



To: The Committee of Seventy
From: Amy Kurland, Esq., Inspector General
Re: Home Rule Charter Amendment
Date: December 14, 2012

MEMORANDUM

In connection with our prior discussion, this memo is intended to provide some additional information to the Committee of Seventy in preparation for the enactment of a permanent and independent Office of the Inspector General in the City of Philadelphia. Part I provides some background information about the office and the investigative results achieved in the past five years, including some statistics on financial recovery and notable case summaries. Through use of an illustration and various case examples, Part II addresses issues of positioning in local government and identifies the important role that an independent Inspector General will play in the public integrity enforcement system. Part III summarizes the central points.

I. Major Accomplishments

The City of Philadelphia’s Office of the Inspector General has been tirelessly committed to boosting public confidence in local government by rooting out corruption, fraud, misconduct, waste and mismanagement. With jurisdiction over the executive branch and all individuals or entities contracting with the City, the Office of the Inspector General has conducted over 1,000 investigations in the past five years, resulting in vast financial recovery and significant terminations, suspensions, arrests and indictments. The following table summarizes the office’s investigative results:

	2008	2009	2010	2011	2012	Total
Savings & Recovery	\$3,147,280	\$4,198,386	\$9,090,627	\$9,240,267	\$9,220,572	\$34,897,132
Terminations	27	34	37	24	39	161
Arrests & Indictments	2	24	8	5	5	44
Pension Disqualification Requests	5	3	3	18	24	53



Since 2008, the Office of the Inspector General has been responsible for savings and recovery of over \$34.8 million, with an annual budget of only \$1.3 million or less. The office has also brought 44 individuals to justice through criminal prosecution, working jointly with federal, state and local law enforcement organizations. City departments and agencies have also implemented new and more effective internal policies and procedures in response to OIG investigations identifying gaps and systemic inefficiencies. Some of the office's most notable work includes:

Financial Recovery

- William Betz Jr., Inc., JHS & Sons Supply Co., and UGI HVAC, Inc., all colluded to make it appear as if JHS, a certified minority vendor, had provided equipment and supplies for a government funded weatherization project, when JHS was paid only for the use of its name and minority certification. The OIG investigation led to recovery of \$228,000 through settlement.
- Prison Health Services, Inc., subcontracted with JHK, a City-registered woman-owned business, to make it appear as if JHK was providing pharmaceutical supplies to the Philadelphia Prison System, when in fact, JHK was paid only for the use of its name and woman-owned business certification. The OIG investigation led to recovery of \$1.85 million through settlement.
- Three high level City officials accepted meals and gifts from a variety of vendors with City contracts and used City resources to set up a hidden Verizon Business Link Rewards account. As a result of the investigation, OIG recovered over \$100,000 worth of unused gift-cards and rewards points which were then donated to the William D. Kelley School, Youth Services, Inc. and PhillyRising, part of the Managing Director's Office that works with local non-profits committed to community service throughout Philadelphia.
- During an investigation into Revenue Department employees, OIG discovered \$3.4 million in U.S. Department of Defense wage-tax checks that were never cashed or deposited by the City of Philadelphia. Ultimately, the federal government reissued the checks, allowing the City to finally add the income to its general fund.

Arrests & Indictments

- A former Water Department mailroom clerk ordered over \$1 million worth of toner cartridges and printer ink from the City's vendor. Rather than use the ink for City business, the employee sold it for private gain, shipping the ink to Arkansas using City resources. The joint OIG-FBI investigation led to the arrest and indictment of three individuals involved in the scheme, including the City employee.
- A Villanova-based businessman was indicted for handing a \$5,000 bribe to a Philadelphia Commerce Department official, who immediately reported the incident to his Integrity Officer. OIG conducted the investigation jointly with the FBI.
- Posing as an inspector from the Department of Licenses and Inspections, Brian K. Davis collected over \$10,000 from the owner of a property in Germantown. Following a joint



investigation with the Philadelphia Police Department, Davis was arrested and charged with a variety of theft-related offenses.

- A clerk in the Records Department was copying traffic accident reports and selling them to third parties in exchange for cash payments, depriving the City of over \$600,000 in lost revenue. A joint OIG-FBI investigation culminated in the arrest and conviction of two individuals, including the City employee, who were also ordered to pay over \$1 million in restitution.

Administrative Oversight

- At the request of the Department of Human Services, OIG investigated the placement system for children born to incarcerated mothers within the Philadelphia Prison System. The investigation discovered that chaplains in the Prison System had been persuading inmates to allow an unlicensed religious organization to take custody of the children while the mothers remained in prison. However, due to poor administration and lack of oversight, the mothers often could not locate their children upon release. As a result of the OIG investigation, the Prison System implemented comprehensive new child placement policies and regulations.
- Following the enactment of the Recovery Act of 2009, OIG and the Integrity Office continue to monitor the \$273 million in federal stimulus funds that the City received, ensuring that the funds are properly administered and accounted for.
- After an OIG investigation led to the discovery of a Revenue Department manager who embezzled over \$400,000, the City adopted new payment processing procedures to ensure that such criminal activity would no longer go undetected.

II. Placement in the Public Integrity System

Other than the Inspector General, the three primary entities in the Philadelphia public integrity enforcement space are: (i) the Controller, tasked with addressing issues of economic efficiency in protection of the public purse; (ii) the Board of Ethics, tasked with addressing issues of ethics and self-dealing; and (iii) the traditional criminal law enforcement bodies, including the District Attorney, the Philadelphia Police Department, the U.S. Attorney and the F.B.I.

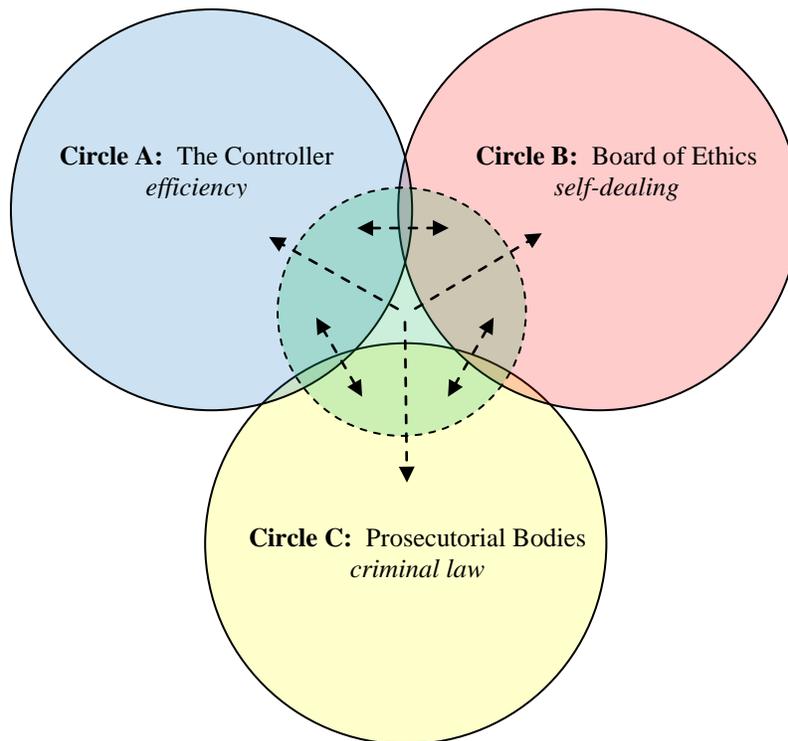
The nature of a public integrity investigation is such that allegations may arise through any one or more of these enforcement channels, and as additional facts are uncovered, the case can carry implications across jurisdictional lines. Enforcement in this area, as it relates to City officials and employees, therefore requires proactive management, coordination and cooperation between entities. Because the Inspector General operates with a fairly broad substantive jurisdiction (“waste, fraud, abuse and mismanagement”), it is a necessary instrument of investigative coordination, with the flexibility to follow cases through to their logical conclusions. And, although some degree of contemporaneous jurisdiction in any enforcement system is generally desirable to ensure accurate results, any concern of inefficient administration is relieved by the



fact that the Inspector General may only investigate and refer. This limited ability to act ensures that any achievement is joint rather than unilateral, minimizing the risk of unnecessarily duplicative work.

The following diagram is intended to illustrate the Inspector General's role within the public integrity enforcement system in Philadelphia. Circle A represents the Controller and the Auditing Department. Circle B represents the Board of Ethics. Circle C represents the District Attorney, U.S. Attorney and traditional law enforcement agencies. The shaded circle at the center represents a permanent and independent Office of the Inspector General.

Figure 1: Public Integrity Enforcement *with* the Inspector General



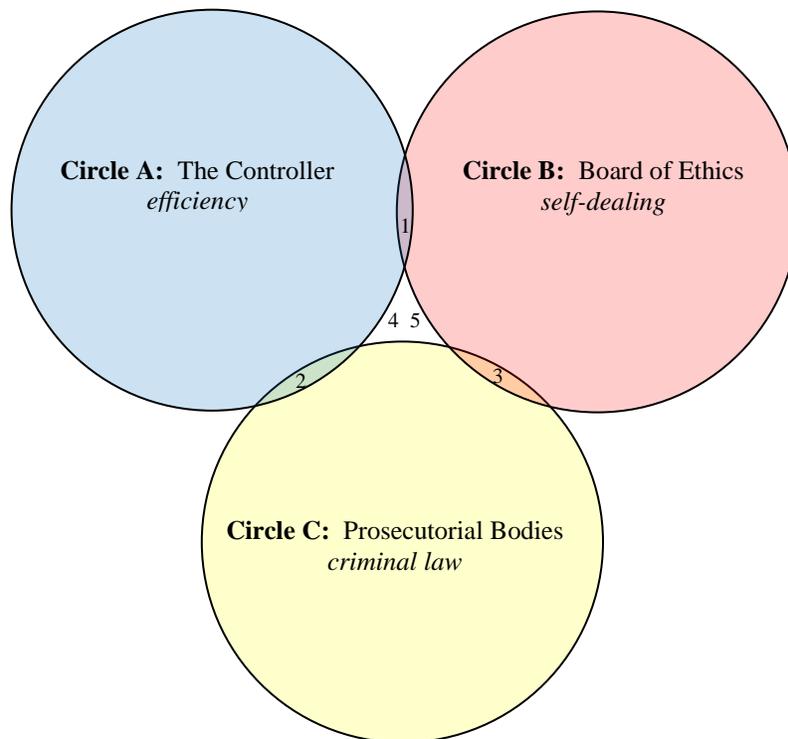
A Home Rule Charter amendment would place the office at the axis of the enforcement picture, with broad jurisdiction to foster investigative cooperation and coordination. The Inspector General can follow individual cases as they move from space to space and from individual to systemic, with the flexibility to effectively manage any and all potential breaches of the public trust through investigation, cooperation and referral. Armed only with a limited ability to take action, practical encroachment is non-existent and there is no risk that the Inspector General will interfere with the essential functions or existing operations of these other entities.



Without the Inspector General, however, two critical enforcement problems emerge. First, there is no mechanism in place to manage the natural and existing jurisdictional overlap among the other players in the system. Any individual incident, case or investigation can simultaneously implicate issues of efficiency, ethics, criminal law and administrative policy. Harsh jurisdictional boundaries will limit the scope of investigation and enforcement, preventing all relevant aspects of the case from receiving the necessary attention. Second, the Inspector General covers a key void not otherwise addressed, as she alone has the ability to provide external oversight and investigative expertise with regard to purely administrative misconduct. Absent the Inspector General, the individual agencies are left to self-police without the proper tools, and there is no enforcement avenue to tackle instances of wrongdoing that may have no external implications but nonetheless warrant decisive internal action.

The following diagram represents the public integrity system without the Office of the Inspector General. The numbers represent five corresponding case examples, taken from actual OIG investigations, intended to illustrate the gaps in enforcement that a permanent and independent Office of the Inspector General can effectively cover.

Figure 2: Public Integrity Enforcement *without* the Inspector General





In the following case examples, the OIG can properly tend to all relevant aspects of the investigation as the case progresses across jurisdictional borders.

- Example 1 (efficiency and ethics/self-dealing): In awarding a contract to his son's construction company, a City official has violated the public trust and the Ethics Code, but the construction job has also not been awarded to the most qualified bidder, causing a financial loss to the City.
- Example 2 (efficiency and criminal law): A City cashier is tasked with issuing traffic accident reports to the public in exchange for a collection fee. Rather than collect the required fee, she offers the reports to individuals at a discounted cost and keeps the cash fee. Over several years, her actions have cost the City hundreds of thousands of dollars in lost revenue, but she is also subject to criminal prosecution for a variety of theft-related offenses.
- Example 3 (ethics/self-dealing and criminal law): An airport employee requires contractors and outside vendors to make charitable contributions to his church organization, in violation of the Ethics Code's prohibition on solicitation of gifts and an act of criminal extortion.

The investigative flexibility required to handle Examples 1, 2 and 3 is a key characteristic of the OIG. But also, despite the wide coverage of each of the three primary entities (A, B, and C), none of them have the ability to police the void in the exact center of the landscape: the purely administrative space.

- Example 4 (purely administrative): A City employee is drinking during her lunch break. This act alone has no immediate impact on efficiency because, without additional evidence, there is no implication that her conduct is costing the City money. Her actions are not criminal and violate no provision of the Ethics Code. However, if gone unchecked, her drinking could certainly have negative effects in all three critical areas.
- Example 5 (purely administrative): A local faith-based group, active in the Philadelphia Prison System, enters into private custody agreements with pregnant female inmates. Upon birth, the faith group assumes custody of the children while the inmate mothers remain incarcerated. However, due to lack of oversight and formal administration, when the inmates are later released they often cannot locate their children in order to regain custody. Although the private contracts were fully voluntary, with no suggestion of criminal activity or financial loss to the City, the process placed hundreds of Philadelphia children at risk of permanent separation.

A permanent and independent Office of the Inspector General can properly address each facet of the above cases in-turn.



III. Conclusion

Ultimately, safeguarding the public trust is a complex undertaking that demands sophisticated solutions. The task of enforcement operates less like a rigid machine, with fixed parts handling discrete functions, and more like an ecosystem that lives and breathes across a variety of different landscapes. At the epicenter of this system is the control of purely administrative misconduct, placing significant pressure on the day-to-day employment decisions made at every level of government supervision.

In a perfect world, where every City supervisor is vigilant, there would be no need for any external entity to police the administrative space in any capacity (efficiency, ethics, etc.) because mismanagement and corruption in local government would be non-existent. Without strict regulation and oversight to fill the void in the center of the enforcement scheme, corruption and fraud can flourish. The Office of the Inspector General is designed for exactly this purpose, with the ability to facilitate full integration and the operational limitations necessary to ensure minimal intrusion into other departmental posts. The Inspector General's unparalleled investigative success and consistent productivity speak directly to this role and the need for a permanent and independent place within Philadelphia's public integrity system.