The City of New York
Department of Investigation

ROSE GILL HEARN
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By Hand
Hon. Michael R. Bloomberg
Mayor
City of New York
City Hall
New York, New York 10007

Hon. Christine C. Quinn
Speaker
New York City Council
City Hall
New York, New York 10007

Re: Whistleblower Law Complaints for Fiscal Year 2010

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 law provides that, "[n]ot later than October thirty-first of each year, the Commissioner 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 following is DOI's report to the Mayor and the City Council.

During fiscal year 2010, DOI received complaints from 45 people who alleged retaliation for reporting corruption that DOI classified as whistleblower complaints. In some of the 45 cases, the complainant sought protection explicitly referencing the City's Whistleblower Law. In others, the complainant did not specifically mention the Whistleblower Law, but in all 45 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 statute.

The 45 whistleblower complaints received in this past year are 7 fewer than were received in the prior fiscal year. However, the 45 complaints are still more than double the number received in several earlier fiscal years. As has been noted previously, one cause of the growth in the number of complaints is the change in the Whistleblower Law that went into effect in 2007 expanding its scope to include complaints about children's educational welfare, health and safety. In fiscal year 2007, which includes the period before the amendments expanding the law went into effect, DOI received only 19 complaints alleging retaliation under the City's Whistleblower Law.

DOI has continued its robust schedule of corruption prevention lectures throughout fiscal year 2010, increasing the number of lectures from the prior record of 546 to 625 in fiscal year 2010, and thereby speaking directly to thousands of City employees. These lectures feature information for City employees about their protections under the City's Whistleblower Law and the increased number of these lectures have undoubtedly contributed to increasing awareness among the City workforce of the protections afforded every City employee under the Whistleblower Law. In addition, these lectures have also sensitized managers to the mandate prohibiting retaliation.

Consistent with DOI's experience in prior years, a review of the whistleblower complaints received by the agency did not reveal that retaliation for providing information about fraud, corruption, conflicts of interest, gross mismanagement and abuse of authority is widespread in City government. We believe this is attributable, at least in part, to DOI's aggressive public information campaign about the wrongfulness of such conduct and the potential consequences.

Broken down by the agencies where the 45 complainants were employed, the whistleblower complaints DOI received in fiscal year 2010 are as follows:

Department of Buildings	1
Department of Education	28
Department of Environmental Protection	2
Department of Information Technology and Telecommunications	2
Department of Housing Preservation and Development	2
Department of Juvenile Justice	1
Department of Transportation	1
Financial Information Services Agency	1
Fire Department	1
Health and Hospitals Corporation	1
Human Resources Administration	3
New York City Police Department	2

Each of these 45 matters was reviewed carefully by our General Counsel's office. In almost every case, the complaints were also reviewed by the Inspector General for the agency where the complainant worked.

The 45 complaints were handled in one of several ways depending on the allegations and supporting facts: (1) opened for investigation; (2) filed for intelligence purposes; or (3) referred to another agency for appropriate action. Broken down in this manner, the complaints received were handled as follows:

Opened for investigation	34
Filed for intelligence purposes	6
Referred to another agency	5

In the six instances where complaints were filed for intelligence purposes during the reporting period, the complainants failed to allege that they suffered adverse personnel actions and/or that they had complained to an appropriate entity about an issue covered by the law. With regard to the five referrals to other agencies, three of the complainants were employees of agencies with their own internal oversight: one came from a Health and Hospitals Corporation employee where the internal Inspector General has primary jurisdiction, and two came from employees of the Police Department where the Internal Affairs Division has primary jurisdiction. In the two other instances where referrals were made to City agencies, the complaints on their face did not make out claims for protection under the City's Whistleblower Law. However, in each of these instances, there were allegations of conduct that the individual agencies needed to be aware of and review further.

Of the matters opened for investigation in the past fiscal year, 16 were closed without a finding that the complainant was entitled to protection under the City's Whistleblower Law, while 18 matters remain open and are still under investigation. Please note that, even when a complainant is found not to have met the technical requirements for protection under the Whistleblower Law, where warranted, DOI will still make recommendations to an agency to redress problematic conduct related to that complaint.

The protections afforded by the Whistleblower Law are essential to helping to create and maintain a government that functions with integrity and transparency. DOI remains committed to enforcing the Whistleblower Law because it is essential to our efforts to encourage employees to come forward and report wrongdoing. Accordingly, one of DOI's top priorities continues to be insuring that City workers are free from retaliation when they report corruption and other misconduct in City government.

We look forward to helping to ensure the effectiveness of that law in the coming fiscal year.

Sincerely,

Rose Gill Hearn

Rose Gill Hearn
Commissioner