

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, January 21, 2025 4:11 PM
To: 'records@ethics.ny.gov'

Cc: 'aayer@albanylaw.edu'; 'm@michaelcardozo.com';
'sjames@barketepstein.com'; 'ngroenwegen@gmail.com';
'dolly@caramanlaw.com'; 'claudialedwards2@gmail.com'

Subject: **FOIL APPEAL -- CJA's Nov 15, 2024 FOIL Request: The "Investigations & Enforcement" sections of COELIG's 2022 & 2023 Annual Reports -- & Comparison to JCOPE's Annual Reports**

TO: [COELIG FOIL Appeal Officer/COELIG General Counsel Keith St. John](#) –

I hereby appeal from COELIG’s December 23, 2024 response to my November 15, 2024 FOIL request. The chain of e-mails with COELIG’s response and my original FOIL request is below.

COELIG states: “Videos of COELIG Commission meetings where the annual reports were discussed may be found on the Commission’s YouTube Channel at: https://www.youtube.com/channel/UC16_oA-jWfUXwncQK70JSUA.”

This is NON-RESPONSIVE. My FOIL request did not seek records of discussions of the annual reports, but, rather, records pertaining to the statistical discrepancy in the annual reports of COELIG and JCOPE. If you have no records addressing or explaining the discrepancy, please so-state/certify.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
www.judgewatch.org
914-421-1200

From: ethics.sm.records <records@ethics.ny.gov>
Sent: Monday, December 23, 2024 11:41 AM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Subject: **RE: FOIL Request: The "Investigations & Enforcement" sections of COELIG's 2022 & 2023 Annual Reports -- & Comparison to JCOPE's Annual Reports**

Ms. Sassower,

This email is in response to your Nov. 15, 2024 FOIL for:

(1) why the number of “tips, complaints, referrals, and reports” purported by COELIG’s 2022 annual report as “155” and by its 2023 annual reports as “156”, is so appreciably lower than the number of

“potential matters”, “matters”, and “investigative matters” purported by JCOPE’s 10 annual reports, from 2012 to 2021, as “more than 300”; “nearly 200”, “over 200”, “more than 200”, “more than 200”, “nearly 170”, “257”, “209”, “209”, and “246”;

(2) any discussion about this by the Commissioners – or about the other statistics and content of the “Investigations and Enforcement” sections of their 2022 and 2023 annual reports.

Videos of COELIG Commission meetings where the annual reports were discussed may be found on the Commission’s YouTube Channel at: https://www.youtube.com/channel/UC16_oA-jWfUXwncQK70JSUA.

In addition, some records are withheld because they contain information described in Public Officers Law Article 6 Section 87(2)(g) that is: “inter-agency or intra-agency materials which are not: i. statistical or factual tabulations or data; ii. instructions to staff that affect the public; iii. final agency policy or determinations; or iv. external audits, including but not limited to audits performed by the comptroller and the federal government[.]”;

You have 30 days to appeal this response. You may send your appeal to:

Appeals Officer
540 Broadway
Albany, NY 12207
records@ethics.ny.gov

Sincerely,

Records Access Officer

From: ethics.sm.records
Sent: Friday, November 22, 2024 9:52 AM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Subject: FW: FOIL Request: The "Investigations & Enforcement" sections of COELIG's 2022 & 2023 Annual Reports -- & Comparison to JCOPE's Annual Reports

Ms. Sassower,

The Commission has received your November 15, 2024 request seeking:

- (1) why the number of “tips, complaints, referrals, and reports” purported by COELIG’s 2022 annual report as “155” and by its 2023 annual reports as “156”, is so appreciably lower than the number of “potential matters”, “matters”, and “investigative matters” purported by JCOPE’s 10 annual reports, from 2012 to 2021, as “more than 300”; “nearly 200”, “over 200”, “more than 200”, “more than 200”, “nearly 170”, “257”, “209”, “209”, and “246”;**

- (2) any discussion about this by the Commissioners – or about the other statistics and content of the “Investigations and Enforcement” sections of their 2022 and 2023 annual reports.

The Commission expects to respond to your request on or before December 23, 2024.

Sincerely,

Records Access Officer

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Sent: Friday, November 15, 2024 4:16 PM

To: ethics.sm.records <records@ethics.ny.gov>

Cc: aayer@albanylaw.edu; m@michaelcardozo.com; sjames@barketepstein.com; ngroenwegen@gmail.com; dolly@caramanlaw.com; claudialedwards2@gmail.com

Subject: FOIL Request: The "Investigations & Enforcement" sections of COELIG's 2022 & 2023 Annual Reports -- & Comparison to JCOPE's Annual Reports

TO: Commission on Ethics and Lobbying in Government

ATT: FOIL Records Access Officer Emily DeSantis

[COELIG's website](#) posts COELIG's two annual reports, for 2023 and 2022, and JCOPE's 10 annual reports. Below is a comparison of statistics extracted from the “Investigations and Enforcement” sections of these 12 annual reports.

COELIG's 2023 Annual Report (June 24, 2024) Executive Director Sanford Berland/Chair Frederick Davie
“Investigations and Enforcement”: pp. 73-89

- “received and processed **156 tips, complaints, referrals, and reports**” (at p. 73); “processed **156 investigative matters in 2023**” (at p. 78);
- “elevated **11** matters and issued notices of allegation, referred to as ‘**15-day letters**’”;
- no reference to settlements by COELIG or penalties and assessments – and none are reflected by its chart of “**2023 Enforcement Activity**” (at pp. 82-89);
- its “**2023 Enforcement Activity**” chart, whose title (at p. 82) is annotated by a footnote that it “lists all matters incepted or with other activity in 2023”, lists entries by “Ref ID” and requires for each entry, “Agency”, “Law”, “Nature of Allegation”, “Status”, and “Closed Date”. The entries, 25 of which identify “N/A” for “Agency”, span NOT to #23-156, but only to #**23-118** – and from this span are entirely missing 68 numbers for 2023, *to wit*:

23-001, 23-002, 23-003, 23-004, 23-009, 23-012, 23-014, 23-017, 23-018,
23-020, 23-022, 23-023, 23-024, 23-026, 23-027, 23-028, 23-032, 23-033,
23-034, 23-035, 23-036, 23-038, 23-039, 23-042, 23-044, 23-045, 23-047,
23-050, 23-051, 23-052, 23-053, 23-054, 23-056, 23-058, 23-059, 23-063,
23-064, 23-065, 23-066, 23-068, 23-069, 23-071, 23-074, 23-075, 23-077,
23-078, 23-079, 23-080, 23-081, 23-083, 23-084, 23-089, 23-092, 23-093,

23-095, 23-096, 23-097, 23-098, 23-099, 23-102, 23-104, 23-110, 23-111,
23-112, 23-114, 23-115, 23-116, 23-117.

COELIG's 2022 Annual Report (August 28, 2023) Executive Director Sanford Berland/Chair Frederick Davie
"Investigations and Enforcement": pp. 52-75

- "received and processed **155 tips, complaints, referrals, and reports**" (at p. 52); "processed **155 investigative matters** in 2022" (at p. 56);
- "elevated **eight** matters and sent notices of allegation, referred to as '**15-day letters**'" (at p. 57), yet states in a "Commission Activities by the Numbers" section (at pp. 76-78) that in 2022, from "Jan 1 – Dec 31", the "Number of **'15-day letters sent**" were "**3**" and the "Number of **investigations opened**" were "**2**";
- **no settlements by COELIG, but four by JCOPE**, reported in a section entitled "**Summary of Public Settlement Matters**" (at pp. 57-58), **without cumulative total of penalties/assessments**, with a **chart entitled "2022 Public Settlement Matters"** summarizing the four settled matters and identifying: "paid over \$97,000 to settle the violations"; "paid \$8,000"; "\$8,000 to settle the violations"; "\$1,000 to settle the violation";
- **chart entitled "2022 Enforcement Activity"** (at pp. 61-75), annotated by a footnote (at p. 61) that it "lists all matters incepted or with other activity in 2022", with entries listed by "Ref ID" and requiring for each entry "Government Division or Agency of Subject or Subject (if public settlement)", "Law", "Nature of Allegation", "Status", and "Closed Date". The entries, which span to #22-155, list the four settled matters (#19-193, #20-067, #21-144, and #22-028), but for 21 entries are blank as to the identity of the complained-against "Government Division or Agency".

JCOPE's 2021 Annual Report (July 7, 2022) Executive Director Sanford Berland/Chair Jose Nieves
"Investigation and Enforcement": pp. 54-80

- "processed **246 investigative matters**";
- "issued **sixteen 15-day letters**";
- "commenced **eight investigations**";
- "**settled five matters**, two of which had been initiated or commenced in years prior to 2021", "**penalties totaling \$21,100**";
- **chart entitled "2021 Enforcement Activity"** (at pp. 58-80) – for entries listed by "Ref ID", and requiring for each entry, "Government Division or Agency of Subject (if applicable) or Subject (if public settlement)", "Law", "Nature of Allegation", "Status", and "Closed Date" – a chart that impliedly concedes the [second cause of action \(¶¶42-47\) of the June 6, 2022 verified petition/complaint in *CJA v. JCOPE, et al.*](#) The entries, 56 of which are blank as to the identity of the complained-against "Government Division or Agency", identify 16 as against JCOPE (#21-117, #21-127, #21-158, #21-190, #21-209, #21-210, #21-211, #21-212, #21-213, #21-214, #21-215, #21-216, #21-217, #21-219, #21-220, #21-221) and identify 3 as against the State Inspector General (#21-135, #21-186, #21-187), which had jurisdiction over JCOPE, double #21-032 and #21-117 and skip #21-034, #21-074, #21-132, before concluding with a last entry of #21-247.

JCOPE's 2020 Annual Report (July 8, 2021) Executive Director Sanford Berland/Chair Camille Joseph Varlack

"Investigation and Enforcement": pp. 53-57

- “processed **209 investigative matters**”;
- “issued **20 15-day letters**”;
- “commenced **12 investigations**”;
- “**settled four matters**, two of which had been initiated or commenced in years prior to 2020”, “**penalties totaling \$25,000**” – with a summary in a section entitled “**Public Settlement Matters**” (pp. 56-57) whose **chart entitled “2020 Enforcement Actions**” lists 4 entries, each entry with “Name”, “Violation Charged”, “Amount Paid”, “Outcome”, and “Date”.

JCOPE’s 2019 Annual Report (July 30, 2020) -- Chair Michael Rozen

"Investigations and Enforcement": pp. 48-55

- “processed **209 matters**”;
- “issued **17 fifteen-day letters**”;
- “commenced **12 investigations**...5 of which were initiated by fifteen-day letters in 2018”;
- “**settled 21 matters**...14 arose from matters initiated by a fifteen-day letter and/or commenced in years prior to 2019”;
- “**penalties and settlement payments totaling \$172,550**” – with a summary in a section entitled “**Public Settlement Matters**” (pp. 51-55), whose **chart entitled “2019 Enforcement Actions**” lists 21 entries, each entry with “Name”, “Violation Charged”, “Amount Paid”, “Outcome”, and “Date”.

JCOPE’s 2018 Annual Report (April 11, 2019) -- Executive Director Seth Agata/Chair Michael Rozen

"Investigation and Enforcement": pp. 49-54

- "processed **257 matters**”;
- “issued **35 fifteen-day letters**”;
- “commenced **27 investigations**”;
- “**settled 10 matters**”, “**penalties totaling \$73,037**” — with a **chart entitled “2018 Enforcement Actions**”, solely listing 10 settled matters, each by “Name”, with “Violation Charged”, “Amount Paid/Owed”, “Outcome”, and “Date”.

JCOPE’s 2017 Annual Report (April 18, 2018) -- Executive Director Seth Agata/Chair Michael Rozen

"Investigation and Enforcement": pp. 46-50

- “processed **nearly 170 matters**”;
- “issued **22 fifteen-day letters**”;
- “commenced **14 investigations**”;
- “**referred one matter for criminal investigation** to the New York State Attorney General”;
- “**settled eight matters**” (“48 settlement agreements to resolve eight matters”), **penalties totaling approximately \$123,000**” – with a **chart entitled “2017 Enforcement Actions**”, solely listing 8 settled matters, each by “Name”, with “Violation Charged”, “Amount Paid/Owed”, “Outcome”, and “Date”.

JCOPE’s 2016 Annual Report (June 8, 2017) -- Executive Director Seth Agata/Acting Chair Michael Rozen

"Investigations and Enforcement": pp. 49-56

- “processed **more than 200 matters**”;
- “issued **32 fifteen-day letters**”;
- “commenced **25 investigations**”;
- “For the first time, the Commission **referred two matters for criminal investigation**, one to the Albany County District Attorney and the other to New York State Attorney General”;
- “**settlement agreements to resolve eight matters**”, “**penalties totaling approximately \$566,500**” – with a chart entitled “**2016 Enforcement Actions**”, with 9 entries, 8 “settled”, plus 1 indicating “Hearing”, each by “Name”, with “Violation Charged”, “Amount Paid/Owed”, “Outcome”, and “Date” (which do not tally to \$566,500).

JCOPE’s 2015 Annual Report (April 7, 2016) -- Chair Daniel Horwitz

"Investigations and Enforcement" pp. 43-48

- “processed **more than 200 matters**”;
- “issued **17 fifteen-day letters**”;
- “commenced **13 investigations**”;
- “issued **one Substantial Basis Investigation Report**”;
- “**settled 26 matters**”, “**penalties totaling approximately \$189,300**” – with a chart entitled “**2015 Enforcement Actions**”, with 12 entries, all “settled”, each by “Name”, with “Violation Charged”, “Amount Paid/Owed”, “Outcome”, and “Date”.

JCOPE’s 2014 Annual Report (April 29, 2015) -- Executive Director Letizia Tagliaferro/Chair Daniel Horwitz

"Investigations and Enforcement": pp. 37-40

- “reviewed **over 200 potential matters**”;
- “issued **52 fifteen-day letters**”;
- “**settled 28 matters**”, “**penalties totaling approximately \$58,572**” – with a chart entitled “**2014 Enforcement Actions**” containing 14 entries, 12 of which were “settled” and 2 by “Decision & Civil Assessment”, each entry by “Name”, with “Violation Charged”, “Amount Paid/Owed”, “Outcome”, and “Date”.

JCOPE’s 2013 Annual Report (April 3, 2014) -- Executive Director Letizia Tagliaferro/Chair Daniel Horwitz

"Investigation and Enforcement": pp. 45-50

- “reviewed **nearly 200 potential matters**”;
- “**penalties totaling approximately \$450,000**” – and a chart entitled “**2013 Enforcement Actions**” containing 15 entries, 12 “settled”, 1 by a “LEC Decision” and 2 by “Decision and Order”, each entry by “Name”, with “Violation Charged”, “Amount Paid/Owed”, “Outcome”, and “Date”.

JCOPE’s 2012 Annual Report (March 28, 2013) -- Executive Director Ellen Biben/Chair Janet DiFiore

"Investigation and Enforcement": pp. 45-48

- “reviewed **more than 300 potential matters**, including at least 60 investigative matters that were transferred to the Commission from the former Commission on Public Integrity”;
- “commenced 48 substantial basis investigations”;

- “resolved **27 enforcement actions that resulted in settlements and penalties totaling more than \$52,000**” – and an **untitled chart** containing 27 entries, 22 “settled”, 5 “assessed”, each entry by “Name”, with “Violation Charged”, “Amount Paid/Owed”, “Outcome”, and “Date”.

It would appear that the phrase “**tips, complaints, referrals, and reports**”, used by COELIG to describe what it had “received and processed” is the same as “potential matters” and “matters”, used by JCOPE until its final two annual reports of 2021 and 2022, under Executive Director Burland, where the phrase “investigative matters” was substituted.

Pursuant to FOIL, this is to request any records reflecting:

- (1) why the number of “tips, complaints, referrals, and reports” purported by COELIG’s 2022 annual report as “155” and by its 2023 annual reports as “156”, is so appreciably lower than the number of “potential matters”, “matters”, and “investigative matters” purported by JCOPE’s 10 annual reports, from 2012 to 2021, as “more than 300”; “nearly 200”, “over 200”, “more than 200”, “more than 200”, “nearly 170”, “257”, “209”, “209”, and “246”;
- (2) any discussion about this by the Commissioners – or about the other statistics and content of the “Investigations and Enforcement” sections of their 2022 and 2023 annual reports.

Thank you.

Elena Sassower, Director
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