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May 16, 2022

TO: New York State Inspector General Lucy Lang

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: (1) Accounting for, and rectifying, your Office's flagrant violations of its "Policy and Procedure Manual" and Executive Law Article 4-A with regard to CJA's Nov. 2, 2021 complaint vs JCOPE, etc.; (2) Confirmation that you will not have jurisdiction over CELG, pursuant to the newly-enacted Executive Law §94, in contrast to your jurisdiction over JCOPE, pursuant to the current Executive Law §94.

On May 11, 2022, shortly before 2 pm, I called your hotline – 800-367-4448 – to find out the status of [my November 2, 2021 letter-complaint to you](#), sent on that date, both [via your Inspector General website and e-mail](#).

Bearing the title: "ENABLING YOU TO FAITHFULLY DISCHARGE THE DUTIES OF YOUR OFFICE", my letter to you presented six inter-related complaints against "covered agencies" within your jurisdiction. The first of these "covered agencies" was your own Office relating to how it operated under your IG predecessors and involving JCOPE – and JCOPE was the second "covered agency" about which I was complaining. My two complaints against them involved pay raises and the state budget, as likewise my four other complaints against "covered agencies": SUNY, the Division of the Budget, the defunct Commission on Judicial Compensation, and the defunct Commission to Investigate Public Corruption.

By a [December 7, 2021 e-mail](#), I alerted your Office that I had received no written acknowledgment of my November 2, 2021 complaint, nor assigned numbers for it, and no phone call from any investigative staff with questions about it. I asked "Is this your normal and customary protocol?".

I received no response and, ten days later, *cc'd* you on a [December 17, 2021 complaint to JCOPE](#) against legislators and legislative staff for corrupting JCOPE's statutory partner, the Legislative Ethics Commission (LEC), to further insulate themselves from complaints. Indeed, I sent you this December 17, 2021 complaint by [the same e-mail as I sent it to JCOPE](#) – and did the same on essentially all my subsequent e-mails to JCOPE, sending them to you, simultaneous to my sending them to JCOPE. This includes my [April 13, 2022 complaint to JCOPE](#) against Governor Hochul, legislators, and Division of the Budget Director Mujica involving the unconstitutional and fraudulent "reform", enacted through the FY2022-23 budget, of a new Executive Law §94 replacing JCOPE with a Commission on Ethics and Lobbying in Government (CELG). This April 13, 2022

complaint was also a supplement to my December 17, 2021 complaint – and I e-mailed it to you a second time when I *cc'd* you on my [May 6, 2022 e-mail to JCOPE](#) entitled: “Setting the record straight on Executive Law §94 – as to JCOPE & CELG – & taking the emergency correction action with respect thereto warranted by CJA's April 13, 2022 complaint (#22-052)”.

Imagine my surprise when, upon calling your hotline on May 11th and inquiring about the status of my November 2, 2021 complaint, I was told by Danielle, who had picked up my call, that I should contact JCOPE, whose corruption my November 2, 2021 complaint and subsequent e-mails to you laid out with *prima facie* open-and-shut evidence.

Danielle is Danielle Krueger – and she is the “Intake Person” identified by [your Office's November 3, 2021 “Intake Form” for my November 2, 2021 complaint](#). As I discussed with Danielle, I obtained that “Intake Form” from your Office, *via* a [FOIL request](#) – and with it [an undated chart concerning the complaint](#) whose entries were made by a “CMU Employee” whose initials are “SG”. These initials are the same as those of Senior Investigative Assistant Sharon Gagliardi, with whom I spoke on November 3, 2021 in a brief conversation reflected by [my e-mail of that date to your Office](#). In any event, this “SM” person noted, under the chart's heading “Final Decision”, that “EM to draft and finalize a letter and then CMU will get it out”. I read this “Final Decision” section to Danielle, stating that I had received no letter regarding my November 2, 2021 complaint.

I also told Danielle that from an earlier [FOIL request to your Office](#) I had obtained a [record of the Office's handling of my July 11, 2013 complaint](#). The record is seemingly a screenshot. It states: “NO ACTION”, contains only a single date, twice appearing, “7/22/2013”, identifies the “Class” to be “Dead Cases”, but without filling out the box for the date it was “Closed”, and contains the notation “NONJUR – NON-JURISDICTION” in a box that seems to ask about the “[Pri]mary Agency” that is the subject of the complaint. I told Danielle that this is incorrect, as the primary agency included the Division of the Budget, then headed by Robert Megna, so-reflected by the [July 11, 2013 complaint](#) and the [IG's webform I had completed](#) – and that the Inspector General had jurisdiction then, just as it has jurisdiction now over the Division of the Budget and its current head, Robert Mujica – the subject of the fourth of my six inter-related complaints of my November 2, 2021 complaint.

Danielle stated that someone would get back to me, but as yet – nearly a full week later – I have received no return call or e-mail as to the status of my November 2, 2021 complaint and my reinforcing subsequent e-mails pertaining thereto.

To assist Danielle and whoever would be getting back to me, I had offered to show Danielle [CJA's webpage for the Office of the NYS Inspector General](#), on which everything is posted, but she declined. The posted documents include my several FOIL requests – and your [“Policy and Procedure Manual” for processing complaints](#), obtained *via* the same [FOIL request](#) as had produced the screenshot record of my July 11, 2013 complaint.

Suffice to note that the “**POLICY**” is stated, as follows:

“The Office the New York State Inspector General...shall conduct all investigations, examinations and reviews in a professional manner. Many OIG investigations commence upon receipt of complaints from individuals, received in a variety of forms including: ...telephone (hotline), e-mail, and website submission. The OIG have established a Case Management Unit (‘CMU’) that is supervised by a Chief Investigator. The CMU is responsible for processing all potential investigations received and being considered by the OIG.

The CMU is responsible for OIG quality control. The CMU tracks OIG referrals to covered agencies; secures and reviews for sufficiency responses from covered agencies about actions taken; and communicates with covered agencies, as needed, to ensure that adequate, timely responses are received. The CMU also ensures that all these efforts are documented in OIG’s case management system. The CMU Chief Investigator reports to the Executive Deputy Inspector General on a weekly basis regarding these efforts.”

The “**PROCEDURES**” include the following:

1. Processing of Complaints

...

C. The CMU is responsible for processing all complaints. Upon receipt of a complaint, the CMU will complete the following steps:

- 1) Assign the complaint a case number ...
- 2) Assign the complaint a case name. ...
- 3) Assign the complaint a case type. ...
- 4) The CMU shall prepare an electronic binder and a paper binder, which shall be distributed on a weekly basis to the Inspector General and all members of the Case Review Panel (‘CRP’). The binders shall consist of all complaints received in the prior week, as well as outstanding matters from prior weekly CRP meetings (i.e., matters placed in ‘Preliminary Investigation’ status by the CRP to determine additional facts before CRP decision made, etc.).

2. Case Review Panel

- A. The CRP consists of the Executive Deputy Inspector General, the Chief Deputy Inspector General, and the Deputy Inspector General. Other members of the Executive Staff may participate. ...In addition, the following OIG staff shall participate in the CRP, along with OIG staff members they designate as being required to attend:
- Chief, Case Management Unit
 - Chief Investigators
 - Special Deputy for Communications and External Affairs
- B. The CRP shall discuss each new complaint and make a determination as to the actions to be taken. The CMU Chief or CMU-designated staff shall document the actions taken by the CRP for entry into OIG's case management system. The determinations that may be taken are:
- 1) No Action: There will not be any investigative activity in response to the complaint.
 - 2) Referral: The complaint will be referred to the affected agency and/or another agency having jurisdiction, and the CMU shall prepare a referral letter to the agency/ies designated by the CRP, and will request a written response to OIG within 45 days. As appropriate CMU will also communicate to the complainant advising him/her that his/her complaint has been referred and to what agency. The letter will be signed by the Chief of CMU and will be maintained in the case management system. CMU will also follow up with the respective agencies within 45 days if CMU does not receive a response to the original referral letter.
 - 3) Preliminary Investigation ('PI'): A matter will be considered outstanding and discussed at the next CRP meeting if it is determined that additional facts are necessary to decide whether the matter should be referred, opened as an investigation, or deemed 'No Action.' A staff member will be assigned the task of gathering the additional information. Preliminary investigations are intended to be completed within two weeks. If the preliminary investigation shows no merit, it will be closed at CRP. If a preliminary investigation is conducted and it is determined at CRP that it is unsubstantiated and there are no findings or recommendations, the Chief Investigator, Deputy Chief

Investigator, or investigator, with approval, will send an email to CMU to close, refer or no action the case. The email should contain a brief explanation as to why the case is being closed, referred, or no further action is being taken.

- 4) Investigation: An OIG case shall be opened. Legal, Investigations and Audit staff are assigned at the time the case is opened by CRP by respective Deputy Inspectors General and Chief Investigators.

- C. Upon completion of the CRP meeting, CMU staff is responsible for updating the OIG case management system to reflect the disposition of each complaint. The CMU will prepare a Complaint Intake Form for cases that are opened. Assigned staff shall be notified by the case management system. Once the complaint is opened, CMU will also add the initial complaint and supporting documents to the J: Drive.

3. Processing Non-Jurisdictional Correspondence ('Dead') Complaints

- A. Non-jurisdictional or 'dead' complaints are complaints that the Inspector General lacks jurisdiction to investigate. Complainants and/or agencies are advised that the matter does not fall within the Inspector General's jurisdiction. If the complaint was made by a private citizen, the citizen would be provided with the contact information for the agency/entity that would have jurisdiction over the complaint. If the complaint falls within another agency's jurisdiction the complaint is sent to the agency for whatever action it deems appropriate. No response is required by OIG. Chief Counsel should be consulted in regard to any questions about OIG's jurisdiction.
- B. Once it has been determined that the complaint does not fall within OIG's jurisdiction, the CMU will assign a correspondence (dead) number."

Clear from your "Policy and Procedures Manual" for complaints – and, of course, [Executive Law Article 4-A \(§§51-55\)](#) – is that your IG's Office has flagrantly violated its mandatory protocols and statutory duties with respect to my November 2, 2021 complaint, just as your IG predecessors did with respect to my July 11, 2013 complaint, doubtlessly with comparable protocols in place – as to which my November 2, 2021 complaint sought your investigation and corrective steps, explicitly to avoid your repetition.

Who is responsible for this? There would seem to be only two possibilities. Either you directed your high-ranking staff comprising your Case Review Panel to violate the IG's "Policy and Procedures Manual" and Executive Law Article 4-A with respect to my November 2, 2021 complaint or such violations were done by the intake and investigative staff of the CMU unit, acting rogue, and without your knowledge and that of supervisory, managerial staff, which I would find hard to believe. Either way, at whatever level the misconduct occurred, those knowledgeable of my November 2, 2021 complaint and of the steady stream of my related subsequent e-mails, which, pursuant to protocol, were required to have been entered into the "J: Drive", were violating Executive Law §55 "Responsibilities of covered agencies, state officers and employees", reading:

"1. Every state officer or employee in a covered agency shall report promptly to the state inspector general any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee relating to his or her office or employment.... The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty..."

Please advise – and by no later than a week from today, May 23, 2022 – what rectifying action you will be taking with respect to my November 2, 2021 complaint and my many subsequent e-mails relating thereto that I sent you – the last being my May 6, 2022 e-mail, wherein I stated that under the new Executive Law §94 it appears that the IG will NOT have jurisdiction over the new CELG, unlike JCOPE, over which the IG does. Is that correct?

So that the other cc's of that May 6, 2022 e-mail – the Albany Times Union and "good government groups" – will have the benefit of your response, I am herewith cc'ing them – and JCOPE – so that they will know that I am explicitly calling for your answer to that straight-forward, simple question, as should they.

Likewise, I am cc'ing the academic entities that, with them, jumped on the bandwagon to replace JCOPE and LEC by a so-called "Anti-Corruption Amendment" to the New York Constitution to establish a Commission on State Public Integrity, modeled on the New York State Commission on Judicial Conduct (S.594/A.1282) – launching, by a February 26, 2020 news release, a "'JCOPE Must Go' Coalition". As they purport that the Commission on Judicial Conduct is "a well-regarded enforcer of judicial ethics created in the State Constitution" – so-stating this in the February 26, 2020 news release, and on such prior occasions as by a May 16, 2019 news release and letter to the governor and legislative leaders – they must now confront the open-and-shut, *prima facie* evidence of the Commission on Judicial Conduct's corruption – the subject of my November 24, 2021 complaint to JCOPE – which I demand them to do, as, likewise, confront the record of JCOPE's corruption in handling that complaint, to which I first alerted you by cc'ing you on my February 28, 2022 e-mail to JCOPE, an e-mail featured prominently by my April 13, 2022 complaint to JCOPE.

For the convenience of all, this letter is not only hyperlinked to the referred-to EVIDENTIARY substantiation, but I have created an EVIDENTIARY webpage for the letter, [here](#).

Thank you.

s/Elena Ruth Sassower

cc: Albany Times Union

[“JCOPE Must Go” Coalition Members](#)

Committee to Reform the State Constitution (a.k.a. Evan Davis, Esq.)

New York City Bar Association/Committee on Ethics & State Affairs

Citizens Union

NYPIRG

Reinvent Albany

NYS League of Women Voters

Common Cause-NYS

Sexual Harassment Working Group

Syracuse University’s Campbell Public Affairs Institute,

Maxwell School of Citizenship and Public Affairs

Columbia University Law School’s Center for the Advancement of Public Integrity

Wagner College’s Carey Institute for Government Reform

JCOPE