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# Complaint Form

New York State Commission on Judicial Conduct

## Complaint Form -- Confidential

*If you would like to fill in this form online please click [here](#), to use this form, you need a "pdf" program such as Adobe Acrobat Reader, which is available as a free download from the Adobe website: <http://www.adobe.com>. Alternatively you can print this webpage, complete it, and mail it to the Commission office nearest you:*

61 Broadway, Suite 1200 ♦ New York, NY 10006

Corning Tower, Suite 2301 ♦ Empire State Plaza ♦ Albany, New York 12223

400 Andrews Street ♦ Rochester, NY 14604

A complaint to the Commission must be in writing and signed. (See New York Judiciary Law Section 44.1.) A complaint does not have to be sworn or notarized. You may submit a complaint by letter or by using this complaint form. If you submit a letter, please include the information requested by this form. Please note that all complaints received by the Commission are scanned and electronic copies are provided to each Commission member; therefore, it is unnecessary to provide more than one copy of any material.

### Background Information

Today's Date:

8/4/13

Your Name:

Cheryl L. Kates - Benman Esq

Address:

PO Box 734

Victor, NY 14564

Home Phone:

Business Phone:

585-820-3818

Are you represented by a lawyer?

☐ Yes

☒ No

Lawyer's Name:

Address:

Telephone: \_\_\_\_\_

**Complaint Information**

Judge's Name: \_\_\_\_\_

Re: Failure of NYS DOCS (Parole Appeals Unit)

Judge's Court: \_\_\_\_\_

County: to send official statement

Date(s) of Incident(s): \_\_\_\_\_

Requests to sentencing

Name of Case (if applicable): \_\_\_\_\_

Judges as required

Index Number of Case (if applicable): \_\_\_\_\_

By NYS Executive Law  
259(i)**Details of Complaint**

In the space below, please describe the alleged misconduct. Include as much detailed information as possible, such as what happened, where and when; the names of witnesses; who said what to whom, and in what tone of voice; etc. Use additional sheets if necessary.

As just rendered in the case of Judge Nancy Smith, Judges may not write official statements to the NYS Parole Board per an individual's request. Rules governing judicial conduct & opinions of the advisory Committee on Judicial Ethics allow judges to provide a letter only when an inquiry is received from the Division of Parole. A judge is prohibited from writing an official statement to the Board of Parole on request of a party based on sections 100.1; 100.2(A); 100.2(B) and 100.2(c) and will be disciplined under article 6, section 22, subdivision(a) of the

Complainant's Signature: Cheryl L. Katus-Benman Esq

Judiciary Law. Judges cannot advance private interests; matter of Byrne 47 NY 2d (b) (1979). (cont)

Judges can respond to an officer request for his or her views. A judge may not initiate communication with those entities in order to convey information (Opinion 97-9).

In the case of Jamie Dunn vs. DOCS as the defendant's attorney I located the sentencing judge who is ~~since~~ retired from the bench. I sent him a synopsis of what Jamie Dunn accomplished while incarcerated. Jamie Dunn was denied parole and his case was pending on appeal. It was upon information and belief, due to the judge's retirement he was not notified an official statement request was requested by parole. I then notified parole head counsel Terrence Tracy of the Board of Parole the Judge's current contact information and requested an official statement request was sent to the judge by parole. The appeals unit ruled in the appeal, despite being advised the judge did not receive the request so they did not have to recontact him prejudicing the defendant. because the judge cannot initiate contact nor supply the official statement without receiving the request from parole.

Statement its to the NYS Parole Board per an individual's request. Rules governing judicial conduct & opinions of the advisory Committee on Judicial Ethics allow judges to provide a letter only when an inquiry is received from the Division of parole. A judge is prohibited from writing an official statement to the Board of Parole on request of a party based on sections 100.1, 100.2(A), 100.2(B) and 100.2(C) and will be disciplined under Article 6, Section 22, subdivision a of the NYS Constitution & Section 44, subdivision 1 of the Judiciary Law. Judges cannot advance private interests; Matter of Byrne, 47 NY2d(b) (1979).

Judges can respond to an official request for his or her views. A judge may not initiate communication with those entities in order to convey information (Opinion 97-92).

In the case of Jamie Dunn vs. DOCCS as the defendant attorney I located the sentencing judge who is since retired from the bench. I sent him a synopsis of what Jamie Dunn accomplished while incarcerated. Jamie Dunn was denied parole and his case was pending on appeal. It was upon information and belief, due to the judge's <sup>semi-</sup>retirement he was not notified an official statement was requested by parole. I then notified Head Counsel Terrence Tracy of the Board of Parole the Judge's current contact information and requested an official statement Request was sent to the judge by parole. The Appeals Unit ruled in the appeal, despite being advised the judge did not receive the request they did not have to recontact him prejudicing the defendant.

New York State Unified Court System Office of the Inspector General

Complaint Form

Please complete this form to file a general complaint with the Inspector General's Office. Following the receipt of your complaint, you will be contacted by a member of our staff responsible for investigating your complaint.

Name: Cheryl L. Kates - Benman Esq.  
Mailing Address: PO BOX 734  
City: Victor State: NY Zip code: 14634  
Home Phone: 585-586 5803 Work Phone: 685-820-3818 E-mail: cheryl6401@aol.com

Information about the complaint:

Name of subject of complaint: The Appeals Unit, NYSDOCS  
Address: 1220 Washington Ave Building 2  
City: Albany State: NY Zip code: 12226  
Home Phone No.: \_\_\_\_\_ Work Phone No.: 518-473-

Is subject of complaint a court employee?: Yes \_\_\_\_\_ No: ☒  
If yes, where are they assigned?: \_\_\_\_\_ Title of employee: \_\_\_\_\_

Location of Complaint: \_\_\_\_\_ Court: \_\_\_\_\_  
County: \_\_\_\_\_

Please briefly summarize your complaint:

Failure to send official statement requests to sentencing judges on defendant's criminal matter as required by NYS Executive Law 259(1) when requested by sentencing judge or former defense attorney's who are now judges or court employees. As just rendered in the case of Judge Nancy Smith, Judges may not write official (See page 2)  
I authorize the New York State Unified Court System's Office of the Inspector General to use my name in investigating this claim.

Signature: Cheryl L. Kates - Benman Date: 8-4-13

Please attach any additional information you may have about the claim and mail or fax this form or copy to:

Office of the Inspector General  
Office of Court Administration  
25 Beaver Street  
New York, New York 10004  
Phone No: 646-386-3500  
Fax No: 212-514-7158



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Governor Cuomo  
The Capital  
Albany, NY 12224

NYS Inspector General's Office  
NYS DOCCS  
1220 Washington Avenue  
Building 2  
Albany, NY 12226

Re: Tina Stanford , Newly Appointed Chairwoman of Parole  
The Appeals Unit

Re: ~~Kerry Norton v DOCCS~~  
~~Jamie Dunn v DOCCS~~

UNEQUAL TREATMENT AT THE PAROLE BOARD FOR DEFENDANTS DESPITE NEW  
CHAIRWOMAN, TINA STANFORD PLEDGING TO THE PRESS VICTIM'S WOULD NOT BE GIVEN  
FAVORABLE TREATMENT

August 3, 2013

Dear Sirs,

Please investigate the newly appointed chairwoman Tina Stanford at the NYS Board of Parole and the Appeals Unit. It appears these offices are using their governmental authority to afford favorable treatment to crime victims.

The Parole Board does not extend equal treatment to defendants as they do victims. As you know, when a victim comes forth after the fact of the Parole Board hearing, the Board quickly will allow for a victim impact statement. This sometimes results in the defendant's granted hearing being foregone and they rescind parole. Decisions in the courts indicate the victim can come forth after the fact and this constitutes relevant evidence the Board should consider.

Despite there being an equally determined requirement in 259 (i), wherein the Board now SORC due to merger, must solicit the official statement of the defense attorney, DA or sentencing judge, the Parole Board is currently not extending the same treatment they afford victim's to defendants.

In a recent case, it was raised on administrative appeal that the Parole Board did not contact the defense attorney and solicit the official statement required by NYS Executive Law 259 (i). The Board raised the issue they sent a request two weeks after sentencing and the attorney didn't reply as satisfying their requirements.

They Board states because the mail wasn't returned they could assume the attorney received their request, The attorney indicated in the letter he submitted he in fact **did not receive their request** and then he wrote an official statement, This was after the defendant was denied parole. The attorney moved his office and did not maintain business at the address wherein the Board sent the correspondence.

If this were a victim coming forward indicating they wanted to make a victim impact statement, the Board would have allowed the opportunity. If the victim opposed the defendant release, the Board would schedule a rescission hearing and rescind their decision of granting parole.

The equal protection promised by Tina Stanford chairwoman of the Board and victim's advocate is not being upheld by the Appeals Unit, the defendant should also be afforded the same treatment. The defense attorney asserted he never received the mail and this in itself should warrant a de novo is granted for the defendant to be allowed the same courtesy as a victim.

In a second case, the Appeals Unit was notified the sentencing judge in the matter retired and never received the request to write a letter. The judge indicated he would write a letter but the request had to come from parole for ethical considerations. I notified Terrence Tracy( head counsel) this judge wanted to make a statement and that he indicated he would do so if Parole sent him an official request.

This is necessary because judge's cannot respond to personal requests made for assistance to avoid appearing they acted with favoritism or impropriety. A judge was recently disciplined ( Judge Nancy Smith) for writing a letter to the parole board without receiving a request from parole.

The Board sent the official request to the court where the sentencing judge previously resided. **The judge did not get the request as he is retired. In the appeal decision the Board once again indicated they did not have to re-contact the judge even when he requested they sent a request.**

This is an unfair and biased policy wherein the victims of crimes are being given an unfair advantage over defendants in making statements to the Parole Board. In light of the fact, this recently started happening since the appointment of Ms. Stanford, it is reasonable to conclude this is part of the equation. Prior to her appointment, when an official statement request was received, after the fact by a defense attorney a de novo was granted.

Additionally, when notified a judge wished to make a statement, a request was sent and if a letter was received a de novo was granted, This disparate unfair policy cannot continue in that offenders and victims must be afforded the same courtesy under NYS Executive Law 259 (i). **There is no provision in the statute indicating there should be favorable treatment granted for one over the other.** This is a violation of due process.

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