



The City of New York
Department of Investigation

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COMMISSIONER

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October 28, 2020

BY ELECTRONIC MAIL

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

Honorable Corey Johnson
Speaker
New York City Council
City Hall
New York, New York 10007

Re: Whistleblower Law Complaints for Fiscal Year 2020

Dear Mr. Mayor and Mr. Speaker:

The New York City Department of Investigation (DOI) is submitting 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 receive protection under the Whistleblower Law, individuals must make these complaints to DOI, a member of the City Council, the Public Advocate, or the City Comptroller – each of whom has a duty to refer the complaints to DOI. Individuals who report wrongdoing at their workplace may all be colloquially referred to as "whistleblowers" and DOI receives and investigates hundreds of such reports from City employees

and vendors each year. However, pursuant to Section 12-113, this report is focused primarily on only a small subset of those individuals – those who allege that they have suffered retaliation for reporting wrongdoing and seek a remedy under the Whistleblower Law.

Public servants in this City have an affirmative obligation to report wrongdoing or jeopardize their jobs and professional advancement if they do not. This uncommon and important “duty to report” is codified in Mayoral Executive Order 16.¹ MEO 16 operates in tandem with the Whistleblower Law, with the latter providing essential protections to individuals who step forward as part of their “duty to report” and suffer adverse actions as a result. Public servants who report wrongdoing are vital to DOI’s mission to root out corruption, instill public confidence in government, promote integrity, and ensure that City services and operations are not undermined by misconduct, fraud, or waste.

DOI has continued to educate the City’s workforce with in-person and on-line corruption prevention and whistleblower lectures to make certain that City employees understand their obligations and the associated protections for them. In Fiscal Year 2020, DOI conducted 318 in-person corruption prevention and outreach lectures to 11,337 City employees, a decrease of 29 percent over Fiscal Year 2019. DOI attributes this decrease to the impact of the Coronavirus pandemic, which restricted in-person contact. An additional 26,725 employees completed on-line anti-corruption training through the citywide e-learning module, a decrease of 20 percent, which we again attribute to the pandemic as employees shifted to telework. We believe corruption prevention lectures increase awareness among the City workforce about corruption risks, City employees’ obligations to report corruption and wrongdoing, and the protections afforded to employees who report such wrongdoing. To that end, in Fiscal Year 2021, DOI refocused efforts to conduct virtual corruption prevention lectures at City agencies without compromising City employees’ safety during the pandemic. These efforts include both deployment of our e-Learning module to agencies as well as a new focus on providing our traditional live training through virtual platforms. In addition, DOI provided refresher training to its own staff to reinforce uniform practices for handling whistleblower investigations. The Whistleblower Law is fundamental to the work of DOI and we hope these efforts will further advance our education of City employees.

In Fiscal Year 2020, DOI received 30 complaints from individuals who alleged job-related retaliation or sought protection for reporting misconduct in City government – two fewer than in the prior fiscal year. 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.

¹ Mayoral Executive Order 16, Section 4(d) states, “Every officer and employee of the City shall have the affirmative obligation to report, directly and without undue delay, to the Commissioner or an Inspector General any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal activity or conflict of interest, (i) by another City officer or employee, which concerns his or her office or employment, of (ii) by persons dealing with the City, which concerns their dealings with the City. The knowing failure of any officer or employee to report as required above shall constitute cause for removal from office or employment or other appropriate penalty.”

Broken down by the agencies where the complainants worked, either as an employee, or for a vendor contracted by that City agency, the whistleblower retaliation complaints DOI received in Fiscal Year 2020 are as follows:

Agency	Number of Complaints
Administration for Children's Services	1
Business Integrity Commission	1
Department of Education ²	6
Department of Environmental Protection	1
Fire Department	2
Health + Hospitals	2
Department of Housing Preservation & Development	2
New York City Housing Authority	6
Human Resources Administration	2
Department of Information Technology and Telecommunications	2
Office of Chief Medical Examiner	1
Department of Parks and Recreation	1
NYC Police Department	2
City University of New York	1

DOI handled these 30 complaints in one of the following ways, depending on the allegations and supporting facts: (a) opened a whistleblower investigation (22 complaints); (b) opened an investigation into other issues presented (one complaint); (c) referred to another agency for appropriate action (three complaints); (d) filed for intelligence purposes (three complaints); or (e) remained under review at the end of the reporting period (one complaint).

Of the 22 complaints that were opened as a whistleblower investigation in Fiscal Year 2020, eight matters were closed and 14 remained open and under investigation as of the end of the reporting year. In total, DOI closed 22 investigations in Fiscal Year 2020, including 14 investigations that were opened in a prior fiscal year.³

With respect to the 22 investigations closed in the reporting year, none of the investigations resulted in a finding that the complainant was entitled to protection under the City's Whistleblower Law. However, even when a complainant is found not to have met the technical requirements for protection under the Law, DOI will still make recommendations to an agency to redress any problematic conduct, where warranted.

² Whistleblower retaliation complaints from the Department of Education are handled by the Special Commissioner of Investigation for the New York City School District, unless those complaints include allegations against the Special Commissioner, in which case they are handled by DOI.

³ In our annual letter last year, DOI inadvertently omitted two investigations opened in Fiscal Year 2019, one of which remains open. The other is included with the closed investigations referenced in this letter.

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In the one instance where DOI opened an investigation into other issues raised in the complaint, it was determined that the allegations should be part of an inquiry separate from the whistleblower retaliation complaint and DOI addressed those issues with the involved agency. With respect to the three complaints referred to other agencies, DOI determined that while the complaints, on their face, did not make out claims for protection under the City's Whistleblower Law, a referral to the individual agency was necessary so the agency could review and be aware of the allegations of misconduct. In two of the three matters filed for intelligence purposes, it was determined, after review, that neither complaint had merit or provided adequate information to support an allegation of retaliation. In the third matter, the complainant did not provide sufficient information to open an investigation nor contact information for DOI to follow-up directly with the complainant.

The New York City Whistleblower Law supports the mandate that City employees report corruption when they see it, and provides protections when they do step forward. It is good government in action and increases public trust. DOI is proud to play a central role in this process and as Commissioner, I am committed to upholding this vital Law and its crucial role in New York City government.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Johnson", written in a cursive style.