



The City of New York
Department of Investigation

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September 23, 2015

BY HAND DELIVERY

Hon. Bill de Blasio
Mayor
City of New York
City Hall
New York, New York 10007

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

Re: Whistleblower Law Complaints for Fiscal Year 2015

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 (j) of the Whistleblower Law provides that, "not 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 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, City employees must make these complaints to DOI; employees may also make their complaint to a member of the City Council, the Public Advocate or the Comptroller, each of whom must refer the complaints to DOI. The Whistleblower Law has undergone several amendments in the past several years. A 2007 amendment expanded the scope of the Whistleblower Law to include complaints about children's educational welfare, health and safety. In 2012, the City Council further amended the Law to extend its protection to officers and employees of vendors who have contracts with the City valued at \$100,000 or more.¹

During Fiscal Year 2015, DOI classified 36 matters as whistleblower complaints received from individuals who alleged retaliation for reporting misconduct or corruption. In some of the 36 cases, the complainant explicitly referenced the Whistleblower Law. In other cases, the complainant did not

¹ Also of note, a second change to the law added a new Section 6-132 to the Administrative Code requiring City vendors to post notices at work sites informing employees how they can report fraud, related to a City contract or subcontract to DOI, and explaining the rights and remedies employees have under the amended City Whistleblower Law and the City's False Claims Act. DOI provided the Mayor's Office of Contract Services with posters to distribute to City vendors subject to the law, explaining employees' rights and how to contact DOI with tips about corruption.

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specifically mention the Whistleblower Law, but in all 36 cases the complainants alleged some form of retaliation for reporting misconduct. DOI reviews all complaints of alleged retaliation in any form regardless of whether the complainant specifically invokes the Whistleblower Law.

The 36 whistleblower complaints received in Fiscal Year 2015 is equal to the number of complaints received in the prior Fiscal Year. The number of complaints received can be attributed to a comprehensive education program in which DOI conducts Corruption Prevention/ Whistleblower Protection lectures to the City's workforce throughout the year. In Fiscal Year 2015, DOI conducted 378 such lectures, covering 11,947 City employees. Moreover, in collaboration with the New York City Department of Citywide Administrative Services, DOI developed a new citywide e-learning module that resulted in an additional 1,797 individuals participating in, and completing, on-line corruption prevention lectures.

A review of the 36 whistleblower complaints received by DOI in Fiscal Year 2015 did not reveal that retaliation for providing information about fraud, corruption, conflicts of interest, gross mismanagement or abuse of authority is pervasive in City government. Following is a breakdown of agencies or offices where the complainants or subject(s) of the complaint were employed or performing work:

Administration for Children's Services	3
Department of Citywide Administrative Services	2
Department of Correction	3
City Council	1
Department of Education	19
Fire Department	1
Health and Hospitals Corporation	1
New York City Housing Authority	1
Housing Preservation & Development	2
Office of Chief Medical Examiner	1
Department of Parks and Recreation	1
Department of Transportation	1

Each of these 36 matters was carefully reviewed by DOI's General Counsel's Office and/or by one of our Inspectors General. The 36 complaints were dispositioned in one of three ways, depending on the allegations and supporting facts: (1) opened for investigation; (2) referred to another agency for appropriate action; or (3) filed for intelligence purposes. Broken down in this manner, the complaints received by DOI were dispositioned as follows:

Opened for investigation	26
Referred to another agency	6
Filed for intelligence purposes	4

Of the 26 matters that were opened for investigation in the past fiscal year, 16 remained open and under investigation at the end of the reporting period, June 30, 2015. DOI closed 23 investigations – 12 of which were opened in a prior fiscal year, and 11 of which were opened in Fiscal Year 2015. In one investigation, DOI determined that the complainant was entitled to protection under the City's Whistleblower Law and so informed his/her agency. The effects of the adverse personnel action taken against this employee were remediated by the agency. The other 22 investigations were not substantiated and closed without a finding that the complainant was entitled to protection under the City's Whistleblower Law. Please note, however, that even when a complainant is found not to have met the technical requirements for protection under the Whistleblower Law, DOI does, where warranted, make recommendations to the agency to redress problematic conduct related to that complaint.

With respect to the six complaints referred to other agencies, one complainant was an employee of the Health and Hospitals Corporation where the internal Inspector General, which is not a part of DOI, has jurisdiction. In the other five instances, DOI determined that the complaints did not make out claims for protection under the City's Whistleblower Law and referred four of these matters to the individual's

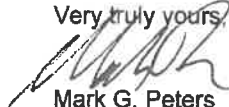
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agency so they could review and be aware of the allegations of misconduct. The other complaint was referred to a federal agency that could assist the complainant with his/her issue.

In one of the four cases where the complaints were filed for intelligence purposes, the complainant alleged the same or similar allegations that DOI previously had investigated and determined did not fall under the protection of the Whistleblower Law. In the other three instances, the complainants failed to complain to an appropriate entity about an issue covered by the law. All of these complaints, however, were reviewed by the Inspector General's Office for any potential violation of laws or City rules and regulations, and in one instance DOI monitored an agency's actions following its receipt of the same 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 a City contractor who report corruption or other wrongdoing in City government are free to do so without fear of retaliation.

Very truly yours,



Mark G. Peters
Commissioner