



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

JOHN W. McCONNELL
COUNSEL

March 11, 2016

Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
P.O. Box 8101
White Plains, New York 10602

Via email to: elena@judgewatch.org

Dear Ms. Sassower:

This is in response to your Freedom of Information Law (“FOIL”) requests dated February 4 and 5 of 2016, concerning the Judiciary Budget.

Your requests for documents “giving specifics as to what was reduced and modified with respect to the Judiciary’s budget for fiscal year 2015-2016,” and records authorizing “increases, decreases, and interchanges” from fiscal years 2015 to 2016, are overly broad, do not reasonably identify specific records, and would require compilation of information or creation of records. See Public Officers Law § 89(3).

Current and prior Judiciary budget records are available at the following public link: <http://www.nycourts.gov/admin/financialops/budgets.shtml>. You may conduct your own review and research of these budget materials, including related Legislative materials, from which process you can compile information regarding the request.

Very truly yours,

Shawn Kerby
Assistant Deputy Counsel

Shawn Kerby

To: Center for Judicial Accountability
Subject: RE: FOIL/Records Request: Chief Administrative Judge approvals of increases, decreases, and interchanges in fiscal year 2015-2016...

Dear Ms. Sassower:

We will process your request and expect to respond within 20 business days.

Very truly yours,
Shawn Kerby
Assistant Deputy Counsel

From: Center for Judicial Accountability [mailto:elena@judgewatch.org]
Sent: Friday, February 05, 2016 9:52 AM
To: Shawn Kerby <skerby@nycourts.gov>
Subject: FOIL/Records Request: Chief Administrative Judge approvals of increases, decreases, and interchanges in fiscal year 2015-2016...

Attached is CJA's above-entitled FOIL/records request of today's date.

Thank you.

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

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

BY E-MAIL: skerby@nycourts.gov

February 5, 2016

Shawn Kerby, Records Access Officer & Assistant Deputy Counsel
Office of Court Administration
25 Beaver Street, 11th Floor
New York, New York 10004

RE: FOIL/Records Request: Chief Administrative Judge approvals of increases, decreases, and interchanges in fiscal year 2015-2016, as authorized by §2 of Legislative/Judiciary Budget Bill #S.2001-a/A.3001-a

Dear Records Access Officer Kerby,

The Judiciary's "single budget bills" – embodied, *verbatim*, in the Governor's Legislative/Judiciary budget bills – consist of two sections: §2 containing a schedule of appropriations and §3 containing a schedule of reappropriations.

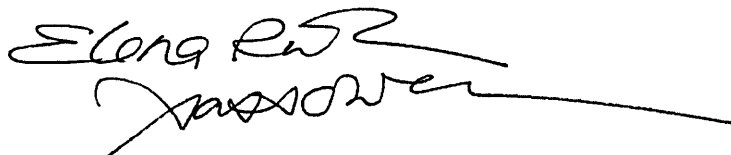
The text in §2, directly beneath the word "Schedule", is as follows:

"Notwithstanding any provision of law, the amount appropriated for any program within a major purpose within this schedule may be increased or decreased in any amount by interchange with any other program in any other major purpose, or any appropriation in section three of this act, with the approval of the chief administrator of the courts."

Missing from the Judiciary's budget request for fiscal year 2016-2017 is any disclosure of what increases, decreases, and interchanges in fiscal year 2015-2016 were made, pursuant to this provision. Consequently, pursuant to §124 of the Chief Administrator's Rules and Public Officers Law, Article VI [Freedom of Information Law (F.O.I.L.)], request is herein made to inspect and copy records of all approvals by Chief Administrative Judge Prudenti and Chief Administrative Judge Marks in fiscal year 2015-2016, authorizing such increases, decreases, and interchanges.

§124.6 of the Chief Administrator's Rules and Public Officers Law §89.3 requires your response "within five business days" of receipt of this request. I would appreciate if you e-mailed it to me at elena@judgewidth.org.

Thank you.

A handwritten signature in black ink, appearing to read "Elena R. S. Jansower". The signature is written in a cursive style with a long horizontal line extending to the right.

Shawn Kerby

To: Center for Judicial Accountability
Subject: RE: FOIL/Records Request: The Judiciary's agreed-to, if not proposed, reductions to its budget request for fiscal year 2015-2016

Dear Ms. Sassower:

We will process your request and expect to respond within 20 business days.

Very truly yours,
Shawn Kerby
Assistant Deputy Counsel

From: Center for Judicial Accountability [mailto:elena@judgewatch.org]
Sent: Thursday, February 04, 2016 4:15 PM
To: Shawn Kerby <skerby@nycourts.gov>
Subject: FOIL/Records Request: The Judiciary's agreed-to, if not proposed, reductions to its budget request for fiscal year 2015-2016

Attached is CJA's above-entitled FOIL/records request of today's date.

Thank you.

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

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

BY E-MAIL: skerby@nycourts.gov

February 4, 2016

Shawn Kerby, Records Access Officer & Assistant Deputy Counsel
Office of Court Administration
25 Beaver Street, 11th Floor
New York, New York 10004

RE: FOIL/Records Request: The Judiciary's agreed-to, if not proposed, reductions to its budget request for fiscal year 2015-2016

Dear Records Access Officer Kerby,

The Executive Summary to the Judiciary's budget request for fiscal year 2016-2017 does not identify any reductions made to its budget request for fiscal year 2015-2016 to bring it closer to, or within, the state's 2% cap on increases. Indeed, the Executive Summary gives the impression that there were no reductions.¹

Yet, comparison between the enacted Legislative/Judiciary budget bill for fiscal year 2015-2016, #S.2001-a/A.3001-a, and the original, unamended Legislative/Judiciary budget bill, #S.2001/A.3001, reveals approximately \$9 million in cuts to the Judiciary budget, seemingly taken from "nonpersonal service" of courts of original jurisdiction.

¹ As illustrative,

"...the Judiciary's budgets from Fiscal Years 2009-2010 to 2013-2014 were, of necessity, attrition budgets. The only way for the court system to live within its means in the face of increased costs was to reduce the size of its workforce by not refilling position as employees left service. For example, the loss of back office staff led to delays in processing court documents. In many courthouses, the loss of court officers and other courtroom staff caused delays in opening court parts.

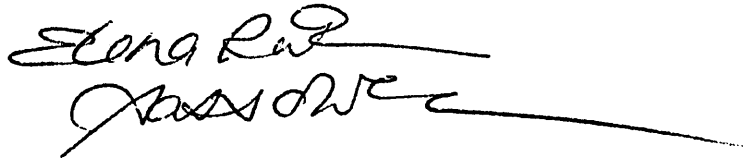
The budgets for Fiscal Years 2014-2015 and 2015-2016 provided increases to offset some new costs, so that our fiscal plan was not premised on the need to reduce our workforce. For the first time in years, we were able to maintain the size of our workforce, and, in fact, to add a limited number of operationally critical positions, allowing us to ameliorate some of the harm of the years of attrition-based budgets." (Executive Summary, at p. v, underlining added).

Presumably these and any other decreases and changes reflect modifications that were acceptable to the Judiciary, if not proposed by it – and that the Judiciary put in writing and transmitted to the Legislature, before the Legislature incorporated them in the amended bill.

Pursuant to §124 of the Chief Administrator’s Rules and Public Officers Law, Article VI [Freedom of Information Law (F.O.I.L.)], this is to request inspection and/or copies of such documents – and any others giving specifics as to what was reduced and modified with respect to the Judiciary’s budget for fiscal year 2015-2016.

§124.6 of the Chief Administrator’s Rules and Public Officers Law §89.3 requires your response “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.

A handwritten signature in black ink, appearing to read "Elena R. Kerby". The signature is written in a cursive style with a long horizontal line extending to the right.