

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Saturday, August 6, 2016 2:25 PM
To: 'GMcCaffrey@co.livingston.ny.us'
Cc: 'dmorris@co.livingston.ny.us'; 'icoyle@co.livingston.ny.us'; 'calsuper@frontier.com'; 'egott@co.livingston.ny.us'; 'conesusuper@town.conesus.ny.us'; 'will@geneseony.org'; 'knapp1@frontiernet.net'; 'supervisor@townoflima.org'; 'dlefeber@avon-ny.org'; 'supervisor@grovelandny.org'; 'townofleicestersupervisor@gmail.com'; 'chuckdipo@frontiernet.net'; 'dpmahus@frontiernet.net'; 'MerileeW@frontiernet.net'; 'doublemsch@msn.com'; 'springwatersuper@yahoo.com'; 'townsupervisor@townofwestsparta.org'; 'yorksupr@rochester.rr.com'; 'calclerk@frontier.com'; 'msavino@co.livingston.ny.us'; 'ben@livingstonnews.com'
Subject: Aug. 10th Livingston County Board of Supervisors' Meeting: Your duty to assist the Board in its duty to repudiate & challenge your \$30,000 district attorney salary increase BASED ON EVIDENCE that it rests on fraud & other unlawfulness
Attachments: 7-12-16-email-transmitting-7-8-16ltr-to-livingston-co.pdf; 7-8-16-ltr-to-counties-final-final.pdf; 7-14-16-email-transmitting-foil-request-to-counties.pdf; 7-14-16-foil-56-counties.pdf

Dear Livingston County District Attorney McCaffrey,

Inadvertently, I did not include you as an indicated recipient of my below August 5th e-mail to County Attorney Morris.

Based on Ben Beagle's reporting in the Livingston County News ("[Livingston County revisiting mandated DA raise](#)", July 15, 2016; "[Livingston County weighs shifting funds for D.A. salary mandate](#)", August 3, 2016), it appears you have not backed off from endeavoring to have Livingston County provide you with a \$30,000 district attorney salary increase that you have known, since April, to be fraudulent and larcenous. Or do you deny or dispute that the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation -- on which your \$30,000 district attorney salary increase rests -- is statutorily-violative, fraudulent, and unconstitutional in the respects laid out in the 13th, 14th, and 15th causes of action in the citizen-taxpayer action *CJA v. Cuomo, et al.* (Albany Co. Supreme Court #1788-14)? And what are your findings of fact and conclusions of law with respect to the record of that citizen-taxpayer action? Does it establish plaintiffs' entitlement to summary judgment, *as a matter of law*, as I stated in testifying before the Commission on Legislative, Judicial and Executive Compensation on November 30, 2015?

Assumedly, you will be at the Board of Supervisors' August 10th meeting on your July 18th budget amendment to shift funds so as to make them available for your district attorney salary increase -- an amendment apparently originating from your meeting with the Board's Ways and Means Committee in executive session, in other words, "behind closed doors". Will you be furnishing the Board of Supervisors, in open session, with your findings of fact and conclusions of law with respect to the *CJA v. Cuomo, et al.* citizen-taxpayer action -- and with respect to CJA's June 21, 2016 criminal complaint based thereon, filed with Albany County District Attorney Soares -- and which D.A. Soares has been "sitting on"? Or will the Livingston County Board of Supervisors have to direct you to do so -- as County Law §700.1 empowers it to do -- and as is its duty to do, if you do not voluntarily furnish the Board with your findings of fact and conclusions of law -- as highlighted by CJA's attached July 8th letter that I e-mailed you on July 12th, simultaneous with my e-mailing it to County Attorney Morris for distribution to "all Livingston County's legislators, executive officers & the treasurer/comptroller".

Finally, inasmuch as one respect in which the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 report is statutorily-violative and fraudulent is that it does not examine

“compensation and non-salary benefits”, as it was statutorily-required to do, but only “salary” -- thereby concealing “non-salary benefits” for judges having a dollar value of \$40,000, if not more -- please be sure to furnish the Livingston County Board of Supervisors with information as to your “non-salary benefits”, requested by CJA’s attached July 14, 2016 FOIL request that County Attorney Morris purports not to have received.

The substantive responses, to date, that I have gotten to that July 14, 2016 FOIL request, sent to 55 other counties whose full-time district attorneys are paid from their county budgets, are posted on CJA’s website, www.judgewatch.org, on the webpage I created for the July 14, 2016 FOIL request. The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/7-14-16-foil-to-counties.htm>. Particularly noteworthy is the response I received just yesterday from adjacent Genesee County.

How do your “non-salary benefits”, on top of your current \$151,775 salary (source: “[Defiant supervisors may challenge state on DA salary increase](#)”, Livingston County News, April 12, 2016 (Ben Beagle)) compare to those of Genesee County D.A. Friedman? The FOIL response from Genesee County indicates that D.A. Friedman’s current yearly salary is \$152,500; his “non-salary benefits” are worth \$43,482; and his estimated “total salary & benefits” for 2016 is \$195,962 (assuming he does not get the judicial salary increase that will jack his salary up by \$30,000 to \$183,300).

Of course some of your “non-salary benefits”, like your pension, are salary-based. Do you have the calculations as to what the dollar value of your “non-salary benefits” would be should the Livingston County Board of Supervisors authorize your \$30,000 salary increase – and your yearly salary rocket to \$183,300? That would put your yearly “total salary & benefits” to over \$230,000, would it not?

In addition to County Administrator Coyle, County Attorney Morris, and such members of the Board of Supervisors whose e-mail addresses I have, I am sending this e-mail to Ben Beagle, so that, he can better report on what the People of Livingston County need to know – and have the right to know – about your \$30,000 state-mandated district attorney salary increase and the Board of Supervisor’s August 10th meeting.

Thank you.

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

From: Center for Judicial Accountability, Inc. (CJA) [mailto:elena@judgewatch.org]
Sent: Friday, August 5, 2016 3:54 PM
To: 'dmorris@co.livingston.ny.us' <dmorris@co.livingston.ny.us>
Cc: 'icoyle@co.livingston.ny.us' <icoyle@co.livingston.ny.us>; 'msavino@co.livingston.ny.us' <msavino@co.livingston.ny.us>; 'ben@livingstonnews.com' ben@livingstonnews.com

Subject: Is it your view that CJA's July 8, 2016 letter is not ESSENTIAL to the decision to be made by the Livingston County Board of Supervisors concerning D.A. McCaffrey's salary increase?

Dear County Attorney Morris,

This responds to your below August 5th e-mail, to which neither Livingston County Administrator Ian Coyle nor Livingston County News Editor & General Manager Ben Beagle were indicated recipients.

My July 12th e-mail to you, which you acknowledged receiving, requested that IF you were not going to distribute CJA’s July 8th letter to “all Livingston County’s legislators, executive officers & the treasurer/comptroller” that you so-advise me.

I was not telling you what decision to make. I was asking that you give me the courtesy of apprising me of your decision so that, if you were not going to make distribution, I could do so myself – or through some other Livingston County official.

Is it your view that CJA's July 8th letter is garbage, not entitling me to that courtesy? Is this the role model example you set as president of the County Attorneys' Association of the State of New York when a citizen comes forward to provide county attorneys with game-changing information and EVIDENCE in furtherance of good government?

You state:

"I will not ensure that any county attorney will 'make findings of fact and conclusions of law with respect to the EVIDENCE presented by CJA's July 8th letter'. That is for each county attorney to decide for themselves."

Apparently, the decision you have made for yourself, as Livingston county attorney, is to make no findings of fact and conclusions of law with respect to the EVIDENCE presented by CJA's July 8th letter. Is that correct? If so, how will you be advising Livingston County legislators, executive officers, & the treasurer/comptroller as to their duty to the People of Livingston County concerning D.A. McCaffrey's salary increase resulting from the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation – about which legislators have been wallowing in confusion for months? And is it your judgment that D.A. McCaffrey should also not assist them with findings of fact and conclusions of law with respect to the EVIDENCE?

So that Livingston County legislators, executive officers & the treasurer/comptroller can make their own judgment as to whether your below e-mail to me is an appropriate response from someone paid by Livingston County to furnish them with legal advice – and who, by reason thereof, has risen to a position of statewide leadership -- I ask that County Administrator Coyle make the distribution of CJA's July 8th letter that I asked of you – and, if not, that he so advise me. No fair and impartial examination of the letter would lead to any conclusion other than that it is ESSENTIAL to the decision to be made by the Livingston County Board of Supervisors as to what it should do about the state-mandated increase in D.A. McCaffrey's salary.

I point out that CJA's July 8th letter highlights (at pp. 3, 4) that the Board of Supervisors is empowered under County Law 700.1 and 501.3 to direct both D.A. McCaffrey and you to furnish it with findings of fact and conclusions of law with respect to the EVIDENCE laid out by the letter. That is precisely what Livingston County supervisors must vote to do at next week's meeting at which they are contemplating shifting funds that would enable the D.A. salary increase ("[Livingston County weighs shifting funds for D.A. salary mandate](#)", [Livingston County News](#), August 3, 2016 (Ben Beagle)). Assumedly, you will be at that August 10th meeting – and perhaps D.A. McCaffrey, as well.

Finally, please consider this e-mail an additional FOIL request for information/records as to your (presumably full-time) yearly salary AND non-salary benefits for 2007 and for each year from 2011 to 2016.

Thank you.

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

From: DMorris@co.livingston.ny.us [<mailto:DMorris@co.livingston.ny.us>]
Sent: Friday, August 5, 2016 12:55 PM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Subject: Re: Did you also not receive CJA's July 8, 2016 Letter for "all Livingston County's legislators, executive officers & the treasurer/comptroller"

I am sorry you are troubled. I did receive your 7/12 email, but not your 7/14 email. As to what and to whom I distribute your correspondence, I will make that decision, not you. Furthermore, I will not ensure that any county attorney will "make findings of fact and conclusions of law with respect to the EVIDENCE presented by CJA's July 8th letter". That is for each county attorney to decide for themselves. This email will acknowledge receipt of you FOIL request dated July 14, 2016 and received on August 5, 2016. We will research this request and respond within 30 days.

David J. Morris
Livingston County Attorney

From: "Center for Judicial Accountability, Inc. \ (CJA)" <elena@judgewatch.org>
To: <DMorris@co.livingston.ny.us>, <dmorris@co.livingston.ny.us>
Cc: <icoyle@co.livingston.ny.us>, <ben@livingstonnews.com>
Date: 08/05/2016 12:36 PM
Subject: Did you also not receive CJA's July 8, 2016 Letter for "all Livingston County's legislators, executive officers & the treasurer/comptroller"

Dear County Attorney Morris,

I am most troubled by your below e-mail of yesterday's date in which you state that you "did not receive any FOIL request" from me. Attached is the Center for Judicial Accountability's July 14th e-mail transmitting the FOIL request to you at dmorris@co.livingston.ny.us. I did not receive a bounce back.

Two days earlier, I had sent, to the same e-mail address, an e-mail attaching CJA's July 8th letter entitled "Notice to Livingston Co. Government: Your Duty to repudiate & challenge the state-imposed D.A. salary increases based on your own D.A. McCaffrey's findings of fact and conclusions of law", requesting that you distribute it to "all Livingston County's legislators, executive officers & the treasurer/comptroller". This was a short time after we spoke together by phone about it. Did you also not receive that July 12th e-mail? Attached is a copy, sent to dmorris@co.livingston.ny.us. It also did not receive a bounce-back.

Please advise – and confirm that you are making distribution now, if you have not already done so.

Additionally, in light of our July 12th phone conversation in which I summarized CJA's July 8th letter to you, please advise as to what steps, if any, you have taken, as president of the County Attorneys Association of the State of New York, http://www.caasny.org/?page_id=9, to ensure that at least one of this state's 64 county attorney members of the Association will make findings of fact and conclusions of law with respect to the EVIDENCE presented by CJA's July 8th letter so that the county attorneys may each discharge the duty they owe to the counties that pay them concerning the district attorney salary increases.

Thank you.

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

From: DMorris@co.livingston.ny.us [<mailto:DMorris@co.livingston.ny.us>]
Sent: Thursday, August 4, 2016 8:41 AM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Cc: ICoyle@co.livingston.ny.us

Subject: FOIL Request

Ms. Sassower:

I did not receive any FOIL request from you. If you care to resend it to me, it will be responded to as required by law.

David J. Morris
Livingston County Attorney

This message may contain confidential information for the use of the addressee(s) above and may contain legally privileged information. If you are not the addressee, or the person responsible for delivering it to the addressee, you are hereby notified that reading, disseminating, distributing, or copying this message is strictly prohibited. If you have received this message by mistake, immediately notify us by replying to the message and delete the original message immediately thereafter. Thank you.[attachment "7-14-16-email-transmitting-foil-request-to-counties.pdf" deleted by David Morris/Livingston County] [attachment "7-14-16-foil-56-counties.pdf" deleted by David Morris/Livingston County] [attachment "7-12-16-email-transmitting-7-8-16ltr-to-livingston-co.pdf" deleted by David Morris/Livingston County] [attachment "7-8-16-ltr-to-counties-final-final.pdf" deleted by David Morris/Livingston County]

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