

Association of the Judges of the Criminal Court of the City of New York

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July 19, 2011

William C. Thompson, Jr.
Chief Administrative Officer
Seibert Brandford Shank & Co.
100 Wall Street - 18th Floor
New York, New York 10005

Dear Chairman Thompson and Commissioners:

On behalf of the Association of the Criminal Court Judges of the City of New York, representing the one hundred seven (107) judges appointed by the Mayor of the City on recommendation of the Mayor's Advisory Committee, we enthusiastically endorse the submission of the Coalition of Judicial Associations including its recommended salary for a Supreme Court Justice.

Our members constitute the backbone of the criminal justice system in New York City. Approximately two-third's (2/3) are Acting Supreme Court Justices sitting in the Criminal Term of the Supreme Courts in the five counties.

We thank you for taking on this vital responsibility. Your recommendation will, we hope, restore the judiciary to its rightful place as the "co-equal" third branch of government.

While we recognize that the Commission must consider the statutory criteria, we hope that it will not give undue weight to the fiscal condition of the state. We strongly urge you to view your role as analogous to that of a jury assessing damages after liability has already been established. In our case, liability was found by the Court of Appeals when it ruled that the judiciary had been

unconstitutionally denied raises for thirteen (13) years. In essence, the Commission will be setting the damage award for a grievous wrong which has festered far too long.

We specifically bring to your attention two issues.

First, the current salary differential between a Supreme Court Justice and a Criminal Court Judge sitting in the lower court is \$11,100. If a differential is to be maintained, we urge that the salary difference be left at its current dollar level, i.e., \$11,100, and not be set as a ratio or percentage of the Supreme Court salary. If the salary for the lower court is set as a percentage of the Supreme Court salary, the salary gap between the Supreme Court and the Criminal Court will grow. Currently, a Criminal Court Judge sitting in the lower court is paid approximately 92% of the Supreme Court salary. If, for example, the new Supreme Court salary is set at \$192,500 and the lower court salary is set at the same current percentage, the lower court salary would be \$177,100 - \$15,400 less than the Supreme Court salary. If, on the other hand, the current dollar differential of \$11,100 is continued, the judges in the lower court would receive an additional \$4,300 in salary.

Criminal Court judges who sit in the lower court are eminently deserving of this consideration. They handle the vast majority of criminal cases in New York City. Their volume of cases is staggering. By and large, the criminal justice system in New York City is centered in the Criminal Court - the lower court in the judicial establishment.

Second, it is vitally important that the salary increase in the first year be substantial to avoid the perverse effect of further penalizing those senior judges who wish to retire within the next four years including those who must retire because of the mandatory retirement age. A structured recommendation with greater increases at the end of the four-year period would add insult to injury as these judges would never be fully and justly compensated.

Finally, we urge you to make your decision without issuing minority or dissenting opinions. Between August 29, 2011 and March 31, 2012, we will have the task of convincing the legislature not to intervene and to allow your recommendations to become law. An unfavorable minority or dissenting opinion would provide fodder to those who would seek to deny the judiciary a just salary. The creation of the Commission gave us hope that a cultural change had occurred in Albany. A unanimous recommendation would confirm that this change has come to fruition.

Thank you for your important work and your consideration.

Respectfully submitted,

A handwritten signature in black ink, reading "William E. Garnett". The signature is written in a cursive style with a large, prominent initial "W".

Hon. William E. Garnett
President