this is to request access to the Committee's records, pursuant to Public Officers Law Article VI [Freedom of Information Law (F.O.I.L.)], Senate Rule XIV ["Freedom of Information"], Assembly Rule VIII ["Public Access to Records"].

Please be further advised that at some point after January 1, 2019, the VIDEO of the Committee's November 28, 2018 public hearing, accessible from its website: <https://nyscompensation.ny.gov/>, ceased to be accessible. The direct link to the Committee's posting of the VIDEO for the November 28, 2018 public hearing is here: https://players.brightcove.net/2886492229001/default_index.html?videoId=5972684677001. Please rectify this, promptly.

Pursuant to Public Officers Law §89.3, your response is required "within five business days" of receipt of this request. I would appreciate if you e-mailed it to me at elena@judgewatch.org.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
www.judgewatch.org
914-421-1200

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, December 28, 2018 2:29 PM
To: 'Compensation Committee' <compensation.committee2018@gmail.com>

Subject: Where Will the Records of the Compensation Committee be Maintained Upon Expiration & Repeal of the Committee Statute on December 31, 2018?

TO: The New York State Compensation Committee

Before the Compensation Committee goes out of existence on December 31, 2018, by virtue of the expiration and repeal of Part HHH of Chapter 59 of the Laws of 2018, pursuant to its §7, please advise where the records of the Compensation Committee will be maintained and/or in whose custody they will be. This especially includes the voluminous evidentiary materials I handed up at the November 30, 2018 hearing, in substantiation of my testimony that they were "dispositive", both as to the unconstitutionality of Part HHH and that the Compensation Committee had "nowhere to go" with recommendations of pay raises. The inventory of what I handed up is, as follows:

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[Record on Appeal: Volume 1](#)

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[Record on Appeal: Volume 3](#)

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[Respondents' Supplemental Record on Appeal](#)

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2.

**Reports on New York's Legislative Rules,
underlying the description that New York's Legislature is THE MOST "Dysfunctional" of any in the nation**

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by Professor Eric Lane -- genesis of the Brennan Center Reports

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APRIL 21, 2009:

Temporary Senate Committee on Rules & Administration Reform:
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**Pertaining to Fiscal Year 2018-2019 Judiciary & Legislative Budgets --
& Governor Cuomo's Budget Bill #S.7501/A.9501**

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\(Judiciary budget\)](#)

CJA's written statement in support of testimony at Legislature's February 5, 2018 hearing on "local government officials/general government" (Legislative budget)

Fiscal Year 2018-19 Legislative/Judiciary Bill #S.7501/A.9501

Section 1: Legislature-appropriations

Section 2: Judiciary appropriations

Section 3: Judiciary reappropriations (marked)

Section 4: Legislative reappropriations (marked)

Section 5: effective date

Table of Contents (marked)

I note that among the several questions from my prior e-mails, to which I received no response from you, was one from three weeks ago, Friday December 7, 2018, in a paragraph that read:

"Also, please advise whether, if I send you pdfs of the EVIDENCE I handed-up at the November 30, 2018 hearing, in substantiation of my oral and written testimony, you will post same. Three years ago, when I testified, at the November 30, 2015 hearing of the Commission on Legislative, Judicial and Executive Compensation, it posted pdfs of comparably voluminous EVIDENCE I had handed up in support of my testimony. So that you can see this for yourselves, here's the direct link to its webpage posting my November 30, 2015 written statement and the EVIDENCE I had handed up in substantiation: <http://nyscommissiononcompensation.org/Submissions-cja-nov30-v3.shtml>. The video of its November 30, 2015 hearing is here: <http://nyscommissiononcompensation.org/hearings-judicial.shtml> (at 1 hr/52 mins)."

My e-mail on Monday, December 10, 2018 reiterated this request, stating:

"And will you – as I requested – post the EVIDENCE I handed up at the November 30, 2018 hearing, in substantiation of my oral and written testimony, if I send you pdfs? If more convenient, will you post the link to CJA's webpage of the EVIDENCE I handed up, which is here: <http://www.judgewatch.org/web-pages/searching-nys/2018-legislature/hhh-compensation-committee/11-30-18-what-was-handed-up.htm>.

For your convenience, those two e-mails are part of the e-mail chain, below.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
www.judgewatch.org
914-421-1200

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, December 10, 2018 11:57 AM
To: 'Compensation Committee' <compensation.committee2018@gmail.com>

Subject: AGAIN: When will the Compensation Committee be posting the video of its Dec. 6th meeting -- & will it post pdfs of the EVIDENCE I handed up in substantiation of my Nov. 30th oral & written testimony?

Center for Judicial Accountability, Inc. (CJA)

From: Senate Foil <foil@nysenate.gov>
Sent: Thursday, June 27, 2019 4:22 PM
To: Center for Judicial Accountability, Inc.(CJA)
Cc: 'Compensation Committee'; 'Robin Marilla'; records.access@exec.ny.gov
Subject: FOIL request/response Records of the Compensation Committee Established Pursuant to Part HHH of Chapter 59 of the Laws of 2018
Attachments: Rules and Regulations relating to Public Inspection and Copying of Legislative Records - January 2019_blue.pdf

June 27, 2019

Ms. Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
P.O. Box 8101
White Plains, NY 10602
www.judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated June 20, 2019 pursuant to the Freedom of Information Law.

You are requesting ... “the Governor, Senate, and Assembly each bear responsibility for the Committee – through which they have secured fraudulent, statutorily-violative, and unconstitutional salary increases – this is to request access to the Committee’s records, pursuant to Public Officers Law Article VI [Freedom of Information Law (F.O.I.L.)], Senate Rule XIV [“Freedom of Information”], Assembly Rule VIII [“Public Access to Records”].”

Please be advised the records you request, if the records even exist, are not subject to disclosure pursuant to Senate Rules.

I have attached a copy of the Senate’s Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Alejandra N. Paulino, Esq.
Secretary of the Senate

From: "Center for Judicial Accountability, Inc.\(CJA\)" <elena@judgewatch.org>
To: <records.access@exec.ny.gov>, "Senate Foil" <foil@nysenate.gov>, "Robin Marilla" <marillar@nyassembly.gov>
Cc: "Compensation Committee" <compensation.committee2018@gmail.com>
Date: 06/20/2019 10:49 AM



**THE ASSEMBLY
STATE OF NEW YORK
ALBANY**

Public Information Office
Robin Marilla
Records Access Officer

Room 202
Legislative Office
Building
Albany, New York 12248
(518) 455-4218

June 27, 2019

Dear Ms. Sassower:

On June 20, 2019, we received your FOIL request for records of the Compensation Committee.

The New York State Assembly did not take possession of any Compensation Committee records and is not involved in the Committee's website in any way. Therefore, there are no responsive records for your request.

If you have any questions or if I can be of any further assistance, please let me know.

Sincerely,
Robin L. Marilla

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, July 1, 2019 11:30 AM
To: 'records.access@exec.ny.gov'
Subject: AGAIN: FOIL/Records Access: Records of the Compensation Committee Established Pursuant to Part HHH of Chapter 59 of the Laws of 2018

TO: Executive Chamber FOIL Counsel/Record Access Officer Valerie Lubanko

I have received no response from you to my below June 20, 2019 FOIL/records access request, additionally advising that the VIDEO of the Compensation Committee's November 28, 2018 public hearing, posted on its website, is not operational.

Please advise by e-mail to elena@judgewatch.org.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
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914-421-1200

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Please be further advised that at some point after January 1, 2019, the VIDEO of the Committee's November 28, 2018 public hearing, accessible from its website: <https://nyscompensation.ny.gov/>, ceased to be accessible. The



July 3, 2019

Via Email: elena@judgewatch.org

Elena Sassower
Center for Judicial Accountability, Inc.
PO Box 8101
White Plains, NY 10602

FOIL Request: #2529

Dear Ms. Sassower:

This letter responds to your correspondence dated June 20, 2019, which seeks:

access to the Committee's records, pursuant to Public Officers Law Article VI [Freedom of Information Law (F.O.I.L.)], Senate Rule XIV ["Freedom of Information"], Assembly Rule VIII ["Public Access to Records"].

Please be further advised that at some point after January 1, 2019, the VIDEO of the Committee's November 28, 2018 public hearing, accessible from its website: <https://nyscompensation.ny.gov/>, ceased to be accessible. The direct link to the Committee's posting of the VIDEO for the November 28, 2018 public hearing is here: https://players.brightcove.net/2886492229001/default_default/index.html?videoId=5972684677001.

To the extent your correspondence is a Freedom of Information Law (FOIL) Request pursuant to Article 6 of the Public Officers Law, the New York State Executive Chamber does not maintain or possess the records that you seek.

Furthermore, the Executive Chamber does not have the authority to compel the Committee on Legislative and Executive Compensation to produce records pursuant to FOIL, nor does it have the authority to render an opinion regarding another state agency's or committee's decision to except documents from production pursuant to FOIL.

Finally, the Executive Chamber does not maintain the website referenced in your correspondence.

Pursuant to Public Officers Law § 89(4)(a), you have thirty (30) days to take a written appeal of this determination. You may appeal by writing: FOIL Appeals Officer, Executive Chamber, State Capitol, Albany, New York, 12224.

Very truly yours,

A handwritten signature in black ink, appearing to read "Valerie Lubanko". The signature is written in a cursive style with a large, looped initial "V".

Valerie Lubanko
FOIL Counsel
Records Access Officer

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, July 9, 2019 3:07 PM
To: 'aklinger@stroock.com'; 'dkolker@stroock.com'
Subject: Whereabouts of the Records of the Committee on Legislative & Executive Compensation -- & Responsibility for its Website

TO: Pro Bono Counsel to the Committee on Legislative & Executive Compensation
Stroock, Stroock & Lavan attorneys: Alan Klinger, Esq. & Dina Kolker, Esq.

On December 28, 2018, by the below e-mail to the Compensation Committee, I inquired where the Committee's records would be maintained and/or in whose custody they would be after December 31, 2018 – the date on which, pursuant to §7 of Part HHH of Chapter 59 of the Laws of 2018, Part HHH would be repealed and the Committee would go out of existence. I received no response.

As you were *pro bono* counsel to the Compensation Committee, I assume my December 28, 2018 e-mail was forwarded to you. Is that correct? And did you advise the Committee not to respond?

In any event, please advise as to whether you deemed the Compensation Committee to be an executive entity, a legislative entity, or some hybrid – and to whose custody the Committee's records were given for retention. Additionally, please advise who was – and presumably still is – responsible for the Committee's website: <https://nyscompensation.ny.gov/>, since at some point after January 1, 2019 the VIDEO for the Committee's November 28, 2018 public hearing ceased to be accessible: https://players.brightcove.net/2886492229001/default_default/index.html?videoid=5972684677001.

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TO: The New York State Compensation Committee

Center for Judicial Accountability, Inc. (CJA)

From: Kolker, Dina <dkolker@stroock.com>
Sent: Wednesday, July 10, 2019 12:43 PM
To: 'Center for Judicial Accountability, Inc. (CJA)'; Klinger, Alan M.
Subject: Whereabouts of the Records of the Committee on Legislative & Executive Compensation -- & Responsibility for its Website

Please be advised that your inquiry has been forwarded to Helena Lynch and Beth Garvey, so that it may be directed to the appropriate office.

Dina Kolker
Special Counsel

STROOCK

180 Maiden Lane, New York, NY 10038
D: 212.806.5606
M: 917.862.7831

dkolker@stroock.com | [vCard](#) | www.stroock.com

From: Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]
Sent: Tuesday, July 09, 2019 3:07 PM
To: Klinger, Alan M.; Kolker, Dina
Subject: <EXTERNAL> Whereabouts of the Records of the Committee on Legislative & Executive Compensation -- & Responsibility for its Website

TO: [Pro Bono Counsel to the Committee on Legislative & Executive Compensation](#)
Stroock, Stroock & Lavan attorneys: Alan Klinger, Esq. & Dina Kolker, Esq.

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