

Common Cause Report
on New Jersey State
Government Corruption Oversight

Common Cause Task Force
on Executive Branch Reform

EXECUTIVE SUMMARY

Scandals and corruption problems have plagued the Executive Branch of New Jersey state government over the past several years. The sweeping authority given to the Governor by our State Constitution makes the New Jersey Governor's office among the most powerful in the entire country. While there are many pluses to our strong Governor form of government, additional safeguards are required.

The Common Cause Task Force on Executive Branch Reform was formed in order to examine in-depth reform options for the Executive Branch of New Jersey government concerning corruption, ethical impropriety, and malfeasance.

We offer the following five recommendations for providing greater accountability, more independent spending oversight and increased corruption enforcement: (1) all citizen enforcement of executive branch ethics; (2) consolidate waste and corruption enforcement into the Office of Inspector General; (3) increase the independence and funding to the State Commission of Investigation; (4) contribution thresholds for gubernatorial appointments; and (5) tighten conflict regulations for gubernatorial appointments.

These recommendations are based on expert testimony and research on how these issues are handled by other states. Copies will be given to the appropriate governmental bodies and state agencies for review.

RECOMMENDATIONS

1) All citizen enforcement of executive branch ethics

While Acting Governor Codey's creation of the Special Counsel of Ethics Reform is a step in the right direction, providing citizen enforcement of ethical standards compliance within the Executive Branch is essential. Our recommendation for the Counsel is to make New Jersey a leader in ethics regulations through a comparative study of other states' ethics regulations and selections of the most effective controls.

But it is most important to address New Jersey's greatest deficiency in respect to executive branch ethics policy - the "insiders" composition of the Executive Commission on Ethical Standards.

According to a Common Cause New Jersey study, *Minding the Executive Henhouse*, there are thirty-eight states with statutorily mandated ethics commissions and thirty-four states have ethics commissions comprised entirely of public members.

Currently, New Jersey's Executive Commission on Ethical Standards consists of seven executive branch staff members and two public members, all appointed by the Governor. This ratio will change in January 2006 to make it an equal four members from the executive branch and four members from the public, but with no bipartisan requirements.

Since the Executive Commission on Ethical Standards was created in order to hold the Executive Branch accountable to high standards of ethics, an all-citizen member commission is more likely to have the independence required to fulfill this critical mission. If nothing else, this alone may be the most important change needed in order to enforce ethical propriety.

Terms of Commissioners should be lengthened, so as not to be concurrent with the Governor's term. Having the Chair elected from among the other Commissioners will secure the autonomy of the Commission. To ensure that the public members will provide real independence, elected officials and officers, and employees of political parties should be excluded.

2) Consolidate waste and corruption enforcement into Inspector General

There needs to be one position within the Executive Branch to serve as a powerful watchdog on wasteful practices and corruption. Acting Governor Codey has recently issued an Executive Order creating an Inspector General and is pursuing legislation to make this position permanent.

To be effective in rooting out waste, mismanagement, and fraud, the Inspector General will need sufficient staff and full responsibility. Therefore, the Office of Government Integrity in the Attorney's General's office, which has over-lapping responsibilities, should be dismantled, and its \$4 million budget transferred to the Inspector General's Office.

The Inspector General should also be given the power to audit all state governmental bodies, including the Legislature, which is not currently audited by anyone. "Risk-based" audits to target suspected fraud and abuse should be the main task. Audit investigations requested by the State Commission on Investigation or the Attorney General need to be given the highest priority.

We support the creation of legislation that will codify Executive Order #7, and make forensic auditing a permanent power of the Inspector General.

Finally, the current State Auditor should remain, but released of its abundance of statutorily mandated audits. Instead, the Auditors' office should be used as a checks and balance system in holding the Executive Branch accountable. Its resources should focus on auditing where waste and corruption are suspected, as well as conducting performance evaluations of programs receiving state funds.

3) Increase the independence and funding to the State Commission on Investigation

Since its formation in 1968, the State Commission on Investigation (SCI) has played a critical role in documenting, highlighting and issuing policy recommendations about the corruption problem in New Jersey. From its in-depth examination of the roots and structure of organized crime to its analysis of the Parsons "pay to play" contract debacle, the SCI's contributions have been invaluable.

Despite this record of success, the SCI is seriously under-funded. Twelve percent of current statutorily authorized positions are unfilled due to a lack of funding. As a result, a significant percentage of active cases cannot be pursued. The SCI's budget must be given sufficient funds to fill all statutorily authorized positions.

If the quality of investigation comparable to the United States Attorneys' Office is expected, remuneration of SCI investigators must be consistent with the salaries and pensions of investigators in the United States Attorneys' Office.

In order to create greater independence, it is recommended that the Chair of the SCI be elected from amongst the Commissioners, rather than by gubernatorial appointment. Requiring that the Commissioners have judicial, advocacy, prosecutorial, or similar experience would ensure that the Commission is well prepared to handle matters involving ethical propriety and corruption. As contained in S537, the terms of Commissioners should be lengthened and rotated.

Finally, the investigatory powers of the SCI that existed prior to 1993 should be restored.

4) Put in place contribution thresholds for Gubernatorial appointments

To combat the perception that people “purchase” their Gubernatorial appointments through large political contributions, contribution thresholds must be put into place for appointments to independent authorities and major regulatory bodies. Individuals who make an aggregate contribution of \$25,000 to gubernatorial campaign committees and state, county, or local parties should be subject to more stringent confirmation requirements, for example a Senate confirmation vote of two-thirds, rather than by simple majority.

5) Tighten conflict regulations for Gubernatorial appointments

The Port Authority, New Jersey Sports Exposition Authority, New Jersey Redevelopment Authority, the Economic Development Authority, and New Jersey Environmental Infrastructure Trust all are involved in key development decisions that influence billions of dollars of private financing.

As a result, greater disclosure must be required of all properties in which the appointee or the appointee’s family members living under the same residence have an equity, debt or beneficial interest, and all contracts, options, and negotiations that have been reduced to an oral or written offer, or understanding, however general. Any such roles, of course, would place the appointee in a conflict with respect to any decision or vote potentially offering the disclosed interests.

NOTE: While the Task Force focuses on Executive Branch ethics and corruption enforcement, there are other structural changes that need to be made in the Executive Branch.

1. The state would benefit from having an elected Lieutenant Governor who would take on Cabinet level powers. The Lieutenant Governor would run with the Gubernatorial candidate after the primary, under voluntary gubernatorial public financing laws.
2. The Office of Public Advocate needs to be reinstated. The indigent population of New Jersey especially deserves a watchdog that advocates for their rights. Clear jurisdiction to pursue non-criminal, non-ethical public corruption matters should also be given. Current bill S541 supports this recommendation.
3. While some have called for an elected Attorney General, we believe that subjecting Attorney General candidates to the world of New Jersey fundraising is unwise. Therefore, it is our recommendation that the Attorney General remain appointed.

Expert Witnesses that testified before the Common Cause Task Force on Executive Branch Reform

Robert J. DelTufo, *former Attorney General, former Commissioner of State Commission of Investigation, and former U.S. Attorney*

W. Cary Edwards, Esq., *Chairman, State Commission of Investigation*

Richard Fair, *State Auditor*

Governor Jim Florio, *former Governor of New Jersey*

Alan Rockoff, *Executive Director, State Commission of Investigation*

Jeff Tittel, *Executive Director, Sierra Club of New Jersey*

Stanley C. Van Ness, Esq., *former Public Advocate*

The Common Cause Task Force on Executive Reform

Co-Chair Barbara Cannon, *former Mayor of Old Bridge, NJ*

Co-Chair Jim Dowden, *former Mayor of Bridgewater, NJ*

Raymond Bateman, *former New Jersey Senate President, former Acting Governor*

Kathi Cupano, *former President of the New Brunswick City Council, former Middlesex County Freeholder*

Dave Gruol, *Vice-Chairman of Common Cause Board of Directors, Chair of Legislative Committee*

Don Linky, *former Chief Counsel and Chief of Policy to Governor Brendan Byrne*

Harry S. Pozyccki, *Chairman of the Board, Common Cause New Jersey*

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