

JOHN P. CONNORS, JR., ESQ.
Chairman

State of New York
Grievance Committee for the
Second, Eleventh and
Thirteenth Judicial Districts

Renaissance Plaza
335 Adams Street - Suite 2400
Brooklyn, New York 11201-3745
(718) 923-6300

DIANA MAXFIELD KEARSE
Chief Counsel

MARK F. DEWAN
Deputy Counsel

MELISSA D. BRODER
SUSAN KORENBERG
COLETTE M. LANDERS
SHARON GURSEN ADES
SUSAN B. MASTER

KATHRYN DONNELLY GUR-ARIE
THOMAS GRAHAM AMON
SASHA N. HOLGUIN
DAVID W. CHANDLER
Assistant Counsel

January 30, 2017

CONFIDENTIAL

Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
P.O. Box 8101
White Plains, NY 10602

Re: File Nos: K-1827-16; Q-1828-16; R-1829-16

Dear Ms. Sassower:

This office received, on January 3, 2017, your letter dated December 28, 2016 in relation to three attorneys within the jurisdiction of this Committee. At your request to re-consider the decision not to open your original complaint for investigation, a thorough review of the file was performed.

Your letter dated December 28, 2016, provides no basis to deviate from our original determination set forth in our letter to you of November 30, 2016. The matters you wish investigated are beyond the jurisdiction of the Grievance Committee, as was fully explained to you in our earlier letter.

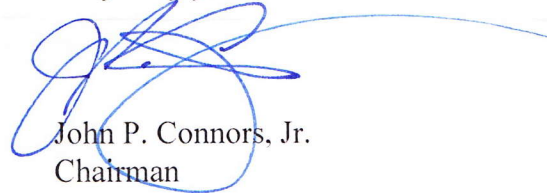
With respect to your FOIL request, please be advised that this Committee is part of the "judiciary" and thus is not subject to FOIL (see Public Officers Law § 86[3]). The Appellate Division, Second Judicial Department, has exclusive jurisdiction over the records and proceedings of attorney disciplinary matters (see Judiciary Law § 90; 22 NYCRR Parts 603, 691, 806 and 1022). Pursuant to section 90(10) of the Judiciary Law, disciplinary records are sealed, and only the Appellate Division has the authority to provide access to those records, upon application for a written order, with "good cause being shown."

Moreover, even if this Committee was deemed an agency subject to FOIL, which it is not, its records are sealed by statute (Judiciary Law § 90(10)), and thus would be exempt from disclosure under FOIL (see Public Officers Law § 87[2][a]). Nor would FOIL require the compilation of information or creation of records (see Public Officers Law § 89[3]). Where disciplinary records are not maintained by categories of complaints, or job titles of attorneys, such as "prosecutors" or assistant district attorneys," FOIL would not require the compilation of information or creation of records to respond to your request.

Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
January 30, 2017
Page Two

Accordingly, for the reasons stated above, the Committee is unable to assist you. This determination does not preclude you from pursuing any other legal remedies that may be available. Any further requests for reconsideration should be made, in writing, to the attention of the Clerk of the Appellate Division, Second Judicial Department.

Very truly yours,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

John P. Connors, Jr.
Chairman

JPC/hd