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Commission of Judicial Conduct

**Not Accountable to the Public:
Resolving Charges Against Judges
is Cloaked in Secrecy**

Report 90-S-23

**Office of the
State Comptroller**

**Edward V. Regan
State Comptroller**

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NEWS

FROM THE OFFICE
OF
NEW YORK STATE COMPTROLLER EDWARD V. REGAN

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REGAN: COMMISSION ON JUDICIAL CONDUCT NEEDS OVERSIGHT

Because the State Commission on Judicial Conduct has shielded itself from independent review by refusing to provide access to its confidential records for audit, State taxpayers will have no assurance that the Commission is operating in a fair manner, State Comptroller Edward V. Regan said today.

"The Commission has denied our request for access to confidential records and has refused to propose legislation to open its records to my Office," said Comptroller Regan. "As a result, my auditors cannot determine if the Commission is complying with applicable State laws and regulations.

"Because there is no independent review of the Commission's activities, it is operating without appropriate oversight," Mr. Regan said. "Without an effective system of checks and balances, the potential exists that the Commission may be abusing its authority by wrongfully dismissing complaints against judges without cause and justification."

In responding to the Comptroller's Office request for access to records, Commission officials invoked the confidentiality provisions of Sections 45 and 46 of the Judiciary Law which, according to the Comptroller's audit, "provide that all complaints, correspondence, Commission proceedings and transcripts thereof, other papers and data and records of the Commission are confidential and shall not be made available to anyone other than the Commission, its designated staff personnel and its agents in the performance of their power and duties."

The Commission apparently allows certain outside contractors and their employees access to confidential information as agents of the Commission. Commission officials indicated that allowing such access was necessary for the contractors to perform their work.

In order to comply with the law and provide appropriate oversight of a governmental body, the Comptroller's auditors requested that they be designated agents of the Commission. This request was denied. They also asked the Commission to propose legislation to provide the Comptroller's Office access. Once again, the Commission refused.

In their 1989 annual report, Commission officials cited similar problems in not being able to gain access to confidential records in carrying out their responsibilities. According to that report, the Commission has been unable to expeditiously obtain required material

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