

NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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**CORPORATION COUNSEL MICHAEL A. CARDOZO RENEWS CALL
FOR JUDICIAL SELECTION REFORM IN TESTIMONY
BEFORE THE STATE SENATE JUDICIARY COMMITTEE;
SAYS THE ISSUE IS “ONE OF THE TOP PRIORITIES”
OF MAYOR MICHAEL R. BLOOMBERG**

***“UNPRECEDENTED MOMENT OF CRISIS OF CONFIDENCE IN OUR JUDICIARY”
IS ALSO CITED BY CARDOZO***

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Albany, Jan. 8, 2007 – Testifying this morning before the State Senate Standing Committee on the Judiciary, New York City Law Department Corporation Counsel Michael A. Cardozo said New York is facing an “unprecedented moment of crisis of confidence in our judiciary,” and urged the Committee to enact immediate reforms to the judicial selection process for state Supreme Court justices. He added that Mayor Michael R. Bloomberg has made judicial selection reform “one of his top priorities.”

Citing recent judicial scandals, a deepening crisis of confidence in the state’s judiciary, and recent federal court decisions holding the selection system for state Supreme Court justices as presently run unconstitutional, Cardozo told the Committee: “We must put our differences aside and come together to achieve reform *right now*.” Cardozo testified that he and the Mayor, along with Gov. Eliot Spitzer and numerous others, favored a long-term solution a constitutional amendment providing for merit appointment, but since such an amendment, if adopted, could not become effective until 2010 at the earliest, an interim legislative solution had to be arrived at promptly.

In August 2006, in *Lopez-Torres v. New York State Board of Elections*, the U.S. Court of Appeals for the Second Circuit affirmed a lower federal district court ruling that the nominating system for state Supreme Court justices as presently run is unconstitutional. The courts imposed an interim process of direct primary elections until a new process is established by state legislation.

Cardozo told the Committee that open primaries were not the right result, and that the need for candidates to raise large sums of money to campaign in open primaries would result in “judgeships for sale to the highest bidder.” “From a public policy perspective,” Cardozo added, “an open primary is something to be devoutly avoided.”

Cardozo urged adoption of the City’s legislative proposal, modeled on the reforms recommended by the Feerick Commission to Promote Public Confidence in Judicial Elections. (The Feerick Commission, headed by former Fordham Law School Dean John D. Feerick, was appointed by New State Court of Appeals Chief Judge Judith S. Kaye; it reported its most recent recommendations on judicial reform in February 2006.)

The City's proposal includes two major components:

- First, to address the federal court decisions and make the judicial convention system more open and democratic, the City's proposal reduces the number of delegates sent to judicial conventions as well as the number of signatures required to run for the position of delegate, and lengthens the terms of delegates to three years.
- Second, to ensure that merit – not political connections – forms the basis for judicial selection, the City's proposal creates independent judicial qualification commissions for each judicial district, each of which would produce a report listing, for each judicial nominating convention, the three most qualified candidates for every vacancy. The proposal provides that all judicial candidates who submit to judicial qualification commission review be allowed to address the delegates at the convention.

Cardozo urged the Committee to “find consensus” and “move as quickly as possibly to adopt legislation” along the lines of the City proposal. Such legislation “will go a long way toward restoring the public's faith in our judges, ensuring a high quality judiciary, and addressing the legal weaknesses of the current system as identified” by the federal courts, Cardozo said.

The hearing, which was Chaired by Senator John DeFrancesco of Syracuse, took place at the State Legislative Office Building in Albany, and came on the heels of similar hearings held by the State Assembly in November 2006.

In addition to Corporation Counsel Cardozo, who has long been an advocate for judicial reform, others testifying before the Senate Judiciary Committee today included: Mark H. Alcott, President of the New York State Bar Association; Joseph Awad, President of the New York State Trial Lawyers Association; the Hon. David Demarest of the Association of Justices of the Supreme Court of the State of New York; Joseph L. Forstadt, on behalf of Justice Marsha Steinhardt of the Association of Justices of the Supreme Court of the State of New York; Victor A. Kovner, Chair of the Board of Directors Fund for Modern Courts; Robert E. Lahm, President of the New York State Academy of Trial Lawyers; the Hon. Margarita Lopez Torres, Judge of the Kings County Surrogate Court; the Hon. Jan H. Plumadore of the Office of Court Administration; Frederick A.O. Schwarz, Jr., Senior Counsel at the Brennan Center for Justice; and other legal luminaries and citizens group representatives.

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