



The City of New York
Department of Investigation

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BY HAND DELIVERY

Honorable Bill de Blasio
Mayor
City of New York
City Hall
New York, New York 10007

Honorable Melissa Mark-Viverito
Speaker
New York City Council
City Hall
New York, New York 10007

Re: Whistleblower Law Complaints for Fiscal Year 2017

Dear Mr. Mayor and Madam Speaker:

The New York City Department of Investigation ("DOI") is pleased to submit this report pursuant to Section 12-113 of the New York City Administrative Code, the City's "Whistleblower Law." Subsection (i) of the Whistleblower Law provides that, "[n]ot later than October thirty-first of each year, the commissioner [of investigation] shall prepare and forward to the mayor and the council a report on the complaints governed by this section during the preceding fiscal year. The report shall include, but not be limited to, the number of complaints received pursuant to this section, and the disposition of such complaints."

The Whistleblower Law protects City employees, as well as officers and employees of vendors who have contracts with the City valued at \$100,000 or more, from retaliation for reporting misconduct, corruption, criminal activity, conflicts of interest, gross mismanagement and abuse of authority in City government. In order to qualify for protection under the Whistleblower Law, individuals must make these complaints to DOI, to a member of the City Council, the Public Advocate, or the City Comptroller, each of whom must refer the complaints to DOI. The following is DOI's report for Fiscal Year 2017.

DOI received complaints from 40 individuals who alleged retaliation or sought protection for reporting corruption or misconduct in City government. Although not all individuals explicitly referenced the City's Whistleblower Law, DOI reviews all complaints of alleged retaliation in any form regardless of whether the complainant specifically invokes the Law.

The 40 whistleblower complaints received in Fiscal Year 2017 are 12 more than were

Honorable Bill de Blasio
Honorable Melissa Mark-Viverito
October 27, 2017

received in the prior fiscal year and can be attributed, in part, to DOI's aggressive schedule of presenting corruption prevention/whistleblower protection lectures to the City's workforce throughout the year. In Fiscal Year 2017, DOI increased the number of lectures from 408 in the prior fiscal year to 477, and covered 19,674 City employees, up from 13,082 employees last year. Moreover, an additional 18,561 employees completed on-line corruption prevention lectures through the citywide e-learning module.

Following is a breakdown of agencies or entities where the 40 complainants worked, and the number of complaints involving each agency:

Agency	Number of Complaints
Administration for Children's Services	2
Department of Citywide Administration Services	2
City University of New York	1
Community Board	1
Department of Correction	2
Department of Education	15
Department of Finance	1
Department of Health and Mental Hygiene	1
Health + Hospitals	2
Department of Homeless Services	4
Department of Housing Preservation and Development	1
New York City Housing Authority	6
Human Resources Administration	1
Department of Youth and Community Development	1

Each of these 40 complaints was reviewed by DOI's General Counsel's Office and/or by the Inspector General for the agency where the employee worked. The complaints were handled in one of three ways, depending on the allegations and supporting facts: (a) opened for investigation (28 matters); (b) referred to another agency for appropriate action (five matters); or (c) filed for intelligence purposes (seven matters).

Of the 28 complaints that were opened for investigation in the past fiscal year, 18 remained open and under investigation at the end of the reporting period on June 30, 2017. DOI closed 21 investigations during the reporting period – 9 of which had been opened in a prior fiscal year, and 12 of which were opened in Fiscal Year 2017 – without a finding that the complainant was entitled to protection under the City's Whistleblower Law. In two of these instances, the individuals withdrew the complaint or decided not to pursue the matter. Even when a complainant is found not to have met the technical requirements for protection under the Whistleblower Law, DOI will, where warranted, make recommendations to an agency to redress any problematic conduct found during the course of an investigation. Consistent with this policy, in one investigation closed during the reporting year, DOI referred certain investigative findings to the agency Advocate for appropriate action.

With respect to the five complaints that were referred, DOI determined that the complaints on their face did not make out a claim for protection under the City's Whistleblower Law. In each of these matters, it was determined that referrals to the individual agencies where the misconduct

Honorable Bill de Blasio
Honorable Melissa Mark-Viverito
October 27, 2017

was alleged to have occurred, or another agency that had jurisdiction over the reported entity, was necessary so that those offices could review and be aware of the complainant's underlying allegations.

Similarly, in two of the seven matters where the complaints were filed for intelligence purposes, the complainants reiterated the same or similar allegations where, in one instance, DOI had previously investigated and determined did not fall under the protection of the Whistleblower Law and, in the second instance, DOI previously referred the matter to the State Inspector General and again so informed the complainant. In four matters, DOI's review determined that the complainants failed to allege they suffered an adverse personnel action or that they had complained to an appropriate entity about an issue covered by the law. In the remaining instance, the complainant withdrew her complaint.

The protections afforded by the Whistleblower Law are essential to maintaining a government that functions with integrity and transparency. DOI remains committed to insuring that City employees or employees of City vendors who come forward and report information involving criminal conduct, abuse of authority or other wrongdoing in City government, can do so without fear of retaliation.

Thank you for the opportunity to submit this report.

Very truly yours,

Mark G. Peters
Commissioner