

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Thursday, September 30, 2021 8:33 AM
To: 'kmiller@coib.nyc.gov'
Cc: 'hammer@coib.nyc.gov'; 'tremblay@coib.nyc.gov'; 'Gross@coib.nyc.gov'
Subject: STATUS of CJA's June 28, 2021 complaint & underlying May 17, 2021 complaint & FOIL request for COIB's written protocol for intake and processing complaints
Attachments: Investigative Manual 200.00.pdf

TO: New York City Conflicts of Interest Board Assistant Counsel Katherine J. Miller

This follows up our half-hour phone conversation together yesterday, September 29th (2:45 pm - 3:15 pm), when you returned the voice message I had left for you at 11:16 am, inquiring as to the status of my June 28, 2021 complaint. You stated that you could not apprise me of its status because such is confidential. The sole provision you cited for that proposition was §2603(k) of the New York City Charter, notwithstanding its inapplicability is particularized at page 4 of the June 28th complaint – which I read you. You also stated that confidentiality precluded you from even confirming that the June 28th complaint had been presented to COIB members for their determination pursuant to §2603(e)(2) of the Charter. This, notwithstanding I told you that Mr. Tremblay had not deemed confidentiality as preventing him from indicating to me that my May 17, 2021 complaint had been presented to COIB members – the truth of which my June 28th complaint had disputed (at pp. 2, 8).

Your position – reiterating what your June 29th acknowledgment letter had stated – was that “unless the Board issues an order finding a violation of the conflicts of interest law”, you could tell me nothing. I answered that such orders should have already issued for complaints that were based on *prima facie*, open-and-shut EVIDENCE, whose electoral significance required expeditious treatment and whose ONLY “appropriate” disposition by COIB members, pursuant to §2603(e)(2), was its subsection (c): initial determinations of probable cause of conflict of interest violations – requiring notices to the complained-against parties for their written responses, whose time parameters, fixed by COIB Rule §2-02(b), had already passed. You stated that such time parameters would only conclude informal proceedings, not formal proceedings – to which I replied that I had no reason to believe that there was anything appropriate happening with respect to my EVIDENCE-supported two complaints, either by COIB or DOI – and that the responses I had received to my June 28th FOIL requests to COIB and DOI, accompanying the June 28th complaint, reinforced that neither complaint was being properly handled. I described the FOIL responses and offered to show them to you from [CJA’s menu webpage pertaining to COIB and DOI](#), but you declined.

I told you that while waiting for your call back, I had drafted an e-mail to you that I would now modify to reflect our phone conversation and send you. The e-mail, whose ending questions I partially read you, was as follows:

“By [letter dated June 29, 2021](#), you acknowledged receipt of my [June 28, 2021 complaint](#) in a fashion materially identical to the [May 17, 2021 letter](#) by which Deputy Director of Enforcement Jeffrey Tremblay had acknowledged receipt of my [May 17, 2021 complaint](#).

As with his letter, you identically stated:

‘Because of the confidentiality provisions of the City Charter, the Board cannot disclose any action taken by this agency, if any action is warranted, unless the Board issues an order finding that a violation of the conflicts of interest law has occurred, at which time the order would be published.’

As detailed by the June 28, 2021 complaint (at pp. 4-5), there are NO confidentiality provisions of the City Charter or COIB Rules that bar you from disclosing to a complainant the status of his/her own complaint.

What is the status of my June 28, 2021 complaint – as to which I have received no subsequent communication from you and nothing from COIB members. Was it presented to COIB members – and did they decide:

- (1) that they were NOT going to apprise me of the status of my May 17, 2021 complaint, notwithstanding my showing that Mr. Tremblay’s purported legal authority preventing him from apprising me of its status was bogus;**
- (2) that they were NOT going to confirm that Mr. Tremblay had presented them with my May 17, 2021 complaint for their determination pursuant to §2603(e)(2) of the Charter;**
- (3) that they were NOT going to confirm that they had confronted the threshold conflict of interest issues pertaining to themselves, specified by the June 28, 2021 complaint (at fn. 3), and pertaining to DOI, specified by the May 17, 2021 complaint (at fn. 3) – and how they had resolved same;**
- (4) that they were NOT going to state whether – as §§24(f) and (k) of the City Charter require – Public Advocate Jumaane Williams had referred my May 3, 2021 complaint against New York City’s five district attorneys to DOI and COIB – and whether he had so-referred other complaints since he took office in March 2019.” (hyperlinking in the drafted e-mail, bold added).**

That is as far as I got with my drafted e-mail, when you called. I herein reiterate its questions – and ask that you advise, expeditiously, as to your response to each.

Finally, I request, pursuant to FOIL, any COIB written protocol for intake and processing complaints, such as DOI’s above-attached Investigative Manual, Section 200, entitled “Complaint Intake: Opening and Tracking Procedures” which I received in response to my June 28th FOIL request to DOI. Among its instructions – and germane to my June 28th complaint’s recitation (at pp. 2-3) of believed “normal and customary procedure” not being followed:

“contact with the complainant...should be the first step in all preliminary investigations. This will allow for clarification of the complaint and collection of more information with respect to the allegation.” (Section 200.20(l)(B)(3)).

Thank you.

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