

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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A Tale of Four Complaints – & Now Five

DATE: November 15, 2024

TO: Commission on Ethics & Lobbying in Government

FROM: Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: Supplement in Further Substantiation of CJA's November 13, 2024 Testimony at the Commission's Second Annual Public Hearing, for Inclusion in the Record – & in Further Substantiation of CJA's November 13, 2024 Complaint

Attached, for inclusion in the record of the Commission's November 13, 2024 second annual public hearing, in further substantiation of my [November 13, 2024 testimony](#) and [November 13, 2024 complaint](#), are the four FOIL requests e-mailed to you today:

[FOIL Request #1 \(at 4:11 pm\)](#)

“COELIG's 2023 Annual Report –
& its Chart of ‘matters incepted...in 2023’”

[FOIL Request #2 \(at 4:16 pm\)](#)

“The ‘Investigations & Enforcement’ sections
of COELIG's 2022 & 2023 Annual Reports –
& Comparison to JCOPE's Annual Reports”

[FOIL Request #3 \(at 4:19 pm\)](#)

“JCOPE's ‘internal procedures for intake and review
of all tips and complaints’& its ‘case management system’ –
& COELIG's revisions and updates thereto”

[FOIL Request #4 \(at 4:42 pm\)](#)

“Cumulative Hourly Per Diems Paid –
Including as Supplemented, Retroactively, to April 1, 2024,
as Voted by the Commissioners at their Oct 23, 2024 Meeting”

Thank you.

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, November 15, 2024 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 Request: COELIG's 2023 Annual Report -- & its Chart of "matters incepted...in 2023"**

TO: Commission on Ethics and Lobbying in Government

ATT: FOIL Records Access Officer Emily DeSantis

Your [2023 Annual Report](#), released on [June 24, 2024](#), states (at p. 73), as its “Investigations and Enforcement Highlights”:

“Tips, Complaints, & Reports: The agency received and processed 156 tips, complaints, referrals, and reports in 2023.”

Five pages later (at p. 78), under the heading: “2023 Review and Disposition of Investigative Matters”, it repeats:

“Investigations staff processed 156 investigative matters...in 2023. ...
In 2023, COELIG elevated 11 matters and issued notices of allegation, referred to as ‘15-day letters,’ to the affected subjects.”

However, four pages after that (at p. 82), under the heading “2023 Enforcement Activity”, these “156 tips, complaints, referrals, and reports in 2023” are NOT reflected by the chart purporting to list “all matters incepted in 2023”. Rather, the chart ends at #23-118. This signifies only 118 “matters incepted...in 2023”. Moreover, of these 118, the following 68 numbers are missing:

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.

Pursuant to FOIL, this is to request records as to:

- (1) why the last entry on the chart is #23-118, not #23-156 – representing another 38 entries;
- (2) why the above 68 numbers are missing from the chart;

- (3) the information pertaining to the missing 106 entries, *to wit*, “Reference ID”, “Agency”, “Law”, “Nature of Allegation”, “Status”, and “Closed Date”;
- (4) which of the “156 tips, complaints, referrals, and reports” were the 11 “elevated” by “15-day letters”;
- (5) why the chart does not identify which numbers are “tips”, which numbers are “complaints”, which numbers are “referrals”, and which numbers are “reports”;
- (6) what is the difference between “referrals” and “reports”.

Thank you.

Elena Sassower, Director
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
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'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 Tagliafierro/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 Tagliafierro/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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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
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'dolly@caramanlaw.com'; 'claudialedwards2@gmail.com'
Subject: **FOIL Request: JCOPE's "internal procedures for intake and review of all tips and complaints" & its "case management system" -- & COELIG's revisions and updates thereto**

[TO: Commission on Ethics and Lobbying in Government](#)

ATT: FOIL Records Access Officer Emily DeSantis

In its [2012 "First Year Report"](#), JCOPE stated (at p. 13)

"...the Investigations Division also adopted internal procedures for intake and review of all tips and complaints and is in the process of creating a new case management system."

In JCOPE's [2012 Annual Report](#) – its first – released March 28, 2013, it comparably stated (at p. 46)

"...the Investigations Division also established internal procedures for intake and review of all tips and complaints and is in the process of creating a new case management system."

In its [February 2015 "Third-Year Report"](#), JCOPE stated (at p. 37)

"Over the past three years, JCOPE has established internal procedures for intake and review of all tips and complaints and worked closely with the State Office of Information Technology Services to create an effective electronic case management system."

Pursuant to FOIL, this is to request:

- (1) a copy of JCOPE's referred-to "adopted internal procedures for intake and review of all tips and complaints" – and any subsequently adopted revisions/updates to same by JCOPE and/or COELIG;
- (2) a copy of specifications/procedures/protocols pertaining to JCOPE's referred-to "effective electronic case management system" – and any subsequently adopted revisions/updates to same by JCOPE and/or COELIG.

Thank you.

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'dolly@caramanlaw.com'; 'claudialedwards2@gmail.com'
Subject: **FOIL Request: Cumulative Hourly Per Diems Paid -- Including as
Supplemented, Retroactively, to April 1, 2024, as Voted by the
Commissioners at their Oct 23, 2024 Meeting**

TO: Commission on Ethics and Lobbying in Government

ATT: FOIL Records Access Officer Emily DeSantis

Your [2023 Annual Report](#), released on [June 24, 2024](#), states that among COELIG's "Accomplishments" and "significant milestones" is "Posting Commissioner Per Diem Allowances" (at p. 22). It does not provide any figures, but instead furnishes a [link to where they are posted on COELIG's "Pressroom" website](#). From the nine entries currently posted, it is impossible to ascertain the cumulative figure either for hourly *per diem* payments made in 2023 or of work done in 2023, for which hourly *per diem* payments were made. These nine entries are: .

"Oct 2023-Mar 2024 Commissioner Per Diems" (Paid-May 22, 2024)	\$15,976.35
"Oct. 2023 – March 2024 Commissioner Per Diems" (Paid-May 22, 2024).....	\$15,976.61
"Jan – April 2024 Commissioner Per Diems" (Paid-April 10, 2024).....	\$36,240.20
"Nov 2023- March 2024 Commissioner Per Diems" (estimated).....	\$8,371.56
"Oct – Dec 2023 Commissioner Per Diems" (Paid-Dec 20, 2023).....	\$37,895.82
"Sept – Nov 2023 Commissioner Per Diems" (Paid-Nov 2023).....	\$23,612.95
"July – September 2023 Commissioner Per Diems"	\$18,340.76
"Apr – June 2023 Commissioner Per Diems"	\$45,982.09
"FY 2022-23 Commissioner Per Diems" (Paid-FY 2022-23).....	\$83,946.11

It appears from this tally – and omitting what appears to be a redundant entry (differing by 26 cents) and an estimated entry, that the amount is: \$261,994.54.

Pursuant to FOIL, this is to request any cumulative tally of the hourly *per diems* paid to date to the Commissioners – including as supplemented, retroactively, to April 1, 2024, to reflect the increase in Supreme Court justice salary resulting from the December 4, 2023 Report of the Commission on

Legislative, Judicial and Executive Compensation – the subject of [Resolution #2024-02](#), approved by the Commissioners at the [October 23, 2024 meeting](#).

Thank you.

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