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Foreword Report: Foreword

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Report

Foreword

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The last few years have been particularly bad for government integrity in New York. Since 1985, New York City has been rocked by a series of highly publicized scandals, arguably the worst since the days of Tammany Hall. One borough president was convicted of felonies; another committed suicide while under investigation; a congressman was recently convicted of bribery and extortion; former party chairmen in two boroughs were convicted of serious crimes; and a number of agency heads, judges, and lesser officials either have been convicted or forced to resign under a cloud of suspicion. And the City does not have a monopoly on malfeasance. Scandals have also plagued the New York State Legislature and governments elsewhere in the State.

The Commission on Government Integrity was created in early 1987 by Governor Cuomo, with the approval of the State Legislature, to arrest the destructive effects of these scandals

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and help make this period one of reform. In establishing the Commission, Governor Cuomo stated that the Commission should "move as soon as possible to make tangible reform, real reform, to begin the process of converting this period of castigation, accusation, and scandal into a period of enlightenment and reform." He observed that "we are in danger of having this era recorded as the most scandal-ridden era in the history of the State of New York."

The Executive Order creating the Commission directs it to investigate weaknesses in existing laws and practices in the State and municipal governments in New York that foster corruption and the appearance of improper behavior. The Commission has no law enforcement functions, and is charged with a vastly different task than prosecutors or other investigatory bodies. Although the Commission has subpoena power and examines specific cases, it does so in order to suggest system-wide reforms necessary to restore our public life.

The Commission's Executive Order covers the management and affairs of every department and political subdivision of the State, but does not extend to the affairs or management of the Legislature. The Commission derives its authority from the Moreland Act of 1907 and the Attorney General powers set forth in Section 63 of the Executive Law. Moreland Act Commissions have been used throughout this century to investigate, expose and improve the functioning of government. For the most part, they have focused on specific areas of inquiry or specific departments of government.

The Commission has conducted investigations, held public hearings, and issued reports containing far-reaching recommendations for substantial ethics reform in New York State. The recommendations reflect work in various areas, including campaign finance, pension forfeiture, ballot access and ethics in government model legislation. Numerous Commission investigations are ongoing in other critical areas, such as government hiring and patronage practices, and procurement procedures of government agencies, municipalities, authorities and other quasi-governmental organizations.

One of the most important issues under the Commission's mandate is judicial selection in New York State. Under current law, most of our judges are chosen by elections that are almost

totally controlled by political party leaders, a system which clashes with the fundamental objective of an independent and nonpartisan judiciary. By encouraging political favoritism and rewarding party loyalty, judicial elections enhance political leaders' influence over judges, discourage lawyers without political connections from seeking judgeships, and undermine public confidence in the integrity of our judicial system. New York can and must do better. Our State and its citizens deserve to have the finest people that will serve. We expect much from our judges: independence, courage, honesty, ability, knowledge, understanding and compassion. Political connections should not be the overriding consideration in their selection.

As set forth in the Commission's "Report on the Failings of Judicial Elections in New York State" which follows, New York should eliminate the election of judges and adopt a merit-based appointive system that will foster judicial independence and guarantee that qualified candidates without political connections have a fair chance to become judges. The Commission thus adds its support for an appointive system to a long list of endorsements by every major civic group that has studied the issue, including the Citizens Union, Common Cause, the League of Women Voters, the Fund for Modern Courts, and the New York City and State Bar Associations. Nationally, thirty-four states already use the appointive process to select at least some of their judges.

We must stop perpetuating the myth that judicial elections give us a democratic choice. They do not and will not. We firmly believe that a merit-based appointive system such as we have recommended will hold judicial ability — not political party service — paramount, and will give us the finest judiciary possible.