

REPORT OF THE
CHICAGO ETHICS REFORM
TASK FORCE:
PART II

Cynthia Canary, Chair

Sergio Acosta, Ald. Will Burns, & Dawn Clark Netsch

August 27, 2012

Mayor Emanuel,

On behalf of the Chicago Ethics Reform Task Force, we are pleased to submit Part II of our report with recommendations for strengthening the City of Chicago's ethics ordinance.

Part I of our report addressed prevention and education, as well as political activity, gifts, conflicts of interest, financial interest statements, and campaign finance. The second part of our report focuses on the complex areas of investigations and enforcement, and also addresses lobbying.

In these recommendations, we put forward a structure for the investigation and enforcement of ethics violations that delineates roles, provides clarity to City employees and officials, and enhances the enforcement powers of Chicago's ethics institutions. These proposals seek to strike the critical balance between independence in investigations, public access to information, and the provision of due process.

The recommendations in the two parts of our report should be viewed holistically. Taken together we believe that they will allow Chicago to develop an ethical culture that permeates every level of, and encourages public faith and confidence in, City government.

During the course of our investigation, we held public hearings, conducted employee focus groups, interviewed numerous local and national experts, and met with many members of the City Council. We appreciate having had the opportunity to explore municipal ethics from a variety of perspectives and have attempted to tailor best practices to suit Chicago's needs and structure.

The Task Force believes that Chicago has both the ability and the desire to become a leader in municipal ethics. We trust that your leadership in implementing a serious and fair-minded ethics infrastructure for Chicago will serve the City and its residents for years to come.

Sincerely,



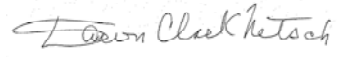
Chair



Member



Member



Member

ACKNOWLEDGEMENTS

The Task Force would like to thank the Mayor's Office, all local and national ethics experts who so generously shared their experiences and insights with us, and all members of the public who sent us comments, attended the public hearings, and showed how deeply ethics matters to Chicago citizens.

We also wish to thank all of the City employees and officials who took the time to meet with us, offer suggestions, and listen to our ideas. Their suggestions were invaluable, and we greatly appreciate their commitment to ethics and the City.

We particularly wish to thank our pro bono partners, listed below, for all their help throughout this process.

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EXECUTIVE SUMMARY

In December 2011, Mayor Emanuel charged the members of the Ethics Reform Task Force to “review the current ordinance, study best practices nationally, engage local experts, and recommend reforms to ensure that City officials and employees are held to the highest ethical standards.” On April 30, 2012, the Task Force submitted Part I of its report, addressing prevention and education, as well as the substantive regulations that are included in the ethics ordinance and relate to gifts, conflicts of interest, financial interest statements, and campaign finance.

Since then, we have conducted additional interviews, and further researched the complex area of investigations and enforcement. We have tried to develop a structure for the investigations and enforcement of ethics violations that delineates roles, provides clarity to City employees and officials, and gives Chicago’s ethics institutions strong enforcement powers. In our view, such a structure must allow for dismissals of unfounded claims, settlements of agreed violations, and an impartial adjudication of contested ethics matters. Transparency is key to building public support for and confidence in the ethics enforcement process. This process should result in public findings and public explanations by the Board regarding its conclusions. Achieving an effective balance between independence in investigations, public access to information, and the provision of due process is critical.

In Part II of its report, the Task Force makes 21 additional recommendations. Taken together with the recommendations from Part I, we believe that these recommendations will help the City achieve four overarching objectives:

- Developing an ethical culture, modeled by top leaders, that permeates every level of City government and is transparent to the public.
- Revamping the education process to ensure that employees and officials are fully prepared to recognize and avoid potential ethical missteps.
- Clarifying and improving the ethics ordinance to create straightforward and strict ethical guidelines and accountability measures.
- Transforming the investigative and adjudicative processes in the ethics enforcement system to create a clear balance of powers and to provide due process for officials and employees.

A full list of the Task Force’s recommendations in Part II of this report follows this section.

Regulation: While Part I addressed a variety of substantive areas, it did not deal with the regulation of lobbying. Part II completes the Task Force’s substantive analysis of regulation by revising the definition of lobbyist, requiring the disclosure of more pertinent information from lobbyists, and extending post-employment lobbying provisions to more City employees.

Investigation & Enforcement: One of our central recommendations is that the City undertake a wholesale revision of the relationship between, and the key responsibilities of, the Board of Ethics (the “Board”), the Inspector General (the “IG”), and the Legislative Inspector General (the “LIG”). Under the current ordinances, a substantial amount of overlap exists between the functions performed by these three bodies. In particular, today’s process allows for duplicative investigations of City employees and, therefore, duplicative – and potentially contradictory – reports and recommendations with respect to those investigations. (See Table 4, *infra*.) Thus, our recommendations center largely on clarifying and streamlining the processes involved, while better allocating responsibilities among the entities in light of their respective missions, strengths, and resources. We have also suggested enhancing a parallel structure between the LIG and IG’s approaches, where appropriate. Our recommendations regarding the IG often borrow from best practices employed by the LIG, and vice versa. Again, our intent is to balance the importance of due process with the need for prompt disciplinary action to address ethical violations.

Our principal recommendations in this area encourage the City to:

- Clarify and essentially overhaul the roles and responsibilities of the three ethics bodies. In particular, we recommend that the IG’s and the LIG’s primary roles should be to investigate complaints¹, that the Law Department (or a special prosecutor, in the case of legislative branch investigations) should bring allegations of misconduct to the Board, and that the Board should adjudicate cases and impose fines and/or recommend discipline if it finds that a violation has occurred. The Board’s staff should be empowered to handle violations that are primarily ministerial in nature, such as an employee’s, official’s, or lobbyist’s simple failure to comply with training, registration, or disclosure requirements. The Board should continue to be responsible for providing confidential advice and training to employees and officials. (See Table 5, *infra*.)
- Revise the complaint procedure for claims involving aldermen and their staffs to permit written, anonymous complaints and written complaints initiated by the LIG. At the same time, the City should implement measures to protect against leaks during the investigative process and make it easier to punish those who knowingly give false information to the IG, LIG, or the Board.
- Permit the settlement of cases, with Board approval, to facilitate the efficient resolution of cases by agreement of the parties.
- Require that final findings be made public, once there has been an admission of wrongdoing (*e.g.*, in a settlement) or a finding by the Board of a violation of the ethics ordinance. Public disclosure in these instances is essential to show employees, officials, and the public that ethics is taken seriously in Chicago, and to deter future misconduct.

¹ Throughout this Report, we use the term “complaint” to refer to the initial complaint received by the IG or LIG and the term “statement of charges” to refer to a formal allegation brought after the IG or LIG’s investigation.

- Provide notice to the subjects of ethical investigations at least 30 days prior to the IG's or LIG's request for a probable cause hearing. Today, the type of notice a subject must receive depends on who the investigator is, and varies from no required notice (IG) to notice seven days after an investigation begins (LIG).
- Impose and, more importantly, vigorously enforce, penalties for violations of the ethics ordinance.
- Institute a statute of limitations providing that no investigation of alleged ethics and campaign finance violations may be initiated more than two years after the alleged violation occurred, and create a separate two-year time limit on investigations to ensure that complaints are speedily investigated and resolved.
- Allocate resources to the LIG sufficient to enable the office to hire a staff of appropriate size and quality and to adequately fund the office's operations.
- Institute an annual hearing on ethics where the Board, IG, and the LIG present their work to the public, the City Council, and the Mayor.
- Create an employee bill of rights relating to the ethics ordinance so that all employees know and understand their rights under the law.
- Encourage the IG and LIG to commit to refraining from running for elected office for two years after they conclude their City employment, to address concerns that investigations might be politically motivated.

We also encourage the Mayor and the City Council to try to harmonize the ethics rules for the City and the Sister Agencies, so that the City and these affiliated entities share a common set of ethical standards and practices. In light of the ongoing revisions to the City's ethics ordinance, this would, of course, require the Sister Agencies to review the Task Force's work and take steps to promptly institute these recommendations. Likewise, we encourage the City to ensure that each of the Sister Agencies is subject to appropriate, independent oversight through an inspector general or equivalent position.

These recommendations, when combined with the recommendations from Part I, demonstrate the central goals of the Task Force: to develop a clear set of rules, to ensure that all employees know and understand those rules, to punish violations of those rules in a fair manner, and to educate and inform the public regarding these rules and the City's compliance with them.

LIST OF RECOMMENDATIONS FOR PART II

Regulation: Lobbying

35. Amend the definition of “lobbyist” to include persons retained to lobby for not-for-profit organizations.
36. Require lobbyists to report their actual compensation per client, not rounded to the nearest \$1,000.
37. Extend the post-employment two-year lobbying ban to City Council members and staff.

Investigation & Enforcement: Ethics Institutions, Organization & Process

38. Clarify the roles of the ethics institutions, eliminate the possibility of duplicative investigations, and provide for a final adjudication by the Board.
39. Streamline the process for evaluating and enforcing filing and training violations, and mandate enforcement of these provisions.
40. Revise the complaint procedure for claims involving aldermen and aldermanic staff to permit written, anonymous complaints and written complaints initiated by the LIG.
41. Modify the process for selecting the IG to include the use of a blue ribbon panel, permit the Board to appoint its own Executive Director, and revise the qualifications for Board membership.
42. Conduct an annual public hearing on ethics featuring presentations by the LIG, IG, and the Board to the City Council and the Mayor.
43. Allocate sufficient resources to the LIG position to enable the office to have an appropriate staff to fulfill its legal duties.
44. Require similar political office and political activity provisions for both the IG and the LIG.
45. Evaluate the dual IG system after three to five years, with the input of the Mayor, City Council, and the public, and consider whether it is necessary to have two IGs.

Investigation & Enforcement: Ethics Institutions, Powers & Limitations

46. Distinguish between confidential, prospective advice sought from the Board and inquiries regarding past or current conduct.
47. Clarify which advisory opinions of the Board are precedential.
48. Permit the Board to give written waivers of limited portions of the ethics ordinance, as well as issue advisory opinions.

Investigation & Enforcement: Ethics Institutions, Powers & Limitations (cont'd)

- 49. Confirm that the IG and LIG have the authority to investigate third parties who lobby individuals within the IGs' respective jurisdictions.**
- 50. Clarify several ambiguous provisions of the ethics, IG, and LIG ordinances.**
- 51. Clarify that no employee or official of the IG, LIG, or Board may communicate confidential information that they learn in the course of their work.**
- 52. Institute a statute of limitations for ethics and campaign finance violations and a separate time limit on investigations.**
- 53. Allow all officials and employees to petition for reimbursement of reasonable legal fees spent defending against an ethics or campaign finance statement of charges that was filed and pursued in bad faith.**
- 54. Replace the provision stating that furnishing misleading information to the Board is a violation only where "intent to mislead" has been shown with a "knowing" standard.**
- 55. Create an employee bill of rights relating to the ethics ordinance.**

INTRODUCTION

On April 30, 2012, the Task Force released Part I of its report regarding the ethics ordinance and related laws, regulations, and processes in Chicago. The City of Chicago turned these recommendations into a series of proposed revisions to the ethics and campaign finance ordinances, and, on July 25, 2012, the City Council passed an ordinance that covers many of the recommendations from Part I of our report. This new ordinance takes effect on November 1, 2012.

All of the citations in Part II refer to the ethics, LIG, and IG ordinances currently in effect as of the date of this report. It should be noted, however, that the new ordinance combines the ethics and campaign finance ordinances into a single ordinance. The substantive provisions of the campaign finance ordinance will be in a “campaign finance” section of the new ethics ordinance. The procedures for reporting, investigating, and adjudicating ethics and campaign finance violations were always identical, and combining these two ordinances eliminates redundancy by laying out these processes in a single section. Part II therefore addresses the procedures applicable to both ethics and campaign finance violations under City law.

Part II, like Part I, focuses on the ethics ordinance (the “Ordinance”) and how it affects the employees, officials, and citizens of Chicago. While Part I of our report largely focused on education, training, and regulation, Part II takes a deeper look at the processes and institutions related to the training of employees and officials and the enforcement of the Ordinance. We also complete our discussion of ethics regulation by addressing lobbying and suggesting a few clarifications to existing rules in this regard.

Background on Lobbying & the Ethics Institutions

Lobbying

“Lobbying” is defined as attempting to influence any legislative or administrative action on behalf of any person other than one’s self. (*See* 2-156-010(p).)

The Ordinance requires persons who lobby City government on behalf of for-profit entities to register with the Board and file activity reports quarterly. (2-156-210.) Annual registration forms require lobbyists to include information on the subject matter and agencies lobbied, as well as copies of contracts outlining the terms of the lobbying agreement. (*Id.* at -230(b)-(c).) Every 12 months, each lobbyist is required to complete an ethics education training course. (*Id.* at -146.) Fines for non-compliance are no less than \$750. (*Id.*) Additionally, the Ordinance restricts lobbyist actions; for example, elected officials and their employees, spouses and domestic partners may not accept loans from lobbyists. (*Id.* at -111(a).)

The Ordinance also includes post-employment restrictions on former City employees and officials. For example, for a year after an employee or official leaves a City job, he may not assist or represent any person in a business transaction involving the City or its agencies if he personally participated

in the matter during his employment. (2-156-100(b).) In addition, certain City employees and officials may not lobby the City for two years after leaving City employment. (*Id.* at -105.)

Ethics Institutions

The Ordinance also establishes the powers and obligations of the various institutions that deal with ethics – the Board, the IG, and the LIG. Collectively, these entities investigate and resolve ethics complaints relating to the executive branch (IG) and the legislative branch (LIG). As we heard from many persons, and as our examination independently revealed, the current structure of Chicago’s ethics administration is confusing and ineffective, and enforcement of the Ordinance is negligible. The “Investigation & Enforcements” section of the report describes this structure in greater detail.

Why Does “Process” Matter?

Our emphasis on “process” may be puzzling at first glance. But a fair process encourages fair results, and the decisions made at each step of the process of investigating and adjudicating ethics complaints have far-reaching consequences.

For example, the manner in which a complaint is submitted impacts whether the complaint will be submitted at all, as well as the complaint’s reliability. If complaints are easy to file (say electronically or telephonically), more complaints will be received. If complaints must be in writing, or on a particular form, fewer complaints are likely to be received because of the additional burden of complying with the process. But the form may also impact the reliability of a complaint; a complaint that must be written and signed under oath generally carries higher indicia of reliability than a complaint that is submitted anonymously over the telephone. So, by choosing the form in which complaints may be submitted, the City can affect the number and reliability of complaints it will receive. Of course, there are policy and practical considerations that follow either decision: a decision to allow unsigned, unwritten, and electronic complaints will require more work by the reviewing agency, and therefore, more resources.

While the above example illustrates how process matters on a relatively small scale, there are much larger process decisions that come into play in the ethics arena. For example, Chicago has decided to establish a dual IG system, where the IG investigates ethics complaints against the executive branch, and the LIG investigates ethics complaints against the legislative branch. There are also six Sister Agencies that have substantial policy-making and operational functions within the City that are *not* within the jurisdiction of either IG. Some of these Sister Agencies, such as the Chicago Public Schools, have their own inspectors general; others do not.

There are undeniable costs to this system: resources are expended to set up multiple offices; investigations that overlap jurisdictions may not be fully pursued; communication is, at best, fractured; and some Sister Agencies lack independent oversight. There are also legitimate reasons for this system: separation of powers concerns between the executive branch and the legislative branch are often cited as supporting a dual IG system, and because the Sister Agencies perform functions outside those that have been fully delegated to the City of Chicago, they have separate legal structures.

The decision to follow a particular investigation and adjudication process means a decision to forego alternative processes. As these examples illustrate, there can be significant costs and benefits that are associated with a process decision, and we have attempted to highlight those costs and benefits throughout this report to demonstrate the extent to which the Task Force has carefully thought through the relative strengths and weaknesses of different approaches. We realize that our process-related recommendations will not receive universal endorsement, but we encourage the readers of this report to consider them holistically, and, in so doing, carefully weigh and balance the rights and concerns of officials, employees, and the public of this City, as we have endeavored to do ourselves.

RECOMMENDATIONS

REGULATION: LOBBYING

INVESTIGATION & ENFORCEMENT

REGULATION: LOBBYING

Articles I and III of the Ordinance address lobbying, with Article III being dedicated entirely to lobbying. Chicago’s regulation of lobbying is comprehensive and, in many respects, stricter than the rules of the State of Illinois. For example, the State does not require lobbyists to report their contracts or income, but does require them to disclose who they represent. (25 ILCS 170/5 - /6.) The City requires disclosure of all of these facts. (2-156-230, -250.) Nevertheless, with respect to lobbyists, there are a few discrete aspects of the Ordinance that bear revision.

Recommendation 35

Amend the definition of “lobbyist” to include persons retained to lobby for not-for-profit organizations.

A lobbyist is “any person who, on behalf of any person other than himself, or as any part of his duties as an employee of another, undertakes to influence any legislative or administrative action,” with certain exceptions. (2-156-010(p).) Under this definition, a lobbyist is *not* someone who makes such an attempt on his own behalf, or who applies for a City license or permit. (*Id.*) We strongly believe that citizens should interact with their government, but that those who are compensated to do so should be required to register as lobbyists.

Persons who lobby the City on behalf of not-for-profit organizations should *not* be exempted from the definition of “lobbyist,” but should be subject to reduced registration fees or fee waivers.

Currently, there is one significant exception to the definition of “lobbyist”: someone who is a “volunteer, employee, officer or director of a not-for-profit entity who seeks to influence legislative or administrative action solely on behalf of that entity” is *not* a lobbyist. (*Id.*) We believe that this exception to the definition of “lobbyist” is not advisable, and note that the State of Illinois has no such exception. (See Illinois Secretary of State, Lobbyists Registration Annual Registration Guide 6, *available at* www.cyberdriveillinois.com/publications/pdf_publications/ipub31.pdf.) Chicago attempts to create an exception to its exception by saying that someone who is paid by a not-for-profit entity that lobbies on behalf of for-profit companies *is* a lobbyist, but this, too, is confusing. (See 2-156-010(p).) In practice, it is simply too difficult to identify whether for-profit companies are heavily involved in the actions of these not-for-profit entities. Moreover, many not-for-profits have systematic and influential legislative programs that they pursue. We believe that the better (and simpler) course is to require all lobbyists to register.

We realize that this recommendation may adversely affect some small not-for-profit organizations, however, and we therefore propose that the registration fee for lobbyists for such companies should either be waived or set on a sliding scale (perhaps from \$0 to half of the standard registration fee to the full amount of the fee) based on the budget of the not-for-profit entity as reported to the Illinois Attorney General.

Recommendation 36

Require lobbyists to report their actual compensation per client, not rounded to the nearest \$1,000.

Lobbyists are required to file quarterly reports of lobbying activities. (2-156-250 (effective May 20, 2012).) Both Chicago and the State of Illinois recently changed their laws to require lobbyists to report quarterly, and we agree that more frequent reporting is beneficial to the public, media, and organizations that monitor lobbyists' access to government officials and employees. We also suggest that additional information be included in these disclosures.

Completed lobbyist forms are required to include, among other things, each client's name, address, and "a statement of the amount of compensation received from each client to the nearest \$1,000." (*Id.* at -250(b)(ii).) We believe that lobbyists should have to disclose the actual compensation that they receive from each client. Rounding to the nearest thousand dollars does not communicate sufficient information about lobbyists' activities.

Recommendation 37

Extend the post-employment two-year lobbying ban to City Council members and staff.

Section 2-156-105(a) prohibits certain classes of employees and officials from lobbying the "City of Chicago or any city department, board or other city agency for a period of two years after leaving that position." Currently, the employees subject to this prohibition are non-clerical employees of the Mayor's Office and department heads. Additionally, employees in exempt positions and appointees are prohibited from lobbying the department, board, or agency in which they served for the same time period. (*Id.* at -105(b), -(c).)

While anecdotal evidence indicates that it is unusual for aldermen to lobby their former colleagues, we believe that this loophole in the Ordinance invites problems, and also creates a potential appearance of impropriety. A bright-line provision should address this. Thus, we believe that the broader prohibition of -105(a) should extend to aldermen and their non-clerical ward staff.²

We recognize, however, that adding this new rule for existing aldermanic staff could be problematic, given that staff members were not aware of this restriction when they accepted their current jobs. We therefore propose that, as a matter of fairness, this prohibition should be phased in, so that it will not go into effect for six months after any ordinance is passed by the City Council. Current staff would have six months to find a new position, if they were unwilling to be bound by the post-employment lobbying procedures.

² We also believe that this provision is one that should be subject to waivers from the Board, as factual scenarios may arise that would lessen the possibility of any improper influence or conflict of interest for a given employee. (*See* Recommendation 48.)

INVESTIGATION & ENFORCEMENT

Many of the provisions of the ethics ordinance regarding investigation and enforcement are confusing, duplicative, overly complex, and create inefficiencies – particularly when the ethics ordinance is read alongside the two inspectors general ordinances. Our recommendations seek to clarify the process – for both those subject to the Ordinance and the public. These recommendations are broken into two sections, which address the organization of the ethics institutions and their powers and limitations.

Ethics Institutions: Organization & Process

Three distinct entities have some responsibility for receiving, investigating, and resolving complaints regarding ethics and campaign finance violations: the Board, the IG, and the LIG. The Board is empowered to receive complaints regarding ethical breaches (including campaign finance violations) by any City employee or executive branch official; investigate any City employee, whether in response to a complaint, or on its own initiative; and recommend discipline for an executive branch official or employee. (*Id.* at -380(a), (b), -390(b).) It is also empowered to hold a hearing and reach a determination regarding whether an alderman or his staff member has violated the Ordinance. (*Id.* at -395; 2-55-80(f).)

Both the IG and LIG have jurisdiction over subjects covered in the ethics ordinance, though the IG’s authority extends far beyond ethics. (2-55-060(a); 2-56-030(a), -(c).) Both IGs can receive complaints – the IG regarding executive branch employees and officials and the LIG regarding legislative branch employees and officials – and have the power to investigate potential violations of the ethics and campaign finance laws. (2-55-060(a)-(b); 2-56-030(a)-(b).) The LIG must petition the Board for authority to conduct an investigation, while the IG has the power to conduct his own investigation without Board authorization. (*Compare* 2-56-030 through -050 (IG), *with* 2-55-060(b) (LIG).)

“A clear delineation of roles, where one body investigates and the other adjudicates, is critical.”

– Scott Turow,
Former Commissioner of the
Illinois Executive Ethics
Commission

Under the current Ordinance, there is a substantial amount of overlap between the functions performed by these entities, particularly with respect to investigations of executive branch employees, which may be conducted by both the IG and the Board, and may result in separate reports and recommendations from these entities. (*See* Appendix F.) Numerous interviewees – including the Executive Director of the Board, the IG, and the LIG – emphasized that this overlap is problematic. We agree. As Scott Turow, a former member of the Illinois Executive Ethics Commission, put it, “A clear delineation of roles, where one body investigates and the other adjudicates, is critical.” (2.18.12 Interview of S. Turow.)

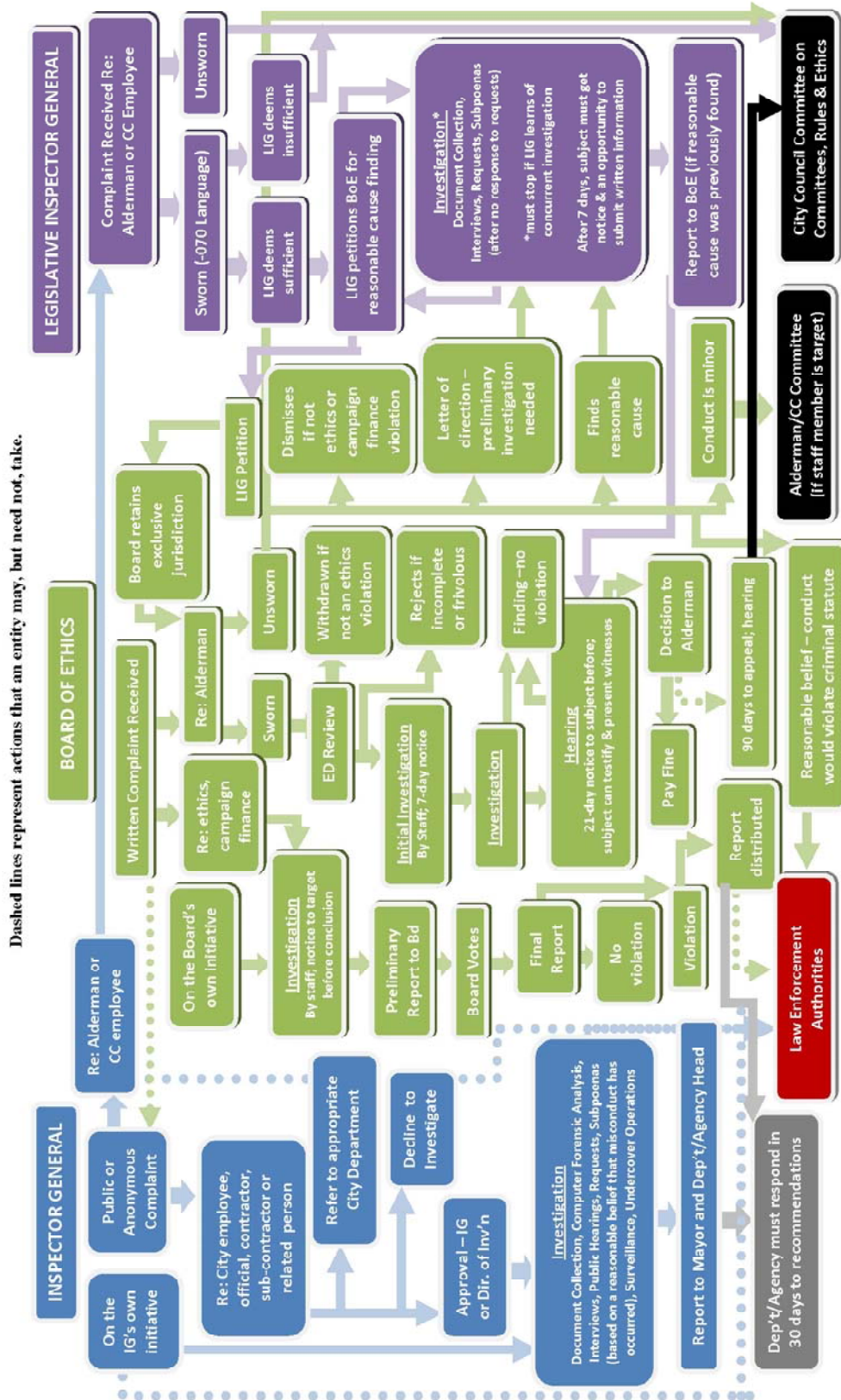
Thus, one of the chief goals of the Task Force is to clarify the relationship between these entities and propose that a single entity be given each task, for the sake of clarity for those involved in and subject to the process and the public, as well as for efficiency and inter-agency comity. This recommendation and several others relating to the institutions' organization and processes are discussed below.

Recommendation 38

Clarify the roles of the ethics institutions, eliminate the possibility of duplicative investigations, and provide for a final adjudication by the Board.

As described above, the existing investigation and adjudication process is cumbersome and very difficult to understand. The Task Force dedicated a significant amount of time to understanding the existing process for reviewing, investigating, and adjudicating ethics complaints and violations. As part of that effort, we created this Table outlining the current process. (See Table 4.) As this Table shows, the current system is far too complex.

Table 4: The Current Investigation and Adjudication Process for Ethics and Campaign Finance Violations



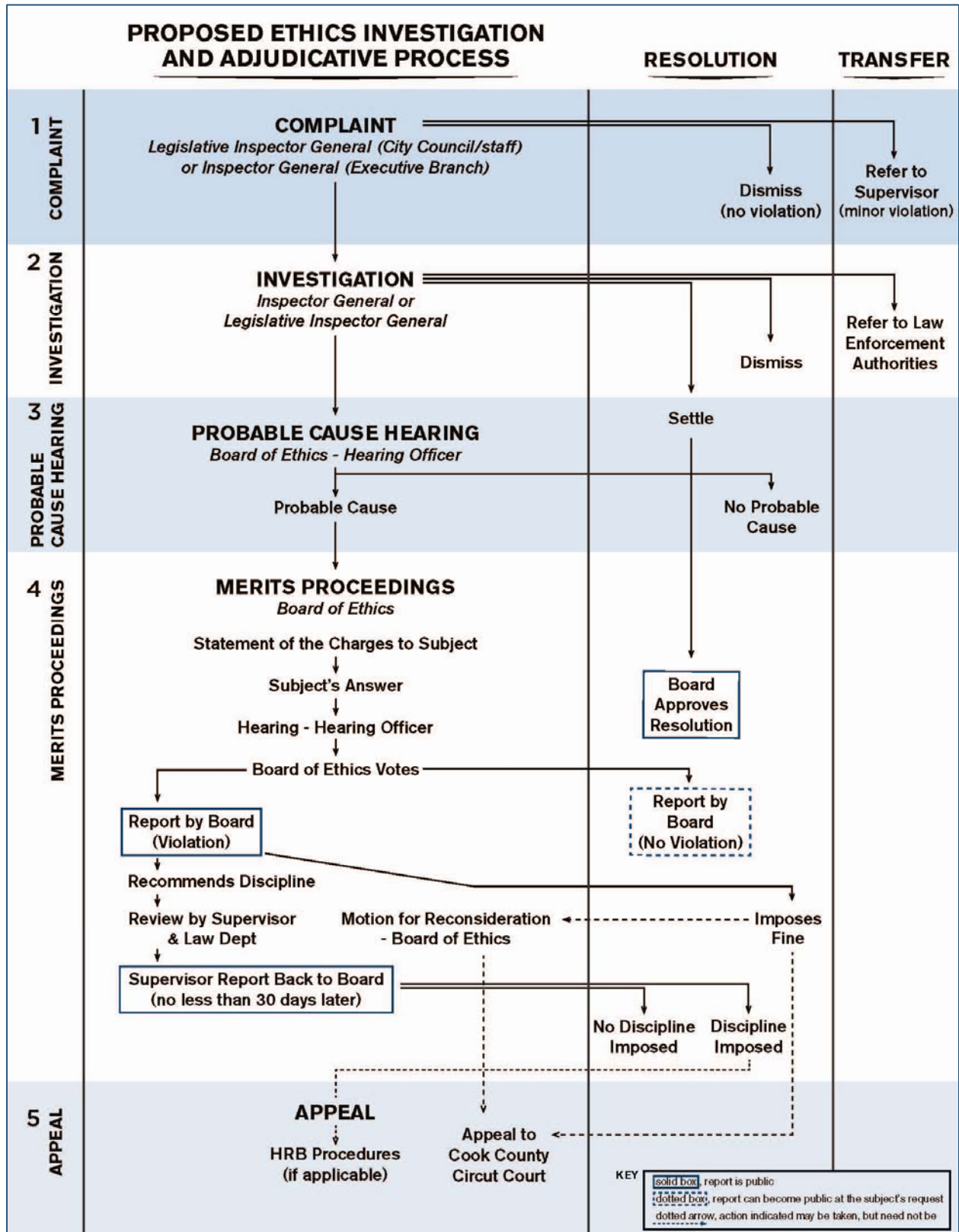
A quick look illustrates the complexity of the process and the lack of interaction between the IG and the Board. After evaluating the current model, as well as many other cities' ethics ordinances, we developed a new proposal for how to handle the review, investigation, and adjudication of ethics violations.

The procedures we suggest below borrow from the processes followed by New York City, Philadelphia, Los Angeles, Illinois, and San Francisco, among other jurisdictions. This recommendation also incorporates suggestions from academics and representatives of the three Chicago ethics institutions. We have worked to balance carefully the rights of an individual to fairness and due process with the public's right to know what its public servants are doing.

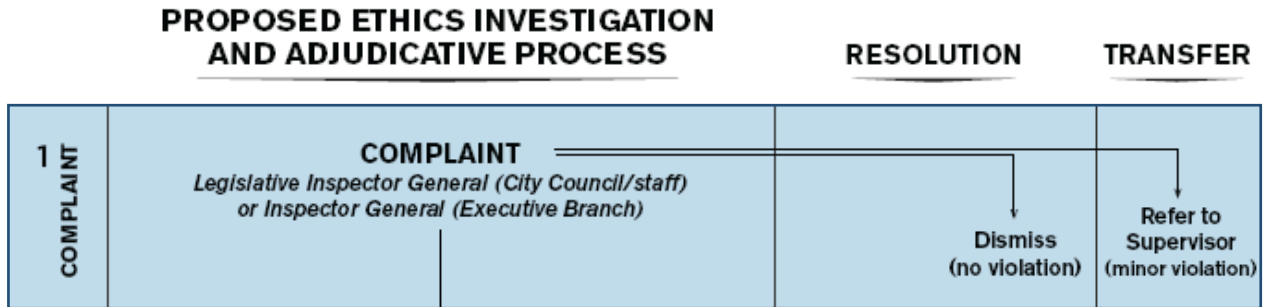
Preliminarily, we observe that for our proposal to work – indeed, for any system of ethics rules to work – each of the ethics institutions must faithfully follow the Ordinance and act within their described powers and limitations. If the IG, LIG, or Board attempts to exceed these powers, it risks losing the trust of the public and the City employees and officials it oversees. Undoubtedly, the ethics institutions should vigorously enforce the existing laws. (*See discussion, infra*, p. 23-24.) They cannot, however, fail to comply with the ethics ordinance and then expect to enforce it against City employees and officials.

The table below, and the sections that follow, describe our new proposal. (*See Table 5.*)

Table 5: The Proposed Investigative and Adjudicative Process



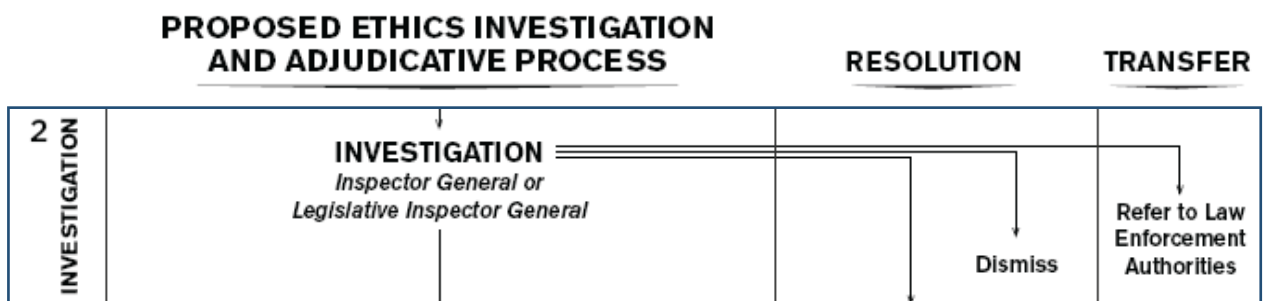
STAGE 1: THE COMPLAINT



Complaints should be reviewed initially by the IG (executive branch) or the LIG (legislative branch). We do not recommend that the Board act as an investigator. The IG and LIG are capable, experienced investigators, and the Board’s depth of knowledge and experience in applying the Ordinance qualifies the Board – and its staff – as the body that should interpret and apply the Ordinance. If either the IG or the LIG receives a complaint regarding an employee or official not within that office’s jurisdiction, the complaint should be immediately referred to the appropriate IG or Sister Agency. If the Board receives any complaints, it should likewise refer them to the appropriate IG or Sister Agency for review.

Once the appropriate IG reviews the complaint, it should take one of three actions: (1) dismiss the complaint because it is baseless on its face, does not relate to a campaign finance or ethics violation, or is otherwise outside the purview of the appropriate IG; (2) refer the matter to the supervisor of the employee or official because the potential violation is minor and can be resolved internally as a personnel matter; or (3) open an investigation. It is critical that the IGs have the power to unilaterally dismiss a complaint or refer it to a supervisor for a truly minor violation. However, the IGs should be required to report how many dismissals and referrals occur each year so that the public understands how frequently this happens and the reasons for these actions. (*See, e.g., Office of the Inspector General, City of Chicago, “Report of the Inspector General: Second Quarter Report 2012,” available at chicagoinspectorgnereal.org/wp-content/uploads/2012/07/Q2-2012-Final-Draft_removed-07-1621_updated-7-22_published.pdf.) Under our recommendation, neither the LIG nor the IG would require the Board’s approval to open an investigation. (Recommendation 40.)*

STAGE 2: THE INVESTIGATION



If the IG or LIG decides to investigate, the office should use subpoenas and all investigatory tools authorized by statute or ordinance and necessary in its judgment.

Under this recommendation, at any point during the investigation, the IG or LIG may take one of four steps: (1) dismiss the complaint and close the investigation based on a finding that the allegations are not sustained; (2) negotiate a settlement of the complaint with the subject of the complaint; (3) refer the matter to law enforcement authorities if the IG or LIG has a reasonable belief that criminal conduct is at issue; or (4) request a hearing before the Board on the issue of whether there is probable cause that the subject violated a provision of the Ordinance.

If the appropriate IG and the subject agree to settle the matter, they should present the proposed settlement to the Board for final approval. Upon approval by the Board, the full settlement, including the name of the subject and the discipline imposed, should be made public on the Board's website. The Board should promulgate criteria to be used in determining whether to approve any such settlement. We believe that it is critical for the Board to have – and actively use – this settlement power to resolve investigations and allow employees or officials to resolve ethics investigations in a timely fashion. It encourages employees or officials to make amends for their errors, saves City resources, and, through publication of the settlements, provides guidance to City employees and officials.

In the event the IG or LIG is unable or unwilling to settle the case, the IG or LIG should give the subject written notice of the office's intent to request a probable cause hearing 30 days before making such a request. If the LIG or IG and the subject are unable to resolve the investigation by dismissal or settlement, then the hearing process should proceed, as described in Stages 3-5 on the following pages.

The issue of when a subject receives notice of an investigation is an important one. Currently, the Ordinance sets up different notice procedures for persons investigated by the Board (no notice required before the investigation concludes, 2-156-390(a)), persons investigated by the LIG (notice required seven days after an investigation begins, 2-55-080(c)), and persons investigated by the IG (no notice required according to the Ordinance and the IG's Rules and Regulations). We believe that there should be a single standard for all employees and officials in Chicago.³

Furthermore, based on our review of the ethics ordinances and laws of other cities and states, the Board's and the LIG's provisions are at the extreme opposite ends of the spectrum. (See Table 6.)

Table 6: When a Subject is Required to Receive Notice of an Investigation

³ The Task Force split 3-1 in favor of this recommendation. Please see the Minority Opinion for a full discussion of the reasons for this split.

hearing unit” within the Board would be its hearing officers, and their jurisdiction would be limited to violations of the ethics ordinance. (*See id.*)

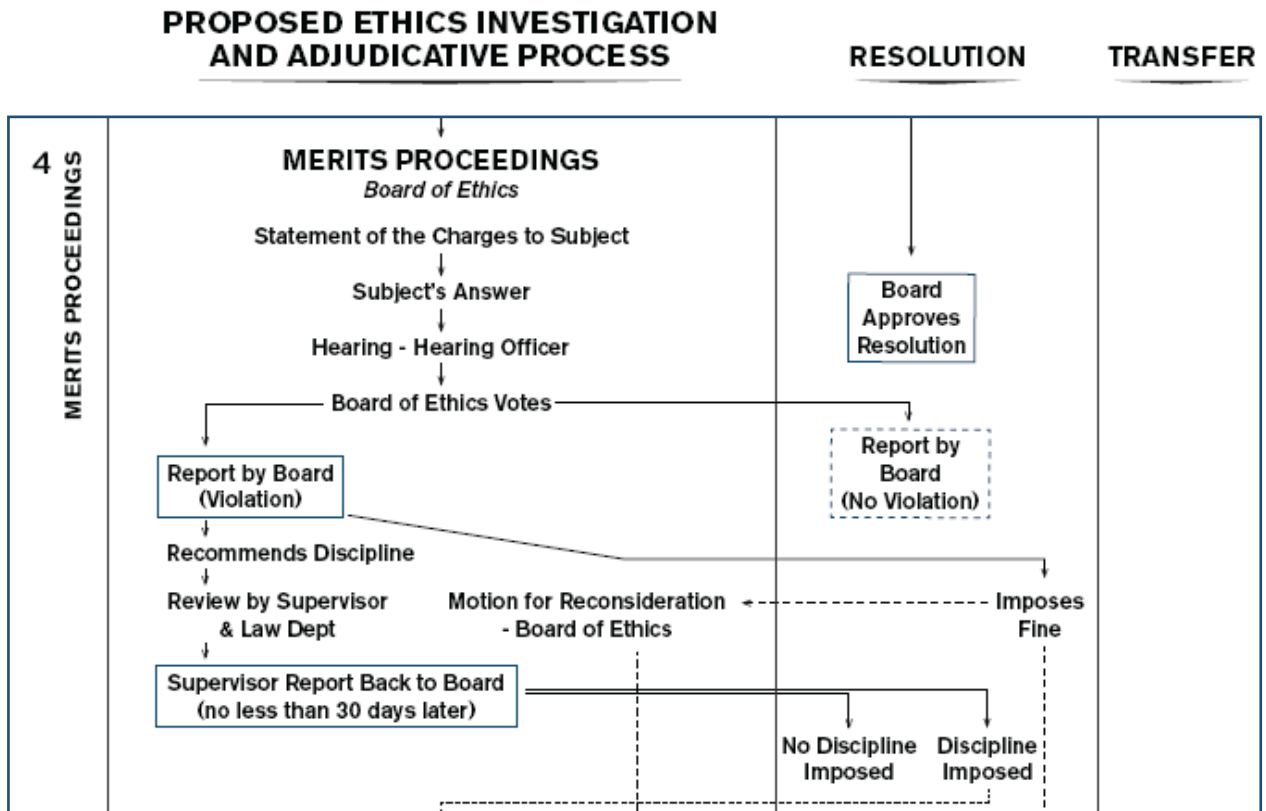
It is important to note that both the IG and the LIG suggested that their offices are best suited to be investigators, *not* prosecutors. We agree with this suggestion. Once the IG or LIG requests a probable cause hearing, the office’s role in the case (aside from any necessary testimony at hearings) is concluded. In the case of an investigation by the IG, an attorney from the Office of the Corporation Counsel should serve as the “prosecutor” at the probable cause hearing and all subsequent proceedings. In the case of an investigation by the LIG, the Office of the Corporation Counsel should appoint an outside “special prosecutor” to prosecute the case through the probable cause hearing and all subsequent proceedings. We suggest the use of a special prosecutor for legislative branch matters to remove any concern that an alderman would be prejudiced by being prosecuted by a member of the executive branch.

The “prosecutor” would present evidence regarding the alleged ethics violation via written submissions, oral testimony, and/or oral argument. The subject of the investigation may appear at the hearing, with counsel, and provide a defense including written submissions, oral testimony, and/or oral argument on her behalf. The subject may also cross-examine witnesses presented by the City. If the hearing officer determines that there is probable cause to believe an ethics or campaign finance violation has occurred, the hearing officer should state, on the record, the basis for his findings.

The probable cause hearing should be recorded and transcribed by a certified court reporter, but should be kept confidential. Under no circumstances should the subject’s name be disclosed until after the Board makes a final determination regarding the charge at issue, as described below. (*See* Recommendation 51 (penalizing the disclosure of confidential material by the IG, LIG, or Board).)

Our research has led us to believe that it is important for the subject of an investigation to be provided with an early opportunity to present her story, and to hear the evidence against her. Equally important, this part of the procedure, which is preliminary to any finding of a violation, should be confidential, to prevent employees and officials from being tainted by unjustified complaints. As a check on hearing officers’ actions, we also suggest that the Board set up a system of periodic, internal, and confidential audits of hearing officer reports and outcomes to ensure that hearing officers’ probable cause decisions are based on the facts of the case and the letter of the ethics ordinance, rather than any undue influence.

STAGE 4: THE MERITS PROCEEDINGS



If the hearing officer finds that probable cause for a violation of the ethics ordinance exists, then the prosecutor should prepare a statement of charges, which would be sent to the subject within 21 days after the hearing officer's probable cause finding, along with: (1) a list of all witnesses the City may call at the hearing; (2) a copy of all documents the City intends to introduce at the hearing; (3) any potentially exculpatory material in the City's possession (from the IG or LIG's investigation); and (4) a notice of hearing setting the matter for hearing no less than 60 days after the hearing officer's probable cause finding.

The subject would be permitted to submit a written answer to the statement of charges within 21 days after the statement of charges is served, and should also have the right to request a one-time extension of the hearing date of up to 30 days. This first request for an extension should be granted as a matter of course. Any subsequent requests for extensions may be granted by the hearing officer only upon a showing of good cause by the subject. The subject should also be required to submit to the prosecutor a list of all witnesses she may call at the hearing and a copy of all documents she intends to introduce at the hearing no later than 10 days before the hearing. The Board should promulgate additional rules regarding the conduct of these hearings.

The hearing should be held in a closed session before the hearing officer, who should receive written submissions, oral testimony, argument, and documents regarding the charge. The hearing officer should present his report and recommendation to the Board.

Under our recommendation, the full Board would vote on the hearing officer’s recommendation, and, within 40 days after the hearing, issue a report that either: (1) recommends discipline and/or imposes a fine; or (2) finds that no violation has occurred.

If the Board finds that no violation has occurred, a written, de-identified version of its opinion, which should include its analysis of the evidence and the ordinance provisions at issue but not the name of the subject, should be made public. The subject may, of course, request that the full opinion be made public. If the Board recommends discipline or imposes a fine, the full written opinion, including the name and department of the individual found to have violated the Ordinance and the Board’s analysis of the evidence and the Ordinance provisions at issue, should be made public. If the Board’s opinion imposes a fine, it should be paid by the subject immediately.

An opinion of the Board recommending employee discipline shall be immediately delivered to the employee or official’s supervisor, as currently provided for in 2-156-390(b) and -395(c). A Board opinion recommending censure of an alderman shall be immediately delivered to the City Council’s Committee on Committees, Rules, and Ethics. (*Id.* at -395(c).) The supervisor (or, in the case of an alderman, the Committee on Committees, Rules, and Ethics) shall respond to the Board, in writing, within 30 days and explain whether she agrees with the Board’s finding and will impose the recommended discipline, or not. If the supervisor or the Committee declines to implement the Board’ recommended discipline, the supervisor or the Committee shall explain why the Board’s decision was not supported. This written response shall also be made public by the Board, in the same location and manner as the Board’s written opinion.

We have carefully considered when in this process public disclosure is appropriate. We agree with one interviewee that “all decisions and settlements finding a violation must be public if the public is to keep faith in the integrity of the ethics process.” (Mark Davies, Statement to the Ethics Task Force, 2.14.12.) After analyzing the potential effects of disclosure on employees and officials, and weighing the need for the public to understand what its ethics institutions are doing, we concluded that public disclosure after a finding by the Board strikes a fair balance between these competing interests.

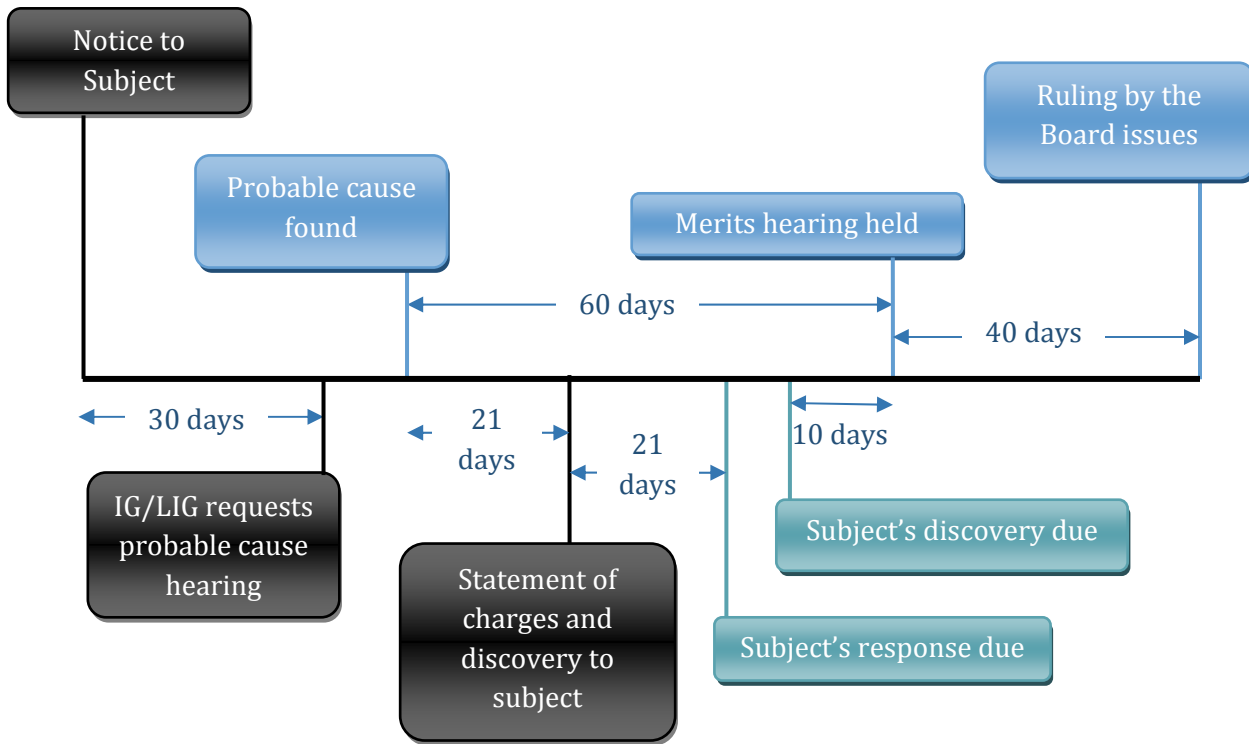
“All decisions and settlements finding a violation must be public if the public is to keep faith in the integrity of the ethics process.”

– Mark Davies,

Executive Director of the
New York City Conflicts of Interest Board

We believe that the process we have described, from the probable cause hearing through the merits proceedings, should proceed in a timely fashion to ensure that allegations of ethics violations are promptly resolved. The following timeline outlines this process. (*See* Table 7.)

Table 7: Timeline for the Probable Cause Hearing and Merits Proceedings



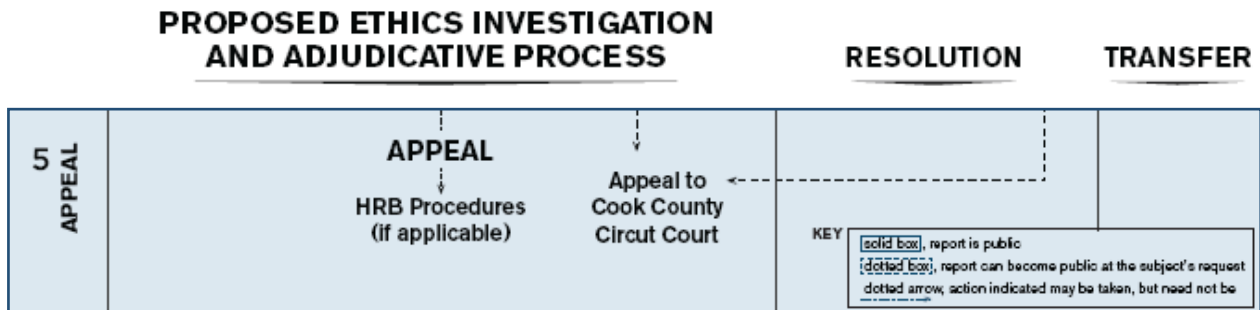
Black: actions by the IG, **Blue:** actions by the Board, **Green:** actions by the subject.

We also stress that the Board must actively enforce the ethics ordinance. In the 2009 survey of City employees, employees were asked to identify the reasons that best explained why they chose not to report misconduct. (2009 City of Chicago Compliance and Integrity Survey, Ethics Resource Center, 12.15.2009 at 28.) Eighty-one percent of employees expressed that they did not report misconduct because they did not believe corrective action would be taken. (*Id.*) For our suggestions and reforms to be meaningful, strong enforcement of the ethics ordinance is critical.

Even a state-of-the art program design, implemented with sufficient resources, will fall short if its administrators take actions at odds with the program’s essential tenets and objectives (*e.g.*, transparency, accountability, fairness, deterrence). The Ordinance reflects a careful balancing of these objectives, and selective enforcement of the ethics ordinance undermines these objectives. The Board must be guided by the text of the ethics ordinance and precedent that is publicly disseminated and consistent.

The Board also must be willing to make tough calls. It must act independent of any concerns about its budget, its influence on other City departments, or the impact of powerful constituencies. Of the IG, the LIG, and the Board, it is the Board that can most effectively educate the public, engage them, and give them confidence that the City is enforcing the ordinance. We encourage the Board to embrace these roles.

STAGE 5: APPEAL



If a Board opinion imposes a fine, the subject may move for reconsideration of that opinion within 14 days after the opinion is issued on the basis of newly discovered evidence or an intervening change in the law. In its discretion, the Board may elect to (i) reopen the hearing process; (ii) modify its prior opinion; or (iii) deny reconsideration. If reconsideration is denied or the opinion is modified, but still results in a decision adverse to the subject, the subject may appeal the Board's ruling to the Circuit Court of Cook County within 35 days after the opinion is issued. If the subject elects not to move for reconsideration of the Board's opinion imposing a fine, she retains the right to appeal the Board's ruling directly to the Circuit Court of Cook County by filing a civil lawsuit for administrative review within 35 days after the opinion is issued. (5 ILCS 100 *et seq.*)

We recognize that these procedures are complex, but providing the necessary due process requires a certain level of complexity. We strongly encourage the Board to conduct a campaign to educate City employees and officials regarding this process if it is ultimately adopted by the City. As part of this effort, we would also encourage the Board to review the recent regulations adopted by the IG and the LIG, which include certain procedures and rights for City employees and officials when they are interviewed by one of the IGs. (*See Recommendation 55.*) The Board can play an important role in familiarizing employees and officials with the content and practical implications of these regulations.

Recommendation 39

Streamline the process for evaluating and enforcing filing and training violations, and mandate enforcement of these provisions.

Currently, the staff of the Board must prepare a report, have the full Board vote, and draft a report in support of any finding that a lobbyist, employee, or official either (i) failed to file a required disclosure or registration form; or (ii) failed to complete a required training session. (2-156-390(b).) These matters are ministerial in nature, and are easy to determine. We recommend that the Executive Director of the Board be empowered to impose fines for any failure to comply with training or filing requirements upon a showing that a lobbyist, employee, or official was required to complete a training session, disclosure form, or registration form, and did not do so. The Executive Director should have the authority to immediately notify the lobbyist, employee, or official of the ordinance violation, and should have the power to impose a fine beginning on the seventh day after

the Executive Director sent a certified letter informing the lobbyist, employee, or official of a violation.

Current practice appears to be that these fines are rarely, if ever, imposed, let alone collected. This sends a signal that deadlines and reporting do not matter. Fines must be consistently imposed and promptly collected. Permitting the staff of the Board to handle these matters and requiring them to publicly disclose the resolution of these matters would improve this process dramatically.

Recommendation 40

Revise the complaint procedure for claims involving aldermen and aldermanic staff to permit written, anonymous complaints and written complaints initiated by the LIG.⁴

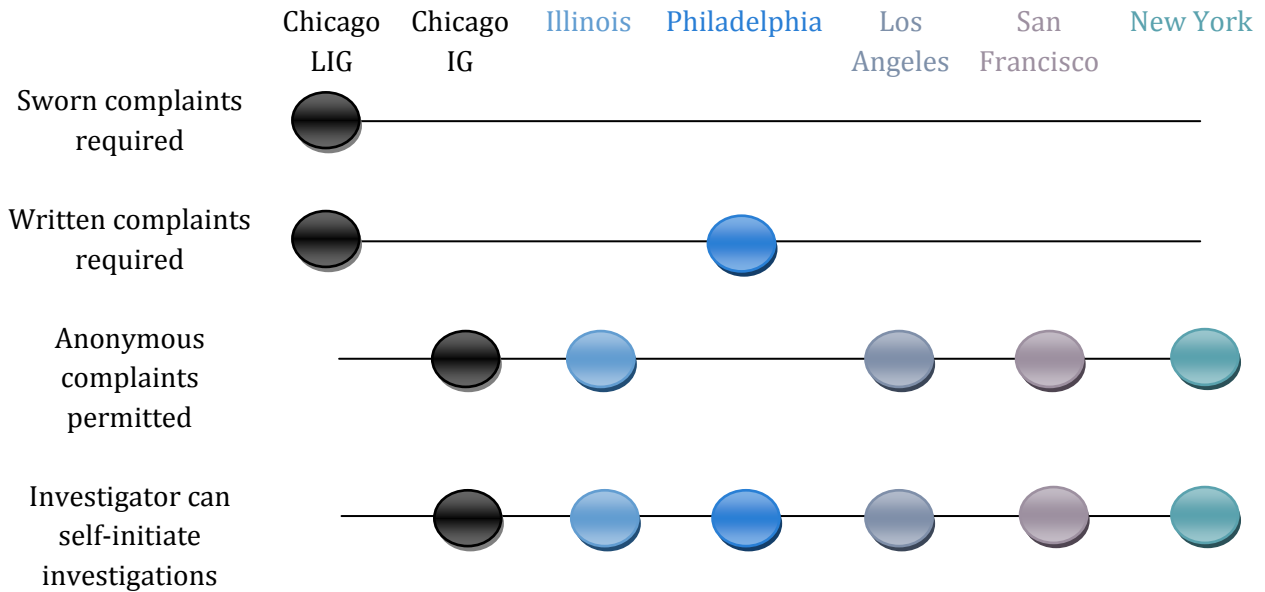
Our research has led us to believe that it is best practice to permit the submission of anonymous complaints. Requiring verified (or sworn) complaints has a chilling effect that unnecessarily discourages people from coming forward with legitimate complaints. Currently, the LIG's ordinance requires complaints to be verified and in writing, and does not permit the LIG to initiate complaints. (2-55-070 (noting that verified complaints are treated as sworn statements made under oath).) A similar approach was initially tried for both the Illinois Executive Inspectors General (who oversee the states' executive bodies) and the Illinois Legislative Inspector General (who oversees the State's General Assembly). However, in 2009, the General Assembly amended all of the State IGs' powers, permitting all IGs to receive anonymous complaints and allowing each IG to initiate complaints within that office's jurisdiction. (See 2009 Ill. Legis. Serv. P.A. 96-555, 5 ILCS 430/20-20.)

The LIG recently released his first Semi-Annual Report by the City of Chicago Office of the Legislative Inspector General on July 30, 2012. This report underscores that he can only open an investigation "[a]fter receiving a signed and sworn complaint in person and/or with consent of the B[oard] o[f] E[thics .]" (Semi-Annual Report, p. 1.) Nothing in the current LIG ordinance expressly grants the LIG power to self-initiate an investigation. Under Chicago's current system, the LIG could read about a potential ethics violation in a newspaper, but would be powerless to initiate an investigation into that potential violation without receiving a written, sworn complaint about the potential violation. This cannot give the citizens of Chicago confidence that their ethics ordinance is being adequately enforced.

When compared to the practices of other cities and states, Chicago's requirement of verified, written complaints – and its prohibition on permitting the LIG to initiate complaints – is notably unique. (See Table 8.)

⁴ The Task Force split 3-1 in favor of this recommendation. Please see the Minority Opinion for a full discussion of the reasons for this split.

Table 8: A Comparison of Laws Regarding Initiating Investigations



At the Task Force’s public hearings, several presenters expressed strong concerns about the inability of the LIG to initiate investigations and to receive anonymous complaints. As Lawrence Oliver, Chief Counsel of Investigations for Boeing, pointed out in his testimony on March 12, 2012:

“I am convinced that anonymous reporting is the way to go [] mainly because people still fear retribution for bringing complaints. I’ve seen that in the public sector. I’ve seen that in the private sector. . . . [T]he bottom line is people still fear retaliation and until you can convince them that it will not take place, that it will not be tolerated, there is going to be a lot of people who still fear coming forward with allegations.”

At that same hearing, Executive Inspector General for the Agencies of the Illinois Governor Ricardo Meza made the same point. He stated that “inspectors general must be able to accept anonymous complaints and must have the right to self-initiate investigations.” (Statement of Ricardo Meza before the Chicago Ethics Reform Task Force (March 6, 2012).) IG Meza explained: “The ability to accept anonymous complaints may encourage certain reluctant individuals to report misconduct and allowing inspectors general to self-initiate an investigation allows them to take action whenever appropriate.” (*Id.*)

We believe it is far preferable to allow anonymous complaints and to build in safeguards such as the probable cause hearing, which allows the Board to serve as a check on the IG and LIG before any public finding is made. While we sympathize with the situation faced by elected officials, who may be subject to frivolous, or even tactical and malicious, complaints, we believe that the best way to

ensure that these complaints are dealt with appropriately is to appoint a LIG with integrity, discourage political motives for a LIG's actions, and penalize knowingly false complaints. We therefore believe that the LIG must be permitted to receive anonymous written complaints, and must be able to self-initiate an investigation, provided that he begins the investigation with a written memorandum explaining his basis for beginning such an investigation and that such memorandum is retained and remains confidential, along with the rest of the investigative file.

Recommendation 41

Modify the process for selecting the IG to include the use of a blue ribbon panel, permit the Board to appoint its own Executive Director, and revise the qualifications for Board membership.

Currently, the members of the Board and its Executive Director are appointed by the Mayor, with approval of the City Council. (2-156-310(a), -(c).) The same process applies for the IG. (2-56-020.) The LIG, however, was approved by a two-thirds vote of the City Council after a blue ribbon panel proposed the names of qualified candidates to the City Council for review. (2-55-030(a).) We believe there are benefits to this latter approach, and suggest that these same provisions of the LIG's ordinance be imported into the IG's ordinance. Similar committees have been used to select Ethics Commission members in various jurisdictions, including Minneapolis. (Minneapolis Mun. Code § 15.210(a).) Other cities ask various community groups to nominate members to their respective ethics commissions. (*E.g.*, Atlanta Mun. Code §2-804; Houston Mun. Code §18-12.)

The LIG's ordinance also permits the LIG's term to be renewed with the consent of the City Council, without resorting to a blue ribbon panel at that time. (2-55-040.) We believe that this is a sensible provision, and suggest that a parallel provision be added to the IG's ordinance, providing that the IG may be reappointed by the Mayor, subject to the approval of the City Council.

While a blue ribbon nominating panel, followed by approval from the City Council and/or the Mayor is an appropriate process for identifying and confirming the IG and LIG, we believe that it is unnecessary for the Executive Director of the Board to be confirmed by the Mayor with the approval of the City Council. Rather, the Board should have the power to hire its own Executive Director and staff – including hearing officers – without oversight from the Mayor or City Council. Both the LIG and IG have the authority to hire their own staff; the Board should have the same authority.

We also strongly believe that the profile of the current Board needs to be raised. While we believe that the current Board is knowledgeable, committed and fair, its members are almost completely anonymous as far as public workers and City residents are concerned. The public must know who the members of the Board are and their credentials. Because the Board is entrusted with the responsibility to enforce the ethics ordinance and to protect individuals from malicious complaints, confidence in their ability and independence is essential, as is public accountability. For this reason, Board members should have a higher profile and come from a diversity of professions – corporate compliance officers, people of faith, university presidents, etc. It is equally important that

the City engage in some media outreach to ensure that the public understands who sits on the Board and what it does.

Finally, we observe that the Ordinance provides several qualifications for membership on the Board. (2-156-310(a).) One of these qualifications is that a member must “have no financial interest in any work or business of or official action by the city, or any governmental agency within the jurisdiction of the State of Illinois, County of Cook, or City of Chicago.” (*Id.* at -310(a)(iv).) We suggest that this provision be narrowed by removing the reference to the State of Illinois. The qualifications imposed on Board members are already significant, and we do not believe that a Board member who has a financial interest relating to matters before a State agency or entity should be disqualified from serving on the City’s Board of Ethics. We believe that removing this restriction will allow the Board to attract greater professional diversity and knowledge to its membership.

Recommendation 42

Conduct an annual public hearing on ethics featuring presentations by the LIG, IG, and Board to the City Council and the Mayor.

Based on our research and our interviews, the Board, IG, and LIG do not currently communicate about recurring ethics issues in the City. While the relationship between the Board and the LIG is still new, we believe that the entire City of Chicago – its citizens, its employees, and its officials – would benefit from increased communication among the Board, IG, and LIG regarding these topics, as well as an enhanced understanding of their respective roles and activities.

All three of these entities play important roles in sustaining Chicago’s ethical culture, and cooperation and a common sense of how key issues and challenges should be approached between them is essential. We propose that the heads of these three entities be required to participate in an

The entire City of Chicago would benefit from increased communication among the Board, IG, and LIG.

annual public hearing on ethics (distinct from the budget hearings) before the City Council and the Mayor, at which time each entity would review its major activities for the year (*e.g.*, education, investigations, settlements, opinions, guidance, fines collected, etc.), describe how resources have been used, address trends in ethics questions or enforcement throughout the year, and suggest prevention strategies and areas of improvement for the ethics institutions and processes in Chicago. This would be an expansion of the presentations that these three entities typically give at their annual budget meetings and a shift in focus from budgetary requests to substantive ethics matters.

At this hearing, these three entities might also address how challenges are being met through training, communications, or the embedded ethics officers. The goals of this public hearing would be to make these entities accountable to the Mayor, the City Council, and the public for their actions throughout the year; to inform the public about what these entities see as the key ethical issues at

that time; and to give these entities an opportunity to address what is – or is not – working in the ethics ordinance.

We would also encourage these three entities to maintain an ongoing dialogue about best practices and how their respective entities should interact. It might be beneficial, for example, for the Board to enter into memoranda of understanding with both the LIG and the IG to make clear how the Board will interact with these two entities in an individual investigation, and how all parties will ensure that confidential information is protected.

We would also encourage the City to take steps to reach out to the IGs, compliance officers, etc., who are tasked with overseeing the ethics rules at the Sister Agencies. We continue to believe that a comprehensive system of ethics rules for the entire City is desirable, and we encourage the Mayor and the City Council to work to ensure that all of the Sister Agencies are brought within the reach of the ethics ordinance and have appropriate independent oversight. One way to move toward this goal would be to have annual meetings with the people responsible for ethics compliance at each of the Sister Agencies, as well as the IG, LIG, and the Board.

Recommendation 43

Allocate sufficient resources to the LIG to enable the office to have an appropriate staff to carry out the LIG’s legal duties.

The LIG’s ordinance states that the office “shall include an inspector general and such deputies, assistants and other employees as may be provided for in the annual appropriation ordinance.” (2-55-020.) Currently, the LIG is a part-time position, shares office space with the Board, and has no staff. He originally was provided with a budget of \$60,000, and, recently, the City Council approved an additional \$200,000 appropriation for the office. (See 2012 Budget Ordinance, available at www.cityofchicago.org/content/dam/city/depts/obm/supp_info/2012%20Budget/2012BudgetOrdinance.pdf; 02012-4935 (increasing the LIG’s appropriation), available at <http://chicago.legistar.com>.) For both practical and symbolic reasons, it is critical that the LIG receive the City’s full support. The IG, whose mandate is admittedly broader, has a budget of over \$2.6 million, and the Board has a budget of \$791,164. (See *id.*)

The LIG is currently working in a part-time capacity, and is compensated for his time at the rate of \$250 per hour. This part-time arrangement is not cost-effective for the City. We recommend that the LIG be paid a set, full-time salary that is in line with what persons in similar positions, such as the IG, the Executive Director of the Board of Ethics, or the heads of other City agencies, are paid – rather than on a per-hour basis. A fixed salary would enable the LIG to responsibly allocate the rest of his budgeted funds to cover overhead costs, to pay additional expenses relating to investigations, and to hire appropriate staff at reasonable salaries. With this additional staff and resources, the LIG could handle his ongoing investigations in a timely and efficient manner.

We have summarized the additional powers that we have suggested the LIG should have below, to explain why the office needs a larger budget. (See Table 9.)

Table 9: The LIG's Proposed Additional Powers

LIG has additional resources to investigate complaints. (Rec. 43.)
LIG can accept anonymous, unsworn complaints. (Rec. 40.)
LIG can self-initiate complaints, and need not ask the Board for permission to open an investigation. (Rec. 38, 40.)
LIG can request a probable cause determination at the conclusion of his investigation. (Rec. 38.)
LIG can settle a disputed ethics violation. (Rec. 38.)
LIG has 2 years in which to investigate a complaint, rather than 1 year. (Rec. 52.)

These additional powers are not granted without commensurate checks. We have carefully balanced the expansion of the LIG's powers with sensible provisions to check his authority, as described below. (See Table 10.)

Table 10: Checks on the LIG's Proposed Additional Powers

LIG must participate in an annual public hearing detailing his activities over the past year. (Rec. 42.)
Make it easier to punish submitting knowingly false complaints or information to the LIG during an investigation. (Rec. 54.)
The LIG must draft a written document explaining his basis for beginning an investigation and maintain such documents for all investigations. (Rec. 40.)
Institute a two-step hearing process, with multiple opportunities for a subject to be heard before an impartial hearing officer. (Rec. 38.)
Allow employees or officials to seek reimbursement of reasonable legal fees they spent in defending against a statement of charges that was pursued or filed in bad faith. (Rec. 54.)
Create an employee bill of rights. (Rec. 55.)
LIG pledges not to seek political office for 2 years after leaving office. (Rec. 44.)
All LIG investigative files are confidential. (Rec, 50.)
Strengthen confidentiality provisions to penalize leaks by the IG, LIG, or Board. (Rec. 51.)

Recommendation 44

Require similar political office and political activity provisions for both the IG and LIG.

A theme from our interviews was that City workers and officials felt that the IG took actions for political reasons, or made public statements that furthered the IG's interests at the expense of City employees' and officials' reputations. Regardless of whether this perception is true, we believe that adding restrictions on the political activities of the LIG and IG would help alleviate any concern that the LIG and IG are acting for political reasons in the conduct of their offices. Such restrictions would appropriately mirror the revolving door provisions on lobbying that are imposed on other City employees and officials.

For example, the LIG's ordinance bars him – and his employees – from holding or becoming a candidate for any City public office while serving as the LIG (2-55-030(c)(i)) and for a year after leaving office (-030(d)), actively participating in any campaign for elected office (-030(c)(ii)), and engaging in any political activity while in office (-030(e)). The IG's ordinance contains only the fourth of these prohibitions. (2-56-150.) We recommend making the two ordinances parallel with regards to these provisions. These provisions are commonly applied to IGs or the persons who head up ethics investigations. (*See, e.g.*, 5 ILCS 430/20-10(e), (e-1) & -/25-10(e), (e-1) (barring the Illinois IGs from becoming candidates for any elected office or being appointed to or holding any public office for one year after leaving the job, absent a waiver by the appropriate Ethics Commission); Philadelphia Mun. Code § 3-806(h) (barring the Executive Director from seeking any city elected office for two years after leaving his job).)

We also recommend that both the LIG and IG pledge, in writing, at the time they are hired, that they will not submit their name to be considered as a candidate or run for any elected office for a period of time extending from the date of their hire through two years after they left office.

Recommendation 45

Evaluate the dual IG system after three to five years, with the input of the Mayor, the City Council, and the public, and consider whether it is necessary to have two IGs.

While maintaining two IGs may be a reflection of a desire to implement a local “separation of powers” doctrine, there are undoubtedly inefficiencies that arise from having two inspectors general, two sets of investigators, two venues for receiving complaints, etc. The LIG is new and should be given an opportunity to develop the position. However, in a few years, the Mayor and the City Council, with input from both the public and City employees, should jointly review the IG's and LIG's functioning to determine whether the dual IG system is well-functioning and cost-effective, or whether all employees and officials should be under the jurisdiction of a single inspector general.

Ethics Institutions: Powers & Limitations

In addition to the various process-related points discussed above, there are several provisions of the ethics, inspector general, and legislative inspector general ordinances that we believe ought to be modified to strengthen and clarify the powers of each institution. These are described below.

Recommendation 46

Distinguish between confidential, prospective advice sought from the Board and inquiries regarding past or current conduct.

The Board provides advice and guidance to City employees and officials regarding ethics and campaign finance issues in a variety of manners. Most often, it responds informally – on telephone calls or in emails – to specific requests.

Occasionally, it creates more formal advisory opinions in writing in response to an ethics question. The Board’s informal opinions and responses to employees and officials are treated confidentially, and its formal advisory opinions are published in a de-identified form. (See 2-156-380(I).)

We believe it is critical to preserve employees and officials’ ability to ask the Board (or embedded ethics officers) for confidential ethics advice regarding how they should act in a

City workers should always be encouraged to ask the Board *before* they act.

given situation. In other words, City workers should always be encouraged to ask the Board before they act. The protection of confidentiality between City employees and officials and the Board is a unique and deliberate policy decision; the City has concluded that it is worth limiting the dissemination of some information in order to encourage its employees and officials

to contact the Board for advice regarding ethics issues.

It should be equally clear, however, that if the Board receives any inquiry regarding past behavior that appears to be an ethics or campaign finance violation, then that inquiry should not be accorded confidentiality. Instead, if an employee or official describes a past or ongoing violation of the ethical

THE BOARD OF ETHICS

The goal of the Board is prevention.

The Board gives advice and guidance to City employees unsure how to comply with the ethics rules in a given situation.

The Board receives 6,000 requests a year for advice and guidance, and responds timely to employees’ requests.

City employees are dependent on the staff’s thorough and thoughtful guidance.

The Board’s responses to employees’ and officials’ questions are generally confidential.

The Board issues both formal and informal opinions, but does not communicate often with the general public.

Therefore, the public cannot see all the good work the Board has done in preventing unethical behavior.

rules, the Board should tell the employee or official to stop the conduct and self-report it to the IG or the LIG, as appropriate. The staff of the Board should follow up with the appropriate IG within 14 days to determine whether the individual has self-reported the violation. If not, the Board's staff should provide the IG or LIG with the individual's name, the violation reported, and all related information in its possession.

Relatedly, a City worker who obtains a Board opinion regarding future conduct should be able to rely on that opinion in any disciplinary proceedings instituted by an IG, supervisor, or other department.⁵ However, if a City worker intends to rely on a Board opinion purportedly authorizing his conduct, he should be required to authorize the Board to release any records in its possession regarding that inquiry – including the opinion itself – to the IG, supervisor, or department investigating the City worker.

As a matter of practice, this is one area where increased communication between the Board and the two IGs would be very helpful. For example, the IGs and the Board could agree to a procedure where, in each IG interview of a subject of an investigation, the IG would ask the subject whether she had contacted the Board for an advisory opinion. The IG or LIG could then ask the subject for her written consent to obtain any such opinions from the Board. This provides employees and officials with the confidentiality that they need to feel comfortable going to the Board, while also addressing the investigative needs of the IG and LIG.

Recommendation 47

Clarify which advisory opinions of the Board are precedential.

The Board responds to ethics questions informally, over the phone and in writing. It also writes formal advisory opinions in response to more thorny questions or in situations where such an opinion is specifically requested. (See 2-156-380(l).) It is not clear, however, whether all of these answers and opinions are precedential and, if so, whether employees and officials have access to all of this information.

The Board's advisory opinions should offer employees and officials a helpful roadmap to understanding Chicago's ethics system. Our interview subjects expressed concern that it was not clear which Board opinions were precedential, and which were not. This information should be clearly written and readily available in an organized database that permits searching across the opinions.

⁵ To be clear, advice given by an embedded ethics officer does not fall into this provision. We believe the Board should remain the final word on matters that are sufficiently complex to warrant a written legal opinion or interpretation of the ethics ordinance.

Recommendation 48

Permit the Board to give written waivers of limited portions of the ethics ordinance, as well as issue advisory opinions.

The Board currently has the power to interpret the ethics ordinance and provide guidance to employees regarding the Ordinance. The Board issues formal, written advisory opinions, as well as informal opinions. As a result, the Board has developed a body of “case law” and precedent. As this case law proliferates and the number of City employees increases, there is a possibility that truly exceptional cases may arise that require the Board to either strain the language of the Ordinance or, even worse, ignore it entirely, in the interest of reaching a just result.

Rather than require the Board to create bad precedent or ignore the Ordinance to reach a fair result, we believe that the Board should have the discretion to be able to grant prospective waivers of limited parts of the Ordinance. New York City follows such a procedure, and views these waivers as a necessary partner to its ability to issue advisory opinions. (2.3.12 Interview of M. Davies.)

In practice, the employee or official would seek an opinion or waiver from the Board, and the Board, in its written opinion, would either grant or deny the waiver. Our goal is that these waivers would be sparingly used, but would permit the Board’s precedent and case law to develop in a consistent manner, and would allow for flexibility if an unforeseen situation arises. All waivers issued by the Board would have to be in writing and made public, in the same location as the Board’s advisory opinions, within five days of their issue.

We envision that these waivers would be used very sparingly in matters relating to (i) travel by an official or employee, (ii) post-employment restrictions, and (iii) reverse revolving door limitations. There may also be reasons to permit the use of waivers in limited other conflict-of-interest situations, but we recommend that that waivers only be authorized in these three situations, as a starting point. We suggest that the City permit the Board to develop further rules and regulations regarding the use of waivers and suggest further revisions, if necessary, based on its experience with this power.

Recommendation 49

Confirm that the IG and LIG have the authority to investigate third parties who lobby individuals within the IGs’ respective jurisdictions.

Both the IG’s ordinance and the LIG’s ordinance include general provisions that set out the jurisdiction of their offices and explain the powers and duties attendant to that office. (2-56-050 (IG); 2-55-050 (LIG).) Both the IG and the LIG are empowered to investigate misconduct relating to violations of the ethics ordinance. (*Id.*) The ethics ordinance also gives the Board power to oversee lobbyists’ behavior under the ethics ordinance, which is subject to a variety of registration and disclosure requirements. (2-156-210 through -305.)

We have recommended that the Board’s staff conduct reviews of filing and registration violations of the ethics ordinance, but, in general, we have recommended that the Board should not be acting as

an investigator. (See Recommendations 38-39.) We do not, however, intend to suggest that the LIG lacks the power to investigate improper lobbying of an alderman by a lobbyist, or that the IG cannot investigate a lobbyist's improper attempts to influence a City employee. The ethics ordinance should be amended to confirm that the LIG and the IG have the authority to investigate any third parties who lobby the primary individuals within the LIG's and the IG's respective jurisdictions. Thus, the LIG could investigate a lobbyist who seeks to influence aldermen or aldermanic staff, and the IG could investigate a lobbyist who seeks to influence executive branch City employees.

Recommendation 50

Clarify several ambiguous provisions of the ethics, IG, and LIG ordinances.

There are three places where these ordinances are unclear. We recommend that:

- Section 2-55-060(a) be amended to clarify that the LIG has the authority to investigate misconduct, including "any violation of the ethics ordinance." This section currently allows the LIG to investigate "misconduct, including . . ." eight enumerated categories, all of which relate to subjects addressed by the Ordinance.
- Sections 2-56-050 and 2-55-060(g) be amended to clarify that the IG and LIG can refer any complaint that they receive alleging misconduct by an employee of a Sister Agency to that Agency, provided that such a complaint shall remain confidential. However, statistical information regarding the number of such referrals and the Sister Agencies receiving them, may be made public by the IG and LIG in periodic reports.
- Section 2-55-080 be amended to clarify that complaints and investigative files shall be confidential, except as otherwise authorized by that chapter, to ensure that the LIG's investigative files remain confidential.

Recommendation 51

Clarify that no employee or official of the IG, LIG, or Board may communicate confidential information that they learn in the course of their work.

Section 2-156-070 of the Ordinance prohibits any current or former official or employee from using or disclosing any "confidential information gained in the course of or by reason of his position or employment," except "in the performance of his official duties and responsibilities, or as may be required by law." This provision applies broadly to all City employees and all officials, and requires them to maintain the confidentiality of material that they obtained through their public employment.

We recommend that this provision be amended by adding a provision making clear that this section applies to all employees and officials of the IG, LIG, and the Board of Ethics and all non-public information they obtain in the course of an investigation, including the identity of the subject of an investigation. In other words, no employee or official in any of these offices can "leak" non-public information regarding an investigation or proceeding to the public. Any "leak" or disclosure in

violation of this section should be punished by both a fine and employment sanctions, up to termination.

Recommendation 52

Institute a statute of limitations for ethics and campaign finance violations and a separate time limit on investigations.

The LIG's ordinance includes a provision stating that, "An investigation may not be initiated more than two years after the most recent act of the alleged misconduct." (2-55-120.) No such statute of limitations applies to matters under the IG's purview, however. While the IG and LIG may receive complaints dating back many years, there are good reasons not to permit investigations of these matters.

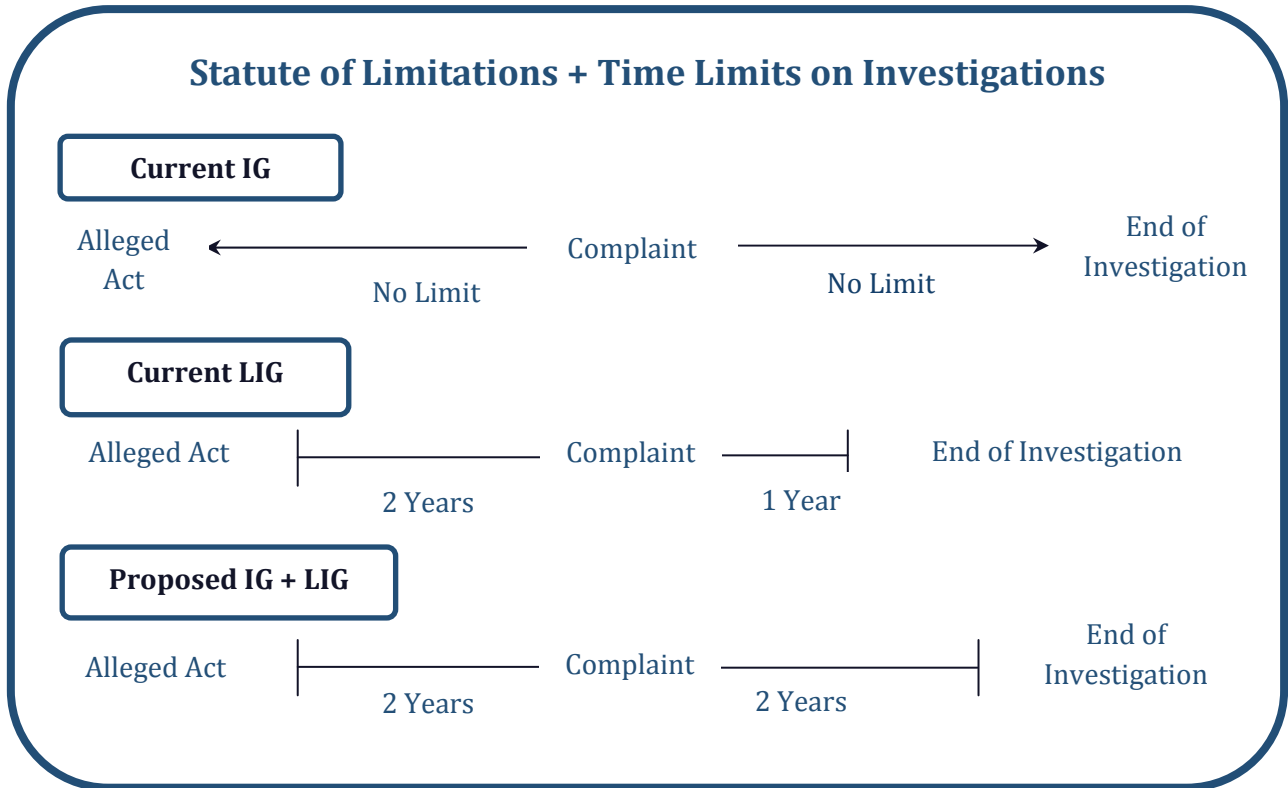
First, from a practical standpoint, old complaints may relate to people who are no longer City employees or officials or to policies that are no longer in effect. There would be little point in investigating conduct that is no longer considered unlawful or was not unlawful at the time. Second, current City resources should be used to monitor the current personnel of the City. When an ethics investigation concludes, the opinion or settlement in that case should be made public, and represents an opportunity to educate other employees regarding the ethics ordinance. A timely investigation is more likely to result in an opinion by the Board that is relevant to other employees. For these reasons, we recommend that a similar two-year statute of limitations be added to the IG's ordinance for violations of the ethics and campaign finance laws only.

The ethics ordinance also includes a one-year time limit on investigations of aldermen. (2-156-395(c).) This time limit runs from the time an investigation begins. (*Id.*) We believe that this time limit should be extended to two years and that a similar two-year provision should apply to all investigations of ethics and campaign finance violations.

A statute of limitations by itself does not provide sufficient assurance to employees or officials; absent a time limit on investigations, an IG could begin an investigation into a matter that occurred in September 2010 (within the statute of limitations), and investigate it for the next ten years. Anecdotal evidence from our interviews suggests that this has happened with some investigations led by the IG, which have taken four or five years to complete. All employees and officials – whether they are under the IG's or the LIG's jurisdiction – are entitled to know that, at some point, an investigation will be resolved. We believe that a two-year limit on investigations is adequate, particularly given the limited resources currently available to the LIG and the backlog of investigations that the IG has had. We therefore recommend that a provision be added stating that the LIG and/or IG cannot request a probable cause hearing relating to a complaint that was made more than two years before the date of the LIG's/IG's request for a probable cause hearing.

The table below summarizes the current law and our proposed changes. (*See Table 11.*)

Table 11: Statute of Limitations and Time Limits on Investigations



Recommendation 53

Allow all officials and employees to petition for reimbursement of reasonable legal fees spent defending against an ethics or campaign finance statement of charges that was filed and pursued in bad faith.

Aldermen have the right to recover defense costs and expenses in ethics proceedings that result in a finding of “no violation,” but other employees and officials do not. (2-156-395(e).) We believe that, as written, this provision is both too broad and too narrow. The provision is too broad because it is not limited to those rare situations where an investigation was brought in bad faith; it is too narrow because it is limited to aldermen, rather than applying to all City employees and officials.

We believe both issues should be corrected: As a matter of fairness, all employees and officials should be permitted to petition the Board to recover their reasonable legal fees, but only in those rare instances where the statement of charges was submitted in bad faith. The determination of whether a statement of charges was brought in “bad faith” should be made by the Board, using established legal standards.

This type of provision provides an important check on the work of the IG and the LIG, as well as the Board. In any situation where there is a prosecutor with discretion, those who may be subjects of a prosecution understandably desire assurances that prosecutions will be meritorious, and not based on faulty information or frivolous complaints. One way to protect against meritless prosecutions – or prosecutions done in bad faith – is to impose this type of check on the system. A prosecutor will

understand that there are consequences for overreaching or pursuing a frivolous statement of charges, and a subject of the investigation will know that he has a mechanism to recover his reasonable legal fees spent in such a prosecution.

Our hope is that this provision will never be used. If the IG and LIG are doing their job, no frivolous complaint will ever reach the stage where a prosecutor is assigned. If the prosecutors are fair, then no prosecution will be brought in bad faith. And, unless the Board is misled, no finding of probable cause should issue in a case brought in bad faith. However, if the Board determines that a case was brought in bad faith, that finding should be made public.

Recommendation 54

Replace the provision stating that furnishing misleading information to the Board is a violation only where “intent to mislead” has been shown with a “knowing” standard.

We recognize that there may be occasions when baseless complaints are filed with the Board (in the current system; or with an IG, in our proposed revision) for either personal or political reasons. This is unacceptable.

While the Task Force recommends stricter penalties and increased transparency with violations, we are also cognizant of the damage an ethics complaint may do to someone’s reputation. As such, we seek to balance the need for more aggressive enforcement with a zero-tolerance standard for those who knowingly provide false information.

As currently written, section 2-156-410(a) requires that specific intent be shown before an employee may be found to have furnished false or misleading information to the Board, namely, an “intent to mislead.” This high standard requires proof of a particular intent (an intent to mislead). Providing information that ultimately proves to be inaccurate is not the same thing as providing information that the complainant knows to be false when provided. In the former situation, the complainant can be completely innocent of any wrongdoing. The latter situation is what should be punished.

We believe that the appropriate standard here is that an employee may be punished for knowingly providing false information, that is, information that the person knew to be false at the time it was provided. We recommend that section 2-156-410(a) be amended accordingly and, based on our process-based recommendations, that it extend to providing false information to the IG, LIG, and the Board.

Recommendation 55

Create an employee bill of rights relating to the ethics ordinance.

As we observed in Part I of our report, “governmental ethics is not always intuitive” because “[i]t is not merely morality or ‘ethical behavior’ – it is founded on a series of discrete rules that govern the role of a public servant.” (Report of the Chicago Ethics Reform Task Force: Part I, p. 24 (April 30, 2012).) While we made numerous suggestions regarding how to improve ethics training and

education in Part I of our report, Part II includes a number of significant changes to the process by which an ethics violation would be analyzed and clarifies the rights and responsibilities of all of the ethics institutions.

We believe that employees would benefit from a clearer understanding of their rights with respect to these institutions and their rights, generally, under the ethics ordinance. For example, employees should know that they have the right to ask the Board for a written advisory opinion prior to taking an action, and that they can rely on that opinion to guard their conduct from challenge so long as they have disclosed all of the facts regarding their situation.

We encourage the Board to draft an employee bill of rights in consultation with both the IG and the LIG, formalize the employee bill of rights in its regulations, and disseminate it to all employees.

“A clear delineation of roles, where one body investigates and the other adjudicates, is critical.”

– Scott Turow,

Former Commissioner of the Illinois Executive Ethics Commission

It is critical to preserve employees’ and officials’ ability to ask the Board (or embedded ethics officers) for confidential ethics advice regarding how they should act in a given situation. In other words, City workers should always be encouraged to ask the Board before they act.

– Chicago Ethics Reform Task Force

While the relationship between the Board and the LIG is still young, we believe that the entire City of Chicago – its citizens, its employees, and its officials – would benefit from increased communication among the Board, IG, and LIG regarding these topics, as well as an enhanced understanding of their respective roles and activities.

– Chicago Ethics Reform Task Force

CONCLUSION

We realize that these recommendations are both lengthy and challenging. We have attempted to conduct a comprehensive overview of the most critical provisions in Chicago's ethics ordinance, and, in the course of this review, have come across both major and minor areas for improvement. We would be remiss if we did not point out that many of these recommendations, particularly those relating to investigation and enforcement, are interrelated and assume that a series of changes will occur concurrently. For this reason, we discussed a wholesale revision of the investigation and adjudicative processes.

We recognize that there are significant matters that we did not have the time to address, or that are outside our mandate. While we addressed certain topics broadly up front, there is one final matter that deserves special mention: the ongoing dispute regarding attorney-client privilege and the enforcement of subpoenas between the IG and the Mayor's Office.

It was not the province of this Task Force to conduct a wholesale overview of the IG's work and his interaction with the Mayor's office. Nevertheless, many of the people we interviewed commented on the ongoing dispute and remarked upon the unusual situation presented by two members of the executive branch suing each other. It is essential that the IG and the Mayor's Office be able to work together to resolve future conflicts and that the IG maintain the ability to subpoena third parties and enforce those subpoenas. The Office of the Corporation Counsel is the City's lawyer, and should act on the City's behalf to enforce any necessary subpoenas. The IG and other City agencies, including the Corporation Counsel, should be able to communicate effectively. We recognize that the dispute between the Corporation Counsel and the IG is currently before the Illinois Supreme Court, and we do not believe it is appropriate to comment further while this matter is under consideration.

MINORITY OPINION

Today the Chicago Ethics Reform Task Force delivered a second set of recommendations to Mayor Rahm Emanuel. I joined with the other members of the Task Force in crafting the recommendations included in Part I and now Part II. The recommendations in Part I were unanimously agreed upon. I support nineteen of the twenty-one recommendations included in Part II.

The nineteen recommendations urged by the Task Force in Part II of the report are significant reforms of lobbying disclosure, ethics investigations, and enforcement.

I disagree with my Task Force colleagues on two recommendations. The first recommendation, number forty, allows anonymous complaints of violations of the ethics ordinance to be made against legislative branch officials and employees, and permits the LIG to commence investigations without a complaint. The second recommendation standardizes the amount of time before which the IG and LIG must inform the subjects of an investigation that an investigation has been opened. Currently, the ethics and LIG ordinances require the LIG to provide notice to legislative branch officials and employees who are under investigation within seven days of starting an investigation. Today, the IG has no statutory obligation to notify a person that an investigation has been opened. The Task Force has recommended that all subjects of an ethics investigation be notified 30 days before the IG or LIG requests a probable cause hearing on the matter before the Board of Ethics.

In 2010 the Chicago City Council passed the Legislative Inspector General Ordinance. The ordinance [<http://bit.ly/PBlKvc>] created the Office of the Legislative Inspector General. The ordinance required all ethics complaints against members of the legislative branch to be signed and sworn. Additionally, the ordinance required the LIG to notify targets of an investigation within seven days of opening an investigation.

While many observers have criticized the LIG ordinance and the LIG's budget, it is worthwhile to note that the Council did take the step of creating the office of inspector general, hiring a credible inspector general, and appropriating funds to his office. When the LIG requested \$200,000 in additional funding, the Council promptly granted the request in full on June 27, 2012.

The Task Force report notes that other municipalities do not have the same notice and sworn complaint requirements of the LIG ordinance. But, as the Task Force acknowledges, Illinois did not begin by allowing its legislative inspector general to accept anonymous complaints and initiate his own investigations. Rather, it was only in 2009 – some six years after Illinois' State Officials and Employees Ethics Act [<http://bit.ly/RdWUEX>] was passed – that Illinois' statute was amended to allow anonymous complaints and self-initiated LIG investigations.

While I believe that requiring sworn complaints is an onerous burden, allowing anonymous complaints to be made against the legislative branch will release a torrent of frivolous and spurious charges, since aldermen are so highly visible in their local communities and in City government. Scarce City resources will be allocated to investigate thousands of complaints. Indeed, the key

driver in the increased appropriation to the LIG's office was the large number of sworn complaints received by the office.

More importantly, the Task Force's recommendations directly contravene the legislative intent of the Council when it passed the LIG ordinance. Aldermen consistently voiced their concern that the LIG's office must not be co-opted by frivolous, political, or malicious complaints. As a result, the Council's position was that sworn complaints were a safety measure that could guard against individuals using the LIG as a weapon to score political points, that no person with a substantiated complaint would be discouraged from filing one, and that the City's whistleblower law would protect such individuals from retaliation:

This ordinance allows us to . . . draw some lines, show that we are prepared to acknowledge the perception, that we believe the perception should be changed, that we've opened the door for another way for us to be regulated. But I think we have to do it in a manner that lets us do our jobs.

- Alderman Helen Shiller

We're political officials, and we have people out there . . . today who are conspiring against us and working on their campaigns against us and to believe that they would not use this as tool to beat us up for the next five to six to seven months is not . . . an irrational fear.

- Alderman Freddrenna M. Lyle

In addition, in passing the LIG ordinance, the Council recognized the distinction between legislative branch officials and employees and executive branch officials and employees, and they designed the powers and duties of the LIG with the express intent of limiting LIG investigations only to complaints received by the LIG. (2-56-060.)

Finally, given that the LIG ordinance is only two years old – and the LIG has been in office for less than a year – I believe that the City should give the complaint process time to mature, and review its efficacy at a later date. At this time, the changes to the complaint process are premature.

I am willing to support a provision that eliminates the requirement that complaints against legislative branch officials and employees be sworn. The requirement that a complaint be sworn is unnecessary in light of recent legislation that increases penalties for false complaints. The enforcement of those enhanced penalties is facilitated by the knowledge of the identity of the complainant.

I also believe that there should be a longer time period for notification of an investigation of legislative branch officials and employees. A fourteen-day notice strikes an appropriate balance between current law and the Task Force's recommendations.

While I have served as a member of the City Council for a little more than a year, there is a marked distinction between my previous role as a state legislator and alderman. Both jobs require a great deal of sacrifice and play a critical role in the community. However, the aldermanic office is responsible both as a matter of perception and reality for every facet of life in the City of Chicago. Aldermen approve permits and business licenses, support or oppose zoning changes, allocate capital improvement dollars, and approve the disposition of City-owned land.

The decisions that aldermen make spark great passions in communities. Those passions can play out in the electoral sphere, where those passions should arise, but they can also surface in the realm of ethics complaints. We must strike the right balance between open processes and the protection of reputations – between discovering wrongdoing or facilitating neighborhood beefs. I believe that my suggestions can help us do that.

Respectfully,

A handwritten signature in black ink, appearing to read "William D. Burns". The signature is fluid and cursive, with a prominent "W" and "B".

Alderman William D. Burns

APPENDICES

A. *Persons interviewed by the Task Force*

In the course of our work, we had the good fortune to interview dozens of people who were thoughtful and engaged, and who provided insight into how ethics affects the daily lives of City employees and officials. We are deeply grateful to everyone who took the time to meet with us, and we thank them for enabling us to carry out our work with a better appreciation of the substance, nuances, and challenges of governmental ethics. This appendix, Appendix A, lists everyone that we interviewed.

Chicago and Illinois

Alderman Carrie Austin

34th Ward of Chicago, May 22, 2012.

Steven Berlin

Executive Director, Chicago Board of Ethics. Jan. 23, 2012, Feb. 1, 2012, and April 11, 2012.

Alderman Howard Brookins

21st Ward of Chicago. March 9, 2012.

Alderman Edward Burke

14th Ward of Chicago. March 8, 2012.

Alderman James Cappleman

46th Ward of Chicago, March 24, 2012.

Alderman George Cardenas

12th Ward, Chicago, June 6, 2012.

Patrick Collins

Partner, Perkins Coie, and Chair, Illinois Reform Commission. Jan. 30, 2012.

Alderman Rey Colon

35th Ward of Chicago. March 7, 2012.

Ellen Craig

Former Commissioner, Illinois Executive Ethics Commission. Feb. 1, 2012.

Alderman Timothy Cullerton

38th Ward of Chicago. Feb. 23, 2012.

James Faught

Secretary and Commissioner, Illinois Executive Ethics Commission and Associate Dean for Administration, Loyola University Chicago School of Law. Feb. 7, 2012.

Joseph Ferguson, Theodor J. Hengesbach, and Jonathan Davey

Inspector General, Deputy Inspector General, and Executive Administrative Assistant, respectively, for the Office of the Inspector General, City of Chicago. Feb. 2, 2012 and April 16, 2012.

Chad Fornoff

Executive Director, Illinois Executive Ethics Commission. Feb. 10, 2012.

Brian Gladstein, David Morrison, and Whitney Woodward

Executive Director, Deputy Director, and Policy Analyst, respectively, for the Illinois Campaign for Political Reform. March 13, 2012.

Hanke Gratteau

Former Managing Editor, Chicago Tribune and Member, Illinois Reform Commission. March 13, 2012.

Maria Guerra and Farzin Parang

First Deputy Director, Office of Legislative Counsel and Government Affairs and Assistant to the Mayor, respectively, City of Chicago. April 5, 2012.

David Hoffman

Former Inspector General, City of Chicago, and Member, Illinois Reform Commission. Feb. 3, 2012.

Thomas Homer

Legislative Inspector General, Illinois. March 14, 2012.

Dan Hynes

Former Comptroller, Illinois. Feb. 21, 2012.

Matt Hynes

Director, Office of Legislative Counsel and Government Affairs, City of Chicago. April 12, 2012.

Faisal Khan

Legislative Inspector General, City of Chicago. Feb. 9, 2012 and April 16, 2012.

Alderman Richard Mell, Jaime Andrade, and Michelle Murphy

33rd Ward of Chicago, Assistant to Alderman Mell, and Assistant Chief Administrative Officer of the City Council Committee on Finance, June 19, 2012.

Abner Mikva

Retired Judge, U.S. Court of Appeals for the D.C. Circuit, Former Member of the U.S. House of Representatives, and Former White House Counsel. March 1, 2012.

Alderman Joseph Moore

49th Ward of Chicago, May 22, 2012.

Alderman Proco Joe Moreno

1st Ward of Chicago, June 19, 2012.

Alderman Ricardo Muñoz

22nd Ward of Chicago, June 22, 2012.

Alderman Patrick O'Connor

40th Ward of Chicago. March 9, 2012.

Lawrence Oliver

Chief Counsel, Investigations, The Boeing Company, and Member, Illinois Reform Commission. Feb. 27, 2012.

Alderman Matthew O'Shea

19th Ward of Chicago. Feb. 23, 2012.

Alderman Harry Osterman

48th Ward of Chicago, May 25, 2012

Terry Pastika

Executive Director, Citizen Advocacy Center. March 6, 2012.

Steve Patton and Leslie Darling

Corporation Counsel and First Assistant Corporation Counsel, City of Chicago. Feb. 24, 2012 and April 16, 2012.

Jorge Ramirez

President, Chicago Federation of Labor. March 6, 2012.

Jamie Rhee and James McIsaac

Chief Procurement Officer and General Counsel, Chicago Department of Procurement Services. March 21, 2012.

Miguel Ruiz

Chairman, Chicago Board of Ethics. Jan. 31, 2012.

Z. Scott

Former Executive Inspector General, Office of the Governor of Illinois. March 7, 2012.

Michael Shakman

Partner, Miller Shakman & Beem LLP. Feb. 16, 2012.

Andy Shaw, Robert Reed, Robert Herguth, and Emily Miller

President and CEO, Director of Programming and Investigations, Editor of Investigations, and Policy and Government Affairs Coordinator, respectively, for the Better Government Association. Feb. 8, 2012 and March 5, 2012.

Dick Simpson

Professor, University of Illinois at Chicago. Feb. 23, 2012.

Alderman Danny Solís

25th Ward of Chicago. March 12, 2012.

Scott Turow

Former Chair and Member, Illinois Executive Ethics Commission. Feb. 8, 2012.

National

George Brown

Professor of Law, Boston College Law School. Jan. 23, 2012.

Carol Carson

Executive Director, Connecticut Office of State Ethics. Feb. 2, 2012.

Kathleen Clark

Professor of Law, Washington University School of Law. Feb. 14, 2012.

Terry Cooper

Professor, Sol Price School of Public Policy, University of Southern California. Feb. 22, 2012

Mark Davies, Wayne Hawley, and Carolyn Miller

Executive Director, Deputy Executive Director, and Director of Enforcement, respectively, of the New York Conflict of Interest Board. Jan. 20, 2012 and Feb. 3, 2012.

David Freel

Former Executive Director, Ohio Ethics Commission, and Professor, Ohio State University. Feb. 7, 2012.

Heather Holt and David Tristan

Executive Director and Executive Deputy Director, Los Angeles City Ethics Commission. Feb. 9, 2012.

Peggy Kerns

Director, National Conference of State Legislatures Center for Ethics in Government. Feb. 29, 2012.

Carol Lewis

Professor Emeritus, University of Connecticut. Feb. 20, 2012.

Moira McGinty Klos, Skip Lowney, and Matt Robbins; Michael Brainard

Senior Vice-President, Senior Project Manager, and Researcher/Project Manager, respectively, for the Ethics Resource Center; CEO and Founder, Brainard Strategy. Feb. 22, 2012.

Zackery Morazzini

General Counsel, California Fair Political Practices Commission. Jan. 26, 2012.

Judy Nadler

Senior Fellow, Government Ethics, Santa Clara University, and Former Mayor of Santa Clara, California. March 22, 2012.

Michael Schwartz

Former Chair, Philadelphia Ethics Commission. Jan. 27, 2012.

Rayman Solomon and Emil Moschella

Dean and Professor of Law, Rutgers University School of Law, Camden, and Former Chief of the FBI's Legal Advice and Training Section and Member of Rutgers Center for Government Compliance and Ethics, respectively. Feb. 10, 2012.

JoAnne Speers

Executive Director, Institute for Local Government. Jan. 26, 2012.

John St. Croix

Executive Director, San Francisco Ethics Commission. Jan. 20, 2012.

Bob Stern

Former General Counsel, California Fair Practices Commission. Feb. 17, 2012.

Peter Tober and Mark Holmes

Executive Director and Deputy Director, respectively, of the New Jersey State Ethics Commission. Jan. 30, 2012.

Robert Wechsler and Carla Miller

Director of Research, CityEthics.org and Founder, CityEthics.org and Ethics Officer for the City of Jacksonville, Florida, respectively. Feb. 13, 2012.

B. Resources reviewed by the Task Force

There are many organizations dedicated to the study and practice of governmental ethics, including the Ethics Resource Center, the Chicago Board of Ethics, the Better Government Association, the New York Conflict of Interest Board, the Illinois Campaign for Political Reform, the Markkula Center for Applied Ethics, and CityEthics.org, among many others. We are indebted to these organizations for their materials and statements regarding ethics, and we have reviewed many of their publications. This appendix, Appendix B, lists the resources considered by the Task Force.

Ordinances, Statutes, Regulations, & Executive Orders

CHICAGO ORDINANCES, REGULATIONS, & EXECUTIVE ORDERS

Campaign Financing Ordinance

Chi. Mun. Code 2-164

City of Chicago Board of Ethics Amended Rules and Regulations (effective Feb. 26, 2010)

(www.cityofchicago.org/content/dam/city/depts/ethics/general/rules-regs-2010.pdf)

Department of Human Resources

Chi. Mun. Code 2-74

Governmental Ethics Ordinance

Chi. Mun. Code 2-156

IGO Investigative Rules and Regulations (March 30, 2012)

(http://chicagoinspectorgeneral.org/wp-content/uploads/2011/10/Final-IGO-Rules-and-Regulations_3-30-12.pdf)

Office of Inspector General

Chi. Mun. Code 2-56

Office of Legislative Inspector General

Chi. Mun. Code 2-55

Office of the Legislative Inspector General Rules and Regulations (March 5, 2012)

(hard copy)

Office of Mayor Rahm Emanuel

Executive Order 2011-1

Executive Order 2011-2

Executive Order 2011-3

Executive Order 2011-4

Executive Order 2011-5

Executive Order 2011-6

Officers and Employees Ordinance

Whistleblower protection, Chi. Mun. Code 2-152-171

OTHER ORDINANCES, STATUTES, REGULATIONS, & EXECUTIVE ORDERS

Arizona

Conflicts of Interest of Officers and Employees, Ariz. Rev. Stat. Ann. § 38-501 to -511.

Atlanta, GA

Standards of Conduct, Atlanta Code of Ordinances, §§ 2-801 to -2-824.

Baltimore, MD

Ethics, Balt. Code §§ 1-1 to -9-22.

Boston, MA

Notification of Employees Regarding Municipal Ethics Laws, Boston Mun. Code § 5-5.40

California Research Bureau

Cal. Research Bureau, Cal. State Library, Local Government Ethics Ordinances in California (1998).

CityEthics.org

CityEthics.org, Model Ethics Code (2006).

Connecticut

State agency ethics compliance officers. Duties. Liaisons., Conn. Gen. Stat. § 1-101rr.

Dallas, TX

Code of Ethics, Dallas City Code §§ 12A-1 to -42.

Delaware

Hearings and Rules of the Delaware State Public Integrity Commission IV.

Judicial Review, Del. Code Ann. Tit. 29, § 5810A.

Denver, CO

Code of Ethics, Denver Rev. Mun. Code §§ 2-51 to -69.

Detroit, MI

Ethics, Detroit City Code §§ 2-6-1 to -130.

Federal Government

Exec. Order No. 13490, 74 Fed. Reg. 4673 (Jan. 26, 2009).

Interests in Property, 5 C.F.R. § 2634.301(d).

U.S. Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.101.

Fort Worth, TX

Code of Ethics, Fort Worth Code of Ordinances §§ 2-236 to -265.

Hawaii

Duties of Commission; complaint, hearing, determination, Haw. Rev. Stat. § 84-31(e).

Houston, TX

Ethics and Financial Disclosure, Houston Code of Ordinances §§ 18-1 to -105.

Illinois

Illinois Governmental Ethics Act, 5 ILCS 420.

Lobbyist Registration Act, 25 ILCS 170.

State Officials and Employees Ethics Act, 5 ILCS 430.

Indiana

Adjudication Proceedings Before the State Ethics Commission, 40 Ind. Admin. Code 2-3-1 to -8.

Violations; penalties; sanctions, Ind. Code § 4-2-6-12.

Indianapolis, IN

Ethics Code, Indianapolis Code of Ordinances, §§ 293-101-403.

Ethics Code for Councillors, Indianapolis Code of Ordinances, §§ 151-1101 through -1104.

Jacksonville, FL

Jacksonville Ethics Code, Jacksonville Code of Ordinances, §§ 602-101 to -1213.

Los Angeles, CA

Governmental Ethics Ordinance, L.A. Mun. Code § 49.5.1 *et seq.*

Investigations and Enforcement, L.A. Admin. Code § 24.1.2

L.A. Executive Directive No. 7 (7.12.06)

Louisiana

La. Rev. Stat. tit. 42 §§ 1101 to -1170.

Maine

Authority, Procedures, Me. Rev. Stat. tit. 1 § 1013 2.G.

Massachusetts

Conduct of Public Officials and Employees, Mass. Gen. Laws Ch. 268A, §§ 1-29.

Minneapolis, MN

Ethical practice board, Minneapolis Code of Ordinances § 15.210(a).

New Jersey

Conflicts of Interest, N.J. Rev. Stats. §§ 52:13D-12 to -28.
N.J. Uniform Ethics Code § I.

New Orleans, LA

Ethics, New Orleans Code of Ordinances §§ 2-691 to -810.

New York

Office of the State Comptroller N.Y., Model Code of Ethics for Local Governance (2010).
(www.osc.state.ny.us/localgov/pubs/codeofethics.pdf)

New York City

Chapter 68 of the City Charter – The Conflicts of Interest Law.
Administrative Code § 12-110 - The Financial Disclosure Law.

North Carolina

Ethics education program, N.C. Gen. Stat. § 138A 14.

Pennsylvania

Ethics Standards and Financial Disclosure, Definitions, 65 Pa. Cons. Stat. § 1102.

Ethics Standards and Financial Disclosure, Wrongful Use of this chapter, 65 Pa. Cons. Stat. § 1110.

Philadelphia

Ethics Board, Phila. Home Rule Charter § 3-806.

Philadelphia Board of Ethics, Regulations Nos. 1-9.

Standards of Conduct and Ethics, Phila. Code §§ 20-601 to -615.

Violations and Penalties, Phila. Code §§ 20-1301 to -1302.

Phoenix, AZ

Provisions of State Law to Apply, Phoenix City Charter, Ch. XI § 1.

Portland, OR

Code of Ethics, Portland City Code §§ 1.03.010 to -.050.

Regulation of Lobbying Entities, Portland City Code §§ 2.12.010 to -.130.

Rhode Island

Adjudicative powers of the Commission, R.I. Gen. Laws § 36-14-13(g).

Rhode Island League of Cities and Towns

Rhode Island League of Cities and Towns, Ethics and Conflicts of Interest: A Guide for Municipal Officials (2005).

San Antonio, TX

Code of Ethics, San Antonio Code of Ordinances §§ 2-41 to -95.

San Diego, CA

City of San Diego Ethics Ordinance, San Diego Mun. Code §§ 27.3501 to -.3595.

Ethics Commission, San Diego Mun. Code §§ 26.0401 to -.0456.

San Diego Municipal Election Campaign Control Ordinance, San Diego Mun. Code §§ 27.2901 to -.2991.

Municipal Lobbying, San Diego Mun. Code §§ 27.4001 to -.4055.

San Francisco, CA

Ethics Commission, Regulations for Investigations and Enforcement Proceedings, I-XV.

San Francisco Campaign and Governmental Conduct Code §§ 1.100-4.135.

Washington, DC

Election Campaigns; Lobbying; Conflict of Interest, D.C. Code §§ 1-1100.01 through -1108.01.

Websites

CHICAGO RESOURCES

Chicago Board of Ethics

(www.cityofchicago.org/ethics)

City Clerk's website for legislative history

(www.chicityclerk.com/intro_and_passed_leg.htm)

Office of the Inspector General, City of Chicago

(www.chicagoinspectorgeneral.org)

ETHICS ORGANIZATIONS

Brookings Institute

(www.brookings.edu/execed/programs/catalog/Ethics_s.aspx)

City Ethics

(www.cityethics.org)

The Council on Governmental Ethics Laws

(www.cogel.org)

Ethics Resource Center

(www.ethics.org)

Markkula Center for Applied Ethics at Santa Clara University

(www.scu.edu/ethics/practicing/focusareas/government_ethics)

National Conference of State Legislatures

(www.ncsl.org)

Rutgers Center for Government Compliance and Ethics

(rcgce.camlaw.rutgers.edu)

Zicklin Center for Business Ethics Research

(www.zicklincenter.org)

OTHER GOVERNMENTAL RESOURCES

Atlanta Board of Ethics

(www.atlantaethics.org)

Baltimore City Board of Ethics

(www.baltimorecity.gov/Government/BoardsandCommissions/EthicsBoard.aspx)

Connecticut Office of State Ethics

(www.ct.gov/ethics/site/default.asp)

Dallas Ethics Advisory Commission

(www.ci.dallas.tx.us/ethics/index.shtml)

District of Columbia Board of Elections and Ethics

(www.dcboee.org/home.asp)

Houston Ethics Commission

(<http://cbtcws.cityofhouston.gov/BoardsCommApplicationForm/BoardDesc.aspx?boardid=47>)

Illinois Executive Ethics Commission

(www2.illinois.gov/eec/Pages/default.aspx)

Illinois Legislative Ethics Commission

(www.ilga.gov/commission/lec/default.asp)

Illinois Executive Inspector General

(www2.illinois.gov/oeig/Pages/default.aspx)

Illinois Legislative Inspector General

(www.ilga.gov/commission/lig/default.asp)

Indiana Office of Inspector General

(www.in.gov/ig)

Los Angeles City Ethics Commission

(ethics.lacity.org)

Maine Commission on Governmental Ethics and Election Practices

(www.state.me.us/ethics/index.htm)

Massachusetts State Ethics Commission

(www.mass.gov/ethics)

Miami-Dade County Commission on Ethics & Public Trust

(www.miamidadeethics.com/index.html)

New Jersey State Ethics Commission

(www.nj.gov/ethics/agency)

New York City Conflicts of Interest Board

(www.nyc.gov/html/conflicts/html/home/home.shtml)

North Carolina Ethics Commission

(www.ethicscommission.nc.gov/ethicliaisons.aspx)

Philadelphia Board of Ethics

(www.phila.gov/ethicsboard)

Rhode Island Ethics Commission

(www.ethics.ri.gov)

Sacramento City Clerk Disclosures and Ethics

(www.cityofsacramento.org/clerk/financialdisclosures/index.html)

San Diego Ethics Commission

(www.sandiego.gov/ethics)

San Francisco Ethics Commission

(www.sfethics.org)

Texas Ethics Commission

(www.ethics.state.tx.us)

U.S. Office of Governmental Ethics

(www.usoge.gov)

Specific Reports and Resources

“100-Day Report,” Illinois Reform Commission (4/28/09)

(www.reformillinoisnow.org/press%20releases/IRC%20100-Day%20Report%20-%20Final.pdf)

“2008-2009 Annual Report,” Chicago Board of Ethics

(www.cityofchicago.org/content/dam/city/depts/ethics/general/AnnualReports/Ann-Rpt-08-09.pdf)

“2009 City of Chicago Compliance and Integrity Survey,” Ethics Resource Center (12/15/09)
(hard copy)

“Chicago and Illinois, Leading the Pack in Corruption: Anti-Corruption Report No. 5,” Dick Simpson, James Nowlan, Thomas J. Gradel, Melissa Mouritsen Zmuda, David Sterrett, and Douglas Cantor (Feb. 15, 2012)
(hard copy from D. Simpson)

Challenging the Culture of Corruption: Game-Changing Reform for Illinois, Patrick M. Collins (2010)
(hard copy)

City of Chicago Standard Terms and Conditions for Contractors
(electronic copy from the Department of Procurement Services)

Codes of Conduct of Fortune 500 companies
(ethisphere.com/code-dataset)

Executive Branch Personnel, Public Financial Disclosure Report, Standard Form 278
(www.ogc.doc.gov/documents/sf278.pdf)

Inspector General’s Office Administrative Policies and Procedures
(<http://chicagoinspectorgeneral.org/wp-content/uploads/2011/09/IGO-Administrative-Policies-and-Procedures-9-15-201111.pdf>)

“Inspectors General and Government Corruption: A Guide to Best Practices and an Assessment of Five Illinois Offices,” Business and Professional People for the Public Interest (May 2011)
(www.bpichicago.org/documents/BPIIGReport2011.pdf)

Letter from Thomas J. Homer to the Members of the 97th Illinois General Assembly regarding the Illinois Governmental Ethics Act (Aug. 10, 2011)
(electronic copy from Thomas J. Homer)

Local Government Ethics: A Resource and Advocacy Book, Robert Wechsler (2011 draft)
(electronic copy from R. Wechsler)

Memorandum to the Hon. Richard M. Daley, Mayor, from the Board of Ethics Re: IGO Report/Recommendations Regarding Gifts, December 20, 20120 (Jan. 28, 2011)
(electronic copy from S. Berlin)

“Municipal Ethics and State Government: Four Approaches and Their Application to Connecticut State Government,” Connecticut Office of State Ethics (Oct. 31, 2006).
(www.cga.ct.gov/gae/METF/doc/Office%20of%20State%20Ethics%2010.31.06%20Final%20Report.pdf)

Philadelphia Task Force on Ethics and Campaign Finance Reform: Final Report and Recommendations (Dec. 10, 2009)

(www.palwv.org/philadelphia/TaskForceFinalReport121009.pdf)

Proposals for Reform: Report of Special Assistant Corporation Counsel Thomas P. Sullivan (March 16, 1987)

(hard copy from the Chicago public library)

Report and Recommendation of the Inspector General Regarding Gifts from Contractors to City of Chicago Employees, to Mayor Richard M. Daley (Dec. 20, 2010)

(<http://chicagoinspectorgeneral.org/wp-content/uploads/2010/12/Gift-Ban-Rec-Report.pdf>)

“Restoring the Public Trust: An Agenda for Ethics Reform of State Government and a Proposed Model for New Jersey,” 57 RUTGERS L. REV. 1175 (2005).

(hard copy from P. Franzese)

Semi-Annual Report by the City of Chicago Office of the Legislative Inspector General (July 30, 2012)

(electronic copy from the Mayor’s Office)

C. Written testimony received by the Task Force

We also received written testimony from some of the individuals we interviewed. We greatly appreciate the time and efforts that each of these individuals dedicated to preparing these thoughtful comments. Please see Appendix C, at www.cityofchicago.org/ethicstaskforce, for the full text of this testimony.

Steven Berlin

Executive Director, Chicago Board of Ethics. "Prepared Statement of Steven I. Berlin for the Mayoral Ethics Task Force." Jan. 23, 2012.

Mark Davies

Executive Director, New York Conflict of Interest Board. "Statement to the Ethics Reform Task Force." Feb. 14, 2012.

D. Comments received by the Task Force

Finally, in the course of our public hearings, employee focus groups, and through our website, we obtained constructive, frank, and specific comments regarding ethics regulation and Chicago's ethics institutions. The breadth and depth of these comments demonstrate the level of engagement in Chicago regarding ethical issues, and the desire for a strong ethical culture. All of these public comments have been compiled, below, as Appendix D, and are available at <https://webapps.cityofchicago.org/EthicsTaskForce/forums/list.page>

In addition, the Task Force received 30 private comments, submitted via comment cards at the public hearings, letter, and the Task Force email address.

The following persons submitted public comments to the Task Force:

Ray Lopez Calderón

Testimony to Ethics Reform Task Force. Common Cause Illinois. Olive Harvey College, Chicago. Feb. 15, 2012.

Ellen Craig

"Notes for Chicago Ethics Task Force Public Hearing." Olive Harvey College, Chicago. Feb. 15, 2012.

Alderman Timothy Cullerton

Testimony to Ethics Reform Task Force. Truman College, Chicago. March 12, 2012.

Derek Eder

Open City, "Testimony to the City of Chicago Ethics Reform Task Force." Truman College, Chicago. 12 March 2012.

Brian Gladstein

"Testimony to the Chicago Ethics Reform Task Force." The Illinois Campaign for Political Reform. Olive Harvey College, Chicago. Feb. 15, 2012.

Deborah Harrington

"Testimony by CHANGE Illinois! to the City of Chicago's Ethics Reform Task Force." CHANGE Illinois! Olive Harvey College, Chicago. Feb. 15, 2012.

Ricardo Meza

"Statement of Executive Inspector General Ricardo Meza Before the: Chicago Ethics Task Force." Truman College, Chicago. March 12, 2012.

Lawrence Oliver

Testimony to Ethics Reform Task Force. Truman College, Chicago. March 12, 2012.

Z Scott

Testimony to Ethics Reform Task Force. Olive Harvey College, Chicago. Feb. 15, 2012.

Andy Shaw and Emily Miller

Testimony to Ethics Reform Task Force. Better Government Association. Truman College, Chicago. March 12, 2012.

Dick Simpson

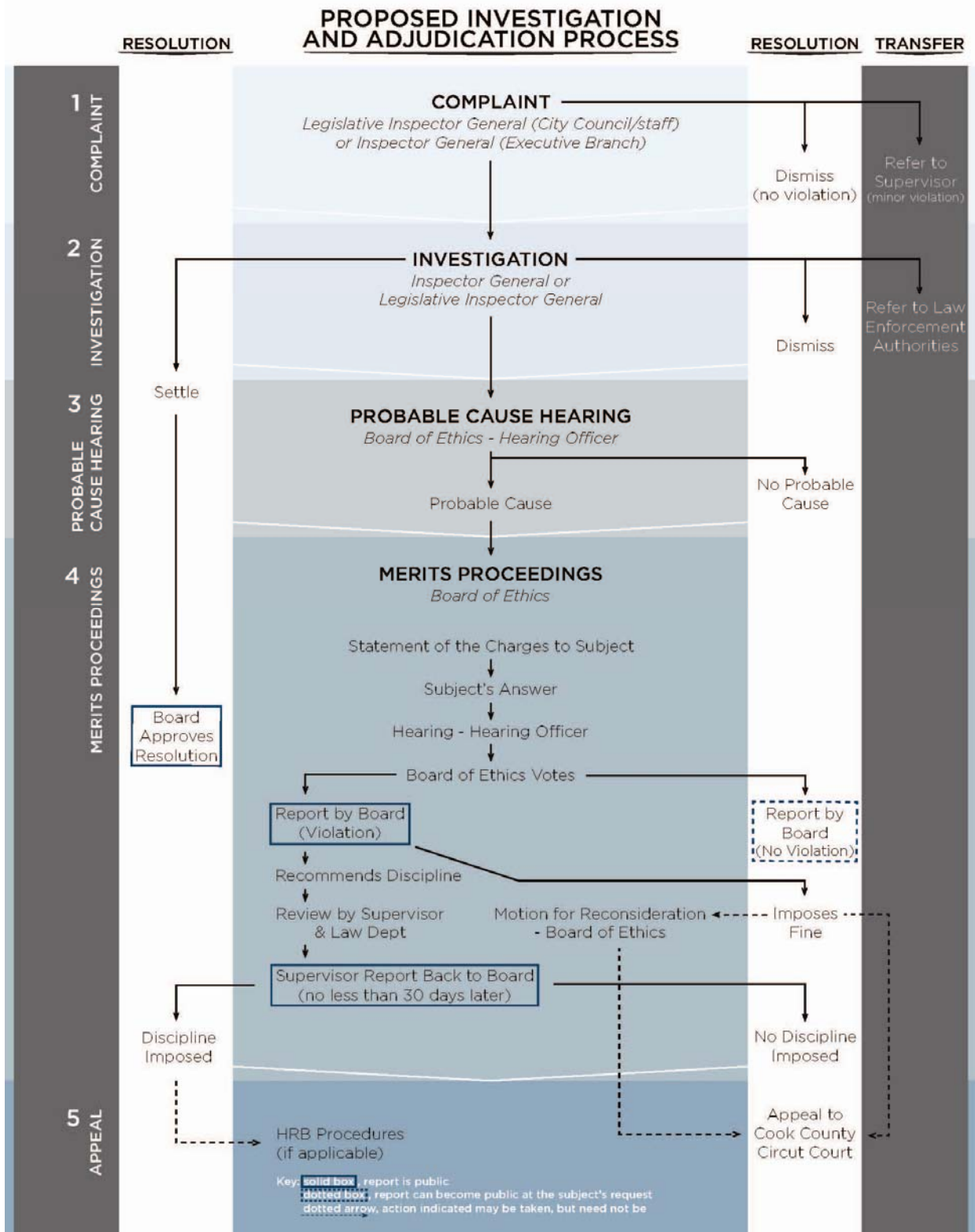
“Chicago is the Corruption Capital of America.” Olive Harvey College, Chicago. Feb. 15, 2012.

Whitney Woodward

“Testimony to the Chicago Ethics Reform Task Force.” Illinois Campaign for Political Reform. Truman College, Chicago. 12 March 2012.

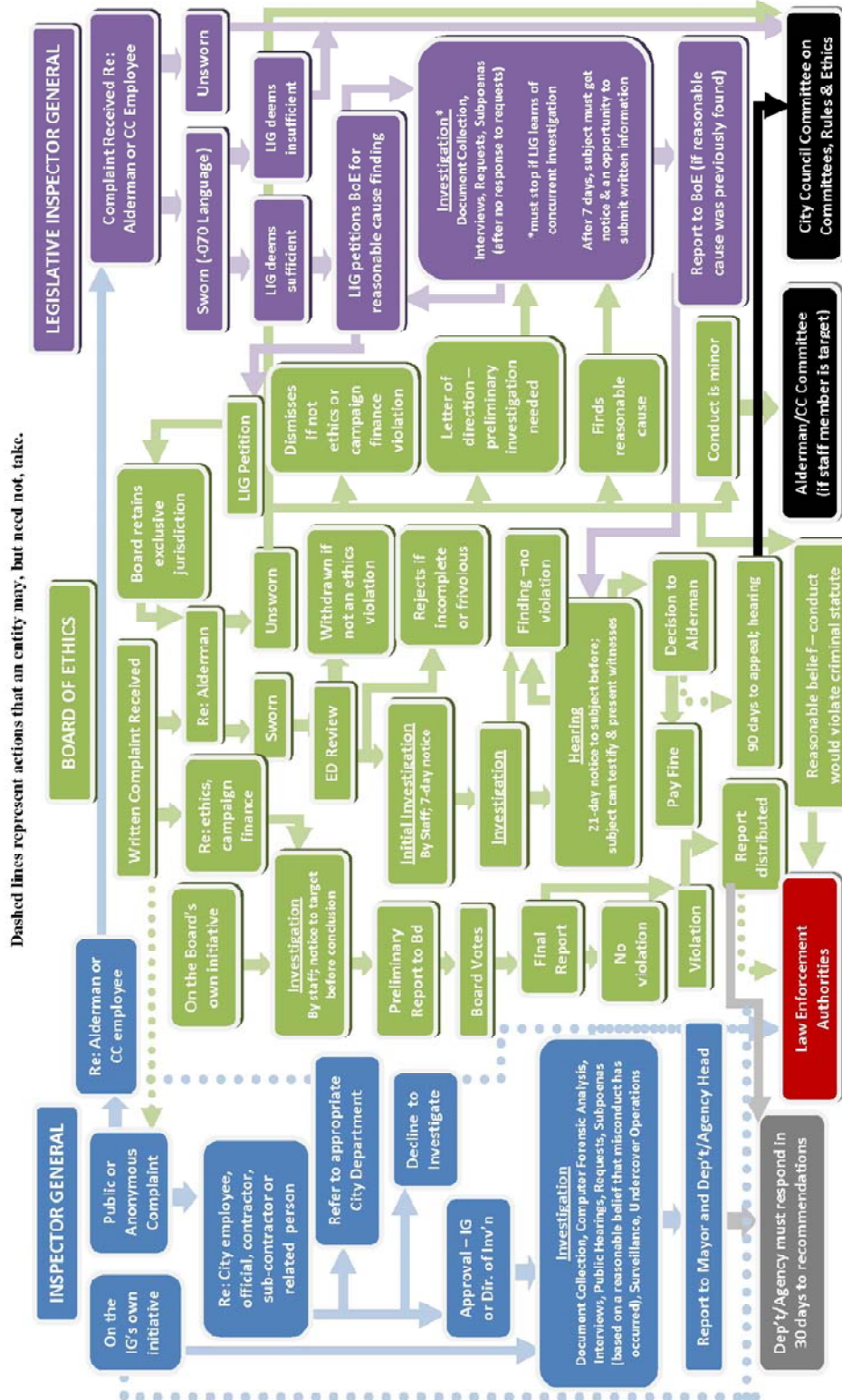
E. Proposed Investigation & Adjudication Process

A full copy of the chart depicting the Task Force’s proposed investigation and adjudication process is attached as Appendix E.



F. Current Investigation & Adjudication Process

A larger copy of the chart depicting the current investigation and adjudication process is attached as Appendix F.



GLOSSARY

Advisory Opinion	An answer from the Board of Ethics in response to a question posed by an employee or official of the City regarding a specific ethics or campaign finance issue. Currently, advisory opinions may be formal or informal, and informal opinions may be written or verbal.
Board	The Board of Ethics consists of seven members appointed by the Mayor with City Council approval. The Board administers and enforces both the ethics ordinance and the campaign finance ordinance. The Board serves as an advisory body to city employees and elected officials to help educate and ensure compliance with Chicago's ethics laws. The Board also regulates lobbyist activity and maintains financial disclosure information.
Day	One calendar day.
Economic Interest	Defined in 2-156-010(i) of the ethics ordinances as "any interest valued or capable of valuation in monetary terms; provided, that 'economic interest' is subject to the same exclusions as 'financial interest.'"
Ethics Officer	An employee or official who serves within a particular City department or agency and who, in addition to their normal job responsibilities, assists the Board of Ethics with various tasks relating to the ethics ordinance. These tasks include helping the Board determine current employee rosters and directing ethics questions to the Board.
Executive Director	The head staff member of an agency. For example, the Executive Director of the Board of Ethics, Steve Berlin, advises city employees and elected officials regarding compliance with Chicago's ethics laws.
Executive Order	A written order or directive issued by the Mayor, the head of the executive branch of Chicago. Executive orders generally apply to all executive branch employees, provided that there is no conflict with a pre-existing collective bargaining agreement or the Illinois Public Labor Relations Act. (<i>See</i> 5 ILCS 315/15(a)-(c).)
Financial Interest	Defined in 2-156-010(l) of the ethics ordinance as "(i) any interest as a result of which the owner currently receives or is entitled to receive in the future more than \$2,500.00 per year; (ii) any interest with a cost or present value of \$5,000.00 or more; or (iii) any interest representing more than ten percent of a corporation, partnership, sole proprietorship, firm, enterprise, franchise, organization, holding company, joint stock company,

receivership, trust or any legal entity organized for profit; provided, however, financial interest shall not include

1. Any interest of the spouse or domestic partner of an official or employee which interest is related to the spouse's or domestic partner's independent occupation, profession, or employment;
2. Any ownership through purchase at fair market value or inheritance of less than one percent of the shares of a corporation, or any corporate subsidiary, parent, or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended;
3. The authorized compensation paid to an official or employee for his office or employment;
4. Any economic benefit provided equally to all residents of the city;
5. A time or demand deposit in a financial institution;
6. An endowment or insurance policy or annuity contract purchased from an insurance company."

Financial Interest Statements

Documents required to be submitted by certain City employees regarding their economic and financial interests on an annual basis.

FOIA

Freedom of Information Act. Enacted in 1966, FOIA is a federal law that gives citizens the right to access many types of information from their government. Illinois also has a state FOIA law. (5 ILCS 140 *et seq.*)

Gift

Defined in 2-156-010(m) of the ethics ordinance as "any thing of value given without consideration or expectation of return."

Hearing Officer

A lawyer who serves as a judge in administrative proceedings.

Honoraria

Payments given for services that are traditionally given for free, such as making a speech.

IG

The Office of Inspector General. This office is tasked with investigating complaints of corruption, waste, mismanagement, and misconduct by City employees and officials, except for aldermen and employees of the City Council or the Sister Agencies.

LIG	The Office of the Legislative Inspector General. This position was created in 2010 to receive and investigate complaints of misconduct by aldermen and City Council employees. As of the writing of this report, the LIG had begun serving his term at the end of 2011 and had no staff reporting to him.
Ordinance	In this report, Ordinance refers to the Governmental Ethics Ordinance (Chi. Mun. Code 2-156), which sets up the Board of Ethics, lays out ethics rules and is administered by the Board.
PAC	A political action committee, abbreviated “PAC,” is an organization that campaigns for or against political candidates, ballot initiatives, or legislation.
Prohibited Source	<p>Defined by the Illinois State Officials and Employees Act as “any person or entity who:</p> <ol style="list-style-type: none"> 1. is seeking official action (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee; 2. does business or seeks to do business (i) with the member or officer or (ii) in the case of an employee, with the employee or with the member, officer, State agency, or other employee directing the employee; 3. conducts activities regulated (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee; 4. has interests that may be substantially affected by the performance or non-performance of the official duties of the member, officer, or employee; 5. is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or 6. is an agent of, a spouse of, or an immediate family member who is living with a ‘prohibited source.’” (5 ILCS 430/1-5.)
Reverse Revolving Door	The movement of personnel from private sector jobs who deal with government or are affected by government legislation and regulation into government jobs.
Revolving Door	The movement of personnel between from government jobs into private sector jobs that deal with or are affected by government legislation and

regulation.

Shakman Decree

Civil litigation brought by a lawyer, Michael Shakman. The litigation alleged that political patronage was improperly considered in the hiring and promotion of individuals for jobs in the City of Chicago and Cook County. The City is bound by the decree resolving this lawsuit, and has a court-appointed monitor who oversees its compliance with the decree.

Sister Agencies

Agencies that were created by state statutes, and retain a degree of independence from the City as a result. The Sister Agencies include the Chicago Public Schools, the City Colleges of Chicago, the Chicago Park District, the Chicago Housing Authority, the Public Building Commission, and the Chicago Transit Authority. They are not subject to the authority of the IG or the LIG.

Whistleblower

A person who reports misconduct, unethical or illegal activities to an authority figure. The act of disclosing this type of behavior often subjects the whistleblower to retaliation, and for this reason many laws and corporate policies exist to protect whistleblowers

